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# Arizona Administrative REGISTER

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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 Statues 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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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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A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

**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.

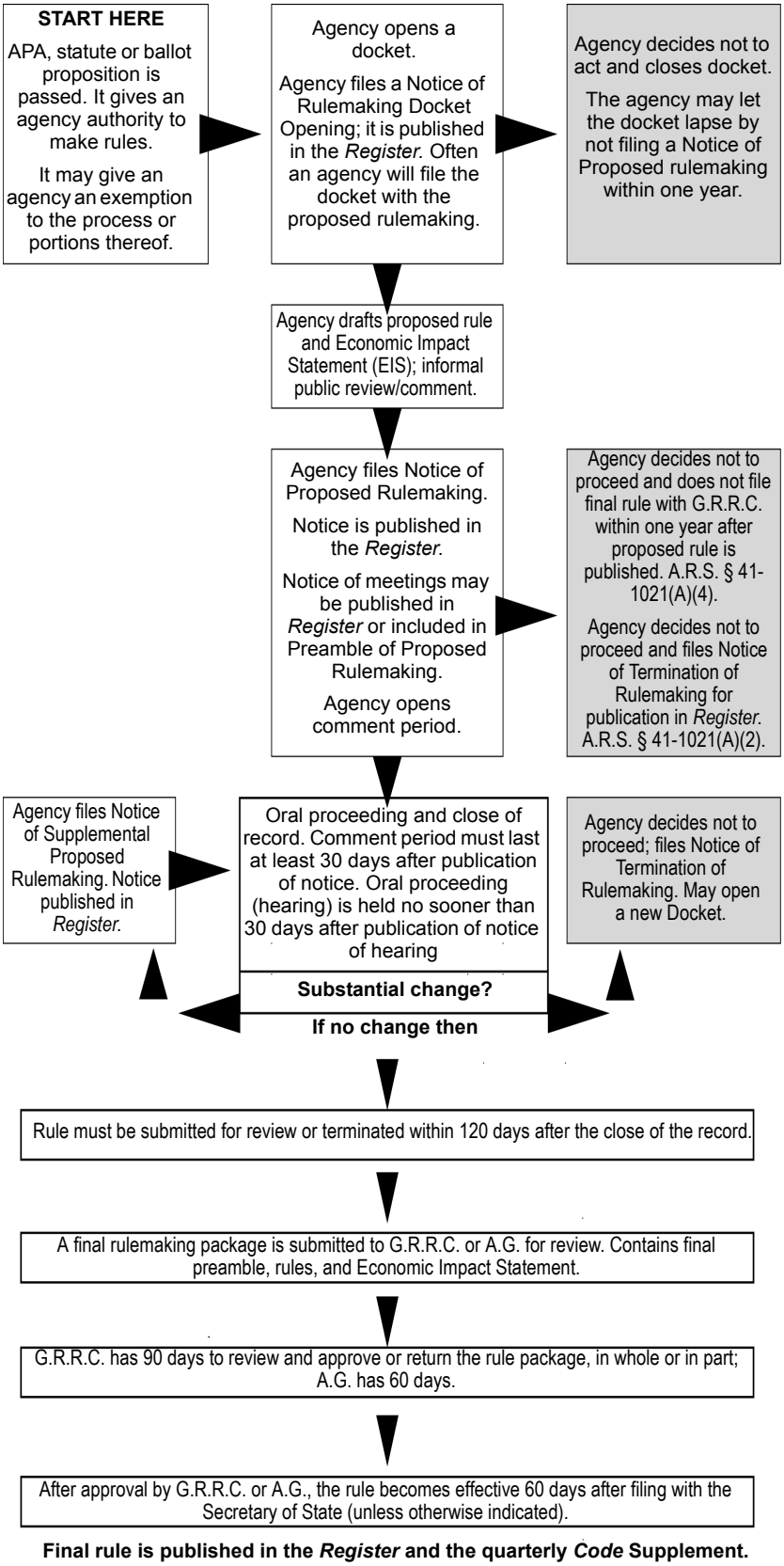
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

### 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.

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

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

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are complied 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.

**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.

**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.

# NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

## NOTICE OF PROPOSED RULEMAKING

### TITLE 9. HEALTH SERVICES
### CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
### EMERGENCY MEDICAL SERVICES

[R17-69]

### PREAMBLE

| 1. Article, Part, or Section Affected (as applicable) | Rulemaking Action |
|---|---|
| Article 13 | Amend |
| R9-25-1301 | Amend |
| R9-25-1302 | Amend |
| R9-25-1303 | Renumber |
| R9-25-1303 | Amend |
| R9-25-1303.01 | New Section |
| R9-25-1304 | Renumber |
| R9-25-1304 | Amend |
| R9-25-1305 | Repeal |
| R9-25-1305 | Renumber |
| R9-25-1305 | Amend |
| R9-25-1306 | Repeal |
| R9-25-1306 | New Section |
| R9-25-1307 | Repeal |
| R9-25-1307 | Renumber |
| R9-25-1307 | Amend |
| R9-25-1308 | Renumber |
| R9-25-1308 | Amend |
| Table 1 | Repeal |
| Exhibit I | Repeal |
| Table 13.1 | New Section |
| R9-25-1309 | Renumber |
| R9-25-1309 | New Section |
| R9-25-1310 | Repeal |
| R9-25-1310 | Renumber |
| R9-25-1310 | Amend |
| R9-25-1311 | Repeal |
| R9-25-1312 | Renumber |
| R9-25-1313 | Renumber |
| R9-25-1315 | Repeal |
| Article 14 | Repeal |
| R9-25-1401 | Repeal |

| | |
|---|---|
| R9-25-1402 | Repeal |
| Table 1 | Repeal |
| R9-25-1403 | Repeal |
| R9-25-1405 | Repeal |
| R9-25-1406 | Renumber |

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

Authorizing statutes: A.R.S. §§ 36-132(A)(1), 36-136(F), and 36-2202(A)(4)
Implementing statutes: A.R.S. §§ 36-2221 and 36-2225

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

Notice of Rulemaking Docket Opening: 22 A.A.R. 1612, June 17, 2016

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

Name: Terry Mullins, Bureau Chief
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Telephone: (602) 364-3150
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Name: Robert Lane, Manager
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Avenue, Suite 200
Phoenix, AZ 85007
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**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Arizona Revised Statutes (A.R.S.) § 36-2225 requires the Arizona Department of Health Services (Department) to develop and administer a statewide emergency medical services and trauma system to implement the Arizona emergency medical services and trauma system plan, required under A.R.S. § 36-2208. A.R.S. § 36-2225 further requires the Department to adopt rules for the designation of trauma centers and to require trauma centers to submit data to the trauma registry established by the Department under A.R.S. § 36-2208. The Department has implemented these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25, Articles 13 and 14. In 9 A.A.C. 25, Article 13, the Department specifies the processes by which a health care institution may voluntarily request designation. Any hospital in Arizona that meets applicable standards of the American College of Surgeons Committee on Trauma (ACS) or standards specified in the rule (state standards) may apply for and receive a designation as a Level I, II, or III trauma center. Any health care institution in Arizona that meets applicable state standards may apply for and receive a designation as a Level IV trauma center. A.R.S. § 36-2225 allows three methods to become a trauma center, but the rules only specify two methods. According to 9 A.A.C. 25, Article 14, all trauma centers are required to report to the trauma registry using ICD-9 codes. At the same time, all Arizona hospitals are required by the Centers for Medicare and Medicaid Services to use ICD-10 codes when billing for services. This may result in an expensive duplicate reporting system for hospitals. In addition, several issues have arisen with the current system for provisional designation as a trauma center. For example, the rules appear to limit submission to less than 12 consecutive months of data. This is problematic since the Department encourages the submission of data by hospitals that are not trauma centers to obtain a more complete view of trauma services in the state and to enable the Department to provide technical assistance to a hospital that may seek designation as a trauma center in the future. After receiving an exception from the Governor's rulemaking moratorium established by Executive Order 2016-03, the Department is revising the rules to address these concerns, update application and other requirements, remove obsolete requirements, and improve the effectiveness of the rules. The proposed changes will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not 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:**

The Department did not review or rely on any study for this rulemaking.

**7. 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

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

This analysis covers costs and benefits associated with the rule changes and does not describe effects imposed by statutes. No new FTEs will be required due to this rulemaking. Annual cost/revenue changes are designated as minimal when more than $0 and $5,000 or less, moderate when between $5,000 and $30,000, and substantial when $30,000 or greater in

additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification. The Department anticipates that persons affected by the rulemaking include the Department; designated trauma centers or health care institutions that may seek designation in the future; health insurance providers, including AHCCCS; tribal or federal agencies operating a hospital or other health care institution under federal or tribal law; ambulance services and other EMS providers, as well as their emergency medical care technicians (EMCTs); physicians and other health care providers; the American College of Surgeons Committee on Trauma (ACS); and the general public.

The Department anticipates that changes to update and make the rules clearer and easier to understand may remove the need for three substantive policy statements and provide the Department with as much as a minimal benefit through reducing the number of questions the Department receives to interpret the rules and being able to rescind the substantive policy statements. Additional information being collected as part of an application may provide the Department with a significant benefit. Clarifying and updating requirements related to inspections, requirements related to designation and dedesignation, and requirements related to trauma registry data quality and usefulness may provide a significant benefit to the Department while causing at most minimal costs to the Department. The new rules allow a health care institution to request designation as a Level III trauma center through Department assessment, with no review by a national verification organization, and add the safety-net process the Department has been providing for health care institutions that had applied for review by a national verification organization. The Department may receive a significant benefit from having a process included in rule for state assessment for more than Level IV trauma centers and incur a moderate cost for developing inspection and review criteria for Level III trauma center and for formalizing the safety-net process for Level I and Level II trauma centers.

Since the new rules were developed to improve the trauma system within Arizona and, thus, the outcomes for patients suffering an injury due to trauma, the changes in the new rules may allow patients who would otherwise have died of their injuries to survive. They may also reduce disability and lengths of stay for patients who would have survived the trauma, regardless of changes made to the rules. Therefore, the rules changes may cause a health insurance company or health plan to incur up to substantial cost increases for hospitalization and rehabilitations costs for patients who would otherwise have died and receive up to substantial cost reductions from patients who would otherwise have had poorer outcomes and required longer lengths of stay.

ACS is specified in the current rule as the only means to designation for Level I, Level II, and Level III trauma centers, either through verification or through ACS stating that the health care institution meets the standards specified in rule. Under the new rules, a health care institution seeking designation as a Level III trauma center will no longer be required to apply for review through ACS or another national verification organization. Nor is ACS specified as the only national verification organization that may provide verification for any Level. The Department anticipates that ACS may incur a moderate-to-substantial revenue loss due to the rule changes, depending on how many current trauma centers, or other health care institutions seeking initial designation, choose a route to designation other than through ASC assessment.

Of the 41 hospitals designated as trauma centers, two are publically owned. As mentioned above, currently all health care institutions wanting to be designated as a Level I trauma center, Level II trauma center, or Level III trauma center are required by rule to apply to ACS for verification and obtain either verification or documentation issued by ACS stating that the health care institution meets the state standards for the specific Level of trauma center. However, a health care institution applying for designation as a Level IV trauma center is assessed by the Department. Under the new rules, a health care institution may continue to obtain designation as a Level III trauma center based on verification by a national verification organization but may also achieve designation through a Department assessment, without ACS review. Conversely, a health care institution applying for designation as a Level IV trauma center may obtain designation as a Level IV trauma center based on assessment by a national verification organization as well as through Department assessment. The new rules also ensure that the Department may serve as a safety net for Arizona's Level I and Level II trauma centers, providing requirements for the use of this process similar to those currently being used by the Department. The Department anticipates that these changes may provide a health care institution with up to a substantial benefit, depending on the decisions made by the health care institution. In the unlikely possibility that a health care institution plans to pursue designation as a Level IV trauma center through verification, the health care institution could incur up to a substantial cost. The Department anticipates that a requirement that verification or assessment of compliance with state standards be dated within six months before the date of an application for designation may impose up to a substantial burden on a health care institution by requiring the health care institution to submit an application to ACS (or another national verification organization) earlier than had been the practice under the current rules. However, the requirement may also provide up to a substantial benefit to a health care institution since earlier scheduling would give the health care institution time to receive documentation of verification or denial of verification before the date of application and allow the health care institution to apply based on assessment of compliance with state standards if necessary.

At the request of stakeholders, the Department added categories and associated requirements for Level I Pediatric trauma centers and Level II Pediatric trauma centers to the rules, consistent with requirements used by ACS for verification of hospitals as these categories of trauma facilities. If a hospital were designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, the hospital might expect to receive more critically injured pediatric patients, resulting in up to a substantial increase in revenue for the hospital. Although the Department believes that a health care institution would not seek designation as a Level I Pediatric trauma center or Level II Pediatric trauma center if the health care institution did not already comply with these requirements, compliance would cause a substantial cost to an unprepared health care institution. Clarifying that an outpatient treatment center authorized to provide emergency room services is eligible to become a Level IV trauma center may provide up to a substantial benefit to an outpatient treatment center that becomes designated, since it may receive more patients requiring trauma care. Although seeking to obtain designation is at the discretion of a health care institution and is not required by the rules, an outpatient treatment center authorized to provide emergency services that is seeking designation may incur up to substantial costs to comply with requirements in the rules.

The Department anticipates that updated requirements in an application for initial designation or to renew designation may cause a minimal cost to a health care institution applying for designation. This includes the requirement that a health care institution not licensed by the Department would need to provide, as part of an application, documentation demonstrating that the health care institution is operating as an administrative unit of the U.S. government or a sovereign tribal nation. In addition, having to undergo a review of the health care institution's capabilities and staffing, rather than just attesting to meeting the requirements for provisional designation, as in the current rules, may cause up to a substantial burden on a health care institution seeking designation that does not have the requisite capabilities. However, changes phasing out provisional designation, rather than removing it totally as of the effective date of the rules, could provide a health care institution with as much as a substantial benefit, depending on whether the health care institution has provisional designation and whether it can meet standards specified in rule or for verification by a national verification organization by that date.

The Department anticipates that changes made in the new R9-25-1306 may provide a significant benefit to a health care institution in knowing how and under what circumstances an inspection may be made and from the Department's flexibility in determining whether an inspection is necessary. They may also cause up to a substantial cost to a health care institution that may not be in compliance at the time a random announced inspection is scheduled. Similarly, the clarifications made in R9-25-1307, reduction in the time to process an application, and changes in the term for a modified designation should provide a significant benefit to a health care institution.

Reorganizing requirements that had been in Exhibit I or its footnotes into R9-25-1308, removing the footnotes, and specifying which requirements apply to all trauma centers and which only apply to a trauma center whose designation is not based on verification may improve clarity and provide a significant benefit to a trauma center or a health care institution considering designation. The Department believes that changes requiring a health care institution to develop policies and procedures for operating rooms and operating room teams may cause a heath care institution to incur minimal-to-moderate costs, but that a health care institution will receive up to a substantial benefit from not having a requirement that an operating room team in a Level I trauma center is on the premises at all times, as long as the team is present within 15 minutes after notification or patient arrival, whichever is later. Similarly, a surgeon on the trauma team of a Level I trauma center is required by the new rules to be present in the emergency department within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later. In both cases, response times and patient outcomes are required to be monitored through the performance improvement program. The new rules also require a patient transfer plan rather than a patient transfer agreement, due to difficulties experienced by some tribal health care institutions in complying with the requirement for a patient transfer agreement, and may provide a significant benefit to a health care institution. As requested by stakeholders, the Department is allowing health care institutions under the same governing authority to establish a single, centralized trauma registry and submit consolidated information from the trauma registry to the Department if specific requirements are met. A health care institution meeting these requirements may receive up to a substantial benefit from having a centralized trauma registry.

The Department believes that replacing the requirement for ATLS, defined in the current R9-25-1301, with a requirement for a "trauma critical care course," as defined in the new R9-25-1301, may provide a health care institution with as much as a moderate benefit. Requirements in Exhibit I related to the availability of blood products were clarified in the new rules, with policies and procedures being required in R9-25-1308 for the availability of blood products, consistent with the Level of trauma center, which may cause a trauma center to incur minimal costs in developing these policies and procedures if they have not already been developed and implemented. Some requirements that had been listed in Exhibit I and were moved into R9-25-1308 unchanged may be clearer in the new rules, providing a significant benefit to a health care institution. Other elements of Exhibit I were retained in Table 13.1, with unnecessary requirements removed. These changes may provide a significant benefit to a health care institution due to the improved clarity of the rules.

Some requirements that are now standards of care were added to Table 13.1 to improve patient health and safety. The Department estimates that these additions could cause a health care institution that does not meet these requirements and plans to seek designation as a trauma center to incur substantial costs. However, the health care institution could also receive a substantial benefit from compliance with these standards and from receiving a designation. The Department also anticipates that the clarification of what information from a health care institution's trauma registry is required to be submitted may provide a significant benefit to a submitting health care institution. Some additional information is being required to be submitted, but health care institutions have already been voluntarily providing much of this information. The Department anticipates that a health care institution that had not been submitting this additional information may incur at most a moderate increased cost. Since health care institutions use information from the trauma registry to assess the performance of staff, determine opportunities for improvement in trauma care, and the need for education or outreach in the community, the Department anticipates that the addition of this information and the removal of requirements for hard-to-collect information may provide a significant benefit to a health care institution.

The Department anticipates that having rules to follow that are clearer and easier to understand may provide a significant benefit to physicians and other health care providers working in a trauma center. Physicians and other health care providers may incur a minimal cost to participate in monitoring trauma care parameters as part of the trauma center's performance improvement program. They may also receive a significant benefit from being able to assess what treatment strategies worked better than others to enable them to provide better clinical care to their patients. Being required to be present in the emergency department within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later, rather than being on the premises at all times may also provide a significant benefit to a physician who is a surgeon or other member of a trauma team in a Level I trauma center. Making a more general requirement for training consistent with the ATLS course may also provide a significant benefit to a physician. Since the use of physician assistants and registered nurse practitioners was not as extensive when the current rules were adopted as it is today, there are few requirements specific to these health care providers in the current rules. Requirements in the new rules for these health care providers to obtain and

maintain current certification in a trauma critical care course may cause a physician assistant or registered nurse practitioner to incur none-to-minimal costs for the course. The new rules may also provide up to a substantial benefit to a physician assistant or registered nurse practitioner if the rules encourage a trauma center to employ more physician assistants or registered nurse practitioner.

EMS providers and ambulance services provide a trauma center with information about treatment provided to a patient during transport. Some of this information is included in the trauma center's trauma registry and is submitted to the Department. The Department believes that an EMS provider or ambulance service may receive a significant benefit from the clarification of what information is required to be provided to a trauma center. Updating requirements related to trauma registry data to improve data quality and usefulness may also provide a significant benefit to an EMS provider or ambulance service, as well as to an EMCT. Providing additional information to a trauma center, such as the incident number, country of injury, activity that the patient was engaged in at the time of the injury, and type of vehicle involved in the injury, if applicable, may impose up to a minimal burden on an EMS provider or ambulance service, as well as on an EMCT.

The Department anticipates that the general public will receive a significant benefit from the rules changes, which were developed to improve trauma service and patient outcomes.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Terry Mullins, Bureau Chief
Address: Arizona Department of Health Services
Division of Public Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Avenue, Suite 540
Phoenix, AZ 85007
Telephone: (602) 364-3150
Fax: (602) 364-3568
E-mail: terry.mullins@azdhs.gov
or
Name: Robert Lane, Manager
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Avenue, Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Robert.Lane@azdhs.gov

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

The Department has scheduled the following oral proceeding:
Date and time: Thursday, June 15, 2017, 11:00 a.m.
Location: 150 N. 18th Ave., Room 540A
Phoenix, AZ 85007
Close of record: Thursday, June 15, 2017, 4:00 p.m.

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items 4 and 9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Robert Lane at Robert.Lane@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

**11. 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:**

The rules do not require a permit, but allow for designation. A health care institution may provide the same services with or without designation.

**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:**

No business competitiveness analysis was received by the Department.

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

Not applicable

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

## TITLE 9. HEALTH SERVICES

## CHAPTER 25. DEPARTMENT OF HEALTH SERVICES EMERGENCY MEDICAL SERVICES

### ARTICLE 13. TRAUMA ~~CENTER DESIGNATION~~ CENTERS AND TRAUMA REGISTRIES

R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
~~R9-25-1304.~~R9-25-1303. ~~Initial~~ Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1303.01. Health Care Institutions with Provisional Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
~~R9-25-1305. Eligibility for Provisional Designation; Provisional Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~
~~R9-25-1306. Designation Renewal Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~
~~R9-25-1307. Term of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~
~~R9-25-1308.~~R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)
~~R9-25-1309.~~R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
~~R9-25-1310. On-Site Survey for Designation as a Level IV Trauma Center Based on Meeting the State Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~
R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
~~R9-25-1312.~~R9-25-1307. ~~Denial or Revocation of~~ Designation and Dedesignation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
~~R9-25-1313.~~R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))
Table 1. ~~Application Processing Time Periods (in days) (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed
Exhibit I. ~~Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed
Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))
~~R9-25-1406.~~R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))
R9-25-1311. ~~Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4) and (5))~~ Repealed
R9-25-1312. Renumbered
R9-25-1313. Renumbered
R9-25-1315. ~~Application Processing Time Periods (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed

### ARTICLE 14. ~~TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE~~ REPEALED

Section
R9-25-1401. ~~Definitions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed
R9-25-1402. ~~Data Submission Requirements (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed
Table 1. ~~Trauma Registry Data Set (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed
R9-25-1403. ~~Trauma System Data Reports; Requests for Trauma Registry Reports (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed
R9-25-1405. ~~Confidentiality and Retention of Trauma System Quality Assurance Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, 36-2222(E)(3), 36-2225(A)(5) and (6), 36-2403(A), and 36-2404)~~ Repealed
R9-25-1406. ~~Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))~~ Renumbered

## ARTICLE 13. TRAUMA ~~CENTER DESIGNATION~~ CENTERS AND TRAUMA REGISTRIES

**R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the ~~The~~ following definitions apply in this Article, unless otherwise specified:

~~1. "ACS" means the American College of Surgeons Committee on Trauma.~~

~~2. "ACS site visit" means an on-site inspection of a trauma facility conducted by ACS for the purpose of determining compliance with ACS trauma facilities criteria, or ACS trauma facilities criteria and state standards, at the Level of designation sought.~~

~~3. "Administrative completeness time period" means the number of days from the Department's receipt of an application until the Department determines that the application contains all of the items of information required by rule to be submitted with an application.~~

~~4. "ATLS" means the ACS Advanced Trauma Life Support Course.~~

~~5. "Available" means accessible for use.~~

1. "Admitted" means when a patient is either:
   a. Held for observation of a trauma-related injury; or
   b. Considered an inpatient, as defined in A.A.C. R9-10-201.

2. "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

~~6. "Chief administrative officer" means an individual assigned to control and manage the day-to-day operations of a health care institution on behalf of the owner or the body designated by the owner to govern and manage the health care institution.~~

~~7. "CME" means continuing medical education courses for physicians.~~

~~8. "Comply with" means to satisfy the requirements of a stated provision.~~

~~9. "CT" means computed tomography.~~

~~10. "Current" means up-to-date and extending to the present time.~~

~~11. "CVP" means central venous pressure.~~

~~12. "Department" means the Arizona Department of Health Services.~~

~~13.~~3. "Designation" means a formal determination by the Department that a health care institution ~~has the resources and capabilities necessary to provide trauma services at~~ complies with requirements in A.R.S. § 36-2225 and this Article for providing a particular Level ~~and is a~~ of trauma ~~center~~ service.

4. "Emergency department" means a designated area of a hospital that provides emergency services, as defined in A.A.C. R9-10-201, as an organized service, 24 hours per day, seven days per week, to individuals who present for immediate medical services.

~~14. "EMS" means emergency medical services.~~

~~15. "Health care institution" has the same meaning as in A.R.S. § 36-401.~~

~~16. "Hospital" has the same meaning as in A.A.C. R9-10-201.~~

5. "ICD-code" means an International Classification of Diseases code, a set of numbers or letters or a combination of letters and numbers that specify a disease, condition, or injury; the location of the disease, condition, or injury; or the circumstances under which a patient may have incurred the disease, condition or injury, which is used by a health care institution for billing purposes.

~~17. "ICU" means intensive care unit.~~

~~18. "In compliance with" means satisfying the requirements of a stated provision.~~

~~19. "In-house" means on the premises at the health care institution.~~

~~20. "ISS" means injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions.~~

6. "Level I Pediatric trauma center" means a Level I trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.

7. "Level II Pediatric trauma center" means a Level II trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.

~~21. "Major resuscitation" means a patient:~~
   ~~a. If an adult, with a confirmed blood pressure < 90 at any time or, if a child, with confirmed age-specific hypotension;~~
   ~~b. With respiratory compromise, respiratory obstruction, or intubation, if the patient is not transferred from another health care institution;~~
   ~~c. Who is transferred from another hospital and is receiving blood to maintain vital signs;~~
   ~~d. Who has a gunshot wound to the abdomen, neck, or chest;~~
   ~~e. Who has a Glasgow Coma Scale score < 8 with a mechanism attributed to trauma; or~~
   ~~f. Who is determined by an emergency physician to be a major resuscitation.~~

8. "Medical services" means the services pertaining to the "practice of medicine," as defined in A.R.S. § 32-1401, or "medicine," as defined in A.R.S. § 32-1800, performed at the direction of a physician.

~~22. "Meet the ACS standards," "meeting the ACS standards," or "meets the ACS standards" means be operated, being operated, or is operated in compliance with each applicable criterion for verification as required by ACS for verification.~~

~~23. "Meet the state standards," "meeting the state standards," or "meets the state standards" means be operated, being operated, or is operated in compliance with each applicable criterion listed in Exhibit I at least as frequently or~~

~~consistently as required by the minimum threshold stated for the criterion in Exhibit I or at least 95% of the time, whichever is less.~~

9. "National verification organization" has the same meaning as in A.R.S. § 36-2225.

10. "Nursing services" means services that pertain to the curative, restorative, and preventive aspects of "registered nursing," as defined in A.R.S. § 32-1601, performed:
   a. At the direction of a physician; and
   b. By or under the supervision of a registered nurse licensed:
      i. According to Title 32, Chapter 15; or
      ii. When performed in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.

~~24.~~11. "On-call" means assigned to respond and, if necessary, come to a health care institution when ~~called~~ notified by a personnel member of the health care institution ~~personnel~~.

12. "Organized service" has the same meaning as in A.A.C. R9-10-201.

~~25.~~13. "Owner" means one of the following:
   a. For a health care institution licensed under 9 A.A.C. 10, the licensee;
   b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.

~~26. "Person" means:~~
   ~~a. An individual;~~
   ~~b. A business organization such as an association, cooperative, corporation, limited liability company, or partnership; or~~
   ~~c. An administrative unit of the U.S. government, state government, or a political subdivision of the state.~~

~~27.~~14. "Personnel member" means an individual providing medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, to a patient.

~~28. "PGY" means postgraduate year, a classification for residents in postgraduate training indicating the year that they are in during their post-medical-school residency program.~~

15. "Physician" means an individual licensed:
   a. According to A.R.S. Title 32, Chapter 13 or 17; or
   b. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.

~~29. "Self-designated Level I trauma facility" means a health care institution that as of July 1, 2004, met the definition of a Level I trauma center under A.A.C. R9-22-2101(F)(1).~~

~~30. "SICU" means surgical intensive care unit.~~

~~31.~~16. "Signature" means:
   a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
   b. An "electronic signature" as defined in A.R.S. § 44-7002.

17. "Substantial compliance" has the same meaning as in A.R.S. § 36-401.

~~32. "Substantive review time period" means the number of days after completion of the administrative completeness time period during which the Department determines whether an application and owner comply with all substantive criteria required by rule for issuance of an approval.~~

18. "Transport" means the conveyance of a patient by ground ambulance or air ambulance from one location to another location.

~~33. "Transfer agreement" means a written contract between the owners of two health care institutions in which one owner agrees to have its health care institution receive a patient from the other owner's health care institution if the patient falls within specified criteria related to diagnosis, acuity, or treatment needs.~~

19. "Trauma care" means medical services and nursing services provided to a patient suffering from a sudden physical injury.

~~34.~~20. "Trauma center" has the same meaning as in A.R.S. § 36-2225.

21. "Trauma critical care course" means a multidisciplinary class or series of classes consisting of interactive tutorials, skills teaching, and simulated patient management scenarios of trauma care, consistent with training recognized by the American College of Surgeons.

22. "Trauma facility" means a health care institution that provides trauma care to a patient as an organized trauma service.

23. "Trauma service" means designated personnel members, equipment, and area within a health care institution and the associated policies and procedures for the personnel members to follow when providing trauma care to a patient.

24. "Trauma team" means a group of personnel members with defined roles and responsibilities in providing trauma care to a patient.

25. "Trauma team activation" means a notification to respond that is sent to trauma team personnel members in reaction to triage information received concerning a patient with injury or suspected injury.

~~35. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended or otherwise restricted.~~

~~36.~~26. "Verification" means formal confirmation by ~~ACS~~ a national verification organization that a health care institution ~~has the resources and capabilities necessary to provide~~ meets the national verification organization's standards for providing trauma ~~services as~~ care at a ~~Level I, Level II, Level III, or Level IV~~ specific Level of trauma ~~facility~~ service.

~~37. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.~~

**R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

~~**A.** To be eligible to obtain designation for a health care institution, an owner shall:~~

~~1. If applying for designation as a Level I trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level I trauma facility; or~~

~~ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level I trauma center;~~

~~2. If applying for designation as a Level II trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level II trauma facility; or~~

~~ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level II trauma center;~~

~~3. If applying for designation as a Level III trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level III trauma facility; or~~

~~ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level III trauma center; and~~

~~4. If applying for designation as a Level IV trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to operate, issued by the Department under 9 A.A.C. 10; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level IV trauma facility; or~~

~~ii. Demonstrate, during an on-site survey of the health care institution conducted by the Department as described in R9-25-1310, that the health care institution meets the state standards for a Level IV trauma center.~~

~~**B.** To be eligible to retain designation for a health care institution, an owner shall:~~

~~1. Maintain a current and valid regular license for the health care institution to operate, if applicable; and~~

~~2. Comply with the trauma center responsibilities in R9-25-1313.~~

**A.** A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center if the health care institution:

1. Is either:

a. Licensed by the Department under 9 A.A.C. 10 to operate as a hospital; or

b. Operating as a hospital under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and

2. For designation as a:

a. Level I trauma center:

i. Holds verification, issued within the six months before the date of designation, as a Level I trauma facility;

ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I trauma center; or

iii. Meets the requirements in subsection (C);

b. Level I Pediatric trauma center:

i. Holds verification, issued within the six months before the date of designation, as a Level I Pediatric trauma facility;

ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I Pediatric trauma center; or

iii. Meets the requirements in subsection (C);

c. Level II trauma center:

i. Holds verification, issued within the six months before the date of designation, as a Level II trauma facility; or

ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II trauma center; or

iii. Meets the requirements in subsection (C);

d. Level II Pediatric trauma center:

i. Holds verification, issued within the six months before the date of designation, as a Level II Pediatric trauma facility;

ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II Pediatric trauma center; or

iii. Meets the requirements in subsection (C); or

e. Level III trauma center:

i. Holds verification, issued within the six months before the date of designation, as a Level III trauma facility; or

ii. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level III trauma center.

**B.** A health care institution is eligible for designation as a Level IV trauma center if the health care institution:

1. Is either:

a. Licensed by the Department under 9 A.A.C. 10 to operate as:

i. A hospital; or

ii. An outpatient treatment center authorized to provide emergency room services, as defined in A.A.C. R9-10-1001, according to A.A.C. R9-10-1019; or

b. Operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and

2. Either:

a. Holds verification, issued within the six months before the date of designation, as a Level IV trauma facility; or

b. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level IV trauma center.

**C.** A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on assessment by the Department that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for the Level of trauma center for which designation is requested if the health care institution:

1. Applies for verification from a national verification organization;
2. Informs the Department, at least 30 calendar days before, of the dates the national verification organization will be on the premises of the health care institution to assess the health care institution for compliance with the national verification organization's standards for verification;
3. Invites the Department to review the facility and documentation of capabilities of the health care institution during the national verification organization's assessment in subsection (C)(2);
4. Is not issued verification from the national verification organization at the Level of designation sought;
5. Does not receive the documentation required in subsection (A)( 2)(a)(ii), (b)(ii), (c)(ii), or (d)(ii), as applicable; and
6. Receives the documentation specified in R9-25-1306(G) and, if applicable, submits to the Department a written plan in R9-25-1306(H), acceptable to the Department, to correct instances of non-compliance.

**D.** A health care institution is eligible to retain designation as a specific Level of trauma center if the health care institution complies with the applicable requirements in this Article for the specific Level of trauma center.

**~~R9-25-1304.~~R9-25-1303. ~~Initial~~ Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

~~A. An owner applying for initial designation shall submit to the Department an application including:~~

~~1. An application form provided by the Department containing:~~

~~a. The name, address, and main telephone number of the health care institution for which the owner seeks designation;~~

~~b. The owner's name, address, and telephone number and, if available, fax number and e-mail address;~~

~~c. The name and telephone number and, if available, fax number and e-mail address of the chief administrative officer for the health care institution for which the owner seeks designation;~~

~~d. The designation Level for which the owner is applying;~~

~~e. If the owner holds verification for the health care institution for which designation is sought, the Level of~~

~~verification held and the effective and expiration dates of the verification;~~

~~f. The asserted basis for designation:~~

~~i. The owner holds verification for the health care institution,~~

~~ii. The owner's health care institution meets the state standards, or~~

~~iii. The owner is eligible for the grace period under R9-25-1303;~~

~~g. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the hospital or health care institution license number for the health care institution for which designation is sought;~~

~~h. If applying for designation as a Level I, Level II, or Level III trauma center, the name and telephone number and, if available, fax number and e-mail address of the health care institution's trauma medical director;~~

~~i. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;~~

~~j. Attestation that the owner knows all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article;~~

~~k. Attestation that the information provided in the application, including the information in the documents attached to the application form, is accurate and complete; and~~

~~l. The dated signature of:~~

~~i. If the owner is an individual, the individual;~~

~~ii. If the owner is a corporation, an officer of the corporation;~~

~~iii. If the owner is a partnership, one of the partners;~~

~~iv. If the owner is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;~~

~~v. If the owner is an association or cooperative, a member of the governing board of the association or cooperative;~~

~~vi. If the owner is a joint venture, one of the individuals signing the joint venture agreement;~~

~~vii. If the owner is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and~~

~~viii. If the owner is a business organization type other than those described in subsections (A)(1)(l)(ii) through (vi), an individual who is a member of the business organization;~~

~~2. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, a copy of the current regular hospital or health care institution license issued by the Department for the health care institution for which designation is sought;~~

~~3. If applying for designation based on verification, documentation issued by ACS establishing that the owner holds current verification for the health care institution at the Level of designation sought and showing the effective and expiration dates of the verification; and~~

~~4. If applying for designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, current documentation issued by ACS establishing that the owner's health care institution meets the state standards listed in Exhibit I for the Level of designation sought.~~

~~**B.** The Department shall process an application as provided in R9-25-1315.~~

~~**C.** The Department shall approve designation if the Department determines that an owner is eligible for designation as described in R9-25-1302.~~

**A.** An owner applying for initial designation or to renew designation for a health care institution shall submit to the Department an application including:

1. The following information, in a Department-provided format:
   - a. The name, address, and telephone number of the health care institution for which the owner is requesting designation;
   - b. The owner's name, address, e-mail address, telephone number, and, if available, fax number;
   - c. The name, e-mail address, telephone number, and, if available, fax number of the chief administrative officer, as defined in A.A.C. R9-10-101, for the health care institution for which the owner is requesting designation;
   - d. The designation Level for which the owner is applying;
   - e. Whether the owner is requesting designation for the health care institution based on:
     - i. Verification, or
     - ii. Meeting the applicable standards specified in R9-25-1308 and Table 13.1;
   - f. If the owner is requesting designation for the health care institution based on verification:
     - i. The name of the national verification organization;
     - ii. The name, telephone number, and e-mail address for a representative of the national verification organization;
     - iii. The Level of verification held;
     - iv. The effective date of the verification, and
     - v. The expiration date of the verification;
   - g. If the owner is requesting designation for the health care institution based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1:
     - i. Whether:
       - (1) A national verification organization has assessed the health care institution, or
       - (2) The Department will be assessing the health care institution;
     - ii. If a national verification organization has assessed the health care institution:

(1) The name of the national verification organization;
(2) The name, telephone number, and e-mail address for a representative of the national verification organization; and
(3) The date the national verification organization assessed the health care institution; and
iii. If the Department will be assessing the health care institution, the date the health care institution will be ready for the Department to assess the health care institution;
h. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the license number, issued by the Department, for the health care institution for which designation is being requested;
i. The name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma program manager;
j. Whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry;
k. The name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma registrar;
l. If applying for designation as a Level IV trauma center, whether the health care institution plans to submit, in addition to the information required in R9-25-1309(A), the information specified in R9-25-1309(B);
m. If not already submitting trauma registry information to the Department, the time period for which the health care institution plans to begin submitting trauma registry information;
n. Except for a health care institution applying for designation as a Level IV trauma center, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma medical director;
o. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
p. Attestation that:
i. The owner will comply with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article; and
ii. The information and documents provided as part of the application are accurate and complete; and
q. The dated signature of the applicable individual according to R9-25-102;
2. If applicable, documentation demonstrating that the health care institution is operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
3. One of the following:
a. Documentation from the national verification organization, identified according to subsection (A)(1)(f)(i), establishing that the owner holds verification for the health care institution at the Level of designation being requested and showing the effective date and expiration date of the verification;
b. Documentation from the national verification organization, identified according to subsection (A)(1)(g)(ii)(1), demonstrating that the health care institution meets the applicable standards specified in R9-25-1308 and Table 13.1;
c. The information and documents required in R9-25-1307(C), (D), or (F), as applicable.

**B.** An owner applying to renew designation for a health care institution shall submit the application in subsection (A) to the Department at least 60 calendar days and no more than 90 calendar days before the expiration of the current designation.

**C.** Within 30 calendar days after receiving an application submitted according to subsection (A), the Department shall review the application submitted for completeness, and, if the application is:
1. Incomplete, provide to the owner a written notice listing each missing item and the information or items needed to complete the application; and
2. Complete and based on:
a. Verification, comply with R9-25-1307(A)(1);
b. A national verification organization assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, comply with R9-25-1307(B); or
c. The Department assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, assess compliance with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article according to R9-25-1307(E) or (F).

**D.** The Department shall consider an application withdrawn if an owner:
1. Fails to submit to the Department all of the information or items listed in a notice of missing items within 60 calendar days after the date on the notice of missing items, unless the Department and the owner agree to an extension of this time; or
2. Submits a written request withdrawing the application.

**E.** If an owner submits an application for renewal of designation for a health care institution according to subsection (A) before the expiration date of the current designation, the designation of the health care institution remains in effect until the:
1. Department has determined whether or not to issue a renewal of the designation, or
2. Application is withdrawn.

**R9-25-1303.01. Health Care Institutions with Provisional Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

**A.** A health care institution that held provisional designation before the effective date of these rules may retain the provisional designation until the expiration date of the provisional designation.

**B.** At least 60 calendar days and no more than 90 calendar days before the expiration of a provisional designation, an owner of a health care institution with a provisional designation shall submit to the Department an application for initial designation according to R9-25-1303(A).

**C.** If an owner of a health care institution with a provisional designation does not submit an application for initial designation according to subsection (B), the health care institution is no longer designated as a trauma center, as of the expiration date of the provisional designation.

~~**R9-25-1305. Eligibility for Provisional Designation; Provisional Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~

~~**A.** The owner of a health care institution may apply for one 18-month provisional designation as a Level I, Level II, or Level III trauma center if:~~

~~1. When the owner applies for provisional designation, the owner's health care institution has not produced at least 12 consecutive months of data related to trauma services provided at the health care institution; and~~

~~2. The owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b).~~

~~**B.** To be eligible to obtain provisional designation for a health care institution, an owner shall:~~

~~1. Comply with one of the following:~~

~~a. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~b. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~2. Make the attestations described in subsection (C)(2).~~

~~**C.** An owner applying for provisional designation shall submit to the Department an application including:~~

~~1. An application form that contains the information and items listed in R9-25-1304(A)(1)(a) through (A)(1)(d), (A)(1)(g) through (A)(1)(l), and (A)(2); and~~

~~2. Attestation that:~~

~~a. The owner's health care institution has the resources and capabilities necessary to meet the state standards for the Level of designation sought and will meet the state standards for the Level of designation sought during the term of the provisional designation; and~~

~~b. During the term of the provisional designation, the owner will:~~

~~i. Ensure that the trauma center meets the state standards;~~

~~ii. Apply for verification for the trauma center; and~~

~~iii. Provide to the Department, within 30 days after applying for verification, documentation issued by ACS establishing that the owner has applied for verification.~~

~~**D.** The Department shall process an application submitted under this Section as provided in R9-25-1315.~~

~~**E.** The Department shall approve provisional designation if the Department determines that an owner is eligible for provisional designation as described in subsection (B).~~

~~**F.** To be eligible to retain provisional designation for a health care institution, an owner shall:~~

~~1. Comply with subsection (B)(1)(a) or (b);~~

~~2. Comply with the trauma center responsibilities in R9-25-1313;~~

~~3. Apply for verification for the trauma center; and~~

~~4. Provide to the Department, within 30 days after applying for verification, documentation issued by ACS establishing that the owner has applied for verification.~~

~~**G.** An owner who holds provisional designation and who desires to retain designation shall, before the expiration date of the provisional designation:~~

~~1. If the owner can comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for initial designation under R9-25-1304; or~~

~~2. If the owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for an extension of the provisional designation under subsection (H).~~

~~**H.** An owner who holds provisional designation and who will not be able to comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b) on the expiration date of the provisional designation may apply to the Department, on a form provided by the Department, for one 180-day extension of the provisional designation and shall include with the application documentation issued by ACS showing the owner's progress in obtaining an ACS site visit.~~

~~**I.** The Department shall grant an extension if an owner provides documentation issued by ACS:~~

~~1. Establishing that the owner has applied for verification; and~~

~~2. Showing the owner's progress in obtaining an ACS site visit.~~

~~**J.** The Department may:~~

~~1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a provisional designation; and~~

~~2. Revoke, as provided under R9-25-1312, a provisional designation.~~

~~**R9-25-1306. Designation Renewal Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~

~~**A.** At least 60 days before the expiration date of a current designation, an owner who desires to obtain renewal of designation shall submit to the Department an application including:~~

~~1. An application form that contains the information listed in R9-25-1304(A)(1);~~

~~2. If applying for renewal of designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, one of the following:~~

~~a. Documentation issued by ACS no more than 60 days before the date of application establishing that the owner's trauma center meets the state standards listed in Exhibit I for the Level of designation sought; or~~

~~b. Documentation issued by ACS establishing that the owner has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current designation; and~~

~~3. If applying for renewal of designation based on verification, documentation issued by ACS establishing that the owner:~~

~~a. Holds verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation; or~~

~~b. Has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation.~~

~~**B.** The Department shall process an application as provided in R9-25-1315.~~

~~**C.** The Department shall renew designation if the Department determines that the owner is eligible to retain designation as described in R9-25-1302(B).~~

~~**D.** The Department shall not renew designation based on verification or ACS's determination that a trauma center meets the state standards until the Department receives documentation that complies with subsection (A)(2)(a) or (A)(3)(a).~~

~~**R9-25-1307. Term of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~

~~**A.** The Department shall issue initial designation or renewal of designation:~~

~~1. When based on verification, with a term beginning on the date of issuance and ending on the expiration date of the verification upon which designation is based; and~~

~~2. When based on meeting the state standards or eligibility under R9-25-1303, with a term beginning on the date of issuance and ending three years later.~~

~~**B.** The Department shall issue a provisional designation with a term beginning on the date of issuance and ending 18 months later and an extension of provisional designation with a term beginning on the expiration date of the provisional designation and ending 180 days later.~~

~~**C.** The Department shall issue a modified designation with a term beginning on the date of issuance and ending on the expiration date of the designation issued before the application for modification of designation under R9-25-1309.~~

~~**D.** If an owner submits an application for renewal of designation as described in R9-25-1306 before the expiration date of the current designation, or submits an application for extension of provisional designation as described in R9-25-1305 before the expiration date of the provisional designation, the current designation does not expire until the Department has made a final determination on the application for renewal of designation or extension of provisional designation.~~

~~**R9-25-1308.**~~**R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

~~**A.** At least 30 days before the date of a change in a trauma center's name, the owner of the trauma center shall send the Department written notice of the name change.~~

~~**B.** At least 90 days before a trauma center ceases to offer trauma services, the owner of the trauma center shall send the Department written notice of the intention to cease offering trauma services and the desire to relinquish designation.~~

~~**C.** Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:~~

~~1. For a notice described in subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation; or~~

~~2. For a notice described in subsection (B), send the owner written confirmation of the voluntary relinquishment of designation, with an effective date consistent with the written notice.~~

~~**D.** An owner of a trauma center shall notify the Department in writing within three working days after:~~

~~1. The trauma center's hospital or health care institution license expires or is suspended, revoked, or changed to a provisional license;~~

~~2. A change in the trauma center's verification status; or~~

~~3. A change in the trauma center's ability to meet the state standards or, if designation is based on verification, to meet the ACS standards, that is expected to last for more than one week.~~

~~**E.** An owner of a trauma center who obtains verification for the trauma center during a term of designation based on meeting the state standards may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an initial application as provided in R9-25-1304.~~

**A.** An owner of a trauma center shall:

1. Notify the Department, in writing or in a Department-provided format, no later than 60 calendar days after the date of a change in the health care institution's:
   a. Name,
   b. Trauma program manager, or
   c. If applicable, trauma medical director; and
2. Provide the effective date of the change and, as applicable, the:
   a. Current and new name of the health care institution, or
   b. Name of the new trauma program manager or trauma medical director.

**B.** An owner of a trauma center shall notify the Department in writing within three business days after:

1. The trauma center's health care institution license expires or is suspended or revoked;
2. The trauma center's health care institution license is changed to a provisional license under A.R.S. § 36-425;
3. The trauma center no longer holds verification; or
4. A change, which is expected to last for more than seven consecutive calendar days, in the trauma center's ability to meet:

a. The applicable standards specified in R9-25-1308 and Table 13.1, or
b. If designation is based on verification, the national verification organization's standards for verification.

**C.** At least 90 calendar days before a trauma center ceases to provide a trauma service, the owner of the trauma center shall notify the Department, in writing or in a Department-provided format, of the owner's intention to cease providing the trauma service and to relinquish designation, including the effective date.

**D.** The Department shall, upon receiving a notice described in:

1. Subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation;
2. Subsection (B)(1), send the owner a written notice stating that the health care institution no longer meets the definition of a trauma center and that the Department intends to dedesignate the health care institution, according to R9-25-1307(I)(2);
3. Subsection (B)(2), evaluate the restrictions on the provisional license to determine if the trauma service was affected and may send the owner a written notice of the Department's intention to:
   a. Dedesignate the health care institution, according to R9-25-1307(I) through (L);
   b. Require a modification of the health care institution's designation within 15 calendar days after the date of the notice, according to R9-25-1305; or
   c. Require a corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E);
4. Subsection (B)(3), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
   a. An application for designation at a specific Level of trauma center, according to R9-25-1303, based on meeting the applicable standards specified in R9-25-1308 and Table 13.1; or
   b. Written notification of the owner's intention to relinquish designation;
5. Subsection (B)(4), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
   a. An application for modification of the health care institution's designation, according to R9-25-1305;
   b. A corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E); or
   c. Written notification of the owner's intention to relinquish designation; or
6. Subsection (C), (D)(4)(b), or (D)(5)(c), send the owner written confirmation of the voluntary relinquishment of designation.

**E.** An owner of a trauma center, who obtains verification for the trauma center during a term of designation that was based on the trauma center meeting the applicable standards specified in R9-25-1308 and Table 13.1, may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an application according to R9-25-1303.

**~~R9-25-1309.~~R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

~~**A.** An owner of a trauma center who desires to obtain a designation that requires fewer resources and capabilities than the trauma center's current designation shall, at least 30 days before ceasing to provide trauma services consistent with the current designation, send the Department an application for modification of the trauma center's designation, including:~~

~~1. The name, address, and main telephone number of the trauma center for which the owner seeks modification of designation;~~
~~2. The owner's name, address, and telephone number and, if available, fax number and e-mail address;~~
~~3. A list of the applicable ACS or state criteria for the current designation with which the owner no longer intends to comply;~~
~~4. An explanation of the changes being made in the trauma center's resources or operations related to each criterion listed under subsection (A)(3);~~
~~5. The state Level of designation requested;~~
~~6. Attestation that the owner knows the state standards for the Level of designation requested and will ensure that the trauma center meets the state standards if modified designation is issued;~~
~~7. Attestation that the information provided in the application is accurate and complete; and~~
~~8. The dated signature of the owner, as prescribed in R9-25-1304(A)(1)(l).~~

~~**B.** The Department shall process an application as provided in R9-25-1315.~~

~~**C.** The Department shall issue a modified designation if the Department determines that, with the changes being made in the trauma center's resources and operations, the trauma center will meet the state standards for the Level of designation requested.~~

~~**D.** An owner who obtains modified designation shall, during the term of the modified designation, ensure that the owner's trauma center meets the state standards that were the subject of the owner's attestation described in subsection (A)(6).~~

~~**E.** The Department may:~~

~~1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a modified designation; and~~
~~2. Revoke, as provided under R9-25-1312, a modified designation.~~

~~**F.** An owner who holds modified designation shall, before the expiration date of the modified designation:~~

~~1. If the owner desires to retain designation based on the trauma center's meeting the state standards at the Level of the modified designation, apply for renewal of designation under R9-25-1306; or~~
~~2. If the owner desires to obtain designation based on verification or based on the trauma center's meeting the state standards at a Level other than the Level of the modified designation, apply for initial designation under R9-25-1304.~~

**A.** Except as provided in R9-25-1304(D)(3)(b) and (5)(a), at least 30 calendar days before ceasing to provide a trauma service

consistent with a trauma center's current designation, an owner of a trauma center may request a designation that requires fewer resources and capabilities than the trauma center's current designation by submitting to the Department an application for modification of the trauma center's designation, in a Department-provided format, that includes:

1. The name and address of the trauma center for which the owner is requesting modification of designation;
2. A list of the criteria for the current designation with which the owner no longer intends to comply;
3. An explanation of the changes being made in the trauma center's resources or operations, related to each criterion specified according to subsection (A)(2), to ensure the health and safety of a patient;
4. The Level of designation being requested;
5. An attestation that:
   a. The owner will be in compliance with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article for the Level of designation requested if modified designation is issued; and
   b. The information provided in the application is accurate and complete; and
6. The dated signature of the applicable individual according to R9-25-102.

**B.** The Department shall review the application submitted according to R9-25-1307(H) to determine whether, with the changes being made in the trauma center's resources and operations, the trauma center will be in substantial compliance based the applicable standards specified in R9-25-1308 and Table 13.1 for the Level of designation requested.

**C.** To retain trauma center designation for a health care institution, an owner who holds modified designation shall, before the expiration date of the modified designation:

1. Apply for renewal of designation according to R9-25-1303, based on the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, for the Level of the modified designation; or
2. Apply for initial designation according to R9-25-1303, based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1, for a Level other than the Level of the modified designation.

**~~R9-25-1310. On-Site Survey for Designation as a Level IV Trauma Center Based on Meeting the State Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~**

~~**A.** Before issuing initial or renewal designation to an owner applying for designation as a Level IV trauma center based on meeting the state standards, the Department shall complete an announced on-site survey of the owner's health care institution that includes:~~

~~1. Reviewing equipment and the physical plant;~~
~~2. Interviewing personnel; and~~
~~3. Reviewing:~~
~~a. Medical records;~~
~~b. Patient discharge summaries;~~
~~c. Patient care logs;~~
~~d. Personnel rosters and schedules;~~
~~e. Performance-improvement-related documents other than peer review documents privileged under A.R.S. §§ 36-445.01 and 36-2403, including reports prepared as required under R9-10-204(B)(2) and the supporting documentation for the reports; and~~
~~f. Other documents relevant to the provision of trauma services as a Level IV trauma center and that are not privileged under federal or state law.~~

~~**B.** A Department surveyor shall make a verbal report of findings to an owner upon completion of an on-site survey.~~

~~**C.** Within 30 days after completing an on-site survey, the Department shall send to an owner a written report of the Department's findings, including a list of any deficiencies identified during the on-site survey and a request for a written corrective action plan.~~

~~**D.** Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:~~

~~1. A description of how the deficiency will be corrected, and~~
~~2. A date of correction for the deficiency.~~

~~**E.** The Department shall accept a written corrective action plan if it:~~

~~1. Describes how each identified deficiency will be corrected, and~~
~~2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.~~

**~~R9-25-1311. Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4) and (5))~~**

~~**A.** If the Department determines based upon Trauma Registry data collected by the Department or receives a complaint alleging that a trauma center is not meeting the state standards or, if designation is based on verification, is not meeting the ACS standards, the Department shall conduct an investigation of the trauma center.~~

~~1. The Department may conduct an announced or unannounced onsite survey as part of an investigation.~~
~~2. Within 30 days after completing an investigation, the Department shall send to the owner of the trauma center investigated a written report of the Department's findings, including a list of any deficiencies identified during the investigation and a request for a written corrective action plan.~~

~~**B.** Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:~~

~~1. A description of how the deficiency will be corrected, and~~
~~2. A date of correction for the deficiency.~~

~~**C.** The Department shall accept a written corrective action plan if it:~~

~~1. Describes how each identified deficiency will be corrected, and~~
~~2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the~~

~~deficiency.~~

**R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

**A.** When the Department inspects a health care institution applying for a trauma center designation or a health care institution designated as a trauma center to determine compliance with the applicable requirements in this Article, the Department:

1. Shall use criteria for assessing compliance developed using recommendations from the State Trauma Advisory Board, according to A.R.S. § 36-2222(E)(1); and
2. May:
   a. Evaluate the health care institution's equipment and physical plant;
   b. Interview the health care institution's personnel members, including any individuals providing trauma care; and
   c. Review any of the following:
      i. Medical records;
      ii. Patient discharge summaries;
      iii. Patient care logs;
      iv. Rosters and schedules of personnel members and individuals who provide trauma care as part of the trauma service;
      v. Performance-improvement-related documents, including quality management program documents required in A.A.C. R9-10-204 or R9-10-1004 as applicable; and
      vi. Other documents relevant to the provision of trauma care as part of the trauma service.

**B.** The Department shall determine whether there is a need for an inspection of a health care institution and which components in subsection (A)(2) to include in an inspection, based on the health care institution's application; previous inspections, if applicable; and the operating history of the health care institution and may conduct an announced inspection of the identified components:

1. Before issuing an initial, renewal, or modified designation to an owner applying for designation of a health care institution as a trauma center;
2. If an owner of a health care institution designated as a trauma center has submitted a corrective action plan under subsection (E); or
3. A health care institution designated as a trauma center is randomly selected to receive an inspection.

**C.** If the Department has reason to believe that a trauma center is not complying with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article, the Department may conduct an announced or unannounced inspection of the trauma center according to subsection (A).

**D.** Within 30 calendar days after completing an inspection, the Department shall send to an owner a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance identified during the inspection and a request for a written corrective action plan.

**E.** Within 15 calendar days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified instance of non-compliance:

1. A description of how the instance of non-compliance will be corrected and reoccurrence prevented, and
2. A date of correction for the instance of non-compliance.

**F.** The Department shall accept a written corrective action plan if the corrective action plan:

1. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
2. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.

**G.** If the Department reviews a health care institution's facility and documentation of capabilities during a national verification organization's assessment according to R9-25-1302(C)(3) and the health care institution is not issued verification from the national verification organization at the Level of designation sought, the Department shall send to an owner of the health care institution, within 30 calendar days after the review, a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during the review.

**H.** A health care institution receiving a written report in subsection (G) containing a list of instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during a review of the health care institution's facility and documentation of capabilities may submit to the Department a written plan to correct instances of non-compliance that includes:

1. A description of how the health care institution will correct each instance of non-compliance and prevent the reoccurrence, and
2. A date by which the health care institution plans to correct each instance of non-compliance.

**~~R9-25-1312.~~R9-25-1307. ~~Denial or Revocation of~~ Designation and Dedesignation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

~~**A.** The Department may deny or revoke designation if an owner:~~

~~1. Has provided false or misleading information to the Department;~~
~~2. Is not eligible for designation under R9-25-1302(A) or (B) or, if applicable, R9-25-1305(B) or (F);~~
~~3. Fails to submit to the Department all of the information requested in a written request for additional information within the time prescribed in R9-25-1315 and Table 1;~~
~~4. Fails to submit a written corrective action plan as requested and required under R9-25-1310 or R9-25-1311;~~
~~5. Fails to comply with a written corrective action plan accepted by the Department under R9-25-1310 or R9-25-1311;~~
~~6. Fails to allow the Department to enter the premises of the owner's health care institution, to interview personnel, or to review documents that are not documents privileged under federal or state law; or~~
~~7. Fails to comply with any applicable provision in A.R.S. Title 36, Chapter 21.1 or this Article.~~

~~B. In determining whether to deny or revoke designation, the Department shall consider:~~
~~1. The severity of each violation relative to public health and safety;~~
~~2. The number of violations;~~
~~3. The nature and circumstances of each violation;~~
~~4. Whether each violation was corrected, the manner of correction, and the duration of the violation; and~~
~~5. Whether the violations indicate a lack of commitment to having the trauma center meet the state standards or, if applicable, the ACS standards.~~

~~C. If the Department denies or revokes designation, the Department shall send to the owner a written notice setting forth the information required under A.R.S. § 41-1092.03.~~
~~1. An owner may file a written notice of appeal with the Department within 30 days after receiving a notice of denial or revocation, as provided in A.R.S. § 41-1092.03.~~
~~2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.~~

**A.** For designation of a health care institution based on verification, the Department shall, within 45 calendar days after receiving a complete application from an owner:
1. If the application complies with the applicable requirements in this Article, issue a designation for the health care institution that is valid for the duration of the verification; or
2. If the application does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.

**B.** Except as provided in subsection (F), for designation of a health care institution based on an assessment by a national verification organization, the Department shall, within 60 calendar days after receiving a complete application from an owner, review the application and, if the Department determines that:
1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;
2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E), issue a designation for the health care institution that is valid for one year from the issue date; or
3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.

**C.** Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level III trauma center or a Level IV trauma center based on an assessment by the Department, an owner shall include as part of the application required in R9-25-1303(A):
1. The following information in a Department-provided format:
   a. The name of the health care institution for which the owner is requesting designation;
   b. The services the health care institution is providing or plans to provide as part of the trauma service;
   c. The name and title of the liaison to the trauma service from each of the services listed according to subsection (C)(1)(b);
   d. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's emergency department physician director;
   e. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's surgical director or co-director;
   f. If a multidisciplinary peer review committee is required according to Table 13.1 for the Level of the trauma center, the name and title of each member of the multidisciplinary peer review committee;
   g. If the health care institution's trauma registry will be part of a centralized trauma registry, a description of the training provided to the trauma program manager to enable the trauma program manager to comply with R9-25-1308(D)(2);
   h. If applicable, for an application for initial designation, a description of the health care institution's plans for the continuing education activities related to trauma care, required in R9-25-1308(G)(4);
   i. For renewal of designation, a description of the continuing education activities conducted during the term of the designation;
   j. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's injury prevention coordinator;
   k. A description of the methods by which trauma team personnel members communicate with EMS personnel;
   l. A description of the trauma-related training received by registered nurses in the intensive care unit;
   m. An attestation that the owner of the health care institution will prohibit:
      i. The trauma medical director from serving as trauma medical director for another health care institution; and
      ii. A physician on-call for general surgery, neurosurgery, or orthopedic surgery to be on-call or on a back-up call list at another health care institution; and
   n. The dated signature of the applicable individual according to R9-25-102;
2. A copy of the policies and procedures required in R9-25-1308(B)(6) for the health care institution's trauma registry;
3. A copy of the policies and procedures required in R9-25-1308(B)(7) for the health care institution's performance improvement program;

4. A copy of the policies and procedures required in R9-25-1308(F)(2) for the health care institution's trauma service;
5. If applicable, a copy of the policies and procedures required in R9-25-1308(F)(9) for operating rooms;
6. A copy of the applicable policies and procedures required in R9-25-1308(H)(4);
7. A copy of the health care institution's clinical practice guidelines, describing the health care institution's capability to resuscitate, stabilize, and transfer pediatric patients;
8. If applicable, a copy of the bylaws of the health care institution's multidisciplinary peer review committee;
9. Copies of the job descriptions for the health care institution's:
   a. Trauma program manager;
   b. Trauma registrar; and
   c. If applicable, injury prevention coordinator;
10. A list of the trauma care parameters the health care institution is or will be monitoring as part of the performance improvement program;
11. A list of trauma team members, including:
   a. Name,
   b. Title, and
   c. Role on the trauma team;
12. If required for an individual listed according to subsection (C)(11), a copy of documentation of the individual's:
   a. Board certification or board eligibility,
   b. Most recent certification in a trauma critical care course,
   c. Pediatric-specific credentials, and
   d. Other trauma-related training; and
13. If the trauma medical director is not a member of the trauma team, the applicable documentation required in subsection (C)(12) for the trauma medical director.

**D.** Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on an assessment by the Department under R9-25-1302(C), an owner shall include as part of the application required in R9-25-1303(A):
1. A copy of the documentation submitted to the national verification organization as part of an application for verification;
2. If not included in the documentation in subsection (D)(1):
   a. Any information or documents required in subsection (C);
   b. For an application for initial designation, a description of the health care institution's plans for:
      i. Injury prevention activities, required in R9-25-1308(G)(5)(a); and
      ii. Educational outreach activities, required in R9-25-1308(G)(5)(b); and
   c. For an application for renewal of designation, a description of the injury prevention activities and educational outreach activities conducted during the term of the designation;
3. A copy of the national verification's organization's written report to the health care institution describing the results of the national verification organization's assessment of the health care organization;
4. A copy of the written report in R9-25-1306(G); and
5. If applicable, the written plan to correct instances of non-compliance in R9-25-1306(H).

**E.** Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution based on an assessment by the Department, the Department shall, within 90 calendar days after receiving a complete application from an owner, review the application, inspect the health care institution, if applicable, and, if the Department determines that:
1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;
2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted the document submitted according to R9-25-1306(E) or subsection (D)(5), issue a designation for the health care institution that is valid for one year from the issue date; or
3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.

**F.** Except as specified in subsection (G), for renewal, at the same Level of trauma center, of a one-year designation issued according to subsection (B)(2) or (E)(2), the Department shall, within 60 calendar days after receiving from an owner complete information required in R9-25-1303(A)(1), if applicable documentation required in R9-25-1303(A)(2), and documentation related to the completion of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), review the information and documentation, inspect the health care institution if applicable, and:
1. Issue a designation for the health care institution that is valid for two years from the issue date if the Department determines that:
   a. The application and the health care institution comply with the applicable requirements in this Article; and
   b. The owner has completed the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable; or
2. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution if the Department determines that:
   a. The application or the health care institution do not comply with the applicable requirements in this Article; or

b. The owner has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.

**G.** The Department shall review according to R9-25-1303(C) and subsection (A), (B), or (E), as applicable, an application for renewal of designation submitted by the owner of a trauma center that:

1. Had been issued a one-year designation according to subsection (B)(2) or (E)(2); and
2. Has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.

**H.** For modification of a designation according to R9-25-1305, the Department shall, within 30 calendar days after receiving a complete application for modification in R9-25-1305(A) from an owner, review the application, inspect the health care institution, if applicable, and:

1. Issue a modified designation for the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
   a. The application and the health care institution comply with the applicable requirements in this Article for the Level of designation requested; or
   b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E);
2. Issue a modified designation for a lower Level of designation than the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
   a. The application and the health care institution comply with the applicable requirements in this Article for the lower Level of designation and the health care institution:
      i. Does not comply with the applicable requirements in this Article for the Level of designation requested; or
      ii. Is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has not accepted a written corrective action plan submitted according to R9-25-1306(E); or
   b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the lower Level of designation, and the Department has accepted a written corrective action plan according to R9-25-1306(E); or
3. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a modified designation for the health care institution if the Department determines that the application or the health care institution does not comply with the applicable requirements in this Article.

**I.** The Department may dedesignate a health care institution as a trauma center if an owner:

1. Has provided false or misleading information to the Department;
2. Is not eligible for designation under R9-25-1302(A) or (B); or
3. Fails to comply with an applicable requirement in A.R.S. Title 36, Chapter 21.1 or this Article.

**J.** In determining whether to dedesignate a health care institution as a trauma center, the Department shall consider:

1. The severity of each instance relative to public health and safety;
2. The number of instances;
3. The nature and circumstances of each instance;
4. Whether each instance was corrected, the manner of correction, and the duration of the instance; and
5. Whether the instances indicate a lack of commitment to having the trauma center meet the verification standards of a national verification organization or, if applicable, the standards specified in R9-25-1308 and Table 13.1.

**K.** If the Department intends to dedesignate a health care institution, the Department shall send to the owner a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10.

**L.** An owner who receives a written notice in subsection (A)(2), (B)(3), (E)(3), (F)(2), (H)(3), or (I) may file a written notice of appeal with the Department that complies with A.R.S. Title 41, Chapter 6, Article 10.

**~~R9-25-1313.~~R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))**

~~The owner of a trauma center shall ensure that:~~

1. ~~The trauma center meets the state standards or, if designation is based on verification, meets the ACS standards;~~
2. ~~Data related to the trauma services provided at the trauma center are submitted to the Department's Trauma Registry as required by the Department;~~
3. ~~The owner and the trauma center staff comply with the applicable provisions of A.R.S. Title 36, Chapter 21.1 and this Article; and~~
4. ~~The owner and the trauma center staff comply with all applicable federal and state laws relating to confidentiality of information.~~

**A.** The owner of a trauma center shall ensure that:

1. If designation is based on:
   a. Verification, the trauma center meets the applicable standards of the verifying national verification organization; or
   b. Meeting the applicable standards specified in this Section and Table 13.1, the trauma center meets the applicable standards for the Level of trauma center for which designation has been issued;

2. The trauma center complies with a written corrective action plan accepted by the Department according to R9-25-1306(F); and
3. The Department has access to:
   a. The trauma center and to personnel members present in the trauma center; and
   b. Documents that are requested by the Department and not confidential under A.R.S. Title 36, Chapter 4, Article 4 or 5, within two hours after the Department's request.

**B.** The owner of a trauma center shall ensure that the trauma center:
1. Except as provided in subsection (D), establishes a trauma registry of patients receiving trauma care who meet the criteria specified in subsection (C)(1) that contains the information required in R9-25-1309, as applicable for the specific Level of the trauma center;
2. Appoint an individual to act as trauma registrar to coordinate trauma registry activities;
3. If necessary to comply with subsections (C)(2) and (3), provides sufficient additional individuals to assist with trauma registry activities;
4. Establishes a performance improvement program for the trauma service to develop and implement processes to improve trauma care parameters;
5. If required according to Table 13.1 for the Level of the trauma center, establishes as part of the performance improvement program, established according to subsection (B)(4), a multidisciplinary peer review committee to review the quality of trauma care provided by the trauma center, including information from the trauma registry, and suggest methods to improve the quality of trauma care;
6. Establishes, documents, and implements policies and procedures for the trauma registry established according to subsection (B)(1) that include:
   a. Ensuring that individuals responsible for collecting, entering, or reviewing information in the trauma registry have received training in gaining access to, and retrieving information from, the trauma registry;
   b. Collection of the information required in R9-25-1309 about the patients specified in subsection (C)(1) receiving trauma care;
   c. Submission to the Department of the information required in subsection (C)(2);
   d. Review of information in the trauma center's trauma registry; and
   e. Performance improvement activities required in R9-25-1310; and
7. Establishes, documents, and implements policies and procedures for the performance improvement program established according to subsection (B)(4), including:
   a. A list of the positions of personnel members who have defined roles in the performance improvement program and, if applicable, a list of positions that are dedicated to performance improvement activities for patients receiving trauma care from the trauma center;
   b. The qualifications, skills, and knowledge required of the personnel members in the positions specified according to subsection (B)(6)(a);
   c. The role each personnel member specified according to subsection (B)(6)(a) plays in the performance improvement program;
   d. The trauma care parameters to be reviewed as part of the performance improvement program;
   e. The frequency of review of trauma care parameters;
   f. If an issue is identified:
      i. How a plan to address the issue is developed to reduce the chance of the issue recurring in the future;
      ii. How the plan is documented;
      iii. The mechanism and criteria by which the plan is reviewed and approved;
      iv. How the plan is implemented; and
      v. How implementation of the plan and future recurrences are monitored;
   g. If applicable, the composition, duties, responsibilities, and frequency of meetings of the multidisciplinary peer review committee established according to subsection (B)(5);
   h. If applicable, how the multidisciplinary peer review committee collaborates with the trauma center's quality management program; and
   i. How changes proposed by the performance improvement program are reviewed by the trauma center's quality management program.

**C.** The owner of a trauma center shall ensure that:
1. The trauma registry, established according to subsection (B)(1), includes the information required in R9-25-1309 for each patient with whom the trauma center had contact who meets one or more of the following criteria:
   a. A patient with injury or suspected injury who is:
      i. Transported from a scene to a trauma center or an emergency department based on the responding emergency medical services provider's or ambulance service's triage protocol required in R9-25-201(E)(2)(b), or
      ii. Transferred from one health care institution to another health care institution by an emergency medical services provider or ambulance service;
   b. A patient with injury or suspected injury for whom a trauma team activation occurs; or
   c. A patient with injury, who is admitted as a result of the injury or who dies as a result of the injury, and whose medical record includes one or more of specific ICD-codes indicating that:
      i. At the initial encounter with the patient, the patient had:

(1) An injury or injuries to specific body parts,
(2) Unspecified multiple injuries,
(3) Injury of an unspecified body region,
(4) A burn or burns to specific body parts,
(5) Burns assessed through Total Body Surface Area percentages, or
(6) Traumatic Compartment Syndrome; and

ii. The patient's injuries or burns were not only:
(1) An isolated distal extremity fracture from a same-level fall,
(2) An isolated femoral neck fracture from a same-level fall,
(3) Effects resulting from an injury or burn that developed after the initial encounter,
(4) A superficial injury or contusion, or
(5) A foreign body entering through an orifice;

2. The following information is submitted to the Department, in a Department-provided format, according to subsection (C)(3):
a. The name and physical address of the trauma center;
b. The date the trauma registry information is being submitted to the Department;
c. The total number of patients whose trauma registry information is being submitted;
d. The quarter and year for which the trauma registry information is being submitted;
e. The range of emergency department or hospital arrival dates for the patients for whom trauma registry information is being submitted;
f. The name, title, e-mail address, telephone number, and, if available, fax number of the trauma center's point of contact for the trauma registry information;
g. Any special instructions or comments to the Department from the trauma center's point of contact;
h. The information from the trauma registry for patients identified during the quarter specified according to subsection (C)(2)(d); and
i. Updated information for any patients identified during the previous quarter, including the patient's name, medical record number, and admission date; and

3. The information required in subsection (C)(2) is submitted:
a. For patients identified between January 1 and March 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by July 1 of the same calendar year;
b. For patients identified between April 1 and June 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by October 1 of the same calendar year;
c. For patients identified between July 1 and September 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by January 2 of the following calendar year; and
d. For patients identified between October 1 and December 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by April 1 of the following calendar year.

**D.** Trauma centers under the same governing authority, as defined in A.R.S. § 36-401, may establish a single, centralized trauma registry and submit to the Department consolidated information from the trauma registry, according to subsections (C)(2) and (3), if:
1. The information submitted to the Department specifies for each patient in the trauma registry the trauma center that had contact with the patient, and
2. Each trauma center contributing information to the centralized trauma registry is able to:
a. Access, edit, and update the information contributed by the trauma center to the centralized trauma registry; and
b. Use the information contributed by the trauma center to the centralized trauma registry when complying with performance improvement program requirements in this Section.

**E.** As part of the performance improvement program, the owner of a trauma center shall ensure that the trauma program manager and, if applicable, trauma medical director periodically, according to policies and procedures:
1. Review the information in the trauma center's trauma registry; and
2. Monitor at least the following trauma care parameters, as applicable, for patients in the trauma registry:
a. EMS received by a patient;
b. Length of stay longer than two hours in the emergency department before transfer;
c. Instances of trauma team activation to determine if trauma team activation was timely and appropriate;
d. Instances where trauma care was provided to a patient but trauma team activation did not occur;
e. Time from notification of a surgeon on the trauma team that a patient described in subsection (H)(6)(b)(i) is in the emergency department to when the surgeon arrives in the emergency department;
f. Documentation of the nursing services provided to a patient;
g. Instances and reasons for transfer of a patient;
h. Instances and reasons for transfer to a hospital not designated as a trauma center;
i. For a hospital designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, instances and reasons for diversion, as defined in A.A.C. R9-10-201, of a patient requiring trauma care;
j. Instances of and circumstances related to the death of a patient;
k. Other patient outcomes;
l. Trauma care parameters for pediatric patients, including pediatric-specific measures; and

m. The completeness and timeliness of trauma data submission.

**F.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:

1. Ensure that a trauma service is established if required by Table 13.1;
2. Ensure that policies and procedures for the trauma service are established, documented, and implemented that include:
   a. The composition of the trauma team;
   b. The qualifications, skills, and knowledge required of each personnel member of the trauma team;
   c. Continuing education or continuing medical education requirements for each personnel member of the trauma team;
   d. The roles and responsibilities of each personnel member of the trauma team;
   e. Under what circumstances the trauma team is activated; and
   f. How the trauma team is activated;
3. Ensure that the personnel members on the trauma team have the qualifications, skills, and knowledge required in the policies and procedures;
4. If the trauma center is required according to Table 13.1 to have a trauma medical director, appoint a board-certified or board-eligible surgeon as trauma medical director;
5. Prohibit a physician from serving as trauma medical director for the trauma center if the physician is serving as trauma medical director for another health care institution;
6. Ensure that the trauma medical director completes:
   a. If the trauma center's designation is for a three-year period, at least 48 hours of external trauma-related continuing medical education during the term of the designation;
   b. If the trauma center's designation is for a one-year period, at least 16 hours of external trauma-related continuing medical education during the term of the designation; and
   c. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (F)(6)(a) or four of the 16 hours required in subsection (F)(6)(b) in pediatric trauma-related continuing medical education;
7. Appoint an individual to act as trauma program manager to coordinate trauma service activities;
8. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure that each surgeon on the trauma team designated according to subsection (F)(3) attends at least 50% of the meetings of the multidisciplinary peer review committee;
9. If the trauma center provides surgical services, ensure that policies and procedures for operating rooms and an operating room team are established, documented, and implemented that include:
   a. The availability of an operating room for trauma care;
   b. The composition of an operating room team;
   c. The qualifications, skills, and knowledge required of each personnel member of an operating room team;
   d. The roles and responsibilities of each personnel member of an operating room team;
   e. If an operating room team is not on the premises of the health care institution 24 hours a day, under what circumstances the operating room team is notified to come to the trauma center; and
   f. How the operating room team is notified;
10. Ensure that the following personnel members on the trauma team:
    a. Hold current certification in a trauma critical care course:
       i. Trauma medical director, if applicable;
       ii. Each emergency medicine physician who is not board-certified or board-eligible; and
       iii. Each physician assistant or registered nurse practitioner who is responsible for patients in an emergency department in the absence of an emergency physician; or
    b. Have held certification in a trauma critical care course:
       i. Each general surgeon other than the trauma medical director, and
       ii. Each emergency medicine physician who is board-certified or board-eligible;
11. If the trauma center is designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, ensure that each of the trauma team personnel members required in Table 13.1(C)(2) and (C)(3)(a) through (f) are board-certified or board-eligible;
12. If the trauma center is designated as a Level I Pediatric trauma center, ensure that the following trauma team members are fellowship-trained:
    a. The surgeon credentialed for pediatric trauma care required in Table 13.1(C)(2)(a)(iii),
    b. The pediatric emergency medicine physician required in Table 13.1(C)(2)(c),
    c. The pediatric-credentialed orthopedic surgeon required in Table 13.1(C)(3)(b),
    d. The pediatric-credentialed neurosurgeon required in Table 13.1(C)(3)(d), and
    e. The pediatric-credentialed critical care medicine physician required in (C)(3)(f);
13. If the trauma center is designated as a Level II Pediatric trauma center, ensure that:
    a. The pediatric-credentialed critical care medicine physician required in (C)(3)(f) is fellowship-trained, and
    b. A fellowship-trained pediatric emergency medicine physician provides supervision for pediatric emergency trauma care and is appointed as a liaison to the multidisciplinary peer review committee established according to subsection (B)(5); and
14. If the trauma center is not designated as a Level I Pediatric trauma center or Level II Pediatric trauma center and annually provides trauma care to 100 or more injured children younger than 15 years of age, ensure that the trauma

center:
a. Complies with subsection (F)(13) and Table 13.1(C)(2)(a)(iii), (3)(b), (3)(d), and (3)(f) and (F)(2); and
b. Has a:
i. Pediatric emergency department area,
ii. Pediatric intensive care area, and
iii. Pediatric-specific trauma performance improvement program.

**G.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall ensure that the trauma center:
1. Establishes, documents, and implements a patient transfer plan, consistent with A.A.C. R9-10-211, that include:
a. The criteria for transferring a patient,
b. The health care institution to which a patient meeting specific criteria will be transferred,
c. The personnel members who are responsible for coordinating the transfer of a patient, and
d. The process for transferring a patient;
2. Participates in state, local, or regional trauma-related activities such as:
a. The State Trauma Advisory Board, established by A.R.S. § 36-2222;
b. A regional emergency medical services coordinating council described in A.R.S. § 36-2222(A)(3);
c. Trauma Registry Users Group, established by the Department;
d. Trauma Managers Workgroup, established by the Department; or
e. Injury Prevention Council;
3. Participates in injury prevention programs specific to the trauma center's patient population at the national, regional, state, or local levels;
4. Except for a Level IV trauma center, conducts trauma care continuing education activities for physicians, trauma center personnel members, and EMCTs;
5. If the trauma center holds a designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, establishes and maintains:
a. An injury prevention program:
i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department; and
ii. That includes:
(1) Designating a prevention coordinator who serves as the trauma center's representative for injury prevention and injury control activities;
(2) Carrying out injury prevention and injury control activities, including activities specific to the patient population;
(3) Conducting injury control studies;
(4) Monitoring the progress and effect of the injury prevention program; and
(5) Providing injury prevention and injury control information resources for the public; and
b. An educational outreach program:
i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department;
ii. That includes providing education to physicians, trauma center personnel members, EMCTs, and the general public; and
iii. That may include education about:
(1) Injury prevention,
(2) Trauma care,
(3) Other topics specific to the patient population,
(4) Criteria for assessing a patient who may require trauma care,
(5) Criteria for the transfer of a patient requiring trauma care; and
6. If the trauma center holds a designation as a Level I trauma center or Level I Pediatric trauma center:
a. Establishes and maintains, either independently or in collaboration with other hospitals, a residency program or fellowship program that provides advanced medical training in emergency medicine, general surgery, orthopedic surgery, or neurosurgery;
b. Participates in the provision of a trauma critical care course;
c. Conducts or participates in research related to trauma and trauma care; and
d. Maintains an Institutional Review Board, established consistent with 45 CFR Part 46, to review biomedical and behavioral research related to trauma and trauma care involving human subjects, conducted, funded, or sponsored by the trauma center, in order to protect the rights of the human subjects of such research.

**H.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
1. Ensure the presence of a surgeon at all operative procedures;
2. If the trauma center provides emergency medicine, neurosurgery, orthopedic surgery, anesthesiology, critical care, or radiology as an organized service, ensure that:
a. A physician from the organized service is appointed to act as a liaison between the organized service and the trauma center's trauma service;
b. The physician in subsection (H)(2)(a) completes:
i. If the trauma center's designation is for a three-year period, at least 48 hours of trauma-related

continuing medical education during the term of the designation;

ii. If the trauma center's designation is for a one-year period, at least 16 hours of trauma-related continuing medical education during the term of the designation; and

iii. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (H)(2)(b)(i) or four of the 16 hours required in subsection (H)(2)(b)(ii) in pediatric trauma-related continuing medical education; and

c. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure the physician in subsection (H)(2)(a) attends at least 50% of the meetings of the multidisciplinary peer review committee;

3. Ensure that, when a physician is on-call for general surgery, neurosurgery, or orthopedic surgery, the physician is not on-call or on a back-up call list at another health care institution;

4. Ensure that policies and procedures are established, documented, and implemented for:

a. Except for a Level IV trauma center, the formulation of blood products to be available during an event requiring multiple blood transfusions for a patient or patients; and

b. For a Level IV trauma center, the expedited release of blood products during an event requiring multiple blood transfusions for a patient or patients;

5. Ensure that the patient transfer plan required in subsection (G)(1) includes processes for transferring a patient needing:

a. Acute hemodialysis or pediatric trauma care to a hospital providing the required service if the trauma center is designated as a:

i. Level III or Level IV trauma center; or

ii. Level II trauma center and does not provide, as applicable, acute hemodialysis or pediatric trauma care;

b. Burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery to a hospital providing the required service if the trauma center is designated as a:

i. Level III or Level IV trauma center; or

ii. Level I or Level II trauma center and does not provide, as applicable, burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery; or

c. Another service that the trauma center is not authorized or not able to provide to a hospital providing the required service;

6. Except for a Level IV trauma center or as provided in subsection (I), require that:

a. An emergency medicine physician is present in the emergency department at all times;

b. A surgeon on the trauma team is present in the emergency department:

i. For a patient:

(1) If an adult, with a systolic blood pressure less than 90 mm Hg or, if a child, with confirmed age-specific hypotension;

(2) With respiratory compromise, respiratory obstruction, or intubation;

(3) Who is transferred from another hospital and is receiving blood to maintain vital signs;

(4) Who has a gunshot wound to the abdomen, neck, or chest;

(5) Who has a Glasgow Coma Scale score less than 8 associated with an injury attributed to trauma; or

(6) Who is determined by an emergency department physician to have an injury that has the potential to cause prolonged disability or death; and

ii. No later than the following times:

(1) For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; or

(2) For a Level III trauma center, within 30 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; and

c. One of the following anesthesia personnel members is available for an operative procedure on a patient at the indicated time point:

i. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 15 minutes after patient arrival in the emergency department; and

ii. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 30 minutes after patient arrival in the emergency department;

7. For a clinical capability required for the trauma center according to Table 13.1(C)(3), require that the on-call radiologist, critical care medicine physician, or surgical specialist is available to provide medical services, as applicable to the specialist, for a patient requiring trauma care within 45 minutes after notification; and

8. For personnel members assigned to an operating room team according to subsection (F)(9), require that the personnel members on the operating room team are on the premises of the trauma center while on duty or:

a. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center:

i. Are available to provide operative services for a patient requiring trauma care within 15 minutes

after notification or patient arrival at the trauma center, whichever is later; and

ii. Have response times and patient outcomes monitored through the performance improvement program; and

b. For a Level III trauma center or Level IV trauma center, if the Level IV trauma center provides surgical services:

i. Are available to provide operative services for a patient requiring trauma care within 30 minutes after notification or patient arrival at the trauma center, whichever is later; and

ii. Have response times and patient outcomes monitored through the performance improvement program.

**I.** The Department shall consider a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 to be in compliance with subsection (H)(6)(a), (b),or (c), as applicable, if the trauma center has documentation showing that:

1. The individual required to be present at the indicated location and within the indicated time period was present 80% or more of the time, and
2. The trauma center monitors the rate of compliance with subsection (H)(6) and patient outcomes through the performance improvement program.

**J.** The requirement in subsection (H)(6)(b) applies whether or not the owner of a trauma center allows a surgery resident in the fourth or fifth year of residency training to begin treating a patient described in subsection (H)(6)(b)(i) while awaiting the arrival of the surgeon on the trauma team, as required in subsection (H)(6)(b)(ii)(1) or (2).

**K.** An ALS base hospital certificate holder that chooses to submit trauma registry information to the Department, as allowed by A.R.S. § 36-2221(A), shall:

1. Include in the ALS base hospital's trauma registry at least the information required in R9-25-1309(A) for each patient who meets one or more of the criteria in subsections (C)(1)(a) through (c), and
2. Comply with the submission requirements in subsections (C)(2) and (3).

**R9-25-1315. ~~Application Processing Time Periods (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed**

~~**A.** The application processing time periods for each type of approval granted by the Department under this Article are listed in Table 1 and may be extended through a written agreement between an owner and the Department.~~

~~**B.** The Department shall, within the administrative completeness time period specified in Table 1, review each application submitted for administrative completeness.~~

~~1. If an application is incomplete, the Department shall send to the owner a written notice listing each deficiency and the information or items needed to complete the application.~~

~~2. If an owner fails to submit to the Department all of the information or items listed in a notice of deficiencies within the time period specified in Table 1, the Department shall consider the application withdrawn.~~

~~**C.** After determining that an application is administratively complete, the Department shall review the application for substantive compliance with the requirements for approval.~~

~~1. The Department shall complete its substantive review of each application, and send an owner written notice of approval or denial, within the substantive review time period specified in Table 1.~~

~~2. As part of the substantive review for an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, the Department shall conduct an announced onsite survey of the health care institution or trauma center as described in R9-25-1310.~~

~~3. An owner applying for renewal of designation who submits documentation of the owner's having applied for verification as permitted under R9-25-1306(A)(2)(b) or (A)(3)(b) shall submit to the Department during the substantive review time period documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).~~

~~4. During the substantive review time period, the Department may make one written request for additional information, listing the information or items needed to determine whether to approve the application, including, for an owner applying for renewal described in subsection (C)(3), a request for documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).~~

~~5. For an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, a written request for additional information may include a request for a corrective action plan to correct any deficiencies identified during an onsite survey of the health care institution or trauma center.~~

~~6. If an owner fails to submit to the Department all of the information or items listed in a written request for additional information, including, if applicable, a corrective action plan, within the time period specified in Table 1, the Department shall deny the application.~~

~~**D.** In applying this Section, the Department shall:~~

~~1. In calculating an owner's time to respond, begin on the postmark date of a notice of deficiencies or written request for additional information and end on the date that the Department receives all of the information or documents requested in the notice of deficiencies or written request for additional information; and~~

~~2. In calculating the Department's time periods, not include any time during which the Department is waiting for an owner to submit information or documents to the Department as requested by the Department in a notice of deficiencies or written request for additional information.~~

~~**E.** If the Department denies an application, the Department shall send to the owner a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.~~

~~1. An owner may file a written notice of appeal with the Department within 30 days after receiving the notice of denial, as provided in A.R.S. § 41-1092.03.~~

~~2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.~~

**Table 1.** ~~**Application Processing Time Periods (in days) (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~ **Repealed**

| ~~**Type of Approval**~~ | ~~Department's Administrative Completeness Time Period~~ | ~~Owner's Time to Respond to Notice of Deficiencies~~ | ~~Department's Substantive Review Time Period~~ | ~~Owner's Time to Respond to Written Request for Additional Information~~ |
|---|---|---|---|---|
| ~~Initial Designation (R9-25-1304)~~ | ~~30~~ | ~~30~~ | ~~90~~ | ~~60~~ |
| ~~Provisional Designation (R9-25-1305)~~ | ~~30~~ | ~~30~~ | ~~90~~ | ~~60~~ |
| ~~Extension of Provisional Designation (R9-25-1305)~~ | ~~15~~ | ~~30~~ | ~~15~~ | ~~30~~ |
| ~~Renewal of Designation (R9-25-1306)~~ | ~~30~~ | ~~30~~ | ~~90~~ | ~~120~~ |
| ~~Modification of Designation (R9-25-1309)~~ | ~~30~~ | ~~30~~ | ~~90~~ | ~~60~~ |

**Exhibit I.** ~~**Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~ **Repealed**

~~E =~~ ~~Essential and required~~

| ~~**Trauma Facilities Criteria**~~ | ~~Levels~~ | | | |
|---|---|---|---|---|
| | ~~**I**~~ | ~~**II**~~ | ~~**III**~~ | ~~**IV**~~ |
| ~~**A. Institutional Organization**~~ | | | | |
| ~~1. Trauma program~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~2. Trauma service~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~3. Trauma team~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~4. Trauma program medical director[1]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~5. Trauma multidisciplinary committee~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~6. Trauma coordinator/trauma program manager[2]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~**B. Hospital Departments/Divisions/Sections**~~ | | | | |
| ~~1. Surgery~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~2. Neurological surgery~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~a. Neurosurgical trauma liaison~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~3. Orthopaedic surgery~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |

| | | | | |
|---|---|---|---|---|
| ~~a. Orthopaedic trauma liaison~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~4. Emergency medicine~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~a. Emergency medicine liaison[3]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~5. Anesthesia~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~**C. Clinical Capabilities**~~ | | | | |
| ~~1. Published on-call schedule for each listed specialty required in (C)(2) and (3)~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~2. Specialty immediately available 24 hours/day~~ | | | | |
| ~~a. General surgery[4]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~i. Published back-up schedule~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~ii. Dedicated to single hospital when on-call~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~b. Anesthesia[5]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~c. Emergency medicine[6]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~3. On-call and promptly available 24 hours/day[7]~~ | | | | |
| ~~a. Cardiac surgery[8]~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~b. Hand surgery~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~c. Microvascular/replant surgery~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~d. Neurologic surgery~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~i. Dedicated to one hospital or back-up call~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~e. Obstetrics/gynecologic surgery~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~f. Ophthalmic surgery~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~g. Oral/maxillofacial surgery[9]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~h. Orthopaedic surgery~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~i. Dedicated to one hospital or back-up call~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~i. Plastic surgery~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~j. Critical care medicine~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~k. Radiology~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~l. Thoracic surgery~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~**D. Clinical Qualifications**~~ | | | | |
| ~~1. General/Trauma Surgeon~~ | | | | |
| ~~a. Board certification[10]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~b. 16 hours CME/year[11]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~c. ATLS certification[12]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |

| | | | | |
|---|---|---|---|---|
| ~~d. Multidisciplinary peer review committee attendance > 50%[13]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~2. Emergency Medicine[3]~~ | | | | |
| ~~a. Board certification[10]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~b. Trauma education – 16 hours CME/year[11]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~c. ATLS certification[12]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~d. Multidisciplinary peer review committee attendance > 50%[13]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~3. Neurosurgery~~ | | | | |
| ~~a. Board certification~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~b. 16 hours CME/year[11]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~c. Multidisciplinary peer review committee attendance > 50%[13]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~4. Orthopaedic Surgery~~ | | | | |
| ~~a. Board certification~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~b. 16 hours CME/year in skeletal trauma[11]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~c. Multidisciplinary peer review committee attendance > 50%[13]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~**E. Facilities/Resources/Capabilities**~~ | | | | |
| ~~1. Volume Performance[14]~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~2. Presence of surgeon at resuscitation (immediately available)[15]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~3. Presence of surgeon at resuscitation (promptly available)[16]~~ | ~~-~~ | ~~-~~ | ~~E~~ | ~~-~~ |
| ~~4. Presence of surgeon at operative procedures~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~5. Emergency Department~~ | | | | |
| ~~a. Personnel~~ | | | | |
| ~~i. Designated physician director~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~b. Resuscitation Equipment for Patients of All Ages~~ | | | | |
| ~~i. Airway control and ventilation equipment~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~ii. Pulse oximetry~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~iii. Suction devices~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~iv. Electrocardiograph-oscilloscope-defibrillator~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~v. Internal paddles~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~vi. CVP monitoring equipment~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~vii. Standard intravenous fluids and administration sets~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~viii. Large-bore intravenous catheters~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~ix. Sterile Surgical Sets for~~ | | | | |

| | | | | |
|---|---|---|---|---|
| ~~(1) Airway control/cricothyrotomy~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~(2) Thoracostomy~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~(3) Venous cutdown~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~(4) Central line insertion~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~(5) Thoracotomy~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~(6) Peritoneal lavage~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~x. Arterial catheters~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~xi. Drugs necessary for emergency care~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~xii. X-ray availability 24 hours/day~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~xiii. Broselow tape~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~xiv. Thermal Control Equipment~~ | | | | |
| ~~(1) For patient~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~(2) For fluids and blood~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~xv. Rapid infuser system~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~xvi. Qualitative end-tidal $CO_2$ determination~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~c. Communication with EMS vehicles~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~d. Capability to resuscitate, stabilize, and transport pediatric patients[17]~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~6. Operating Room~~ | | | | |
| ~~a. Immediately available 24 hours/day~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~b. Personnel~~ | | | | |
| ~~i. In-house 24 hours/day[18]~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~ii. Available 24 hours/day[19]~~ | ~~-~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~c. Age-Specific Equipment~~ | | | | |
| ~~i. Cardiopulmonary bypass~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~ii. Operating microscope~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~d. Thermal Control Equipment~~ | | | | |
| ~~i. For patient~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~ii. For fluids and blood~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~e. X-ray capability including C-arm image intensifier~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~f. Endoscopes, bronchoscope~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~g. Craniotomy instruments~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~h. Equipment for long bone and pelvic fixation~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |

| | | | | |
|---|---|---|---|---|
| ~~i. Rapid infuser system~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~7. Postanesthetic Recovery Room (SICU is acceptable)~~ | | | | |
| ~~a. Registered nurses available 24 hours/day~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~b. Equipment for monitoring and resuscitation~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~c. Intracranial pressure monitoring equipment~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~i. Pulse oximetry~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~ii. Thermal control~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~8. Intensive or Critical Care Unit for Injured Patients~~ | | | | |
| ~~a. Registered nurses with trauma training~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~b. Designated surgical director or surgical co-director~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~c. Surgical ICU service physician in-house 24 hours/day[20]~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~d. Surgically directed and staffed ICU service[20]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~e. Equipment for monitoring and resuscitation~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~f. Intracranial pressure monitoring equipment~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~g. Pulmonary artery monitoring equipment~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~9. Respiratory Therapy Services~~ | | | | |
| ~~a. Available in-house 24 hours/day~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~b. On-call 24 hours/day~~ | ~~-~~ | ~~-~~ | ~~E~~ | ~~-~~ |
| ~~10. Radiological Services (Available 24 hours/day)~~ | | | | |
| ~~a. In-house radiology technologist~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~b. Angiography~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~c. Sonography~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~d. Computed tomography~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~i. In-house CT technician~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~e. Magnetic resonance imaging~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~11. Clinical Laboratory Service (Available 24 hours/day)~~ | | | | |
| ~~a. Standard analyses of blood, urine, and other body fluids, including microsampling when appropriate~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~b. Blood typing and cross-matching~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~c. Coagulation studies~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~e. Blood gases and pH determinations~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |

| | | | | |
|---|---|---|---|---|
| ~~f. Microbiology~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~12. Acute Hemodialysis~~ | | | | |
| ~~a. In-house~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~b. Transfer agreement~~ | ~~-~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~13. Burn Care—Organized~~ | ~~E~~ | | | |
| ~~a. In-house or transfer agreement with burn center~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~14. Acute Spinal Cord Management~~ | ~~E~~ | | | |
| ~~a. In-house or transfer agreement with regional acute spinal cord injury rehabilitation center~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~**F. Rehabilitation Services**~~ | | | | |
| ~~1. Transfer agreement to an approved rehabilitation facility~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~2. Physical therapy~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~3. Occupational therapy~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~4. Speech therapy~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~5. Social Services~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~**G. Performance Improvement**~~ | | | | |
| ~~1. Performance improvement programs~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~2. Trauma Registry~~ | | | | |
| ~~a. In-house~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~b. Participation in state, local, or regional registry~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~3. Audit of all trauma deaths~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~4. Morbidity and mortality review~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~5. Trauma conference—multidisciplinary~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~6. Medical nursing audit~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~7. Review of prehospital trauma care~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~8. Review of times and reasons for trauma-related bypass~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~9. Review of times and reasons for transfer of injured patients~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~10. Performance improvement personnel dedicated to care of injured patients~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~**H. Continuing Education/Outreach**~~ | | | | |
| ~~1. Outreach activities[21]~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~2. Residency program[22]~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~3. ATLS provide/participate[23]~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |

| | | | | |
|---|---|---|---|---|
| ~~4. Programs provided by hospital for:~~ | | | | |
| ~~a. Staff/community physicians (CME)~~ | ~~E~~ | ~~E~~ | ~~E~~[24] | ~~-~~ |
| ~~b. Nurses~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~c. Allied health personnel~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~d. Prehospital personnel provision/participation~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~**I. Prevention**~~ | | | | |
| ~~1. Prevention program~~[25] | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~2. Collaboration with existing national, regional, state, and community programs~~[26] | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~**J. Research**~~ | | | | |
| ~~1. Research program~~[27] | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~2. Trauma registry performance improvement activities~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~3. Identifiable Institutional Review Board process~~ | ~~E~~ | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~4. Extramural education presentations~~ | ~~E~~[28] | ~~-~~ | ~~-~~ | ~~-~~ |
| ~~**K. Additional Requirements for Trauma Centers Represented as Caring for Pediatric Trauma Patients**~~[29] | | | | |
| ~~1. Trauma surgeons credentialed for pediatric trauma care~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~2. Pediatric emergency department area~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~3. Pediatric resuscitation equipment in all patient care areas~~ | ~~E~~ | ~~E~~ | ~~-~~ | ~~-~~ |
| ~~4. Microsampling~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~-~~ |
| ~~5. Pediatric-specific performance improvement program~~ | ~~E~~ | ~~E~~ | ~~E~~ | ~~E~~ |
| ~~6. Pediatric intensive care unit~~ | ~~E~~[30] | ~~E~~[31] | ~~-~~ | ~~-~~ |

~~[1] An individual may not serve as trauma medical director for more than one trauma center at the same time.~~
~~[2] For a Level I trauma center, this shall be a full-time position.~~
~~[3] This does not apply if emergency medicine physicians do not participate in the care of a hospital's trauma patients.~~
~~[4] For this criterion, "immediately available" means that:~~

~~1. For a Level I trauma center, a PGY 4 or 5 surgery resident or a trauma surgeon is on the hospital premises at all times; and~~
~~2. For all major resuscitations in a Level I, II, or III trauma center:~~
   ~~a. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and~~
   ~~b. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department:~~
      ~~i. For a Level I or II trauma center, no later than 15 minutes after patient arrival; or~~
      ~~ii. For a Level III trauma center, no later than 30 minutes after patient arrival.~~

~~The minimum threshold for compliance with #2 is 80%.~~
~~A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.~~

~~[5] For this criterion, "immediately available" means that:~~

~~1. For a Level I trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is on the hospital premises at all times;~~
~~2. For a Level II trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department no later than 15 minutes after patient arrival;~~
~~3. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present~~

~~in the emergency department no later than 30 minutes after patient arrival; and~~

4. ~~For a Level I, II, or III trauma center, an anesthesiologist is present for all surgeries.~~

[6] ~~For this criterion, "immediately available" means that an emergency medicine physician is physically present in the emergency department at all times. However, if emergency medicine physicians do not participate in the care of a hospital's trauma patients, an emergency medicine physician is not required to be immediately available 24 hours per day.~~

[7] ~~For the criteria in (C)(3)(a)-(l), "promptly available" means that:~~

1. ~~A physician specialist is present in the emergency department no later than 45 minutes after notification, based on patient need; or~~
2. ~~For hand surgery and microvascular/replant surgery, the owner has transfer agreements to ensure that a patient in need of hand surgery or microvascular/replant surgery can be expeditiously transferred to a health care institution that has a hand surgeon or microvascular/replant surgeon on the premises.~~

[8] ~~This criterion is satisfied by a physician authorized by the hospital to perform cardiothoracic surgery.~~

[9] ~~This criterion is satisfied by a dentist or physician authorized by the hospital to perform oral and maxillofacial surgery. If a physician, the individual shall be a plastic surgeon or an otolaryngologist.~~

[10] ~~In a Level I or II trauma center, a non-board-certified physician may be included in the trauma service if the physician:~~

1. ~~If a surgeon, is in the examination process by the American Board of Surgery;~~
2. ~~If the trauma medical director, is a Fellow of ACS;~~
3. ~~Unless the trauma medical director, complies with the following:~~
   a. ~~Has a letter written by the trauma medical director demonstrating that the health care institution's trauma program has a critical need for the physician because of the physician's individual experience or the limited physician resources available in the physician's specialty;~~
   b. ~~Has successfully completed an accredited residency training program in the physician's specialty, as certified by a letter from the director of the residency training program;~~
   c. ~~Has current ATLS certification as a provider or instructor, as established by documentation;~~
   d. ~~Has completed 48 hours of trauma CME within the past three years, as established by documentation;~~
   e. ~~Has attended at least 50% of the trauma quality assurance and educational meetings, as established by documentation;~~
   f. ~~Has been a member or attended local, regional, and national trauma organization meetings within the past three years, as established by documentation;~~
   g. ~~Has a list of patients treated over the past year with accompanying ISS and outcome for each;~~
   h. ~~Has a quality assurance assessment by the trauma medical director showing that the morbidity and mortality results for the physician's patients compare favorably with the morbidity and mortality results for comparable patients treated by other members of the trauma service; and~~
   i. ~~Has full and unrestricted privileges in the physician's specialty and in the department with which the physician is affiliated; or~~
4. ~~Complies with the following:~~
   a. ~~Has provided exceptional care of trauma patients, as established by documentation such as a quality assurance assessment by the trauma medical director;~~
   b. ~~Has numerous publications, including publication of excellent research;~~
   c. ~~Has made numerous presentations; and~~
   d. ~~Has provided excellent teaching, as established by documentation.~~

~~In a Level III trauma center, only the trauma medical director is required to be board-certified.~~

[11] ~~This criterion applies only to the trauma medical director, the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison. This criterion is satisfied by an average of 16 hours annually, or 48 hours over three years, of verifiable external trauma-related CME. External CME includes programs given by visiting professors or invited speakers and teaching an ATLS course.~~

[12] ~~Among the trauma surgeons, only the trauma medical director is required to have current ATLS certification. The other trauma surgeons are required to have held ATLS certification at one time. Among the emergency medicine physicians, only non-board-certified physicians are required to have current ATLS certification. The other emergency medicine physicians are required to have held ATLS certification at one time.~~

[13] ~~Among the trauma surgeons, 50% attendance is required for each member of the trauma surgical core group. In the other specialty areas, 50% attendance is required only for the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison.~~

[14] ~~Except for Level I trauma centers that care only for pediatric patients, each Level I trauma center shall satisfy one of the following volume performance standards:~~

1. ~~1200 trauma admissions per year,~~
2. ~~240 admissions with ISS > 15 per year, or~~
3. ~~An average of 35 patients with ISS > 15 for the trauma panel surgeons per year.~~

~~Burn patients may be included in annual trauma admissions if the trauma service, not a separate burn service, is responsible for burn care in the trauma center.~~

[15] ~~For this criterion, "immediately available" means that for all major resuscitations in a Level I or II trauma center:~~

1. ~~If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and~~
2. ~~If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 15 minutes after patient arrival.~~

~~The minimum threshold for compliance with this criterion is 80%.~~
~~A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.~~

[16] ~~For this criterion, "promptly available" means that for all major resuscitations in a Level III trauma center:~~

1. ~~If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and~~
2. ~~If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 30 minutes after patient arrival.~~

~~The minimum threshold for compliance with this criterion is 80%.~~
~~A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.~~

[17] ~~A trauma center that does not admit pediatric patients shall be capable of resuscitating, stabilizing, and transporting pediatric trauma patients.~~

[18] ~~A Level I trauma center shall have a complete operating room team in the hospital at all times, so that an injured patient who requires operative care can receive it in the most expeditious manner. The members of the operating room team shall be assigned to the operating room as their primary function; they cannot also be dedicated to other functions within the institution.~~

[19] ~~A Level II trauma center shall have a complete operating room team available when needed. The need to have an in-house operating room team depends on a number of things, including the patient population served, the ability to share responsibility for operating room coverage with other hospital staff, prehospital communication, and the size of the community served by the trauma center. If an out-of-house operating room team is used, then this aspect of care shall be monitored by the performance improvement program.~~

[20] ~~This requirement may be satisfied by a physician authorized by the hospital to admit patients into the intensive care unit as the attending physician or to perform critical care procedures.~~

[21] ~~This requirement is met through having an independent outreach program or participating in a collaborative outreach program. "Collaborative outreach program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals educate the general public or current or prospective physicians, nurses, prehospital providers, or allied health professionals regarding injury prevention, trauma triage, interfacility transfer of trauma patients, or trauma care.~~

[22] ~~A Level I trauma center shall have a functional and documented teaching commitment. This requirement may be met through:~~

1. ~~A trauma fellowship program; or~~
2. ~~Active participation with one of the following types of residency programs in emergency medicine, general surgery, orthopaedic surgery, or neurosurgery:~~
   a. ~~An independent residency program;~~
   b. ~~A regional residency rotation program; or~~
   c. ~~A collaborative residency program that includes multiple hospitals, with each non-sponsor participating hospital hosting at least one rotation.~~

[23] ~~This requirement is met through participating in the provision of ATLS courses and having ATLS instructors on staff.~~

[24] ~~When a Level III trauma center is in an area that contains a Level I or Level II trauma center, this is not required.~~
[25] ~~This requirement is met through having an independent prevention program or participating in a collaborative prevention program. "Collaborative prevention program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating health care institutions promote injury prevention through primary, secondary, or tertiary prevention strategies. An independent or collaborative prevention program shall include:~~

1. ~~Conducting injury control studies,~~
2. ~~Monitoring the progress and effect of the prevention program,~~
3. ~~Providing information resources for the public, and~~
4. ~~Each participating hospital's designating a prevention coordinator who serves as the hospital's spokesperson for prevention and injury control activities.~~

[26] ~~This requirement is met through participating in a prevention program organized at the national, regional, state, or local community level.~~

[27] ~~This requirement is met through having an independent research program or participating in a collaborative research program.~~

~~"Collaborative research program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals systematically investigate issues related to trauma and trauma care. Injury control studies are considered to be research program activities if they have a stated focused hypothesis or research question.~~

[28] ~~The trauma program shall provide at least 12 educational presentations every three years outside the academically affiliated institutions of the trauma center.~~

[29] ~~A trauma center is required to comply with the requirements of (K)(1) through (6), in addition to the requirements in (A) through (J), if the trauma center is represented as caring for pediatric trauma patients. "Represented as caring for pediatric trauma patients" means that a trauma center's availability or capability to care for pediatric trauma patients is advertised to the general public, health care providers, or emergency medical services providers through print media, broadcast media, the Internet, or other means such as the EMSystem, administered by the Department.~~

[30] ~~The trauma center shall have a PICU available on-site.~~

[31] ~~This requirement may be satisfied by a transfer agreement.~~

**Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

**Key:**

E = Essential and required
I(P) = Level I Pediatric trauma center
II(P) = Level II Pediatric trauma center
ICU = Intensive care unit
In-house = On the premises of the health care institution
ISS = Injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions
Child life = A program of support to injured children and their families to reduce stress and anxiety by:
a. Explaining medical equipment and procedures to children in a non-threatening and age-appropriate manner,
b. Explaining a diagnosis to a child in an age-appropriate manner, and
c. Helping children and their families develop strategies to cope with the diagnosis and expected outcome

| Trauma Facilities Criteria | Levels | | | | | |
|---|---|---|---|---|---|---|
| | I | I(P) | II | II(P) | III | IV |
| **A. Institutional Organization** | | | | | | |
| 1. Trauma service | E | E | E | E | E | - |
| 2. Trauma program medical director | E | E | E | E | E | - |
| 3. Trauma multidisciplinary peer review committee | E | E | E | E | E | - |
| **B. Hospital Departments/Divisions/Sections** | | | | | | |
| 1. Surgery | E | E | E | E | E | - |
| 2. Neurosurgery | E | E | E | E | - | - |
| 3. Orthopedic surgery | E | E | E | E | E | - |
| 4. Emergency medicine | E | E | E | E | E | - |
| 5. Pediatric emergency department area | - | E | - | E | - | - |
| 6. Anesthesia | E | E | E | E | E | - |
| **C. Clinical Capabilities** | | | | | | |
| 1. Written on-call schedule for each component of the trauma service if a team member not in-house | E | E | E | E | E | E |
| 2. Physician specialist available 24 hours/day | | | | | | |
| a. General surgeon | E | E | E | E | E | - |
| i. Published back-up schedule | E | E | E | E | - | - |
| ii. Dedicated to single hospital when on-call | E | E | E | E | - | - |
| iii. Surgeon credentialed for pediatric trauma care | - | E | - | E | - | - |
| b. Emergency medicine physician | E | E | E | E | E | - |
| c. Pediatric emergency medicine physician | - | E | - | - | - | - |
| 3. Specialist on-call and available 24 hours/day | | | | | | |
| a. Orthopedic surgeon | E | E | E | E | E | - |
| b. Pediatric-credentialed orthopedic surgeon | - | E | - | E | - | - |
| c. Neurosurgeon | E | E | E | E | - | - |
| d. Pediatric-credentialed neurosurgeon | - | E | - | E | - | - |

| | | | | | | |
|---|---|---|---|---|---|---|
| e. Critical care medicine physician | E | E | E | E | - | - |
| f. Pediatric-credentialed critical care medicine physician | - | E | - | E | - | - |
| g. Radiologist | E | E | E | E | E | |
| h. Hand surgeon | E | E | E | E | - | - |
| i. Ophthalmic surgeon | E | E | E | E | - | - |
| j. Plastic surgeon | E | E | E | E | - | - |
| k. Thoracic surgeon | E | E | E | E | - | - |
| l. Cardiac surgeon | E | E | - | - | - | - |
| m. Obstetrics/gynecologic surgeon | E | E | - | - | - | - |
| n. Oral/maxillofacial surgeon (plastic surgeon, otolaryngologist, or oral/maxillofacial surgeon) | E | E | E | E | - | - |
| 4. Qualified anesthesia personnel member on-call and available 24 hours/day | | | | | | |
| a. Physician or certified nurse anesthetist | E | E | E | E | E | - |
| b. Physician or certified nurse anesthetist with a pediatric credential | - | E | - | E | - | - |
| 5. Volume performance standards: | | | | | | |
| a. 1200 trauma admissions per year,<br>b. 240 admissions with ISS > 15 per year, or<br>c. Average of 35 patients with ISS > 15 for each trauma team surgeon per year | E | - | - | - | - | - |
| d. 200 trauma admissions < 15 years of age per year, | - | E | - | - | - | - |
| **D. Facilities/Resources/Capabilities** | | | | | | |
| 1. Emergency department | | | | | | |
| a. Designated physician director | E | E | E | E | E | - |
| b. Personnel members with pediatric-specific trauma-related training | - | E | - | E | - | - |
| c. Resuscitation equipment for patients of all sizes | | | | | | |
| i. Airway control and ventilation equipment | E | E | E | E | E | E |
| ii. Pulse oximetry | E | E | E | E | E | E |
| iii. Suction devices | E | E | E | E | E | E |
| iv. Electrocardiograph-oscilloscope-defibrillator | E | E | E | E | E | E |
| v. Color-coded, length-based tool to assist with medication dosing and equipment selection for children | E | E | E | E | E | E |
| vi. Central venous pressure monitoring equipment | E | E | E | E | E | - |
| vii. Standard intravenous fluids and administration sets | E | E | E | E | E | E |
| viii. Large-bore intravenous catheters | E | E | E | E | E | E |
| ix. Sterile surgical sets for: | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| (1) Airway control/cricothyrotomy | E | E | E | E | E | E |
| (2) Thoracostomy | E | E | E | E | E | E |
| (3) Central line insertion | E | E | E | E | E | - |
| (4) Thoracotomy | E | E | E | E | E | - |
| x. Arterial catheters | E | E | E | E | - | - |
| xi. X-ray availability 24 hours/day | E | E | E | E | E | - |
| xii. Thermal control equipment | | | | | | |
| (1) For patient | E | E | E | E | E | E |
| (2) For fluids and blood | E | E | E | E | E | E |
| xiii. Rapid infusion system/capability | E | E | E | E | E | E |
| xiv. Qualitative end-tidal $CO_2$ monitoring | E | E | E | E | E | E |
| d. Communication with EMS personnel | E | E | E | E | E | E |
| e. Capability to resuscitate, stabilize, and transfer pediatric patients | E | E | E | E | E | E |
| 2. Operating room | | | | | | |
| a. Immediately available 24 hours/day | E | E | E | E | - | - |
| b. Size-specific equipment | | | | | | |
| i. Cardiopulmonary bypass | E | E | - | - | - | - |
| ii. Operating microscope | E | E | - | - | - | - |
| c. Thermal control equipment | | | | | | |
| i. For patient | E | E | E | E | E | E |
| ii. For fluids and blood | E | E | E | E | E | E |
| d. X-ray capability including C-arm image intensifier | E | E | E | E | E | - |
| e. Endoscopes, bronchoscope | E | E | E | E | E | - |
| g. Craniotomy instruments | E | E | E | E | - | - |
| h. Equipment for long bone and pelvic fixation | E | E | E | E | E | - |
| i. Rapid infusion system/capability | E | E | E | E | E | E |
| 3. Postanesthesia recovery room or surgical ICU | | | | | | |
| a. Registered nurses available 24 hours/day | E | E | E | E | E | E |
| b. Equipment for monitoring and resuscitation | E | E | E | E | E | E |
| c. Intracranial pressure monitoring equipment | E | E | E | E | - | - |
| d. Pulse oximetry | E | E | E | E | E | E |
| e. Thermal control equipment | | | | | | |
| i. For patient | E | E | E | E | E | E |
| ii. For fluids and blood | E | E | E | E | E | E |
| 4. ICU or critical care unit for injured patients | | | | | | |
| a. Pediatric ICU | - | E | - | E | - | - |
| b. Registered nurses with trauma-related training | E | E | E | E | E | - |

| | | | | | | |
|---|---|---|---|---|---|---|
| c. Registered nurses with pediatric-specific trauma-related training | - | E | - | E | - | - |
| d. Designated surgical director or surgical co-director | E | E | E | E | E | - |
| e. Physician (fourth year of residency training or higher) assigned to surgical ICU service and in-house 24 hours/day | E | E | - | - | - | - |
| f. Physician (fourth year of residency training or higher) with a pediatric credential assigned to surgical ICU service and in-house 24 hours/day | - | E | - | - | - | - |
| g. Surgically directed and staffed ICU service | E | E | E | E | - | - |
| h. Equipment for monitoring and resuscitation | E | E | E | E | E | - |
| i. Intracranial pressure monitoring equipment | E | E | E | E | - | - |
| 5. Respiratory therapy services (Available 24 hours/day) | | | | | | |
| a. Available in-house | E | E | E | E | - | - |
| b. On-call and available within 45 minutes after notification | - | - | - | - | E | - |
| 6. Radiological services (Available 24 hours/day) | | | | | | |
| a. In-house radiology technologist | E | E | E | E | –E | - |
| b. Radiology technologist on-call and available within 45 minutes after notification | - | - | - | - | - | E |
| c. Resuscitation equipment for patients of all sizes, as specified in subsection (D)(1)(c)(i) to (v) | E | E | E | E | E | E |
| d. Angiography | E | E | E | E | - | - |
| e. Sonography | E | E | E | E | E | - |
| f. Computed tomography (CT) | E | E | E | E | E | - |
| i. In-house CT technician | E | E | E | E | - | - |
| ii. CT technician on-call and available within 45 minutes after notification | - | - | - | - | E | - |
| f. Magnetic resonance imaging | E | E | E | E | - | - |
| 7. Clinical laboratory service (Available 24 hours/day) | | | | | | |
| a. Standard analyses of blood, urine, and other body fluids | E | E | E | E | E | E |
| b. Blood typing and cross-matching | E | E | E | E | E | - |
| c. Coagulation studies | E | E | E | E | E | E |
| d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities | E | E | E | E | E | - |
| e. Blood gases and pH determinations | E | E | E | E | E | E |
| f. Microbiology | E | E | E | E | E | - |
| 8. Child maltreatment assessment capability | E | E | E | E | E | E |
| **E. Rehabilitation Services Specific to the Patient Population** | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 1. Physical therapy | E | E | E | E | E | - |
| 2. Occupational therapy | E | E | E | E | - | - |
| 3. Speech therapy | E | E | E | E | - | - |
| **F. Social Services Specific to the Patient Population** | | | | | | |
| 1. Social services | E | E | E | E | E | - |
| 2. Child life program | - | E | - | E | - | - |
| **G. Performance Improvement** | | | | | | |
| 1. Multidisciplinary peer review committee | E | E | E | E | E | - |
| 2. Performance improvement personnel dedicated to the trauma service | E | E | E | E | - | - |

**R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**

**A.** A trauma registry established according to R9-25-1308(B)(1) includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):

1. An identification code specific to the health care institution that had contact with the patient during the episode of care;
2. Demographic information about the patient:
   a. The unique number assigned by the health care institution to the patient;
   b. A code indicating whether the patient's record will be submitted to the Department as required in R9-25-1308(C)(2);
   c. The unique number assigned by the health care institution for the episode of care;
   d. The date the patient arrived at the health care institution for the episode of care;
   e. For the episode of care, a code indicating whether the patient:
      i. Was directly admitted to the health care institution,
      ii. Was admitted to the health care institution through the emergency department,
      iii. Was seen in the emergency department then transferred to another health care institution by an ambulance service or emergency medical services provider,
      iv. Was seen in the emergency department and discharged, or
      v. Died in the emergency department or was dead on arrival;
   f. The patient's first name, middle initial, and last name;
   g. The patient's Social Security Number;
   h. The patient's date of birth and age;
   i. Codes indicating the patient's gender, race, and ethnicity;
   j. The zip code of the patient's residence or, if applicable, an indication of why no zip code was reported; and
   k. The city, state, and county of the patient's residence;
3. Information about the occurrence of the patient's injury:
   a. The date and time the injury occurred;
   b. The ICD-code describing the type of location where the injury occurred;
   c. The zip code of the location where the injury occurred;
   d. The city, state, and county where the injury occurred;
   e. A code indicating whether the patient's injury resulted from blunt force trauma, a penetrating wound, or a burn;
   f. The ICD-code indicating the primary mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
   g. A description of the cause and circumstances leading to the patient's injury;
   h. Whether the patient was using a protective device or safety equipment at the time of the injury and, if so, the type or types of protective device or safety equipment being used;
   i. If the patient was subject to the requirements in A.R.S. § 28-907 at the time of the injury, whether the patient was using a child restraint system, as defined in A.R.S. § 28-907, at the time of the injury and, if so, the type of child restraint system being used; and
   j. If the patient's injury resulted from a motor vehicle crash, a code describing the status of airbag deployment;
4. Information about the patient's arrival at the health care institution:
   a. A code identifying the mode of transportation by which the patient arrived at the health care institution; and
   b. If applicable:
      i. The ambulance service or emergency medical services provider that transported the patient to the health care institution;
      ii. The unique identifier given by the ambulance service or emergency medical services provider to the incident during which the patient received EMS;
      iii. The date the ambulance service or emergency medical services provider transported the patient to

the trauma center; and

iv. If the patient was transferred from another health care institution, the name of the other health care institution;

5. Information about the health care institution's assessment or treatment of the patient in the emergency department:

a. A code indicating which of the criteria in R9-25-1308(C)(1) the patient met;

b. A code indicating whether an ambulance service or emergency medical services provider transported the patient to the health care institution and, if so, the criteria used by the transporting ambulance service or emergency medical services provider for transporting the patient to the health care institution;

c. The date and time the patient arrived at the emergency department of the health care institution for the episode of care;

d. The date and time the patient died or left the emergency department of the health care institution for the episode of care;

e. The length of time in hours and in minutes that the patient remained in the emergency department of the health care institution during the episode of care;

f. If trauma team activation occurred, the time when the last trauma team personnel member arrived at their assigned location in the health care institution;

g. Whether the patient showed signs of life when the patient arrived at the health care institution;

h. The values of the following for the patient at the time of their first assessment at the health care institution:

i. Pulse rate;

ii. Respiratory rate;

iii. Oxygen saturation;

iv. Systolic blood pressure; and

v. Temperature, including the units of temperature and the route used to measure the patient's temperature;

i. A code indicating whether the patient was receiving respiratory assistance at the time the patient's respiratory rate was assessed;

j. A code indicating whether the patient was receiving supplemental oxygen at the time the patient's oxygen saturation was assessed;

k. Codes indicating the Glasgow Coma Score for:

i. Eye opening,

ii. Verbal response to stimulus, and

iii. Motor response to stimulus;

l. The patient's total Glasgow Coma Score;

m. Whether the patient was intubated at the time of the patient's assessments in subsections (A)(5)(h)(ii), (k)(ii), and (l);

n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the time the patient's Glasgow Coma Score was measured;

o. A code indicating another factor that may have affected the patient's Glasgow Coma Score;

p. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;

q. A code indicating the status of alcohol use by the patient and, if applicable, the blood alcohol concentration in the patient's blood;

r. A code indicating the status of drug use by the patient and, if applicable, the code for each drug class detected in the patient's blood;

s. A code indicating the disposition of the patient at the time the patient was discharged from the emergency department; and

t. If the patient was transferred to another health care institution upon discharge from the emergency department:

i. The name of the health care institution to which the patient was transferred;

ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport;

iii. A code indicating the reason for transfer; and

iv. If there was a delay in transferring the patient to another health care institution, a code indicating the reason for the delay;

6. Information about the patient's discharge from the health care institution:

a. The date and time the patient was discharged from the health care institution;

b. The length of time the patient remained as an inpatient, as defined in A.A.C. R9-10-201, in the health care institution;

c. The length of time the patient remained in the health care institution's intensive care unit;

d. A code indicating whether the patient was alive or dead at the time of discharge from the health care institution;

e. The ICD-code for each injury identified in the patient, including an indication of whether the ICD-code is for:

i. The principle diagnosis, the reason believed by the health care institution to be chiefly responsible for the patient's need for the episode of care; or

ii. A secondary diagnosis, another reason believed by the health care institution to have contributed to

the patient's need for the episode of care;

f. The patient's Injury Severity Score;

g. A code indicating the disposition of the patient at the time the patient was discharged from the health care institution;

h. Whether a report of suspected physical abuse was reported to law enforcement or as required by A.R.S. § 13-3620 or 46-454, if applicable, and, if so:

i. Whether an investigation into the suspected physical abuse was initiated by an entity to which the suspected physical abuse was reported; and

ii. If the patient is a child, whether the patient was discharged in the care of a person other than the person responsible for the care of the patient at the time the patient arrived at the health care institution; and

i. If the patient was transferred to a hospital upon discharge from the health care institution:

i. The name of the hospital to which the patient was transferred,

ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport, and

iii. A code indicating the reason for transfer; and

7. Financial information about the episode of care:

a. A code for the primary source of payment for the episode of care;

b. A code for a secondary source of payment for the episode of care, if applicable.

c. The total amount of charges for the episode of care; and

d. The total amount collected by the health care institution for the episode of care.

**B.** In addition to the information required in subsection (A), a trauma registry established according to R9-25-1308(B)(1) by a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):

1. Demographic information about the patient:

a. The country of the patient's residence;

b. The country where the patient was found or from which an ambulance service or emergency medical services provider transported the patient; and

c. Any pre-existing medical conditions diagnosed for the patient, unrelated to the reason for the episode of care;

2. Information about the occurrence of the patient's injury:

a. Whether the time specified according to subsection (A)(3)(a) is the actual time of occurrence or an estimate;

b. The street address of the location where the injury occurred or, if the location at which the injury occurred does not have a street address, another indicator of the location at which the injury occurred;

c. Any additional ICD-code describing the mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;

d. The ICD-code indicating the activity the patient was engaged in that resulted in the patient's injury;

e. If the patient's injury resulted from a crash involving a means of transportation, including a motor vehicle, other motorized means of transportation, watercraft, bicycle, or aircraft, a code describing the type of vehicle in use at the time of the injury and the patient's location in the vehicle;

f. A description of any issues related to a protective device or safety equipment in use at the time of the patient's injury; and

g. Whether the patient's injury occurred during the patient's paid employment and, if so, a code indicating:

i. The type of occupation associated with the patient's employment, and

ii. The patient's occupation;

3. A code indicating whether EMS was provided to the patient and, if applicable, the type of transport provided to the patient;

4. If EMS was provided to the patient, whether a prehospital incident history report was provided to the trauma center and, if so:

a. The date on the prehospital incident history report;

b. The identifying number on the prehospital incident history report assigned by the ambulance service or emergency medical services provider;

c. The date and time the ambulance service or emergency medical services provider was dispatched, as defined in R9-25-901, to the scene;

d. The date and time the ambulance service or emergency medical services provider responded to the dispatch;

e. The date and time the ambulance service or emergency medical services provider arrived at the scene;

f. The date and time the ambulance service or emergency medical services provider established contact with the patient;

g. The date and time the ambulance service or emergency medical services provider left the scene;

h. The date and time the ambulance service or emergency medical services provider arrived at the health care institution that was the transport destination;

i. The date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured;

j. At the date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured, the patient's:

i. Pulse rate,
ii. Respiratory rate,
iii. Oxygen saturation, and
iv. Systolic blood pressure;

k. Whether the patient was intubated at the date and time the patient's pulse, respiration, and oxygen saturation were first measured;

l. Codes indicating the Glasgow Coma Score for:
i. Eye opening,
ii. Verbal response to stimulus, and
iii. Motor response to stimulus;

m. The patient's total Glasgow Coma Score;

n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the date and time the patient's Glasgow Coma Score was measured;

o. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;

p. Codes indicating all airway management procedures performed on the patient by an ambulance service or emergency medical services provider before the patient's arrival at the first health care institution; and

q. Whether the patient experienced cardiac arrest subsequent to the injury before the patient's arrival at the first health care institution;

5. The amount of time that elapsed from the date and time the ambulance service or emergency medical services provider:
a. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the scene,
b. Arrived at the scene and the date and time the ambulance service or emergency medical services provider left the scene,
c. Left the scene and the date and time the ambulance service or emergency medical services provider arrived at the transport destination, and
d. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the transport destination;

6. Whether the patient arrived at the trauma center for treatment of the injury resulting in the episode of care through an interfacility transport;

7. If the patient arrived at the trauma center through an interfacility transport, the following information about the health care institution at which the patient was seen immediately before arriving at the trauma center:
a. The name of the health care institution;
b. The date and time the patient arrived at the health care institution in subsection (B)(7)(a); and
c. The date and time the patient left the health care institution in subsection (B)(7)(a);

8. If the patient arrived at the health care institution in subsection (B)(7)(a) through an interfacility transport, the information in subsections (B)(7)(a) through (c) about each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the health care institution in subsection (B)(7)(a);

9. If the patient arrived at the trauma center through an interfacility transport, for each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the trauma center, information for the first instance of assessing the patient's:
a. Respiratory rate,
b. Systolic blood pressure,
c. The patient's total Glasgow Coma Score, and
d. Revised trauma score; and

10. Information about the patient's episode of care at the trauma center and the patient's discharge from the trauma center:
a. The patient's height and weight when the patient arrived at the trauma center;
b. The number of days the patient spent on a mechanical ventilator;
c. If applicable, the identification number assigned by a medical examiner or alternate medical examiner, as defined in A.R.S. § 11-591, to the documentation of the patient's autopsy;
d. The total length of time the patient remained at the trauma center before discharge;
e. For each ICD-code identified according to subsection (A)(6)(e), a code that reflects the severity of the injury to which the ICD-code refers;
f. For each ICD-code identified according to subsection (A)(6)(e) that does not include an indication of the part of the patient's body that was injured, a code supplementing the ICD-code that indicates the part of the body that was injured;
g. For each procedure performed on the patient:
i. The ICD-code for the procedure,
ii. The health care institution at which the procedure was performed,
iii. A code indicating the organized service unit within the health care institution in which the procedure was performed, and
iv. The date and time the procedure was begun;
h. Any complications experienced by the patient while the patient remained at the trauma center;
i. The Abbreviated Injury Scale code indicating the severity of each of the patient's injuries;
j. The Abbreviated Injury Scale code indicating the body region affected by each of the patient's injuries;

k. If the trauma center is designated as a Level I trauma center or Level I Pediatric trauma center, the six-digit Abbreviated Injury Scale code and the software version used to calculate the six-digit Abbreviated Injury Scale code; and

l. The patient's probability of survival.

**~~R9-25-1406.~~R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))**

~~**A.** To ensure the completeness and accuracy of trauma registry reporting, a submitting health care institution shall allow the Department to review the following, upon prior notice from the Department of at least five business days:~~

~~1. The submitting health care institution's database that includes data regarding cases;~~

~~2. Patient medical records; and~~

~~3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient.~~

~~**B.** Upon prior notice from the Department of at least five business days, a submitting health care institution shall provide the Department with all of its patient medical records for a time period specified by the Department, to allow the Department to review the patient medical records and determine whether the submitting health care institution has submitted data to the trauma registry for the cases who received medical services within the time period.~~

~~**C.** For purposes of subsection (B), the Department considers a submitting health care institution to be in compliance with R9-25-1402(A) if the submitting health care institution submitted data to the trauma registry for 97% of the cases who received medical services within the time period.~~

~~**D.** The Department shall return to a submitting health care institution data not submitted in compliance with R9-25-1402 and shall identify the revisions that are needed to bring the data into compliance with R9-25-1402.~~

~~**E.** A submitting health care institution that has trauma registry data returned as provided in subsection (D) shall revise the data as identified by the Department and shall submit the revised data to the Department within 15 business days after the date the Department returned the data or within a longer period agreed upon between the Department and the submitting health care institution.~~

~~**F.** Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a submitting health care institution shall prepare and submit to the Department the data set identified in Table 1 for the patient described in the simulated patient medical record.~~

**A.** To ensure the completeness and accuracy of trauma registry reporting, a health care institution submitting trauma registry information to the Department shall allow the Department to review the following, upon prior notice from the Department of at least five business days:

1. The health care institution's trauma registry or other database containing trauma registry information;

2. Patient medical records; and

3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient receiving trauma care.

**B.** Upon prior notice from the Department of at least five business days, a health care institution submitting trauma registry information to the Department shall provide the Department with all patient medical records for a time period specified by the Department, to allow the Department to determine the accuracy and completeness of the information submitted to the trauma registry for patients receiving trauma care during the period.

**C.** For purposes of subsection (B), the Department considers a health care institution to be in compliance with R9-25-1308(C)(2) if the health care institution submitted to the Department trauma registry information for 97% of the patients receiving trauma care during the period.

**D.** If trauma registry information submitted to the Department by a health care institution according to R9-25-1308(C)(2) and (3) is not in compliance with requirements in R9-25-1308 or R9-25-1309, the Department shall:

1. Notify the health care institution that the trauma registry information submitted to the Department is not in compliance with requirements in R9-25-1308 or R9-25-1309, and

2, Identify the revisions or actions that are needed to bring the data into compliance with R9-25-1308 and R9-25-1309.

**E.** A health care institution that has trauma registry information returned, as provided in subsection (D), shall:

1. Revise the trauma registry information as identified by the Department, and

2. Submit the revised data to the Department within 15 business days after the date the Department notified the health care institution according to subsection (D)(1) or within a longer period agreed upon between the Department and the health care institution.

**F.** Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a health care institution submitting trauma registry information to the Department shall prepare and submit to the Department the information required in R9-25-1309, applicable to the Level of health care institution, for the patient described in the simulated patient medical record.

## ARTICLE 14. ~~TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE~~ REPEALED

**R9-25-1401. ~~Definitions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed**

~~The following definitions apply in this Article, unless otherwise specified:~~

~~1. "Aggregate trauma data" means a collection of data from the trauma registry that is compiled so that it is not possible to identify a particular trauma patient, trauma patient's family, health care provider, or health care institution.~~

2. ~~"AIS" means abbreviated injury scale, an anatomic severity scoring system established in Association for the Advancement of Automotive Medicine Committee on Injury Scaling, *Abbreviated Injury Scale (AIS) 2005* (2005), incorporated by reference, including no future editions or amendments, and available from Association for the Advancement of Automotive Medicine, P.O. Box 4176, Barrington, IL 60011-4176, and www.carcrash.org.~~
3. ~~"ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. 36-2201.~~
4. ~~"Case" means a patient who meets R9-25-1402(A)(1), (2), or (3).~~
5. ~~"Category" means a group of related codes within the ICD-9-CM, identified by the first three digits of each code number within the group, and including all code numbers that share the same first three digits.~~
6. ~~"Data element" means a categorized piece of information.~~
7. ~~"Data set" means a collection of data elements that includes, for each case, data that complies with Table 1.~~
8. ~~"Department" means the Arizona Department of Health Services.~~
9. ~~"ED" means emergency department, an organized area of a hospital that provides unscheduled emergency services, as defined in A.A.C. R9-10-201, 24 hours per day, seven days per week, to individuals who present for immediate medical attention.~~
10. ~~"EMS" has the same meaning as "emergency medical services" in A.R.S. § 36-2201.~~
11. ~~"EMS provider" has the same meaning as "emergency medical services provider" in A.R.S. § 36-2201.~~
12. ~~"GCS" means Glasgow Coma Scale, a scoring system that defines eye, motor, and verbal responses in the patient with injury.~~
13. ~~"Health care institution" has the same meaning as in A.R.S. § 36-401.~~
14. ~~"Health care provider" means a caregiver involved in the delivery of trauma services to a patient, whether in a prehospital setting, in a hospital setting, or during rehabilitation.~~
15. ~~"Hospital" has the same meaning as in A.A.C. R9-10-201.~~
16. ~~"ICD-9-CM" has the same meaning as in A.A.C. R9-4-101.~~
17. ~~"ICD-9-CM E-code" means the external cause of injury as coded according to the ICD-9-CM.~~
18. ~~"ICD-9-CM N-code" means the nature of injury as coded according to the ICD-9-CM.~~
19. ~~"ICD-9-CM Procedure Code" means the procedure performed on a patient as coded according to the ICD-9-CM.~~
20. ~~"Injury" means the result of an act that damages, harms, or hurts; unintentional or intentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy or from the absence of such essentials as heat or oxygen.~~
21. ~~"ISS" has the same meaning as in R9-25-1301.~~
22. ~~"Owner" has the same meaning as in R9-25-1301.~~
23. ~~"Patient" means an individual who is sick, injured, or dead and who requires medical monitoring, medical treatment, or transport.~~
24. ~~"Scene" means a location, other than a health care institution, from which a patient is transported.~~
25. ~~"Submitting health care institution" means a health care institution that submits data to the trauma registry as provided in R9-25-1402.~~
26. ~~"Trauma center" means a health care institution that meets the definition of "trauma center" in A.R.S. § 36-2201 or the definition of "trauma center" in A.R.S. § 36-2225.~~
27. ~~"Trauma registry" has the same meaning as in A.R.S. § 36-2201.~~
28. ~~"Trauma team" means a group of health care providers organized to provide care to trauma patients.~~
29. ~~"Trauma team activation" means notification of trauma team members in response to triage information received concerning a patient with injury or suspected injury.~~
30. ~~"Trauma triage protocol" means a "triage protocol," as defined in R9-25-101, specifically designed for use with patients with injury.~~

**R9-25-1402.** ~~**Data Submission Requirements (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**~~ **Repealed**

~~**A.**~~ ~~As required under A.R.S. § 36-2221 and R9-25-1313, an owner of a trauma center shall ensure that the data set identified in Table 1 is submitted to the Department, as prescribed in subsection (B), for each patient who meets one or more of the following criteria:~~

1. ~~A patient with injury or suspected injury who is triaged from a scene to a trauma center or ED based upon the responding EMS provider's trauma triage protocol;~~
2. ~~A patient with injury or suspected injury for whom a trauma team activation occurs; or~~
3. ~~A patient with injury who is admitted as a result of the injury or who dies as a result of the injury, who has an ICD-9-CM N-code within categories 800 through 959, and who does not only have:~~
   - ~~a. Late effects of injury or another external cause, as demonstrated by an ICD-9-CM N-code within categories 905 through 909;~~
   - ~~b. A superficial injury or contusion, as demonstrated by an ICD-9-CM N-code within categories 910 through 924;~~
   - ~~c. Effects of a foreign body entering through an orifice, as demonstrated by an ICD-9-CM N-code within categories 930 through 939;~~
   - ~~d. An isolated femoral neck fracture from a same-level fall, as demonstrated by:~~
     - ~~i. An ICD-9-CM N-code within category 820; and~~
     - ~~ii. An ICD-9-CM E-code within category E885 or E886;~~
   - ~~e. An isolated distal extremity fracture from a same-level fall, as demonstrated by:~~

~~i. An ICD-9-CM N-code within categories 813 through 817 or within categories 823 through 826; and~~

~~ii. An ICD-9-CM E-code within category E885 or E886;~~

~~f. An isolated burn, as demonstrated by an ICD-9-CM N-code within categories 940 through 949.~~

~~**B.** An owner of a trauma center shall submit the data required under subsection (A) to the Department:~~

~~1. On a quarterly basis according to the following schedule:~~

~~a. For cases identified between January 1 and March 31, so that it is received by the Department by July 1 of the same calendar year;~~

~~b. For cases identified between April 1 and June 30, so that it is received by the Department by October 1 of the same calendar year;~~

~~c. For cases identified between July 1 and September 30, so that it is received by the Department by January 2 of the following calendar year; and~~

~~d. For cases identified between October 1 and December 31, so that it is received by the Department by April 1 of the following calendar year;~~

~~2. Through an electronic reporting system authorized by the Department;~~

~~3. In a format authorized by the Department; and~~

~~4. Along with the following information:~~

~~a. The name and physical address of the trauma center;~~

~~b. The date the trauma data is being submitted to the Department;~~

~~c. The total number of cases for whom trauma data is being submitted;~~

~~d. The quarter and year for which trauma data is being submitted;~~

~~e. The range of ED or hospital arrival dates for the cases for whom trauma data is being submitted;~~

~~f. The name, title, phone number, fax number, and e-mail address of the trauma center's point of contact for the trauma data; and~~

~~g. Any special instructions or comments to the Department from the trauma center's point of contact.~~

~~**C.** An ALS base hospital certificate holder that chooses to submit trauma data to the Department, as provided in A.R.S. § 36-2221, shall comply with the data submission requirements in this Section for an owner of a trauma center.~~

**Table 1.** ~~**Trauma Registry Data Set (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**~~ **Repealed**

~~**KEY:**~~

~~Required for TC Levels I, II, and III = An owner of a hospital designated as a Level I, Level II, or Level III trauma center under Article 13 of this Chapter shall include these data elements in the data submission required under R9-25-1402.~~

~~Required for TC Level IV, Non-Designated TC, and ALS Base Hospital = An owner of a health care institution designated as a Level IV trauma center under Article 13 of this Chapter; an owner of a trauma center, as defined in A.R.S. § 36-2201, that is not designated as a trauma center under Article 13 of this Chapter; or an ALS base hospital certificate holder that submits trauma data as provided under A.R.S. § 36-2221 shall include these data elements in the data submission required under R9-25-1402.~~

~~* = Only required for hospitals designated as Level I trauma centers under Article 13 of this Chapter.~~

| ~~**Field Name/Data Element Description**~~ | ~~**Required for TC Levels I, II, and III**~~ | ~~**Required for TC Level IV, Non-Designated TC, and ALS Base Hospital**~~ |
|---|---|---|
| ~~**DEMOGRAPHIC DATA ELEMENTS**~~ | | |
| ~~Reporting Facility Site ID~~ | ~~X~~ | ~~X~~ |
| ~~Registration Number~~ | ~~X~~ | ~~X~~ |
| ~~Medical Record Number~~ | ~~X~~ | ~~X~~ |
| ~~Hospital Admission Date~~ | ~~X~~ | ~~X~~ |
| ~~Admission Status~~ | ~~X~~ | ~~X~~ |
| ~~Patient Last Name~~ | ~~X~~ | ~~X~~ |
| ~~Patient First Name~~ | ~~X~~ | ~~X~~ |
| ~~Patient Middle Initial~~ | ~~X~~ | ~~X~~ |
| ~~Social Security Number~~ | ~~X~~ | ~~X~~ |
| ~~Date of Birth~~ | ~~X~~ | ~~X~~ |
| ~~Age~~ | ~~X~~ | ~~X~~ |

| | | |
|---|---|---|
| ~~Units of Age~~ | ~~X~~ | ~~X~~ |
| ~~Gender~~ | ~~X~~ | ~~X~~ |
| ~~Race~~ | ~~X~~ | ~~X~~ |
| ~~Ethnicity~~ | ~~X~~ | ~~X~~ |
| ~~Zip Code of Residence~~ | ~~X~~ | |
| ~~City of Residence~~ | ~~X~~ | |
| ~~County of Residence~~ | ~~X~~ | |
| ~~State of Residence~~ | ~~X~~ | ~~X~~ |
| ~~Country of Residence~~ | ~~X~~ | |
| ~~Alternate Home Residence~~ | ~~X~~ | |
| ~~Co-Morbid Conditions (Pre-Existing)~~ | ~~X~~ | |
| ~~**INJURY DATA ELEMENTS**~~ | | |
| ~~Injury Date~~ | ~~X~~ | ~~X~~ |
| ~~Injury Time~~ | ~~X~~ | ~~X~~ |
| ~~Actual versus Estimated Injury Time~~ | ~~X~~ | |
| ~~Injury Location ICD-9-CM E-code (E849)~~ | ~~X~~ | ~~X~~ |
| ~~Street Location of Injury~~ | ~~X~~ | |
| ~~Zip Code of Injury~~ | ~~X~~ | ~~X~~ |
| ~~City of Injury~~ | ~~X~~ | ~~X~~ |
| ~~County of Injury~~ | ~~X~~ | |
| ~~State of Injury~~ | ~~X~~ | |
| ~~Primary ICD-9-CM E-code Injury Descriptor~~ | ~~X~~ | ~~X~~ |
| ~~Additional ICD-9-CM E-code Injury Descriptor~~ | ~~X~~ | |
| ~~Trauma Type~~ | ~~X~~ | |
| ~~Work-Related~~ | ~~X~~ | |
| ~~Patient Occupational Industry~~ | ~~X~~ | |
| ~~Patient Occupation~~ | ~~X~~ | |
| ~~Patient Position in Vehicle~~ | ~~X~~ | |
| ~~Protective Devices~~ | ~~X~~ | ~~X~~ |
| ~~Child Specific Restraint~~ | ~~X~~ | |
| ~~Airbag Deployment~~ | ~~X~~ | |
| ~~Safety Equipment Issues~~ | ~~X~~ | |
| ~~**PREHOSPITAL TRANSPORT DATA ELEMENTS**~~ | | |
| ~~EMS Provider Type~~ | ~~X~~ | |
| ~~Transport Mode (Into Reporting Facility)~~ | ~~X~~ | ~~X~~ |
| ~~Other Transport Modes~~ | ~~X~~ | |
| ~~Transport Agency~~ | ~~X~~ | |
| ~~Run Sheet Available?~~ | ~~X~~ | |
| ~~Run Sheet Date~~ | ~~X~~ | |

| | | |
|---|---|---|
| ~~Transported From~~ | ~~X~~ | |
| ~~Date EMS Provider Notified~~ | ~~X~~ | |
| ~~Time EMS Provider Notified~~ | ~~X~~ | |
| ~~Date EMS Provider Left for Scene~~ | ~~X~~ | |
| ~~Time EMS Provider Left for Scene~~ | ~~X~~ | |
| ~~Date EMS Provider Arrived at Scene~~ | ~~X~~ | |
| ~~Time EMS Provider Arrived at Scene~~ | ~~X~~ | |
| ~~Date of EMS Patient Contact~~ | ~~X~~ | |
| ~~Time of EMS Patient Contact~~ | ~~X~~ | |
| ~~Date EMS Provider Departed Scene~~ | ~~X~~ | |
| ~~Time EMS Provider Departed Scene~~ | ~~X~~ | |
| ~~Date of Arrival at Destination~~ | ~~X~~ | |
| ~~Time of Arrival at Destination~~ | ~~X~~ | |
| ~~EMS Destination~~ | ~~X~~ | |
| ~~Total EMS Response Time (Minutes)~~ | ~~X~~ | |
| ~~Total EMS Scene Time (Minutes)~~ | ~~X~~ | |
| ~~Transport Time – Scene to Destination (Minutes)~~ | ~~X~~ | |
| ~~Total EMS Time (Minutes)~~ | ~~X~~ | |
| ~~System Access~~ | ~~X~~ | |
| ~~Triage Criteria~~ | ~~X~~ | ~~X~~ |
| ~~Date of Measurement of Vital Signs~~ | ~~X~~ | |
| ~~Time of Measurement of Vital Signs~~ | ~~X~~ | |
| ~~Initial Field Pulse Rate~~ | ~~X~~ | |
| ~~Initial Field Respiratory Rate~~ | ~~X~~ | |
| ~~Initial Field Oxygen Saturation~~ | ~~X~~ | |
| ~~Field Airway Management Details~~ | ~~X~~ | |
| ~~Field Intubation Status~~ | ~~X~~ | |
| ~~Field Paralytic Agent in Effect~~ | ~~X~~ | |
| ~~Initial Field Systolic Blood Pressure~~ | ~~X~~ | |
| ~~Initial Field GCS – Eye Opening~~ | ~~X~~ | |
| ~~Initial Field GCS – Verbal Response~~ | ~~X~~ | |
| ~~Initial Field GCS – Motor Response~~ | ~~X~~ | |
| ~~Initial Field GCS – Total~~ | ~~X~~ | |
| ~~Field Revised Trauma Score~~ | ~~X~~ | |
| ~~**REFERRING/TRANSFER HOSPITAL DATA ELEMENTS**~~ | | |
| ~~Interfacility Transfer~~ | ~~X~~ | |
| ~~Date of Arrival at First Referring Hospital~~ | ~~X~~ | |
| ~~Time of Arrival at First Referring Hospital~~ | ~~X~~ | |
| ~~Date of Transfer from First Referring Hospital~~ | ~~X~~ | |

| | | |
|---|---|---|
| ~~Time of Transfer from First Referring Hospital~~ | ~~X~~ | |
| ~~Transferring Facility (First Referring)~~ | ~~X~~ | |
| ~~Length of Stay in First Referring Hospital (Hours)~~ | ~~X~~ | |
| ~~Destination Facility~~ | ~~X~~ | |
| ~~Date of Arrival at Second Referring Hospital~~ | ~~X~~ | |
| ~~Time of Arrival at Second Referring Hospital~~ | ~~X~~ | |
| ~~Date of Transfer from Second Referring Hospital~~ | ~~X~~ | |
| ~~Time of Transfer from Second Referring Hospital~~ | ~~X~~ | |
| ~~Transferring Facility (Second Referring)~~ | ~~X~~ | |
| ~~Length of Stay in Second Referring Hospital (Hours)~~ | ~~X~~ | |
| ~~Destination Facility~~ | ~~X~~ | |
| ~~Vital Signs Designation (If First or Second Referring)~~ | ~~X~~ | |
| ~~Initial Respiratory Rate in Referring Facility~~ | ~~X~~ | |
| ~~Initial Systolic Blood Pressure in Referring Facility~~ | ~~X~~ | |
| ~~Initial GCS Total in Referring Facility~~ | ~~X~~ | |
| ~~Initial Revised Trauma Score in Referring Facility~~ | ~~X~~ | |
| ~~**ED/TRAUMA DATA ELEMENTS**~~ | | |
| ~~ED/Hospital Arrival Date~~ | ~~X~~ | ~~X~~ |
| ~~ED/Hospital Arrival Time~~ | ~~X~~ | ~~X~~ |
| ~~ED Exit Date~~ | ~~X~~ | ~~X~~ |
| ~~ED Exit Time~~ | ~~X~~ | ~~X~~ |
| ~~Length of Stay in ED (Hours)~~ | ~~X~~ | ~~X~~ |
| ~~Complete Trauma Team Arrival Time~~ | ~~X~~ | |
| ~~ED Discharge Disposition~~ | ~~X~~ | ~~X~~ |
| ~~ED Discharge Destination Hospital~~ | ~~X~~ | ~~X~~ |
| ~~Discharge Transport Agency~~ | ~~X~~ | |
| ~~Transfer Reason~~ | ~~X~~ | |
| ~~ED/Hospital Initial Pulse Rate~~ | ~~X~~ | |
| ~~ED/Hospital Initial Respiratory Rate~~ | ~~X~~ | |
| ~~ED/Hospital Initial Respiratory Assistance~~ | ~~X~~ | |
| ~~ED/Hospital Initial Oxygen Saturation~~ | ~~X~~ | |
| ~~ED/Hospital Initial Supplemental Oxygen~~ | ~~X~~ | |
| ~~ED/Hospital Intubation Status~~ | ~~X~~ | |
| ~~ED/Hospital Paralytic Agent in Effect~~ | ~~X~~ | |
| ~~ED/Hospital Initial Systolic Blood Pressure~~ | ~~X~~ | |
| ~~ED/Hospital Initial GCS – Eye Opening~~ | ~~X~~ | |
| ~~ED/Hospital Initial GCS – Verbal Response~~ | ~~X~~ | |
| ~~ED/Hospital Initial GCS – Motor Response~~ | ~~X~~ | |
| ~~ED/Hospital Initial GCS – Total~~ | ~~X~~ | |

| | | |
|---|---|---|
| ~~ED/Hospital Initial GCS Assessment Qualifiers~~ | ~~X~~ | |
| ~~ED/Hospital Initial Temperature~~ | ~~X~~ | |
| ~~ED/Hospital Initial Units of Temperature~~ | ~~X~~ | |
| ~~ED/Hospital Initial Temperature Route~~ | ~~X~~ | |
| ~~ED/Hospital Initial Revised Trauma Score~~ | ~~X~~ | |
| ~~Alcohol Use Indicator~~ | ~~X~~ | |
| ~~Blood Alcohol Content (mg/dl)~~ | ~~X~~ | |
| ~~Drug Use Indicator~~ | ~~X~~ | |
| ~~Toxicology Substances Found~~ | ~~X~~ | |
| ~~**DISCHARGE DATA ELEMENTS**~~ | | |
| ~~Hospital Discharge Date~~ | ~~X~~ | ~~X~~ |
| ~~Hospital Discharge Time~~ | ~~X~~ | ~~X~~ |
| ~~Hospital Admission Length of Stay (Days)~~ | ~~X~~ | ~~X~~ |
| ~~Total Length of Hospital Stay – ED plus Admission (Days)~~ | ~~X~~ | |
| ~~Final Outcome – Dead or Alive~~ | ~~X~~ | ~~X~~ |
| ~~Total ICU Length of Stay (Days)~~ | ~~X~~ | ~~X~~ |
| ~~Total Ventilator Days~~ | ~~X~~ | |
| ~~Hospital Discharge Disposition~~ | ~~X~~ | ~~X~~ |
| ~~Hospital Discharge Destination Hospital~~ | ~~X~~ | ~~X~~ |
| ~~Discharge Transport Agency~~ | ~~X~~ | |
| ~~Transfer Reason~~ | ~~X~~ | |
| ~~Autopsy Identification Number~~ | ~~X~~ | |
| ~~Injury Diagnoses – ICD-9-CM N-codes~~ | ~~X~~ | ~~X~~ |
| ~~AIS Six-Digit Injury Identifier~~ | ~~X*~~ | |
| ~~AIS Severity Code~~ | ~~X~~ | |
| ~~AIS Body Region of Injury~~ | ~~X~~ | |
| ~~Injury Severity Score~~ | ~~X~~ | |
| ~~Probability of Survival~~ | ~~X~~ | |
| ~~ED/Hospital Procedure Location~~ | ~~X~~ | |
| ~~ED/Hospital Procedure Start Date~~ | ~~X~~ | |
| ~~ED/Hospital Procedure Start Time~~ | ~~X~~ | |
| ~~ED/Hospital ICD-9-CM Procedure Codes~~ | ~~X~~ | |
| ~~Hospital Complications~~ | ~~X~~ | |
| ~~Primary Method of Payment~~ | ~~X~~ | |
| ~~Secondary Method of Payment~~ | ~~X~~ | |
| ~~Total Hospital Charges~~ | ~~X~~ | |
| ~~Total Reimbursements~~ | ~~X~~ | |

**R9-25-1403.** ~~**Trauma System Data Reports; Requests for Trauma Registry Reports (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))**~~ **Repealed**

~~**A.**~~ ~~The Department shall produce and disseminate to each submitting health care institution a quarterly trauma system data report~~

~~that includes statewide aggregate trauma data.~~

~~**B.** A person may request to receive a report containing statewide aggregate trauma data for data elements not included in the quarterly trauma system data report by submitting a written public records request to the Department as provided in A.A.C. R9-1-303.~~

~~**C.** The Department shall process a request for a report submitted under subsection (B) as provided in A.A.C. R9-1-303.~~

~~**D.** As provided in A.R.S. § 36-2220(A)(1), Trauma Registry data from which a patient, the patient's family, or the patient's health care provider or facility might be identified is confidential and is not available to the public.~~

**R9-25-1405.** ~~**Confidentiality and Retention of Trauma System Quality Assurance Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, 36-2222(E)(3), 36-2225(A)(5) and (6), 36-2403(A), and 36-2404)**~~ **Repealed**

~~**A.** As provided in A.R.S. §§ 36-2220(A)(2) and 36-2403(A), all data and documents obtained by the Department or considered by the Department, the State Trauma Advisory Board, or a State Trauma Advisory Board subcommittee for purposes of trauma system quality assurance are confidential and are not available to the public.~~

~~**B.** The Department shall ensure that:~~

~~1. Each member of the State Trauma Advisory Board or member of a State Trauma Advisory Board subcommittee who will have access to the data and documents described in subsection (A) executes a written confidentiality statement before being allowed access to the data and documents;~~

~~2. All trauma system quality assurance activities are completed in executive session during State Trauma Advisory Board or State Trauma Advisory Board subcommittee meetings;~~

~~3. Except for one historical copy, all copies of data and documents described in subsection (A) and used during an executive session are collected at the end of the executive session and destroyed after the State Trauma Advisory Board or State Trauma Advisory Board subcommittee meeting; and~~

~~4. Executive session minutes and all copies of data and documents described in subsection (A) are maintained in a secure area and are accessible only to authorized Department employees.~~

**R9-25-1406.** **Renumbered**

# NOTICES OF FINAL EXEMPT RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

## NOTICES OF FINAL EXEMPT RULEMAKING
### TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
### CHAPTER 6. DEPARTMENT OF INSURANCE

[R17-71]

**PREAMBLE**

| 1. Article, Part or Section Affected (as applicable) | Rulemaking Action |
|---|---|
| R20-6-1001 | Amend |
| R20-6-1002 | Amend |
| R20-6-1003 | Amend |
| R20-6-1004 | Amend |
| R20-6-1005 | Amend |
| R20-6-1006 | Amend |
| R20-6-1007 | Amend |
| R20-6-1008 | Amend |
| R20-6-1009 | Amend |
| R20-6-1010 | Amend |
| R20-6-1011 | Amend |
| R20-6-1012 | Repeal |
| R20-6-1012 | Renumber |
| R20-6-1012 | Amend |
| R20-6-1013 | Renumber |
| R20-6-1013 | Amend |
| R20-6-1014 | Renumber |
| R20-6-1014 | Amend |
| R20-6-1015 | Renumber |
| R20-6-1015 | New Section |
| R20-6-1017 | Amend |
| R20-6-1018 | Amend |
| R20-6-1019 | Amend |
| R20-6-1020 | Amend |
| R20-6-1021 | Amend |
| R20-6-1023 | Amend |
| R20-6-1024 | Renumber |
| R20-6-1024 | New Section |
| R20-6-1025 | New Section |
| R20-6-1026 | Renumber |
| Appendix A | Amend |
| Appendix B | Amend |
| Appendix C | Amend |
| Appendix D | Amend |
| Appendix E | Amend |
| Appendix F | Amend |
| Appendix H | Amend |
| Appendix I | Amend |
| Appendix J | Amend |

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 20-143

Implementing statute: A.R.S. § 20-1691.02

Statute or session law authorizing the exemption: SB 1441 (L. 2016, Ch. 280); Long-Term Care; Rates; Premiums, enacted into law under an emergency clause effective May 17, 2016.

**3. The effective date of the rule and the agency's reason it selected the effective date:**

November 10, 2017

The Department selected this date because the regulated industry requested a 6-month delay between the adoption of the rule and the effective date to give them time to re-tool their filings.

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

Notice of Rulemaking Docket Opening: 22 A.A.R. 3708, December 30, 2016

Notice of Proposed Exempt Rulemaking: 23 A.A.R. 151, January 20, 2017

Notice of Oral Proceeding on Proposed Rulemaking (Public Meeting): 23 A.A.R. 234, January 27, 2017

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

Name: Mary E. Kosinski
Address: Department of Insurance
2910 N. 44th St., Suite 210
Phoenix, AZ 85018
Telephone: (602) 364-3471
E-mail: mkosinski@azinsurance.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:**

Chapter 6, Article 10 governs Long-Term Care Insurance, which is insurance designed to cover long-term services and supports including personal and custodial care in a variety of settings. Long-term care insurance policies reimburse policyholders a daily amount (up to a pre-selected limit) for services to assist them with activities of daily living (bathing, dressing or eating), home health care, respite care, hospice care or adult day care. Care may be provided in a nursing home, an assisted living facility, a hospice facility, a day care facility or in the person's home. Long-Term care may also include care management services which evaluate a person's needs and coordinates and monitors their long-term care services.

The purpose of this regulation is to revise the existing regulation that implemented the Long-Term Care Insurance Act (A.R.S. §§ 20-1691 through 20-1691.12), to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages and to allow innovation in the development of long-term care insurance products.

The current regulation is patterned after the National Association of Insurance Commissioners' (NAIC) Long-Term Care Model Regulation, which the NAIC adopted in 2000. Since that version, the NAIC has updated and improved the Model Regulation. The NAIC adopted the current version of the Long-Term Care Model Regulation in 2014.

SB 1441 (L. 2016, Ch. 280); Long-Term Care; Rates; Premiums, enacted into law under an emergency clause effective May 17, 2016, required the Department to adopt rules relating to long-term care insurance that substantially conform to those adopted in model regulations adopted by the NAIC, including the 2014 revisions. The bill exempted the Department from rulemaking requirements for one year from the effective date of the Act except that the Department is required to provide public notice and an opportunity for public comment on the proposed rules at least 60 days before rule adoption or amendment.

**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:**

Not applicable

**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:**

The rule will not diminish a previous grant of authority of a political subdivision of this state.

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

Upon adoption, this rule will result in greater uniformity for insurers operating in states with later versions of the NAIC Model Regulation resulting in reduced compliance costs.

The most significant change to the Article is to allow consideration of a rate increase that is lower than required by the actuarial certification. Other changes include a definition of Moderately Adverse Experience to encourage more conservative pricing; annual submission of an actuarial certification to encourage rate increase requests when needed rather than delay and request a larger increase; replacing a loss ratio test with one is aimed at better evaluating the reasonableness of a rate increase; strengthening consumer disclosure requirements; and providing greater value to consumers who decide to lapse their policy after a rate increase.

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

Not applicable

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

The Department received both written comments (e-mails and letters) and testimony given at the hearing held on March 3, 2017. The comments received are recited verbatim on the Department's website: https://insurance.az.gov.

The comments can be categorized into three areas. The first area relates to A.A.C. R20-6-1007(E) and is a joint request by the American Council of Life Insurers (ACLI) and America's Health Insurance Plans (AHIP). These entities requested a change to the

last sentence of AAC R20-6-1007(E) to read: "The contract shall also include a Specification Page which shall include the benefits, amounts, durations, the premium rate applicable to the insured and any other benefit data applicable to the insured."

In response, the Department has changed AAC R20-6-1007(E) to read: "The contract shall also include a Specification Page which shall include the benefits, amounts, durations, the premium rate including all optional benefits selected by the insured, and any other benefit data applicable to the insured."

The second area, again requested jointly by ACLI and AHIP, was to delay the effective date of the rule amendments for six months to allow insurers sufficient time to comply with the new provisions being incorporated in the rulemaking.

The Department has considered this suggestion and is making the effective date November 10, 2017.

The third area of comments centered on Senate Bill 1441 (L. 2016, Ch. 280; Long-Term Care; Rates, Premiums, enacted into law under an emergency clause effective May 17, 2016), which is the bill that mandated adoption by the Department of the 2014 version of the NAIC Model Long-Term Care Insurance Regulation. None of these comments addressed the rulemaking but were, instead, general comments on the impact of premium rate increases on consumers.

The Department has also posted its responses on the website.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

**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:**

No permit is required.

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

No federal law is 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:**

No person submitted an analysis.

**13. A list of any incorporated by reference material and its location in the rule:**

Internal Revenue Code of 1986, as amended; 26 U.S.C. § 7702B.
U.S. Government Publishing Office: https://www.gpo.gov/fdsys/pkg/USCODE-2015-title26/html/USCODE-2015-title26
Referenced in Sections R20-6-1002(A) ("Benefit trigger"), R20-6-1003(A)(6) ("Chronically ill individual"), and R20-6-1003(A)(20) ("Qualified long-term care services")
Arizona Revised Statutes, Title 36; A.R.S. § 36-151.
Arizona Department of Health Services
http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/00151.htm
Referenced in Section R20-6-1003(A)(13) ("Home health services").

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

Not applicable

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

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

## CHAPTER 6. DEPARTMENT OF INSURANCE

## ARTICLE 10. LONG-TERM CARE INSURANCE

Section
R20-6-1001. Applicability and Scope
R20-6-1002. Definitions
R20-6-1003. Policy Terms
R20-6-1004. Required Policy Provisions
R20-6-1005. Unintentional Lapse
R20-6-1006. Inflation Protection
R20-6-1007. Required Disclosure Provisions
R20-6-1008. Required Disclosure of Rating Practices to Consumers
R20-6-1009. Initial Filing Requirements
R20-6-1010. Requirements for Application Forms and Replacement Coverage, Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates; Reporting Requirements
R20-6-1011. Prohibition Against Post-claims Underwriting
R20-6-1012. ~~Discretionary Powers of Director~~ Repealed
~~R20-6-1013.~~R20-6-1012. Reserve Standards
~~R20-6-1014.~~R20-6-1013. Loss Ratio
~~R20-6-1015.~~R20-6-1014. Premium Rate Schedule Increases
R20-6-1015. Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings
R20-6-1017. Standards for Marketing
R20-6-1018. Suitability

R20-6-1019. Nonforfeiture Benefit Requirement
R20-6-1020. Standards for Benefit Triggers
R20-6-1021. Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts
R20-6-1023. Requirement to Deliver Shopper's Guide
R20-6-1024. Availability of New Services or Providers
R20-6-1025. Right to Reduce Coverage and Lower Premiums
~~R20-6-1024.~~R20-6-1026.Instructions for Appendices
Appendix A. Long-term Care Insurance Personal Worksheet
Appendix B. Long-term Care Insurance Potential Rate Increase Disclosure Form
Appendix C. Notice to Applicant Regarding Replacement of Individual Health or Long-Term Care Insurance
Appendix D. Notice to Applicant Regarding Replacement of Health or Long-Term Care Insurance
Appendix E. Long-term Care Insurance Replacement and Lapse Reporting Form
Appendix F. Long-term Care Insurance Claims Denial Reporting Form
Appendix H. Things You Should Know Before You Buy Long-term Care Insurance
Appendix I. Long-term Care Insurance Suitability Letter
Appendix J. Long-term Care Insurance Outline of Coverage

## ARTICLE 10. LONG-TERM CARE INSURANCE

**R20-6-1001. Applicability and Scope**

~~Except as otherwise specifically provided, this Article applies to all long-term care insurance policies delivered or issued for delivery in this state.~~

Except as otherwise specifically provided, this Article applies to all long-term care insurance policies, including qualified long-term care contracts and life insurance policies that accelerate benefits for long-term care, delivered or issued for delivery in this state by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health care service organizations and all similar organizations.

**R20-6-1002. Definitions**

The definitions in A.R.S. § 20-1691 and the following definitions apply in this Article.

**A.** "Benefit trigger," for purposes of a tax-qualified long-term care insurance contract, as defined in Section 7702B(b) of the Internal Revenue Code of 1968, as amended, "benefit trigger" shall include a determination by a licensed health care practitioner that an insured is a chronically ill individual.

**B.** "Exceptional increase" means only those rate increases that an insurer has filed as exceptional and that the Director determines the need for the premium rate increase is justified due to changes in laws or regulations applicable to long-term care coverage in this state; or due to increased and unexpected utilization that affects the majority of insurers of similar products.

1. Except as provided in Sections R20-6-1014 and R20-6-1015, exceptional increases are subject to the same requirements as other premium rate schedule increases.
2. The Director may request independent actuarial review on the issue of whether an increase should be deemed an exceptional increase.
3. The Director may also determine whether there are any potential offsets to higher claims costs.

~~1.~~**C.** ~~"Incidental"~~ "Incidental," as used in R20-6-1014(L) and R20-6-1015(L), means that the value of the long-term care benefits provided is less than 10% of the total value of the benefits provided over the life of the policy, with value measured as of the date of issue.

**D.** "Licensed health care professional" means an individual qualified by education and experience in an appropriate field, to determine, by record review, an insured's actual functional or cognitive impairment.

~~2.~~**E.** "Long-term care benefit classification" means one of the following:

~~a.~~1. Institutional long-term care – benefits only;
~~b.~~2. Non-institutional long-term care – benefits only; or
~~c.~~3. Comprehensive long-term care benefits.

~~3.~~**F.** "Managed care plan" means a health care or assisted living ~~agreement~~ arrangement designed to coordinate patient care or control costs through utilization review, case management, use of specific provider networks, or a combination of these methods.

~~4.~~**G.** "Personal information" has the same meaning prescribed in A.R.S. § 20-2102(19).

~~5.~~**H.** "Privileged information" has the same meaning prescribed in A.R.S. § 20-2102(22).

~~6.~~**I.** "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

~~7.~~**J.** "Similar policy forms" means all long-term care insurance policies and certificates that are issued by a particular insurer and that have the same long-term care benefit classification as a policy form being reviewed.

**R20-6-1003. Policy Terms**

**A.** A long-term care insurance policy delivered or issued for delivery in this state shall not use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

1. "Activities of daily living" means eating, toileting, transferring, bathing, dressing, or continence.
2. "Acute condition" means that an individual is medically unstable and requires frequent monitoring by medical professionals, such as physicians and registered nurses, to maintain the individual's health status.
3. "Adult day care" means a program of social and health-related services for six or more individuals, that is provided during the day in a community group setting, for the purpose of supporting frail, impaired, elderly, or other disabled adults who can benefit from the services and care in a setting outside the home.
4. "Agent" means an insurance producer as defined in A.R.S. § 20-281(5).
5. "Bathing" means washing oneself by sponge bath, or in a tub or shower, and includes the act of getting in and out of the tub or shower.

6. "Chronically ill individual" has the meaning prescribed for this term by A.R.S. § 20-1691(3) and Section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended.
   a. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:
      i. Being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to loss of functional capacity; or
      ii. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.
   b. The term "chronically ill individual" does not include an individual otherwise meeting these requirements unless within the preceding twelve-month period a licensed health care practitioner has certified that the individual meets these requirements.

~~6.~~7. "Cognitive impairment" means a deficiency in a person's:
   a. Short or long-term memory;
   b. Orientation as to person, place, or time;
   c. Deductive or abstract reasoning; or
   d. Judgment as it relates to safety awareness.

~~7.~~8. "Continence" means the ability to maintain control of bowel and bladder function, or when unable to maintain control, the ability to perform associated personal hygiene, such as caring for a catheter or colostomy bag.

~~8.~~9. "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs.

~~9.~~10. "Eating" means feeding oneself by getting food into the body from a receptacle such as a plate, cup, or table, or by a feeding tube or intravenously.

~~10.~~11. "Guaranteed renewable" means the insured has the right to continue a long-term-care insurance policy in force by the timely payment of premiums and the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that the insurer may revise rates on a class basis.

~~11.~~12. "Hands-on assistance" means physical help to an individual who could not perform an activity of daily living without help from another individual, and includes minimal, moderate, or maximal help.

~~12.~~13. "Home health services" means the services described at A.R.S. § 36-151.

~~13.~~14. "Level premium" means that an insurer does not have any right to change the premium, even at renewal.

15. "Licensed health care practitioner" has the same meaning as A.R.S. § 20-1691(7).

16. "Maintenance or personal care services" has the same meaning as A.R.S. § 20-1691(10).

~~14.~~17. "Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

~~15.~~18. "Noncancellable" means the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally cancel or make any change in any provision of the insurance or in the premium rate.

~~16.~~19. "Personal care" means the provision of hands-on assistance to help an individual with activities of daily living in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.

20. "Qualified long-term care services" has the meaning prescribed for this term under A.R.S. § 20-1691(14) and means services that meet the requirements of Section 7702B(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventative, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

~~17.~~21. "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing tasks associated with personal hygiene.

~~18.~~22. "Transferring" means moving into or out of a bed, chair, or wheelchair.

**B.** Any long-term care policy delivered or issued for delivery in this state shall include the following policy terms and provisions as specified in this subsection:
1. "Home care" shall be defined in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
2. "Intermediate care" shall be defined in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
3. "Mental or nervous disorder" shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.
4. "Skilled nursing care," "specialized care," "assisted living care" and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care is delivered.
5. Service providers, including "skilled nursing facility," "extended care facility," ~~"intermediate care facility,"~~ "convalescent nursing home," "personal care facility," "specialized care providers," "assisted living facility" and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services ~~and may require that the provider be appropriately licensed or certified~~. When the definition requires that the provider be appropriately licensed, certified or registered, it shall also state what requirements a provider must meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name.

**R20-6-1004. Required Policy Provisions**

**A.** Renewability

1. An individual long-term care insurance policy shall contain a renewability provision~~.~~ which shall be either "guaranteed renewable" or "noncancellable." The renewability provision shall be appropriately captioned, shall appear on the first page of the policy, and shall state that the coverage is guaranteed renewable or noncancellable. This requirement does not apply to a long-term care insurance policy that is part of or combined with a life insurance policy that does not contain a renewability provision and that reserves the right not to renew solely to the policyholder.
2. An insurer shall not use the terms "guaranteed renewable" and "noncancellable" in any individual long-term care insurance policy without further explanatory language according to the disclosure requirements of this Article.
3. A qualified long-term care insurance policy shall have the guaranteed renewability provisions specified in Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended, in the policy.
4. A long-term care insurance policy or certificate shall include a statement that premium rates are subject to change, unless the policy does not afford the insurer the right to raise premiums.

**B.** Limitations and Exclusions

1. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."
2. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility not prohibited by A.R.S. §§ 20-1691.03 and 20-1691.05 shall describe the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label the paragraph "Limitations or Conditions on Eligibility for Benefits."
3. A policy shall not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:
   a. Preexisting conditions or disease;
   b. Mental or nervous disorders; however, this shall not permit exclusion or limitation of the benefits on the basis of Alzheimer's Disease;
   c. Alcoholism and drug addiction;
   d. Illness, treatment or medical condition arising out of:
      i. War, declared or undeclared, or act of war;
      ii. Participation in a felony, riot or insurrection;
      iii. Service in the armed forces or auxiliary units;
      iv. Suicide, attempted suicide, or intentionally self-inflicted injury; or
      v. Aviation, if non-fare-paying passenger~~.~~;
   e. Treatment provided in a government facility, unless otherwise required by law;
   f. Services for which benefits are available under Medicare or other governmental program, except Medicaid;
   g. Any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law;
   h. Services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;
   i. Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or
   j. In the case of a qualified long-term care insurance policy, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be reimbursable but for the application of a deductible or coinsurance amount;
4. Subsection ~~(B)(2)~~ (B) does not prohibit exclusions and limitations by type of provider or territorial limitations. No long-term care issuer may deny a claim because services are provided in a state other than the state of policy issued under the following conditions:
   a. When the state other than the state of policy issue does not have the provider licensing, certification or registration required in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification or registration; or
   b. When the state other than the state of policy issue licenses, certifies or registers the provider under another name.
5. "State of policy issue" means the state in which the insurer issued the individual policyor certificate.

**C.** Extension of benefits. A long-term care insurance policy shall provide that termination of long-term care insurance is without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. An insurer may limit this extension of benefits period to the duration of the benefit period, if any, or to payment of the maximum benefits and the insurer may still apply any policy waiting period and all other applicable provisions of the policy.

**D.** Reinstatement. A long-term care insurance policy shall include a provision for reinstatement of coverage if a lapse occurs if the insurer receives proof that the insured was cognitively impaired or had a loss of functional capacity before expiration of the grace period in the policy. The option to reinstate shall be available to the insured for at least five months after the date of termination and shall allow for the collection of past due premiums, as appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria for these conditions set forth in the original long-term care policy.

**E.** Continuation or conversion

1. A group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion of coverage as specified in this subsection.
2. The policy shall include a provision that maintains coverage under the existing group policy when the coverage would otherwise terminate, subject only to the continued timely payment of premiums when due. A group policy that restricts provision of benefits and services to, or has incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The Director shall make a determination as to the substantial

equivalency of benefits and, in doing so, shall take into consideration the differences between managed care and non-managed care plans, including provider system arrangements, service availability, benefit levels and administrative complexity.

3. The policy shall include a provision that an individual, whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuation of the group policy in its entirety or with respect to an insured class, who has been continuously insured under the group policy (and any group policy which it replaced)~~,~~ for at least six months immediately prior to termination, is entitled to the issuance of a converted policy by the insurer under whose group policy the individual is covered, without evidence of insurability.
4. A converted policy shall be an individual policy of long-term care insurance providing benefits identical to or benefits that the Director determines to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the Director, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity, and other plan elements.
5. An insurer may require an individual seeking a conversion policy to make a written application for the converted policy and pay the first premium due, if any, as directed by the insurer not later than 31 days after termination of coverage under the group policy. The insurer shall issue the converted policy effective on the day following the termination of coverage under the group policy. The converted policy shall be renewable annually.
6. Unless the group policy from which conversion is made replaced previous group coverage, the insurer shall calculate the premium for the converted policy on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. If the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.
7. An insurer is required to provide continuation of coverage or issuance of a converted policy as provided in this subsection, unless:
   a. Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or
   b. The terminating coverage is replaced not later than 31 days after termination, by group coverage that:
      i. Is effective on the day following the termination of coverage~~:~~;
      ii. Provides benefits identical to or benefits the Director determines to be substantially equivalent to or in excess of those provided by the terminating coverage; and
      iii. Has a premium calculated in a manner consistent with the requirements of subsection (E)(6).
8. Notwithstanding any other provision of this Section, a converted policy that an insurer issues to an individual who at the time of conversion is covered by another long-term care insurance policy providing benefits on the basis of incurred expenses, may contain a provision that reduces benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100% of incurred expenses. An insurer may include this provision in the converted policy only if the converted policy also provides for a premium decrease or refund that reflects the reduction in payable benefits.
9. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.
10. Notwithstanding any other provision of this Section, ~~any~~ an insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship to another person, is entitled to continuation of coverage under the group policy ~~upon~~ if the qualifying relationship terminates by death or dissolution of marriage.

**F.** Discontinuance and replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

1. Shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and
2. Shall not vary or otherwise depend on the individual's health or disability status, claim experience, or use of long-term care services.

**G.** Premium Increases.

1. An insurer shall not increase the premium charged to an insured because of:
   a. ~~The insured aging beyond age 65;~~ The increasing age of the insured at ages beyond 65, or
   b. The duration of coverage under the policy.
2. Purchase of additional coverage is not considered a premium rate increase, however, for the calculation required under R20-6-1019, an insurer shall add to and consider the portion of the premium attributable to the additional coverage as part of the initial annual premium.
3. A reduction in benefits is not considered a premium change, however, for the calculation required under R20-6-1019, an insurer shall base the initial annual premium on the reduced benefits.

**H.** Electronic enrollment for group policies.

1. For coverage offered to a group defined in A.R.S. § 20-1691(5)(a), any requirement that an insurer or insurance producer obtain an insured's signature is satisfied if:
   a. The group policyholder or insurer obtains the insured's consent by telephonic or electronic enrollment, and provides the enrollee with verification of enrollment information within five business days of enrollment; and
   b. The telephonic or electronic enrollment process has necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records, and the confidentiality of ~~personal~~ individually identifiable and privileged information.

2. If the Director requests, the insurer shall make available records showing the insurer's ability to confirm enrollment and coverage amounts.

**I.** Minimum standards for home health and community care benefits.

1. If an insurer issues a long-term care insurance policy or certificate that provides benefits for home-health or community care, the policy or certificate shall not~~,~~ limit or exclude benefits by any of the following:
   a. Requiring that the insured would need skilled care in a skilled nursing facility if home health services are not provided;
   b. Requiring that the insured first or simultaneously receive nursing or therapeutic services, or both, in a home, ~~or~~ community or institutional setting before home health services are covered;
   c. Requiring that eligible services be provided by a registered nurse or licensed practical nurse;
   d. Requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide or other licensed or certified home care worker acting within the scope of licensure or certification;
   e. Requiring that the insured or claimant have an acute condition before home health services are covered;
   f. Limiting benefits to services provided by Medicare-certified agencies or providers;
   g. Excluding coverage for personal care services provided by a home health aide;
   h. Requiring that home health care services be provided at a level of certification or licensure greater than that required by the eligible service; or
   i. Excluding coverage for adult day care services.
2. If a long-term care insurance policy provides benefits for home health or community care services, it shall provide home health or community care coverage that equals a dollar amount equivalent to at least one-half of one year's missing home benefit coverage available at the time covered home health or community care services are being received. This requirement does not apply to policies or certificates issued to residents of continuing care retirement communities.

~~2.~~3. An insurer may apply home health care coverage to non-home health care benefits in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

**J.** Appeals. Policy shall include a clear description of the process for appealing and resolving benefit determinations.

**R20-6-1005. Unintentional Lapse**

**A.** An insured may designate in writing at least one person to receive notice of lapse ~~and~~ or termination of a long-term care insurance policy for nonpayment of premium, in addition to the insured. Designation shall not constitute acceptance of any liability by the third-party notice recipient for services provided to the insured.

**B.** An insurer shall not issue ~~a~~ an individual long-term care insurance policy or certificate until the applicant has provided either a written designation of at least one person, in addition to the applicant, who shall receive notice of lapse or termination~~,~~ of the policy or certificate for nonpayment of premium, with the person's full name and home address, or the applicant's written waiver, dated and signed, indicating that the applicant chooses not to designate a notice recipient.

**C.** The insurer shall use a form for written designation or waiver that provides space clearly delineated for the designation. The insurer shall include the following language on the form for waiver of the right to name a designated recipient: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that this notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

**D.** At least once every two years, an insurer shall notify the insured of the right to change the person designated to receive notice in subsection (A). An insured may add, delete, or change a designated recipient or change a designated recipient at any time by notifying the insurer in writing, and providing the name and home address for the new designated recipient or the designated recipient to be deleted.

**E.** If the insured pays premiums for the long-term care insurance policy or certificate through a payroll or pension deduction plan, the insurer is not required to comply with the requirements in subsections (A) through (D) until 60 days after the insured is no longer on the payment plan.

**F.** An individual long-term care insurance policy shall not lapse or be terminated for nonpayment of premium unless the insurer gives the insured and any recipient designated under subsections (A) through (D) written notice at least 30 days before the effective date of termination or lapse, by first class mail, postage prepaid~~.~~, at the address provided by the insured for purposes of receiving notice of lapse or termination. An insurer shall not give notice until 30 days after the date on which a premium is due and unpaid. Notice is deemed given five days after the date of mailing.

**G.** Reinstatement. In addition to the requirement in subsections (A) through (D), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of a lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within five months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy or certificate. Reinstatement after termination for other than unintentional lapse shall be governed by A.R.S. § 20-1348.

**R20-6-1006. Inflation Protection**

**A.** An insurer shall not offer a long-term care insurance policy unless the insurer offers to the policyholder, at the time of purchase, in addition to any other inflation protection, the option to purchase a policy with an inflation protection provision ~~to address the reduction or limitation on the value of benefits that may result from inflation over time.~~ that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. The terms of the required provision shall be no less favorable than one of the following:

1. A provision that provides for annual increases in benefit levels compounding annually at a rate of ~~no~~ not less than 5%;
2. A provision that ~~allows~~ guarantees an insured the right to periodically increase benefit levels without providing evidence of insurability or health status, if the insured did not decline the option for the previous period. The increased benefit shall be no

less than the difference between the existing policy benefit and that benefit compounded annually at a rate of ~~no less than~~ at least 5% for the period beginning from the purchase of the existing benefit and extending until the year in which the offer is made; or

3. A provision for coverage of a specified percentage of actual or reasonable charges that is not subject to a maximum specified indemnity amount or limit.

**B.** If the policy is issued to a group, the insurer shall extend the offer required by subsection (A) to the group policyholder; except, if the policy is issued under A.R.S. § 20-1691.04(C) to a group, other than to a continuing care retirement community, the insurer shall make the offer to each proposed certificateholder.

**C.** An insurer is not required to make the offer in subsection (A) for life insurance policies or riders with accelerated long-term care benefits.

**D.** An insurer shall include the information listed in this subsection in or with the outline of coverage.

1. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20-year period.
2. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. If premium increases or additional premiums will be based on the attained age of the applicant at the time of the increase, the insurer shall provide a revised schedule of attained-age premiums. An insurer may use a reasonable hypothetical or a graphic demonstration for this disclosure.

**E.** Inflation-protection benefit increases shall continue without regard to an insured's age, claim status, claim history, or length of time the person has been insured under the policy.

**F.** An insurer's offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium that the insurer expects to remain constant. The insurer shall disclose in the offer in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

**G.** An insurer shall include in a long-term care insurance policy inflation protection as provided in subsection (A)(1) unless ~~an~~ the insurer obtains a rejection of inflation protection signed by the insured as required in subsection (H). The rejection may be either on the application form or on a separate form.

**H.** A rejection of inflation protection is deemed part of an application and shall state: "I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I reviewed Plans [insert description of plans], and I reject inflation protection."

**R20-6-1007. Required Disclosure Provisions**

**A.** Riders and endorsements. Except for riders or endorsements by which an insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, if an insurer adds a rider or endorsement to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduces or eliminates benefits or coverage in the policy, the insurer shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term shall require the signed written agreement of the insured unless the increased benefits or coverage are required by law. If the insurer charges a separate additional premium for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider, or endorsement.

**B.** Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall define the terms and explain them in its accompanying outline of coverage.

**C.** Disclosure of tax consequences. For life insurance policies that provide an accelerated benefit for long-term care, an insurer shall provide a disclosure statement at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted, that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax adviser. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection shall not apply to qualified long-term care insurance contracts.

**D.** Benefit triggers. A long-term care insurance policy shall use activities of daily living and cognitive impairment to measure an insured's need for long-term care. The long-term care insurance policy ~~or certificate~~ shall describe these terms and provisions in a separate paragraph in the policy ~~or certificate~~ labeled "Eligibility for the Payment of Benefits" that includes and explains:

1. Any additional benefit triggers~~;~~.
2. Benefit triggers that result in payment of different benefit levels~~;~~, and
3. Any requirement that an attending physician or other specified person certify a certain level of functional dependency for the insured to be eligible for benefits.

**E.** A long-term care insurance ~~policy or certificate~~ contract shall contain a disclosure statement in the policy and in the outline of coverage indicating whether it is intended to be a qualified long-term care insurance contract as specified in the outline of coverage in Appendix J, paragraph 3. The contract shall also include a Specification Page which shall include the benefits, amounts, durations, the premium rate including all optional benefits selected by the insured, and any other benefit data applicable to the insured.

**R20-6-1008. Required Disclosure of Rating Practices to Consumers**

**A.** This Section applies as follows:

1. Except as provided in subsection (A)(2), this Section applies to any long-term care policy or certificate issued in this state on or after May 10, 2005.
2. For certificates issued under an in-force, long-term care insurance policy issued to a group as defined in A.R.S. § 20-1691(5)(a), the provisions of this Section apply on the first policy anniversary that occurs on or after November 10, 2005.

**B.** Unless a policy is one for which an insurer ~~can not~~ cannot increase the applicable premium rate or rate schedule, the insurer shall provide the information listed in this subsection to the applicant at the time of application or enrollment. If the method of application does not allow for delivery at that time, the insurer shall provide the information to the applicant no later than at the time of delivery of the policy or certificate.

1. A statement that the policy may be subject to rate increases in the future.

2. An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option if a premium rate revision occurs.
3. The premium rate or rate schedules applicable to the applicant that will be in effect until the insurer makes a request for an increase.
4. A general explanation for applying premium rate or rate schedule adjustments that includes:
   a. A description of when premium rate or rate-schedule adjustments will be effective (e.g., next anniversary date, next billing date); and
   b. The insurer's right to a revised premium rate or rate schedule as provided in subsection (B)(3) if the premium rate or rate schedule is changed.
5. Information regarding each premium rate increase on this policy form or similar policy form over the past 10 years for this state or any other state~~,~~ that, at a minimum, identifies:
   a. The policy forms for which premium rates have been increased;
   b. The calendar years when the form was available for purchase; and
   c. The amount or percent of each increase, which may be expressed as a percentage of the premium rate before the increase, or as minimum and maximum percentages if the rate increase is variable by rating characteristics.
6. The insurer may, in a fair manner, provide explanatory information related to the rate increases in addition to the information required under subsection (B)(5).

**C.** An insurer may exclude from the disclosure required under subsection (B)(5), premium rate increases applicable to:
1. Blocks of business acquired from other nonaffiliated insurers; and
2. Policies acquired from other nonaffiliated insurers if the increases occurred before the acquisition.

**D.** If an acquiring insurer files for a rate increase on a long-term care insurance policy form or a block of policy forms acquired from a nonaffiliated insurer on or before the later of the January 10, 2005, or the end of a 24-month period following the acquisition of the policies or block of policies, the acquiring insurer may exclude that rate increase from the disclosure required under subsection (B)(5). However, the nonaffiliated insurer that sells the policy form or a block of policy forms shall include that rate increase in the disclosure required under subsection (B)(5). If the acquiring insurer files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from a nonaffiliated insurer or block of policy forms acquired from nonaffiliated insurers, the acquiring insurer shall make all disclosures required by subsection (B)(5), including disclosure of the earlier rate increase.

**E.** Unless the method of application does not allow an insured to sign an acknowledgement that the insurer made the disclosures required under subsection (B) at the time of application, the applicant shall sign an acknowledgement of disclosure at that time. Otherwise, the applicant shall sign a disclosure acknowledgement no later than at the time of delivery of the policy or certificate.

**F.** An insurer shall use the forms in Appendix A and Appendix B to comply with the requirements of subsections (B) through (E). The text and format of an insurer's forms shall be substantially similar to the text and format of Appendices A and B.

**G.** An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days before the effective date of the increase. The notice shall include the information required by subsection (B).

**R20-6-1009. Initial Filing Requirements**

**A.** This Section applies to any long-term care policy issued in this state on or after May 10, 2005.

**B.** At the time of making a filing under A.R.S. § 20-1691.08, an insurer shall provide to the Director a copy of the disclosure documents required under R20-6-1008 and an actuarial certification that includes the following:
1. The initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;
2. The policy design and coverage provided have been reviewed and taken into consideration;
3. The underwriting and claims adjudication processes have been reviewed and taken into consideration;
4. ~~A complete description of the basis for contract reserves that are anticipated to be held under the form, to include:~~
   ~~a. Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;~~
   ~~b. A statement that the assumptions used for reserves contain reasonable margins for adverse experience;~~
   ~~c. A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted); and~~
   ~~d. A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur;~~
      ~~i. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship;~~
      ~~ii. If the gross premiums for certain age groups appear to be inconsistent with this requirement, the Director may request a demonstration under subsection (C) based on a standard age distribution; and~~
4. The premiums contain at least the minimum margin for moderately adverse experience as defined in subsection (4)(a) or the specification of and justification for a lower margin as required by subsection (4)(b).
   a. A composite margin shall not be less than 10% of lifetime claims.
   b. A composite margin that is less than 10% may be justified in uncommon circumstances. The proposed amount, full justification of the proposed amount and methods to monitor developing experience that would be the basis for withdrawal of approval for such lower margins must be submitted.
   c. A composite margin lower than otherwise considered appropriate for the stand-alone long-term care policy may be justified for long-term care benefits provided through a life policy or an annuity contract. Such lower composite margin, if utilized, shall be justified by appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product.

d. A greater margin may be appropriate in circumstances where the company has less credible experience to support its assumptions used to determine the premium rates.

5. A statement that the premium rate schedule:
   a. Is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits~~;~~, or
   b. A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences~~.~~; and
6. A statement that reserve requirements have been reviewed and considered. Support for this statement shall include:
   a. Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; and
   b. A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship.

**C.** ~~The Director may require an insurer to provide an actuarial demonstration that benefits provided under a long-term care policy are reasonable in relation to premiums charged. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both.~~
An actuarial memorandum shall be included that is signed by a member of the Academy of Actuaries and that addresses and supports each specific item required as part of the actuarial certification and provides at least the following:
1. An explanation of the review performed by the actuary prior to making the statements in subsections (B)(2) and (B)(3);
2. A complete description of pricing assumptions;
3. Sources and levels of margins incorporated into the gross premiums that are the basis for the statement in subsection (B)(1) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. The actuary shall clearly describe deviations in margins between ages, sexes, plans or states. Deviations in margins required to be described are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales; and
4. A demonstration that the gross premiums include the minimum composite margin specified in subsection (B)(4).

**D.** In any review of the actuarial certification and actuarial memorandum, the Director may request review by an actuary with experience in long-term care pricing who is independent of the insurer. In the event the Director asks for additional information as a result of any review, the period in A.R.S. § 20-1691.08 does not include the period during which the insurer is preparing the requested information.

**R20-6-1010. Requirements for Application Forms and Replacement Coverage, Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates; Reporting Requirements**

**A.** An insurer's application form for a long-term care insurance policy shall include the questions listed in this Section to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other health or long-term care policy or certificate presently in force. An insurer may include the questions in a supplementary application or other form to be signed by the applicant and insurance producer, except where the coverage is sold without an insurance producer. For a replacement policy issued to a group as defined in A.R.S. § 20-1691(5)(a), the insurer may modify the questions only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced if the ~~certificate holder~~ certificateholder has been notified of the replacement.
1. Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?
2. Did you have another long-term care insurance policy or certificate in force during the last 12 months?
   a. If so, with which company?
   b. If that policy lapsed, when did it lapse?
3. Are you covered by Medicaid?
4. Do you intend to replace any of your medical or health insurance coverage with this policy or certificate?

**B.** The application or enrollment form for such policies or certificates shall clearly indicate the payment plan the applicant selects.

**C.** An insurance producer shall list any other health insurance policies the insurance producer has sold to the applicant, including:
1. Policies that are still in force~~.~~, and
2. Policies sold in the past five years that are no longer in force.

**D.** Solicitations Other than Direct Response. On determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its insurance producer, shall furnish the applicant, before issuing or delivering ~~of~~ the individual long-term care insurance policy, a notice that substantially conforms to the form prescribed in Appendix C or D regarding replacement of health or long-term care coverage. The insurer shall:
1. Give one copy of the notice to the applicant~~;~~, and
2. Keep an additional copy signed by the applicant.

**E.** Direct Response Solicitations. Insurers using direct response solicitation methods as defined in A.R.S. § 20-1661 shall deliver a notice that substantially conforms to the form prescribed in Appendix C or D regarding replacement of health or long-term care coverage to the applicant upon issuance of the policy.

**F.** If replacement is intended, the replacing insurer shall send the existing insurer written notice of the proposed replacement within five working days from the date the replacing insurer receives the application or issues the policy, whichever is sooner. The notice shall identify the existing policy by name of the insurer and the insured, and policy number or insured's address including zip code.

**G.** A life insurance policy that accelerate benefits for long-term care shall comply with this Section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of Title 20, Chapter 6, Article 1.1. If a life insurance policy that accelerates benefits for long-term care is replaced by

another such policy, the replacing insurer shall comply with the requirements of this Section and with A.R.S. Title 20, Chapter 6, Article 1.1.

**H.** Prohibition against preexisting conditions and probationary periods in replacement policies or certificates. If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits if similar exclusions are satisfied under the original policy.

**I.** Reporting requirements.

1. An insurer shall maintain the following records for each insurance producer:
   a. The amount of the insurance producer's replacement sales as a percent of the insurance producer's total annual sales~~;~~, and
   b. The amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales.
2. No later than June 30 of each year, on the forms specified in Appendix E and Appendix F, an insurer shall report the following information for the preceding calendar year to the Department:
   a. The 10% of its insurance producers licensed in Arizona with the greatest percentages of lapses and replacements as measured by subsection ~~(H)(1);~~ (I)(1); ~~and~~
   b. The number of lapsed policies as a percent of the total annual sales and as a percent of the insurer's total number of policies in force as of the end of the preceding calendar year~~.~~;
   c. The number of replacement policies sold as a percent of the insurer's total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year; and
   d. For qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied.

**J.** In subsection (I)~~,~~:

1. "Claim" means a request for payment of benefits under an in-force policy, regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met~~;~~.
2. "Denied" means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition~~;~~.
3. "Policy" means only long-term care insurance~~; and~~.
4. "Report" means on a statewide basis.

**K.** Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance. Reports required under this Section shall be filed with the Director.

**L.** Annual rate certification requirements. This subsection applies to any long-term care policy issued in Arizona on or after November 10, 2017. The following annual submission requirements apply subsequent to initial rate filings for individual long-term care insurance policies made under this Section:

1. An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries which contains a statement of the sufficiency of the current premium rate schedule, including:
   a. For the rate schedules currently marketed, that the premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated or a statement that margins for moderately adverse experience may no longer be sufficient. For a statement that margins for moderately adverse experience may no longer be sufficient, the insurer shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience so that the ultimate premium rate schedule would be reasonably expected to be sustainable over the future life of the form with no future premium increases anticipated. Failure to submit a plan of action to the Director within 60 days or to comply with the time frame stated in the plan of action constitutes grounds for the Director to withdraw or modify approval of the form for future sales pursuant to A.R.S. § 20-1691.08.
   b. For the rate schedules that are no longer marketed, that the premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions or that the premium rate schedule may no longer be sufficient. If the premium rate schedule is no longer sufficient, the insurer shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including time frame, for the re-establishment of adequate margins for moderately adverse experience;
2. A description of the review performed that led to the statement; and
3. An actuarial memorandum dated and signed by a member of the American Academy of Actuaries who prepares the information shall be prepared to support the actuarial certification and provide at least the following information:
   a. A detailed explanation of the data sources and review performed by the actuary prior to making the statement in subsection (L)(1),
   b. A complete description of experience assumptions and their relationship to the initial pricing assumptions,
   c. A description of the credibility of the experience data, and
   d. An explanation of the analysis and testing performed in determining the current presence of margins.
4. The actuarial certification required pursuant to subsection (L)(1) must be based on calendar year data and submitted annually starting in the second year following the year in which the initial rate schedules are first used. The actuarial memorandum required pursuant to subsection (L)(3) must be submitted at least once every three years with the certification.

**R20-6-1011. Prohibition Against Post-claims Underwriting**

**A.** An application for a long-term care insurance policy or certificate that is not guaranteed issue shall meet the requirements of this Section.

1. The application shall contain clear and unambiguous questions designed to ascertain the applicant's health condition.

a. If the application has a question asking whether the applicant has had medication prescribed by a physician, the application shall also ask the applicant to list the prescribed medication.
b. If the insurer knew or reasonably should have known that the medications listed in the application are related to a medical condition for which coverage would otherwise be denied, the insurer shall not rescind the policy or certificate for that condition.

2. The application shall include the following language which shall be set out conspicuously and in close conjunction with the applicant's signature block: "**Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy.**"
3. The policy or certificate shall contain, at the time of delivery, the following language, or language substantially similar to the following, set out conspicuously: "**Caution: The issuance of this long-term care insurance [policy] [certificate] is based on your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address].**"

**B.** Before issuing a long-term care insurance policy or certificate that is not guaranteed issue to an applicant age 80 or older, the insurer shall obtain one of the following:
~~a.~~1. A report of a physical examination~~;~~,
~~b.~~2. An assessment of functional capacity~~;~~,
~~c.~~3. An attending physician's statement~~;~~, or
~~d.~~4. Copies of medical records.

**C.** The insurer or ~~it's~~ its insurance producer shall deliver a copy of the completed application or enrollment form, as applicable, to the insured no later than at the time of delivery of the policy or certificate unless the insurer gave a copy to the applicant it at the time of application.

**D.** An insurer selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state- and country-wide, except those which the insured voluntarily effectuated.

**E.** On or before March 31 of each year, an insurer shall report the following information to the Director for the preceding calendar year, using the form prescribed in Appendix G:
1. Insurer name, address, phone number;
2. As to each rescission except those voluntarily effectuated by the insured:
   a. Policy form number~~;~~,
   b. Policy and certificate number~~;~~,
   c. Name of the insured~~;~~,
   d. Date of policy issuance~~;~~,
   e. Date claim submitted~~;~~,
   f. Date of rescission~~;~~, and
   g. Detailed reason for rescission~~.~~; and
3. Signature, name and title of the preparer, and date prepared.

**R20-6-1012. ~~Discretionary Powers of Director~~ Repealed**

~~The Director may, on written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provision of this Article with respect to a specific long-term care insurance policy or certificate upon a written finding that:~~
~~1. The modification or suspension would be in the best interest of the insureds; and~~
~~2. The purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and~~
   ~~a. The modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or~~
   ~~b. The policy or certificate is to be issued to residents of a life-care or continuing-care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or~~
   ~~c. The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.~~

**~~R20-6-1013~~R20-6-1012. Reserve Standards**

**A.** If long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders, an insurer shall determine~~,~~ policy reserves for long-time care benefits under A.R.S. § 20-510. An insurer shall also establish claim reserves for a policy or rider in claim status.

**B.** An insurer shall base reserves for policies and riders under subsection (A) on the multiple decrement model using all relevant decrements except for voluntary termination rates. An insurer may use single decrement approximations if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The insurer, when calculating reserves, may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. The insurer shall not set the reserves for the long-term care benefit and the life insurance benefit to be less than the reserves for the life insurance benefit assuming no long-term care benefit.

**C.** In the development and calculation of reserves for policies and riders subject to this Section, an insurer shall give due regard to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which impact projected claim costs including the following:
1. Definition of insured events~~;~~,
2. Covered long-term care facilities~~;~~,
3. Existence of home convalescence care coverage~~;~~,

4. Definition of facilities~~;~~,
5. Existence or absence of barriers to eligibility~~;~~,
6. Premium waiver provision~~;~~,
7. Renewability~~;~~,
8. Ability to raise premiums~~;~~,
9. Marketing method~~;~~,
10. Underwriting procedures~~;~~,
11. Claims adjustment procedures~~;~~,
12. Waiting period~~;~~,
13. Maximum benefit~~;~~,
14. Availability of eligible facilities~~;~~,
15. Margins in claim costs~~;~~,
16. Optional nature of benefit~~;~~,
17. Delay in eligibility for benefit~~;~~,
18. Inflation protection provisions~~;~~,
19. Guaranteed insurability option~~;~~, and
20. Other similar or comparable factors affecting risk.

**D.** A member of the American Academy of Actuaries shall certify an insurer's use of any applicable valuation morbidity table as appropriate as a statutory valuation table.

**E.** When long-term care benefits are provided other than as described in subsection (A), an insurer shall determine reserves under A.R.S. § 20-508.

**~~R20-6-1014~~R20-6-1013. Loss Ratio**

**A.** This Section applies to policies and certificates issued any time prior to May 10, 2005.

**B.** Benefits under an individual long-term care insurance policy ~~is~~ are deemed reasonable in relation to premiums if the expected loss ratio is at least 60% calculated in a manner that provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, the director shall consider ~~to~~ all relevant factors, including:

1. Statistical credibility of incurred claims experience and earned premiums;
2. The period for which rates are computed to provide coverage;
3. Experienced and projected trends;
4. Concentration of experience within early policy duration;
5. Expected claim fluctuation;
6. Experience refunds, adjustments, or dividends;
7. Renewability features;
8. All appropriate expense factors;
9. Interest;
10. Experimental nature of the coverage;
11. Policy reserves;
12. Mix of business by risk classification; and
13. Product features such as long elimination periods, high deductibles, and high maximum limits.

**C.** A premium rate schedule or proposed revision to a premium rate schedule that is expected to produce, over the lifetime of the long-term care insurance policy, benefits that are less than 60% of the proposed premium rate schedule is deemed to be unreasonable.

**~~C.~~D.** ~~Subsection (B) does~~ Subsections (B) and (C) do not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is deemed to provide reasonable benefits in relation to premiums paid~~,~~ if the policy complies with all of the following:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, is guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy~~.~~;
2. The portion of the policy that provides life insurance benefits complies with the nonforfeiture requirements of A.R.S. § 20-1231;
3. The policy complies with the disclosure requirements of A.R.S. § 20-1691.06(A) through (E);
4. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes the following information:
   a. A description of the basis on which the long-term care rates were determined;
   b. A description of the basis for the reserves;
   c. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
   d. A description and a table of each actuarial assumption used; for expenses, an insurer shall include percent of premium dollars per policy and dollars per unit of benefits, if any;
   e. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
   f. The estimated average annual premium per policy and the average issue age;
   g. A statement as to whether underwriting is performed, including:
      i. Time of underwriting;
      ii. A description of the type of underwriting used, such as medical underwriting or functional assessment underwriting; and
      iii. For a group policy, whether an enrollee's dependents are subject to underwriting; and

h. A description of the effect of the long-term care policy provisions on the required premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

**~~R20-6-1015~~R20-6-1014. Premium Rate Schedule Increase**

~~A. In this Section, "exceptional increase" means a rate increase that an insurer has filed and that the Director has determined is justified because of changes in laws applicable to long-term care insurance, or increased and unexpected utilization that affects the majority of insurers of similar products. The Director may request independent actuarial review on the issue of whether an increase should be deemed an exceptional increase. The Director may also determine whether there are any potential offsets to higher claims costs.~~

~~B.~~**A.** This Section applies to any ~~individual~~ long-term care policy or certificate issued in this state on or after May 10, 2005~~.~~ and prior to November 10, 2017.

~~C.~~**B.** An insurer shall notify the Director of a proposed premium rate schedule increase, including an exceptional increase, at least ~~30~~ 60 days before issuing notice to its policyholders. The notice to the Director shall include:

1. Information required by R20-6-1008;
2. Certification by a qualified actuary that:
   a. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;
   b. The premium rate filing complies with the provisions of this Section; and
   c. The insurer may request a premium rate schedule increase less than what is required under this Section and the Director may approve the premium rate schedule increase, without submission of the certification required by subsection (B)(2)(a), if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required by subsection (B)(2)(a), the premium rate schedule increase filing satisfies all other requirements of this Section, and is, in the opinion of the Director, in the best interest of the policyholders.
3. An actuarial memorandum justifying the rate schedule change request that includes:
   a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including the following:
      i. Any assumptions that deviate from those used for pricing other forms currently available for sale;
      ii. Annual values for the five years preceding and the three years following the valuation date, provided separately~~,~~;
      iii. Development of the lifetime loss ratio, unless the rate increase is an exceptional increase; and
      iv. A demonstration of compliance with subsection ~~(D); and~~ (C).
   b. For exceptional increases, the actuarial memorandum shall also include:
      i. The projected experience that is limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and
      ii. If the Director determines under ~~subsection (A)~~ Section R20-6-1002(B)(3) that offsets may exist, the insurer shall use appropriate net projected experience;
   c. Disclosure of how reserves have been incorporated in this rate increase when the rate increase will trigger contingent benefit upon lapse;
   d. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and any other actions of the insurer on which the actuary has relied;
   e. A statement that the actuary has considered policy design, underwriting, and claims adjudication practices; ~~and~~
   f. Composite rates reflecting projections of new certificates in the event it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase; and
   g. A demonstration that actual and projected costs exceed costs anticipated at the time of the initial pricing under moderately adverse experience and that the composite margin specified in R20-6-1009(B)(4) is projected to be exhausted;
4. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless the insurer provides the Director with documentation justifying the greater rate; and
5. Upon the Director's request, other similar and related information the Director may require to evaluate the premium rate schedule increase.

~~D.~~**C.** ~~The following requirements apply to all~~ All premium rate schedule increases~~:~~ shall be determined in accordance with the following requirements:

1. The insurer shall return 70% of the present value of projected additional premiums from an exceptional increase to policyholders in benefits;
2. The sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, shall not be less than the sum of the following:
   a. The accumulated value of the initial earned premium times 58%;
   b. 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
   c. The present value of future projected initial earned premiums times 58%; and
   d. 85% of the present value of future projected premiums not in subsection ~~(D)(2)(c)~~ (C)(2)(c) on an earned basis;
3. If a policy form has both exceptional and other increases, the values in ~~subsection (D)(2)(b) and (D)(2)(d)~~ subsections (C)(2)(b) and (C)(2)(d) shall also include 70% for exceptional rate increase amounts; and
4. All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in the NAIC Accounting Practices and Procedures Manual to which insurers are subject under A.R.S. § 20-223. The actuary shall disclose the use of any appropriate averages in the actuarial memorandum required under subsection (B)(3).

~~E.~~**D.** For each rate increase that is implemented, the insurer shall file for approval by the Director updated projections, as defined in subsection ~~(C)(3)(a),~~ (B)(3)(a), annually for the next three years and shall include a comparison of actual results to projected values. The Director may extend the period to greater than three years if actual results are not consistent with projected values from prior projec-

tions. For group insurance policies that meet the conditions in subsection ~~(K),~~ (M), the insurer shall provide the projections required by this subsection to the policyholder ~~instead~~ in lieu of filing with the Director.

~~F.~~E. If any premium rate in the revised premium rate schedule is greater than ~~200 percent~~ 200% of the comparable rate in the initial premium schedule, the insurer shall file lifetime projections, as defined in subsection ~~(C)(3)(a),~~ (B)(3)(a), for the Director's approval every five years following the end of the required period in subsection ~~(E).~~ (D). For group insurance policies that meet the conditions in subsection ~~(L),~~ (M), the insurer shall provide the projections required by this subsection to the policyholder instead of filing with the Director.

~~G.~~F. If the Director finds that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection ~~(D),~~ (C), the Director may require the insurer to implement premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience matches the projected experience, the Director shall consider subsection ~~(C)(3)(f),~~ (B)(3)(f), if applicable.

~~H.~~G. If the majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse, the insurer shall file:

1. A plan, subject to Director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form experience requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the Director may impose the ~~condition in subsection (I) through (K);~~ conditions in subsections (H) through (J); and
2. The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection ~~(D)~~ (C) had the greater of the original anticipated lifetime loss ratio or 58% ~~has~~ been used in the calculations described in subsections ~~(D)(2)(a) and (D)(2)(c).~~(C)(2)(a) and (C)(2)(c).

~~I.~~H. For a rate increase filing that meets the criteria listed in this subsection, the Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if lapsation in excess of projected lapsation has occurred or is anticipated:

1. The rate increase is not the first rate increase requested for the specific policy form or forms~~;~~,
2. The rate increase is not an exceptional increase~~;~~, and
3. The majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse.

~~J.~~I. If the Director finds excess lapsation under subsection ~~(I),~~ (H) has occurred, is anticipated in the filing or is evidenced in the actual results as presenting in the updated projections provided by the insurer following the requested rate increase, the Director may find that a rate spiral exists and may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase, the option to replace existing ~~information~~ coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The information communicating the offer ~~are~~ is subject to the Director's approval. The offer shall:

1. Be based on actuarially sound principles, but not on attained age; ~~and~~
2. Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and
3. Allow the insured the option of retaining the existing coverage.

~~K.~~J. The insurer shall maintain the experience of the insureds whose coverage was replaced under subsection ~~(J)~~ (I) separate from the experience of insureds originally issued the policy forms. If the insurer requests a rate increase on the policy form, the rate increase shall be limited to the lesser of:

1. The maximum rate increase determined based on the combined experience; and
2. The maximum rate increase determined based only on the experience of the insureds originally issued the form, plus ~~ten percent~~ 10%.

~~L.~~K. If the Director finds that an insurer has exhibited a history or pattern of filing inadequate initial premium rates for long-term care insurance, after considering the total number of policies filed over a period of time and the percentage of policies with inadequate rates, the Director may, in addition to remedies available under subsections ~~(I) through (K),~~(H) through (J), prohibit the insurer from the following:

1. Filing and marketing comparable coverage for a period of up to five years~~; and~~, and
2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

~~M.~~L. Subsections ~~(B) through (L)~~ (A) through (K) shall not apply to a policy for which long-term care benefits provided by the policy are incidental, ~~as provided under subsection (A),~~ as defined under R20-6-1002(C), if the policy complies with all of the following provisions:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the applicable nonforfeiture requirements under state law, including A.R.S. §§ 20-1231, 20-1232 and 20-2636;
3. The policy meets the disclosure requirements of A.R.S. § 20-1691.06;
4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the disclosure requirements as applicable in the following:
   a. A.R.S. Title 20, Chapter 6, Article 1.2; and
   b. A.R.S. Title 20, Chapter 16, Article 2~~.~~;
5. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes:
   a. Description of the bases on which the actuary determined the long-term care rates and the reserves;
   b. A summary of the type of policy, benefits, renewability provisions, general marketing method, and limits on ages of issuance;

c. A description and a table of each actuarial assumption used, with the percent of premium dollars per policy and dollars per unit of benefits, if any, for expenses;
d. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
e. The estimated average annual premium per policy and the average issue age;
f. A statement as to whether the insurer performs underwriting at the time of application with an explanation of the following:
i. Whether underwriting is used, and~~,~~ if used, a description of the type of underwriting, such as medical underwriting or functional assessment underwriting; and
ii. For a group policy, whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
g. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

**M.** Subsections (F) and (H) through (J) shall not apply to group insurance as defined in A.R.S. § 20-1691(6) where:
1. The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
2. The policyholder, and not the certificateholder, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

**R20-6-1015. Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings**

**A.** This Section applies to any long-term care policy or certificate issued in this state on or after November 10, 2017.

**B.** An insurer shall notify the Director of a proposed premium rate schedule increase, including an exceptional increase, at least 60 days before issuing notice to its policyholders. The notice to the Director shall include:
1. Information required by R20-6-1008;
2. Certification by a qualified actuary that:
a. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;
b. The premium rate filing complies with the provisions of this Section; and
c. The insurer may request a premium rate schedule increase less than what is required under this Section and the Director may approve the premium rate schedule increase, without submission of the certification required by subsection (B)(2)(a), if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required by subsection (B)(2)(a), the premium rate schedule increase filing satisfies all other requirements of this Section, and is, in the opinion of the Director, in the best interest of the policyholders.
3. An actuarial memorandum justifying the rate schedule change request that includes:
a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including the following:
i. Any assumptions that deviate from those used for pricing other forms currently available for sale;
ii. Annual values for the five years preceding and the three years following the valuation date, provided separately;
iii. Development of the lifetime loss ratio, unless the rate increase is an exceptional increase; and
iv. A demonstration of compliance with subsection (C).
b. For exceptional increases, the actuarial memorandum shall also include:
i. The projected experience that is limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and
ii. If the Director determines under Section R20-6-1002(B)(3) that offsets may exist, the insurer shall use appropriate net projected experience;
c. Disclosure of how reserves have been incorporated in this rate increase when the rate increase will trigger contingent benefit upon lapse;
d. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and any other actions of the insurer on which the actuary has relied;
e. A statement that the actuary has considered policy design, underwriting, and claims adjudication practices;
f. Composite rates reflecting projections of new certificates in the event it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase; and
g. A demonstration that actual and projected costs exceed costs anticipated at the time of the initial pricing under moderately adverse experience and that the composite margin specified in R20-6-1009(B)(4) is projected to be exhausted.
4. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless the insurer provides the Director with documentation justifying the greater rate; and
5. Upon the Director's request, other similar and related information the Director may require to evaluate the premium rate schedule increase.

**C.** All premium rate schedule increases shall be determined in accordance with the following requirements:
1. Exceptional increases shall provide that 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;
2. The insurer shall calculate premium rate increases such that the sum of the lesser of either the accumulated value of the actual incurred claims (without the inclusion of active life reserves) or the accumulated value of historic expected claims (without the inclusion of active life reserves) plus the present value of the future expected incurred claims (projected without the inclusion of active life reserves) will not be less than the sum of the following:
a. The accumulated value of the initial earned premium times the greater of 58% or the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience;
b. 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
c. The present value of future projected initial earned premiums times the greater of 58% or the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience; and

d. 85% of the present value of future projected premiums not in subsection (C)(2)(c) on an earned basis;

3. Historic expected claims shall be calculated based on the original filing assumptions assumed until new assumptions are filed as part of a rate increase. New assumptions shall be used for all periods beyond each requested effective date of a rate increase. Historic expected claims are calculated for each calendar year based on the in-force at the beginning of the calendar year. Historic expected claims shall include margins for moderately adverse experience; either amounts included in the claims that were used to determine the lifetime loss ratio consistent with the original filing or as modified in any rate increase filing;
4. In the event that a policy form has both exceptional and other increases, the values in subsections (C)(2)(b) and (C)(2)(d) will also include 70% for exceptional rate increase amounts; and
5. All present and accumulated values used to determine rate increases, including the lifetime loss ration consistent with the original filing reflecting margins for moderately adverse experience, shall use the maximum valuation interest rate for contract reserves as specified in A.R.S. § 20-508. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

**D.** For each rate increase that is implemented, the insurer shall file for approval by the Director updated projections, as defined in subsection (B)(3)(a), annually for the next three years and shall include a comparison of actual results to projected values. The Director may extend the reporting period beyond three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (M), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the Director.

**E.** If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, the insurer shall file lifetime projections, as defined in subsection (B)(3)(a), for the Director's approval every five years following the end of the required period in subsection (D). For group insurance policies that meet the conditions in subsection (M), the insurer shall provide the projections required by this subsection to the policyholder instead of filing with the Director.

**F.** If the Director finds that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (C), the Director may require the insurer to implement premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience matches the projected experience, the Director shall consider subsection (B)(3)(f), if applicable.

**G.** If the majority of policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file a plan, subject to approval by the Director, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form experience requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. Otherwise, the Director may impose the conditions in subsections (H) through (J).

**H.** For a rate increase filing that meets the criteria listed in this subsection, the Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if lapsation in excess of projected lapsation has occurred or is anticipated:

1. The rate increase is not the first rate increase requested for the specific policy form or forms;
2. The rate increase is not an exceptional increase; and
3. The majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse.

**I.** If the Director finds excess lapsation under subsection (H) has occurred, is anticipated in the filing or is evidenced in the actual results as presenting in the updated projections provided by the insurer following the requested rate increase, the Director may find that a rate spiral exists and may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The information communicating the offer is subject to the Director's approval. The offer shall:

1. Be based on actuarially sound principles, but not on attained age; and
2. Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and
3. Allow the insured the option of retaining the existing coverage.

**J.** The insurer shall maintain the experience of the insureds whose coverage was replaced under subsection (I) separate from the experience of insureds originally issued the policy forms. If the insurer requests a rate increase on the policy form, the rate increase shall be limited to the lesser of:

1. The maximum rate increase determined based on the combined experience; and
2. The maximum rate increase determined based only on the experience of the insureds originally issued the form, plus 10%.

**K.** If the Director finds that an insurer has exhibited a history or pattern of filing inadequate initial premium rates for long-term care insurance, after considering the total number of policies filed over a period of time and the percentage of policies with inadequate rates, the Director may, in addition to remedies available under subsections (H) through (J), prohibit the insurer from the following:

1. Filing and marketing comparable coverage for a period of up to five years; and
2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

**L.** Subsections (A) through (K) shall not apply to a policy for which long-term care benefits provided by the policy are incidental, as defined under R20-6-1002(C), if the policy complies with all of the following provisions:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the applicable nonforfeiture requirements under state law, including A.R.S. §§ 20-1231, 20-1232 and 20-2636;
3. The policy meets the disclosure requirements of A.R.S. § 20-1691.06;
4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the disclosure requirements as applicable in the following:

a. A.R.S. Title 20, Chapter 6, Article 1.2; and
b. A.R.S. Title 20, Chapter 16, Article 2.

5. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes:
a. Description of the bases on which the actuary determined the long-term care rates and the reserves;
b. A summary of the type of policy, benefits, renewability provisions, general marketing method, and limits on ages of issuance;
c. A description and a table of each actuarial assumption used, with the percent of premium dollars per policy and dollars per unit of benefits, if any, for expenses;
d. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
e. The estimated average annual premium per policy and the average issue age;
f. A statement as to whether the insurer performs underwriting at the time of application with an explanation of the following:
i. Whether underwriting is used, and if used, a description of the type of underwriting, such as medical underwriting or functional assessment underwriting; and
ii. For a group policy, whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
g. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

**M.** Subsections (F) and (H) through (J) shall not apply to group insurance as defined in A.R.S. § 20-1691(6) where:
1. The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
2. The policyholder, and not the certificateholder, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

**R20-6-1017. Standards for Marketing**

**A.** Every insurer marketing long-term care insurance coverage in this state, directly or through an insurance producer shall:
1. Establish marketing procedures to assure that any comparison of policies by its insurance producers is fair and accurate, and that excessive insurance is not sold or issued~~.~~;
2. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy, the following language: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations~~.~~;"
3. Provide the applicant with copies of the disclosure forms in Appendices A and B~~.~~;
4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has health or long-term care insurance and the types and amounts of any such insurance~~.~~;
5. Provide an explanation of contingent benefit upon lapse as provided for in ~~R20-6-1019(E).~~ R20-6-1019(D)(3)~~.~~;
6. Provide written notice to an applicant or prospective policyholder or certificateholder advising of this state's senior insurance counseling program (SHIP), and the name, address, and phone number for the SHIP, at the time of solicitation~~.~~; and
7. Establish auditable procedures for verifying compliance with this ~~Section~~ subsection (A).

**B.** In addition to the practices prohibited in A.R.S. § 20-441 et seq., the following acts and practices are prohibited:
1. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.
2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.
3. Cold lead advertising. Making use directly or indirectly or any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.
4. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

**C.** An insurer shall not market or issue a long-term care policy or certificate to an association unless the insurer files the information required under R20-6-1016(B) and annually certifies that the association has complied with the requirements of this Section.

**R20-6-1018. Suitability**

**A.** This Section does not apply to life insurance policies that accelerate benefits for long-term care.

**B.** Every insurer or other person marketing long-term care insurance, including an insurance producer or managing general agent, (the "issuer") shall:
1. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant~~;~~,
2. Train its insurance producers in the use of its suitability standards~~;~~, and
3. Maintain a copy of its suitability standards and make them available for inspection upon the Director's request.

**C.** To determine whether an applicant meets an issuer's suitability standards, the insurance producer and issuer shall develop procedures that take the following into consideration:
1. The applicant's ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;
2. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and
3. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

**D.** The issuer shall make reasonable efforts to obtain the information set out in subsection ~~(C)(1),~~ (C), including giving the applicant the "Long-Term Care Insurance Personal Worksheet" prescribed in Appendix A, to complete before or at the time of application. The

issuer shall use a personal worksheet that contains, at a minimum, the information contained in Appendix A, in substantially the same text and format, in not less than 12 point type. The issuer may ask the applicant to provide additional information to comply with its suitability standards. An issuer shall file a copy of its personal worksheet with the Director.

**E.** An issuer shall not consider an applicant for coverage until the issuer has received the applicant's completed personal worksheet, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

**F.** No one shall sell or disseminate information obtained through the personal worksheet outside the issuer that obtains the worksheet.

**G.** The issuer shall use its suitability standards to determine whether issuance of long-term care insurance coverage to a particular applicant is appropriate.

**H.** An insurance producer shall use the suitability standards developed by the issuer in marketing long-term care insurance.

**I.** When giving an applicant a personal worksheet, the issuer shall also provide the applicant with a disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance." The form shall be in substantially the same format and text contained in Appendix H, in not less than 12 point type.

**J.** If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter that is substantially similar to Appendix I. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent to purchase the long-term care policy. The issuer shall have either the applicant's returned Appendix I letter or a record of the alternative method of verification as part of the applicant's file.

**K.** The issuer shall report annually to the Director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter as prescribed in subsection (J).

**R20-6-1019. Nonforfeiture Benefit Requirement**

**A.** This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

**B.** To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of A.R.S. § 20-1691.11, an insurer shall meet the following requirements:

1. A policy or certificate offered with nonforfeiture benefits shall have the same coverage elements, eligibility, benefit triggers and benefit length as a policy or certificate issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection ~~(D)~~(E)~~.~~; and
2. The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.

**C.** If the offer required to be made under A.R.S. § 20-1691.11 is rejected, the insurer shall provide the contingent benefit upon lapse described in this Section. Even if the non-forfeiture benefit offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in subsection (D)(4) shall still apply.

**D.** Contingent Benefit Upon Lapse.

1. If a prospective policyholder rejects the offer of a nonforfeiture benefit, the insurer shall provide the contingent benefit upon lapse described in this Section for individual and group policies without the nonforfeiture benefit, issued after January 10, 2005.

~~**E.**~~2. If a group policyholder elects to make the nonforfeiture benefit an option to a certificateholder, the certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

~~**F.**~~3. The contingent benefit on lapse is triggered when:

~~1.~~a. An insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the chart below, based on the insured's issue age; and

~~2.~~b. The policy or certificate lapses within 120 days of the due date of the increased premium.

c. Unless otherwise required, an insurer shall notify policyholders at least 30 days before the due date of the premium reflecting the rate increase.

| Triggers for a Substantial Premium Increase | | |
|---|---|---|
| **Issue Age** | | **Percent Increase Over Initial Premium** |
| 29 and under | | 200% |
| 30-34 | | 190% |
| 35-39 | | 170% |
| 40-44 | | 150% |
| 45-49 | | 130% |
| 50-54 | | 110% |
| 55-59 | | 90% |
| 60 | | 70% |
| 61 | | 66% |
| 62 | | 62% |
| 63 | | 58% |
| 64 | | 54% |

| | | |
|---|---|---|
| 65 | | 50% |
| 66 | | 48% |
| 67 | | 46% |
| 68 | | 44% |
| 69 | | 42% |
| 70 | | 40% |
| 71 | | 38% |
| 72 | | 36% |
| 73 | | 34% |
| 74 | | 32% |
| 75 | | 30% |
| 76 | | 28% |
| 77 | | 26% |
| 78 | | 24% |
| 79 | | 22% |
| 80 | | 20% |
| 81 | | 19% |
| 82 | | 18% |
| 83 | | 17% |
| 84 | | 16% |
| 85 | | 15% |
| 86 | | 14% |
| 87 | | 13% |
| 88 | | 12% |
| 89 | | 11% |
| 90 and over | | 10% |

~~G. Unless otherwise required, an insurer shall notify policyholders at least 30 days before the due date of the premium reflecting the rate increase.~~

4. A contingent benefit on lapse is also triggered for policies with a fixed or limited premium paying period when:
   a. An insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the chart below, based on the insured's issue age; and
   b. The policy or certificate lapses within 120 days of the due date of the increased premium; and
   c. The ratio in subsection (D)(6)(b) is 40% or more;
   d. Unless otherwise required, an insurer shall notify policyholders at least 30 days before the due date of the premium reflecting the rate increase.

| **Triggers for a Substantial Premium Increase on policies with a fixed or limited premium paying period** | | |
|---|---|---|
| **Issue Age** | | **Percent Increase Over Initial Premium** |
| Under 65 | | 50% |
| 65-80 | | 30% |
| Over 80 | | 10% |

   e. This provision shall be in addition to the contingent benefit provided by subsection (D)(3) and where both are triggered, the benefit provided shall be at the option of the insured.

~~H.~~5. On or before the effective date of a substantial premium increase as defined in subsection ~~(F),~~ (D)(3), an insurer shall:
   ~~1.~~a. Offer the insured the option of reducing policy benefits under the current coverage ~~without additional underwriting~~ consistent with the requirements of R20-6-1025 so that required premium payments are not increased;
   ~~2.~~b. Offer to convert the coverage to a paid-up status with a shortened benefit period according to the terms of subsection ~~(I),~~ (E), which the insured may elect at any time during the 120-day period referenced in subsection ~~(F)(2);~~ (D)(3); and
   ~~3.~~c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection ~~(F)(2)~~ (D)(3) is deemed to be the election of the offer to convert under subsection ~~(H)(2).~~ (5)(b) unless the automatic option in subsection (D)(6)(c) applies.

6. On or before the effective date of a substantial premium increase on policies with a fixed or limited premium paying period as defined in subsection (D)(4), an insurer shall:

a. Offer the insured the option of reducing policy benefits under the current coverage consistent with the requirements of R20-6-1025 so that required premium payments are not increased;
b. Offer to convert the coverage to paid-up status where the amount payable for each benefit is 90% of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. The insured may elect this option at any time during the 120-day period referenced in subsection (D)(4); and
c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (D)(4) is deemed to be the election of the offer to convert under subsection (D)(6)(b) if the ratio is 40% or more.

7. For any long-term care policy issued on or after November 10, 2017, that an insurer issued at least 20 years prior to the effective date of a substantial premium increase, the insurer shall use a rate increase value of 0% in place of all values in the above tables.

~~I.~~**E.** ~~In this Section, "benefits~~ Benefits continued as nonforfeiture benefits,~~"~~ including contingent benefits upon lapse~~,~~ in accordance with subsection (D)(3) but not subsection (D)(4), mean any of the following:

1. Attained age rating is defined as a schedule of premiums starting from the issue date that increases age at least ~~one percent~~ 1% per year before age 50, and at least ~~three percent~~ 3% per year beyond age 50.
2. ~~The~~ For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in subsection ~~(I)(3).~~ (E)(3).
3. The standard nonforfeiture credit equals 100% of the sum of all premiums paid, including the premiums paid before any change in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. The minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection ~~(J)~~(F).
4. When the nonforfeiture benefit begins.
   a. The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years, and thereafter.
   ~~5.~~b. Notwithstanding subsection ~~(I)(4),~~ (E)(4)(a), for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:
      ~~a.~~i. The end of the tenth year following the policy or certificate issue date~~;~~, or
      ~~b.~~ii. The end of the second year following the date the policy or certificate is no longer subject to attained age rating.

~~6.~~5. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

~~J.~~**F.** All benefits paid by the insurer while the policy or certificate is in premium-paying status and in the ~~paid-up~~ paid-up status shall not exceed the maximum benefits that would be payable if the policy or certificate had remained in premium-paying status.

~~K.~~**G.** There shall be no difference in the minimum nonforfeiture benefits for group and individual policies.

~~L.~~**H.** The requirements in this Section are effective on or after November 10, 2005 and shall apply as follows:

1. Except as provided in subsection ~~(L)(2),~~ (H)(2) and (H)(3), this Section applies to any long-term care policy issued in this state on or after January 10, 2005.
2. The provisions of this Section do not apply to certificates issued on or after January 10, 2005, under a group long-term care insurance policy as defined in A.R.S. § 20-1691(5)(a), that was in force on January 10, 2005.
3. The provisions of this Section that apply to fixed or limited premium paying period policies shall only apply to policies issued on or after November 10, 2017.

~~M.~~**I.** Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of R20-6-1013, R20-6-1014~~,~~ or R20-6-1015, whichever is applicable, treating the policy as a whole.

~~N.~~**J.** To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection ~~(F),~~ (D)(3) or (D)(4), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium the insured paid when first buying the policy from the original insurer.

~~O.~~**K.** An insurer shall offer a nonforfeiture benefit for a qualified long-term care insurance contract that is a level premium contract and the benefit shall meet the following requirements:

1. The nonforfeiture provision shall be separately captioned using the term "nonforfeiture benefit" or a substantially similar caption~~.~~;
2. The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the insurer may adjust the amount of the benefit initially granted only as needed to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the Director under to A.R.S. § 20-1691.08 for the same contract form; and
3. The nonforfeiture provision shall provide at least one of the following:
   a. Reduced paid-up premiums,
   b. Extended term insurance,
   c. Shortened benefit period~~;~~, or
   d. Other similar offerings that the Director has approved.

**R20-6-1020. Standards for Benefit Triggers**

**A.** A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Except as otherwise provided in R20-6-1021, eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.

**B.** Activities of daily living shall include at least the following as defined in R20-6-1003(A)(1) and in the policy:
1. Bathing~~;~~,
2. Continence~~;~~,
3. Dressing~~;~~,
4. Eating~~;~~,
5. Toileting~~;~~, and
6. Transferring~~;~~.

**C.** An insurer may use additional activities of daily living to trigger covered benefits if the activities are defined in the policy.

**D.** An insurer may use additional provisions to determine when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements in subsections ~~(A) and (B).~~ (A), (B) and (C).

**E.** For purposes of this Section the determination of a deficiency shall not be more restrictive than:
1. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or
2. If the deficiency is due to the presence of a cognitive impairment, requiring supervision or verbal cueing by another person to protect the insured or others.

**F.** Licensed or certified professionals, such as physicians, nurses or social workers, shall perform assessments of activities of daily living and cognitive impairment.

**G.** The requirements in this Section are effective on and after November 10, 2005 and shall apply as follows:
1. Except as provided in subsection (G)(2), the provisions of this Section apply to a long-term care policy issued in this state on or after January 10, 2005.
2. The provisions of this Section do not apply to certificates issued on or after January 10, 2005, under a long-term care insurance policy issued to a group as defined in A.R.S. § 20-1691(5)(a), which policy was in force on January 10, 2005.

**R20-6-1021. Additional Standards for Benefit Triggers for Qualified Long-term Care Insurance Contracts**

**A.** A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided under a plan of care prescribed by a licensed health care practitioner~~.~~, which is not subject to approval or modification by the insurer.

**B.** A qualified long-term care insurance contract shall condition the payment of benefits on a certified determination of the insured's inability to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity or to severe cognitive impairment.

**C.** Licensed ~~or certified professionals, including physicians, registered professional nurses, and licensed social workers,~~ health care practitioners shall perform the certified determinations regarding activities of daily living and cognitive impairment required under subsection (B).

**D.** Certified determinations required under ~~to~~ subsection (B) may be performed at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insured is in claim status, the certified determination may not be rescinded and additional certified determinations may not be performed until after the expiration of the 90-day period.

**R20-6-1023. Requirement to Deliver Shopper's Guide**

**A.** All prospective applicants of a long-term care insurance policy or certificate shall receive a long-term care insurance shopper's guide approved by the Director. This requirement may be satisfied by delivery of the current edition of the long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners.
1. In the case of insurance producer solicitation, an insurance producer shall deliver the shopper's guide before presenting an application or enrollment form.
2. In the case of direct response solicitations, the insurer shall provide the shopper's guide with any application or enrollment form.

**B.** A prospective applicant for a life insurance policy or rider containing accelerated long-term care benefits is not required to receive the guide described in subsection ~~A,~~ (A), but shall receive the policy summary required under A.R.S. § 20-1691.06.

**R20-6-1024. Availability of New Health Care Services or Providers**

**A.** An insurer shall notify policyholders of the availability of a new long-term policy series that provides coverage for new long-term care services or heath care providers material in nature and not previously available through the insurer to the general public. The notice shall be provided within 12 months of the date the new policy series is made available for sale in this state.

**B.** Notwithstanding subsection (A), notification is not required for any policy issued prior to the effective date of this Section or to any policyholder or certificateholder who is currently eligible for benefits, within an elimination period or on a claim, or who previously had been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers.

**C.** The insurer shall make the new coverage available in one of the following ways:
1. By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age:
2. By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits shall be based on premiums paid or reserves held for the prior policy or certificate;
3. By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status shall be recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost for the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or

4. By an alternative program developed by the insurer that meets the intent of this Section if the program is filed with and approved by the Director.

**D.** An insurer is not required to notify policyholders of a new proprietary policy series created and filed for use in a limited distribution channel. For purposes of this subsection, "limited distribution channel" means through a discrete entity, such as a financial institution or brokerage, for which specialized products are available that are not available for sale to the general public. Policyholders who purchased such a new proprietary policy shall be notified when a new long-term care policy series that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel.

**E.** Policies issued pursuant to this Section shall be considered exchanges and not replacements. These exchanges shall not be subject to R20-6-1010(A), (C) through (G) and R20-6-1018 and are not subject to the reporting requirements of R20-6-1010(I)(1), (I)(2)(a) through (I)(2)(c).

**F.** Where an employer, labor organization, professional, trade or occupational association offers the policy, the required notification in subsection (A) shall be made to the offering entity. However, if the policy is issued to a group defined in A.R.S. § 20-1691(5), the notification shall be to each certificateholder.

**G.** Nothing in this Section shall prohibit an insurer from offering any policy, rider, certificate or coverage change to any policyholder or certificateholder. However, upon request, any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium, to add such new services or providers.

**H.** This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

**I.** This Section shall become effective on or after November 10, 2017.

**R20-6-1025. Right to Reduce Coverage and Lower Premiums**

**A.** Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways:
1. Reducing the maximum benefit; or
2. Reducing the daily, weekly or monthly benefit amount.

**B.** The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes.

**C.** In the event the reduction in coverage involves the reduction or elimination of the inflation protection provision, the insurer shall allow the policyholder to continue the benefit amount in effect at the time of the reduction.

**D.** The provision in subsection (A) shall include a description of the process for requesting and implementing a reduction in coverage.

**E.** The premium for the reduced coverage shall:
1. Be based on the same age and underwriting class used to determine the premium for the coverage currently in force, and
2. Be consistent with the approved rate table.

**F.** The issuer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable.

**G.** If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by R20-6-1005(F).

**H.** This Section does not apply to life insurance policies or riders containing accelerated long-term benefits.

**I.** The requirements of subsections (A) through (H) shall apply to any long-term care policy issued in this state on or after November 10, 2017.

**J.** A premium increase notice required by R20-6-1008(G) shall include:
1. An offer to reduce policy benefits provided by the current coverage consistent with the requirements of this Section;
2. A disclosure stating that all options available to the policyholder may not be of equal value; and
3. In the case of a partnership policy, a disclosure that some benefit reduction options may result in a loss in partnership status that may reduce policyholder protections.

**K.** The requirements of subsection (J) shall apply to any rate increase implemented in this state on or after November 10, 2017.

**~~R20-6-1024~~R20-6-1026.Instructions for Appendices**

Information that is designated as a "Drafting Instruction" in a form appended to this Article is not required to be included as part of the form. Any person using the form shall abide by the instructions when drafting, preparing, or completing the form.

**APPENDIX A**

**Long-term Care Insurance**

**Personal Worksheet**

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long-term care insurance may be expensive, and may not be right for everyone.

By state law, the insurance company must fill out part of the information on this worksheet and ask you to fill out the rest to help you and the company decide if you should buy this policy.

**Premium Information**

Policy Form Numbers_____

The premium for the coverage you are considering will be [$_____ per month, or $_____ per year,] [a one-time single premium of $_____.]

**Type of Policy** (noncancellable/guaranteed renewable): _____

**The Company's Right to Increase Premiums**: _____

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this state.] [Insurers shall use appropriate bracketed statement. Rate guarantees shall not be shown on this form.]

**Rate Increase History**

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this state or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this state or any other state in the last 10 years.] [The company has raised its premium rates on this policy form or similar policy forms in the last 10 years. Following is a summary of the rate increases.]

**(Drafting Instruction:** A company may use the first bracketed sentence above only if it has never increased rates under any prior policy forms in this state or any other state. The issuer shall list each premium increase it has instituted on this or similar policy forms in this state or any other state during the last 10 years. The list shall provide the policy form, the calendar years the form was available for sale, and the calendar year and the amount (percentage) of each increase. The insurer shall provide minimum and maximum percentages if the rate increase is variable by rating characteristics. The insurer may provide, in a fair manner, additional explanatory information as appropriate.)

**Questions Related to Your Income**

How will you pay each year's premium?

☐From my Income ☐From my Savings/Investments ☐My Family will Pay

[☐ Have you considered whether you could afford to keep this policy if the premiums went up, for example, by ~~20%~~ 50%?]

**(Drafting Instruction:** The issuer is not required to use the bracketed sentence if the policy is fully paid up or is a noncancellable policy.)

What is your annual income? (check one) ☐Under $10,000 ☐$[10-20,000] ☐$[20-30,000] ☐$[30-50,000] ☐Over $50,000

**(Drafting Instruction:** The issuer may choose the numbers to put in the brackets to fit its suitability standards.)

How do you expect your income to change over the next 10 years? (check one)

☐No change ☐Increase ☐Decrease

*If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.*

**Will you buy inflation protection?** (check one) ☐ Yes ☐ No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

☐From my Income ☐From my Savings/Investments ☐My Family will Pay

*The national average annual cost of care in [insert year] was [insert $ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert $ amount] if costs increase 5% annually.*

**(Drafting Instruction:** The projected cost can be based on federal estimates in a current year. In the above statement, the second figure equals 163% of the first figure.)

**What elimination period are you considering?** Number of days _____Approximate cost $_____for that period of care.

**How are you planning to pay for your care during the elimination period?** (check one)

☐From my Income ☐From my Savings/Investments ☐My Family will Pay

~~**Questions Related to Your Savings and Investments**~~

**Questions Related to Your Savings and Investments**

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

☐Under $20,000 ☐$20,000-$30,000 ☐$30,000-$50,000 ☐Over $50,000

How do you expect your assets to change over the next ten years? (check one)

☐Stay about the same ☐Increase ☐Decrease

*If you are buying this policy to protect your assets and your assets are less than $30,000, you may wish to consider other options for financing your long-term care.*

**Disclosure Statement**

| |
|---|
| ☐ The answers to the questions above describe my financial situation.<br>**or**<br>☐ I choose not to complete this information.<br>(Check one.) |
| ☐ I acknowledge that the carrier and/or its ~~agent~~ insurance provider (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] **I understand the above disclosures. I understand that the rates for this policy may increase in the future.** (This box must be checked). |

Signed:_____ _____

(Applicant) (Date)

[❒ I explained to the applicant the importance of completing this information.

Signed:_____ _____

(Insurance Producer) (Date)

Insurance Producer's Printed Name: _____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My ~~agent~~ insurance provider has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.]

Signed: _____ _____
(Applicant) (Date)

**(Drafting Instruction:** Choose the appropriate sentences depending on whether this is a direct mail or insurance producer sale.)

*The company may contact you to verify your answers.*

**(Drafting Instruction:** When the Long-term Care Insurance Personal Worksheet is furnished to employees and their spouses under employer group policies, the text from the heading "Disclosure Statement" to the end of the ~~page~~ document may be removed.)

**APPENDIX B**

**~~Long-term Care Insurance~~**

**~~Potential Rate Increase Disclosure Form~~**

**Instructions:**

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

**Insurers shall provide all of the following information to the applicant:**

**Long-term Care Insurance**

**Potential Rate Increase Disclosure Form**

1. **[Premium Rate] [Premium Rate Schedules]**: [Premium rate] [Premium rate schedules] that [is][are] applicable to you and that will be in effect until a request is made and [approved] for an increase [is][are] [on the application][$_____])

2. **The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy**.

3. **Rate Schedule Adjustments**:

   The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank): _____.

4. **Potential Rate Revisions**:

   **This policy is Guaranteed Renewable**. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

   **If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:**

- ☐ Pay the increased premium and continue your policy in force as is.
- ☐ Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)
- ☐ Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)
- ☐ Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

***Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

- Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and
- You lapse (not pay more premiums) within 120 days of the increase.

~~*Turn the Page*~~

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you have paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

**Example:**

- You bought the policy at age 65 and paid the $1,000 annual premium for 10 years, so you have paid a total of $10,000 in premium.
- In the eleventh year, you receive a rate increase of 50%, or $500 for a new annual premium of $1,500, and you decide to lapse the policy (not pay any more premiums).
- Your "paid-up" policy benefits are $10,000 (provided you have a least $10,000 of benefits remaining under your policy.)

~~*Turn the Page*~~

**Contingent Nonforfeiture**

**Cumulative Premium Increase over Initial Premium**

**That qualifies for Contingent Nonforfeiture**

(Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.)

| Issue Age | Percent Increase Over Initial Premium |
|---|---|
| 29 and under | 200% |
| 30-34 | 190% |
| 35-39 | 170% |
| 40-44 | 150% |
| 45-49 | 130% |
| 50-54 | 110% |
| 55-59 | 90% |
| 60 | 70% |
| 61 | 66% |
| 62 | 62% |
| 63 | 58% |
| 64 | 54% |
| 65 | 50% |
| 66 | 48% |
| 67 | 46% |
| 68 | 44% |
| 69 | 42% |
| 70 | 40% |
| 71 | 38% |
| 72 | 36% |
| 73 | 34% |
| 74 | 32% |
| 75 | 30% |
| 76 | 28% |
| 77 | 26% |
| 78 | 24% |
| 79 | 22% |
| 80 | 20% |
| 81 | 19% |
| 82 | 18% |
| 83 | 17% |
| 84 | 16% |
| 85 | 15% |
| 86 | 14% |

| | |
|---|---|
| 87 | 13% |
| 88 | 12% |
| 89 | 11% |
| 90 and over | 10% |

**APPENDIX C**

**NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL HEALTH OR LONG-TERM CARE INSURANCE**

**[Insurance company's name and address]**

**SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.**

~~According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides [thirty (30)] days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.~~

~~You should review this new coverage carefully, comparing it with all health or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.~~

~~STATEMENT TO APPLICANT BY [INSURANCE PRODUCER OR OTHER REPRESENTATIVE]:~~

~~Use additional sheets, as necessary.)~~

~~I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations which I call to your attention:~~

~~1. Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, even though a similar claim might have been payable under your present policy.~~

~~2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probation periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.~~

~~3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its insurance producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.~~

~~4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been property recorded.~~

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all health or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY [INSURANCE PRODUCER OR OTHER REPRESENTATIVE]:

Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations which I call to your attention:

1. Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under your new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all of the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

_____ _____
(Signature of Insurance Producer or Other Representative) ~~(Company Name)~~

(Typed Name and Address of Insurance Producer)

The above "Notice to Applicant" was delivered to me on:

_____
(Date)

_____
(Applicant's Signature)

**APPENDIX D**

**NOTICE TO APPLICANT REGARDING REPLACEMENT OF HEALTH OR LONG-TERM CARE INSURANCE**

**[Insurance company's name and address]**

**SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE**

~~According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with the long-term care insurance policy being delivered and issued by [company name] Insurance Company. Your new policy gives you thirty (30) days to decide, without cost, whether you want to keep the policy. For your own information and protection, you should be aware of and seriously consider certain facts which may affect the insurance protection available to you under the new policy.~~

~~You should review this new coverage carefully, comparing it with all health coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.~~

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with the long-term care insurance policy being delivered and issued by [company name] Insurance Company. Your new policy gives you thirty (30) days to decide, without cost, whether you want to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all health or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, even though a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its ~~agent~~ insurance producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly, Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

   ~~[COMPANY NAME]~~

**APPENDIX E**

**Long-term Care Insurance**

**Replacement and Lapse Reporting Form**

For the State of _____

For the Reporting Year of _____

Company Name:_____ Due: June 30 annually

Company Address:_____ Company NAIC Number: _____

Contact Person:_____ Phone Number: (____)_____

~~Instructions~~**Instructions**

The purpose of this form is to report on a statewide basis information regarding long-term care insurance policy replacements and lapses. Every insurer shall maintain the following records for each insurance producer: (1) the amount of long-term care insurance replacement sales as a percent of the insurance producer's total annual sales and (2) the amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales. The tables below should be used to report the ~~ten percent (10%)~~ 10% of the insurer's insurance producers with the greatest percentages of replacements and lapses.

**Listing of the 10% of Insurance Producers with the Greatest Percentage of Replacements**

| Insurance Producer's Name | Number of Policies Sold By This Insurance Producer | Number of Policies Replaced By This Insurance Producer | Number of Replacements as % of Number of Policies Sold By This Insurance Producer |
|---|---|---|---|
| | | | |

**Listing of the 10% of Insurance Producers with the Greatest Percentage of Lapses**

| Insurance Producer's Name | Number of Policies Sold By This Insurance Producer | Number of Policies Lapsed By This Insurance Producer | Number of Lapses As % of Number Sold By This Insurance Producer |
|---|---|---|---|
| | | | |

**Company Totals**

Percentage of Replacement Policies Sold to Total Annual Sales ____%

Percentage of Replacement Policies Sold to Policies In Force (as of the end of the preceding calendar year) ____%

Percentage of Lapsed Policies to Total Annual Sales _____%

Percentage of Lapsed Policies to Policies In Force (as of the end of the preceding calendar year) _____%

**APPENDIX F**

**Long-term Care Insurance**

**Claims Denial Reporting Form**

For the State of_____

For the Reporting Year of_____

Company Name:_____ Due: June 30 annually

Company Address:_____

_____

Company NAIC Number:_____

Contact Person: _____Phone Number: _____

Line of Business: Individual Group

Instructions

~~The purpose of this form is to report all long-term care claim denials under in-force long-term care insurance policies. "Denied" means a claim that is not paid for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.~~

The purpose of this form is to report all long-term care claim denials under in-force long-term care insurance policies. Indicate the manner of reporting by checking one of the boxes below:

☐ Per Claimant - counts each individual who makes one or a series of claim requests

☐ Per Transaction - counts each claim payment request

"Denied" means a claim that is not paid for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition. It does not include a request for payment that is in excess of the applicable contractual limits.

Inforce Data

| | **State Data** | **Nationwide Data**[1] |
|---|---|---|
| Total Number of Inforce Policies [Certificates] as of December 31st | | |

Claims & Denial Data

| | | **State Data** | **Nationwide Data**[1] |
|---|---|---|---|
| 1 | Total Number of Long-Term Care Claims Reported | | |
| 2 | Total Number of Long-Term Care Claims Denied/Not Paid | | |
| 3 | Number of Claims Not Paid due to Preexisting Condition Exclusion | | |
| 4 | Number of Claims Not Paid due to Waiting (Elimination) Period Not Met | | |
| 5 | Net Number of Long-Term Care Claims Denied for Reporting Purposes (Line 2 Minus Line 3 Minus Line 4) | | |
| 6 | Percentage of Long-Term Care Claims Denied of Those Reported (Line 5 Divided By Line 1) | | |
| 7 | Number of Long-Term Care Claim Denied due to: | | |
| 8 | • Long-Term Care Services Not Covered under the Policy[2] | | |

| | | | |
|---|---|---|---|
| 9 | • Provider/Facility Not Qualified under the Policy[3] | | |
| 10 | • Benefit Eligibility Criteria Not Met[4] | | |
| 11 | • Other | | |

1. The nationwide data may be viewed as a more representative and credible indicator where the data for claims reported and denied for your state are small in number.
2. Example—home health care claim filed under a nursing home only policy.
3. Example—a facility that does not meet the minimum level of care requirements or the licensing requirements as outlined in the policy.
4. Examples—a benefit trigger not met, certification by a licensed health care practitioner not provided, no plan of care.

**APPENDIX H**

**Things You Should Know Before You Buy**

**Long-term Care Insurance**

**Long-Term Care Insurance**

• A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.

• [**WARNING!** You should **not** buy this insurance policy unless you can afford to pay the premiums every year. You are making a multi-year financial commitment.] [Remember that the company can increase premiums in the future.]

**(Drafting Instruction:** For single premium policies, delete this bullet; for noncancellable policies, delete the second sentence only.)

• The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.

**Medicare**

• Medicare does **not** pay for most long-term care.

**Medicaid**

• Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should not buy this policy if you are now eligible for Medicaid.

• Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term care services.

• When Medicaid pays your spouse's nursing home bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets.

• Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.

**Shopper's Guide**

• Make sure the insurance company or agent gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within 30 days and get back any premium you have paid if you are dissatisfied for any reason or choose not to purchase the policy.

**Counseling**

• Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department or department on aging for more information about the senior health insurance counseling program in your state.

**Facilities**

• Some long-term care insurance contracts provide for benefit payments in certain facilities only if they are licensed or certified, such as in assisted living centers. However, not all states regulate these facilities in the same way. Also, many people move into a different state from where they purchased their long-term care insurance policy. Read the policy carefully to determine what types of facilities qualify for benefit payments, and to determine that payment for a covered service will be made if you move to a state that has a different licensing scheme for facilities than the one in which you purchased the policy.

**APPENDIX I**

**Long-term Care Insurance Suitability Letter**

Dear [Applicant]:

Your recent application for long-term care insurance included a "personal worksheet," which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, state law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet "Shopper's Guide to Long-Term Care Insurance" and the page titled "Things You Should Know Before Buying Long-Term Care Insurance." Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide any financial information for us to review.]

(**Drafting Instruction:** Choose the paragraph that applies.)

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next 60 days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next 60 days, we will close your file and not issue you a policy. You should understand that you will not have any coverage until we hear back from you, approve your application and issue you a policy.

*Please check one box and return in the enclosed envelope.*

~~☐ Yes, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage. Please resume review of my application.~~

☐ **Yes**, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage.

Please resume review of my application.

**Drafting Instruction:** Delete the phrase in brackets if the applicant did not answer the questions about income.

☐ **No.** I have decided not to buy a policy at this time.

_____ _____

APPLICANT'S SIGNATURE DATE

*Please return to [issuer] at [address] by [date].*

**APPENDIX J**

[COMPANY NAME]

[ADDRESS - CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

~~[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, shall appear as follows in the outline of coverage.]~~

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, shall appear as follows in the outline of coverage.]

~~Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]~~

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] [a group policy] which was issued in the [indicate jurisdiction in which group policy was issued].
2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!
3. FEDERAL TAX CONSEQUENCES

~~This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended.~~

This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended.

~~or~~OR

~~Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE].is not intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.~~

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE].is not intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED

(a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

(1) Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) [Policies and certificates that are noncancellable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

(b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]

(c) [Describe waiver of premium provisions or state that there are not such provisions;]

5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

[In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]

6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return - "free look" provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For insurance producers] Neither [insert company name] nor its [agents or insurance producers] represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute-care unit of a hospital, such as in a nursing home, in the community or in the home.

~~This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]~~

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

9. BENEFITS PROVIDED BY THIS POLICY.

(a) [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]

(b) [Institutional benefits, by skill level.]

(c) [Non-institutional benefits, by skill level.]

(d) Eligibility for Payment of Benefits

~~[Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be defined and described as part of the outline of coverage.]~~

[Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be defined and described as part of the outline of coverage.]

~~[Any additional benefit triggers shall be explained in this Section. If these triggers differ for different benefits, explanation of the triggers shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]~~

[Any additional benefit triggers shall be explained in this Section. If these triggers differ for different benefits, explanation of the triggers shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

(a) Preexisting conditions;

(b) Non-eligible facilities and providers;

(c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) Exclusions and exceptions;

(e) Limitations.]

~~[This Section shall provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in paragraph 6 above.]~~

[This Section shall provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in paragraph 6 above.]

~~**THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.**~~

**THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.**

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) That the benefit level will not increase over time;

(b) Any automatic benefit adjustment provisions;

(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

(d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) Describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

~~[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]~~

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

[(a) State the total annual premium for the policy;

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

[(a) Indicate if medical underwriting is used;

(b) Describe other important features.]

15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE PROGRAM IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

# NOTICES OF EXEMPT RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Exempt Rulemaking.

It is not uncommon for an agency to be exempt from all steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act (APA) or Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10.

An agency's exemption is either written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters; or a court has determined that an agency, board or commission is exempt from the rulemaking process.

The Office makes a distinction between certain exemptions as provided in these laws, on a case by case basis, as determined by an agency. Other rule exemption types are published elsewhere in the *Register*.

Notices of Exempt Rulemaking as published here were made with no special conditions or restrictions; no public input; no public hearing; and no filing of a Proposed Exempt Rulemaking.

## NOTICES OF EXEMPT RULEMAKING

### TITLE 9. HEALTH SERVICES

### CHAPTER 25. DEPARTMENT OF HEALTH SERVICES EMERGENCY MEDICAL SERVICES

[R17-70]

### PREAMBLE

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

| | |
|---|---|
| Table 5.1 | Amend |
| Table 5.2 | Amend |

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statutes (specific), and the statute or session law authorizing the exemption:**

Authorizing statutes: A.R.S. §§ 36-136(F) and 36-2209(A)(2)

Implementing statute: A.R.S. §§ 36-2205(A) and 36-2228

Statute or session law authorizing the exemption: A.R.S. § 36-2205(B)

**3. The effective date of the rules and the agency's reason it selected the effective date:**

April 19, 2017

This effective date reduces the regulatory burden on regulated entities as quickly as possible.

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

Notice of Public Information: 23 A.A.R. 538, March 3, 2017

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


Name: Terry Mullins, Bureau Chief

Address: Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248

Telephone: (602) 364-3150

Fax: (602) 364-3568

E-mail: Terry.Mullins@azdhs.gov

or

Name: Robert Lane, Manager

Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Robert.Lane@azdhs.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:**

Arizona Revised Statutes (A.R.S.) § 36-2205(A) requires the Arizona Department of Health Services (Department) to establish protocols governing "medical treatments, procedures, medications and techniques which may be administered or performed by each class of emergency medical care technician." A.R.S. § 36-2205(B) gives the Department exempt rulemaking authority to

establish these protocols. The Emergency Medical Services Council and the Medical Direction Commission, established by A.R.S. §§ 36-2203 and 36-2203.01, respectively, have reviewed the protocols for medical treatments, procedures, medications, and techniques provided through emergency medical care technicians, which are established in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25, Article 5, and have recommended changes to the protocols. These changes, which include reducing the number of required atropine syringes from three to one, the number of required adult and pediatric epinephrine auto-injectors from two to one each, and the amount of required glucagon from 2 mg to 1 mg; clarifying the meaning of "Nitro" and ASA" in Table 5.1 and the concentrations of epinephrine HCl in Table 5.2; adding the option for carrying and administering 2% lidocaine for AEMTs, EMT-I(99)s, and Paramedics; and making Thiamine an optional agent, reduces the regulatory burden on regulated entities. After obtaining an exception from the rulemaking moratorium established by Executive Order 2016-03, the Department has made changes to the rules in 9 A.A.C. 25, Article 5, based on this input and comments on draft rules changes from the regulated entities.

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

The Department did not review or rely on any study related to this rulemaking package.

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

Not applicable

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

Not applicable

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

Not applicable

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

**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 and its location in the rule:**

None

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

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

## TITLE 9. HEALTH SERVICES

## CHAPTER 25. DEPARTMENT OF HEALTH SERVICES EMERGENCY MEDICAL SERVICES

### ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Section

| | |
|---|---|
| Table 5.1 | Arizona Scope of Practice Skills |
| Table 5.2 | Eligibility for Authorization to Administer, Monitor, and Assist in Patient Self-administration of Agents by EMCT Classification; Administration Requirements; and Minimum Supply Requirements for Agents |

## ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

**Table 5.1. Arizona Scope of Practice Skills**

**KEY:**

✓ = Arizona Scope of Practice skill

STR = STR skill

* = Already intubated

| Airway/Ventilation/Oxygenation | | EMT | AEMT | EMT-I(99) | Paramedic |
|---|---|---|---|---|---|
| | Airway - esophageal | STR | ✓ | ✓ | ✓ |
| | Airway - supraglottic | STR | ✓ | ✓ | ✓ |
| | Airway - nasal | ✓ | ✓ | ✓ | ✓ |
| | Airway - oral | ✓ | ✓ | ✓ | ✓ |
| | Automated transport ventilator | STR | STR | ✓ | ✓ |
| | Bag-valve-mask (BVM) | ✓ | ✓ | ✓ | ✓ |
| | BiPAP/CPAP | | | | ✓ |
| | Chest decompression - needle | | | ✓ | ✓ |
| | Chest tube placement - assist only | | | | STR |
| | Chest tube monitoring and management | | | | STR |
| | Cricoid pressure (Sellick's maneuver) | ✓ | ✓ | ✓ | ✓ |
| | Cricothyrotomy- needle | | | STR | ✓ |
| | Cricothyrotomy- percutaneous | | | STR | ✓ |
| | Cricothyrotomy- surgical | | | STR | STR |
| | Demand valve- manually triggered ventilation | ✓ | ✓ | ✓ | ✓ |
| | End tidal CO2 monitoring/capnography | | | ✓ | ✓ |
| | Gastric decompression - NG tube | | | ✓ | ✓ |
| | Gastric decompression - OG tube | | | ✓ | ✓ |
| | Head-tilt chin lift | ✓ | ✓ | ✓ | ✓ |
| | Intubation - nasotracheal | | | STR | ✓ |
| | Intubation - orotracheal | STR | STR | ✓ | ✓ |
| | Jaw-thrust | ✓ | ✓ | ✓ | ✓ |
| | Jaw-thrust – modified (trauma) | ✓ | ✓ | ✓ | ✓ |
| | Medication Assisted Intubation (paralytics) | | | | STR |
| | Mouth-to-barrier | ✓ | ✓ | ✓ | ✓ |
| | Mouth-to-mask | ✓ | ✓ | ✓ | ✓ |
| | Mouth-to-mouth | ✓ | ✓ | ✓ | ✓ |
| | Mouth-to-nose | ✓ | ✓ | ✓ | ✓ |
| | Mouth-to-stoma | ✓ | ✓ | ✓ | ✓ |
| | Obstruction - direct laryngoscopy | | | ✓ | ✓ |
| | Obstruction - manual | ✓ | ✓ | ✓ | ✓ |
| | Oxygen therapy - humidifiers | ✓ | ✓ | ✓ | ✓ |
| | Oxygen therapy - nasal cannula | ✓ | ✓ | ✓ | ✓ |
| | Oxygen therapy - non-rebreather mask | ✓ | ✓ | ✓ | ✓ |

| | | | | | |
|---|---|---|---|---|---|
| | Oxygen therapy - partial rebreather mask | ✓ | ✓ | ✓ | ✓ |
| | Oxygen therapy - simple face mask | ✓ | ✓ | ✓ | ✓ |
| | Oxygen therapy - venturi mask | ✓ | ✓ | ✓ | ✓ |
| | PEEP - therapeutic | | | ✓ | ✓ |
| | Pulse oximetry | ✓ | ✓ | ✓ | ✓ |
| | Suctioning - upper airway | ✓ | ✓ | ✓ | ✓ |
| | Suctioning - tracheobronchial | | ✓* | ✓ | ✓ |
| **Cardiovascular/Circulation** | | **EMT** | **AEMT** | **EMT-I (99)** | **Paramedic** |
| | Cardiac monitoring - multiple lead (interpretive) | | | ✓ | ✓ |
| | Cardiac monitoring - single lead (interpretive) | | | ✓ | ✓ |
| | Cardiac - multiple lead acquisition (non-interpretive) | STR | STR | ✓ | ✓ |
| | Cardiopulmonary resuscitation | ✓ | ✓ | ✓ | ✓ |
| | Cardioversion - electrical | | | ✓ | ✓ |
| | Carotid massage – (≤17 years) | | | STR | STR |
| | Defibrillation - automatic/semi-automatic | ✓ | ✓ | ✓ | ✓ |
| | Defibrillation - manual | | | ✓ | ✓ |
| | Hemorrhage control - direct pressure | ✓ | ✓ | ✓ | ✓ |
| | Hemorrhage control - tourniquet | ✓ | ✓ | ✓ | ✓ |
| | Internal; cardiac pacing - monitoring only | | | ✓ | ✓ |
| | Mechanical CPR device | STR | STR | STR | STR |
| | Transcutaneous pacing - manual | | | ✓ | ✓ |
| **Immobilization** | | **EMT** | **AEMT** | **EMT-I (99)** | **Paramedic** |
| | Spinal immobilization - cervical collar | ✓ | ✓ | ✓ | ✓ |
| | Spinal immobilization - long board | ✓ | ✓ | ✓ | ✓ |
| | Spinal immobilization - manual | ✓ | ✓ | ✓ | ✓ |
| | Spinal immobilization - seated patient (KED, etc.) | ✓ | ✓ | ✓ | ✓ |
| | Spinal immobilization - rapid manual extrication | ✓ | ✓ | ✓ | ✓ |
| | Extremity stabilization - manual | ✓ | ✓ | ✓ | ✓ |
| | Extremity splinting | ✓ | ✓ | ✓ | ✓ |
| | Splint- traction | ✓ | ✓ | ✓ | ✓ |
| | Mechanical patient restraint | ✓ | ✓ | ✓ | ✓ |
| | Emergency moves for endangered patients | ✓ | ✓ | ✓ | ✓ |
| **Medication administration - routes** | | **EMT** | **AEMT** | **EMT-I (99)** | **Paramedic** |
| | Aerosolized/nebulized (beta agonist) | STR | ✓ | ✓ | ✓ |
| | Assisting patient with his/her own prescribed medications (aerosolized/nebulized) | ✓ | ✓ | ✓ | ✓ |
| | Assisting patient with his/her own prescribed medications (~~ASA/Nitro~~ Aspirin or Nitroglycerin) | ✓ | ✓ | ✓ | ✓ |
| | Assisting patient with his/her own prescribed medications (auto-injector) | ✓ | ✓ | ✓ | ✓ |
| | Assisting patient with his/her own prescribed medications (hydrocortisone sodium succinate) | | ✓ | ✓ | ✓ |

| | | | | | |
|---|---|---|---|---|---|
| | Auto-injector | STR | ✓ | ✓ | ✓ |
| | Buccal | STR | ✓ | ✓ | ✓ |
| | Endotracheal tube | | | ✓ | ✓ |
| | Inhaled self-administered (nitrous oxide) | | ✓ | ✓ | ✓ |
| | Intradermal | | | STR | STR |
| | Intramuscular (including patient-assisted hydrocortisone) | | ✓ | ✓ | ✓ |
| | Intranasal | STR | ✓ | ✓ | ✓ |
| | Intravenous push | | ✓ | ✓ | ✓ |
| | Intravenous piggyback | | | ✓ | ✓ |
| | Intraosseous | | STR | ✓ | ✓ |
| | Nasogastric | | | | ✓ |
| | Oral | ✓ | ✓ | ✓ | ✓ |
| | Rectal | | STR | ✓ | ✓ |
| | Small volume nebulizer | STR | ✓ | ✓ | ✓ |
| | Subcutaneous | | ✓ | ✓ | ✓ |
| | Sublingual | | ✓ | ✓ | ✓ |
| **IV initiation/maintenance fluids** | | **EMT** | **AEMT** | **EMT-I (99)** | **Paramedic** |
| | Access indwelling catheters and implanted central IV ports | | | | ✓ |
| | Central line - monitoring | | | | ✓ |
| | Intraosseous - initiation | | ✓ | ✓ | ✓ |
| | Intravenous access | | ✓ | ✓ | ✓ |
| | Intravenous initiation - peripheral | STR | ✓ | ✓ | ✓ |
| | Intravenous- maintenance of non-medicated IV fluids or capped access | ✓ | ✓ | ✓ | ✓ |
| | Intravenous- maintenance of medicated IV fluids | | | ✓ | ✓ |
| | Umbilical initiation | | | | STR |
| **Miscellaneous** | | **EMT** | **AEMT** | **EMT-I (99)** | **Paramedic** |
| | Assisted delivery (childbirth) | ✓ | ✓ | ✓ | ✓ |
| | Assisted complicated delivery (childbirth) | ✓ | ✓ | ✓ | ✓ |
| | Blood glucose monitoring | ✓ | ✓ | ✓ | ✓ |
| | Blood pressure- automated | ✓ | ✓ | ✓ | ✓ |
| | Blood pressure- manual | ✓ | ✓ | ✓ | ✓ |
| | Eye irrigation | ✓ | ✓ | ✓ | ✓ |
| | Eye irrigation (Morgan lens) | | | | STR |
| | Thrombolytic therapy- initiation | | | | STR |
| | Urinary catheterization | | | | STR |
| | Venous blood sampling | | | ✓ | ✓ |
| | Blood chemistry analysis | | | | STR |
| | Use/monitoring of agents specified in Table 5.4 during interfacility transports | | | STR | STR |
| | Use/monitoring of infusion pump for agent administration during interfacility transports | | | STR | STR |

**Table 5.2. Eligibility for Authorization to Administer, Monitor, and Assist in Patient Self-administration of Agents by EMCT Classification; Administration Requirements; and Minimum Supply Requirements for Agents**

**KEY:**

A = Authorized to administer the agent

SVN = Agent shall be administered by small volume nebulizer

MDI = Agent shall be administered by metered dose inhaler

* = Authorized to assist in patient self-administration

[ ] = Minimum supply required if an EMS provider chooses to make the optional agent available for EMCT administration

| AGENT | MINIMUM SUPPLY | EMT | AEMT | EMT-I (99) | Paramedic |
|---|---|---|---|---|---|
| Adenosine | 18 mg | - | - | A | A |
| Albuterol Sulfate SVN or MDI (sulfite free) | 10 mg | A | A | A | A |
| Amiodarone | 300 mg | - | - | - | A |
| or | or | | | | |
| Lidocaine | 3 prefilled syringes, total of 300 mg and 1 g vials or premixed infusion, total of 2 g | - | - | A | A |
| Aspirin | 324 mg | A | A | A | A |
| Atropine Sulfate | ~~3 prefilled syringes, total of 3 mg~~ 1 prefilled syringe, total of 1 mg | - | - | A | A |
| Atropine Sulfate | Optional [8 mg multidose vial (1)] | - | - | A | A |
| Atropine Sulfate Auto-Injector | None | A | A | A | A |
| Atropine Sulfate and Pralidoxime Chloride (Combined) Auto-Injector | None | A | A | A | A |
| Calcium Chloride | 1 g | - | - | - | A |
| Calcium Gluconate, 2.5% topical gel | Optional [50 g] | A | A | A | A |
| Charcoal, Activated (without sorbitol) | Optional [50 g] | A | A | A | A |
| Cyanokit | Optional [5 g] | - | - | - | A |
| Dexamethasone | Optional [8 mg] | - | - | A | A |
| Dextrose | 50 g | - | A | A | A |
| Dextrose, 5% in H2O | Optional [250 mL bag (1)] | A | A | A | A |
| Diazepam | 20 mg | - | - | A | A |
| or | | | | | |
| Lorazepam | 8 mg | - | - | A | A |
| or | | | | | |
| Midazolam | 10 mg | - | - | A | A |
| Diazepam Rectal Delivery Gel | Optional [20 mg] | - | - | A | A |
| Diltiazem | 25 mg | - | - | - | A |
| or | | | | | |
| Verapamil HCl | 10 mg | - | - | - | A |
| Diphenhydramine HCl | 50 mg | - | - | A | A |
| Dopamine HCl | 400 mg | - | - | - | A |
| Epinephrine Auto-Injector | Optional [~~2 adult auto-injectors 2 pediatric auto-injectors~~ 1 adult auto-injector and 1 pediatric auto-injector] | A | A | A | A |
| Epinephrine HCl, 1 mg/mL (formerly 1:1,000) | 2 mg | - | A | A | A |
| Epinephrine HCl, 1 mg/mL (formerly 1:1,000) | Optional [30 mg multidose vial (1)] | - | A | A | A |
| Epinephrine HCl, 0.1 mg/mL (formerly 1:10,000) | 5 mg | - | - | A | A |
| Etomidate | Optional [40 mg] | - | - | - | A |
| Furosemide | Optional [100 mg] | - | - | A | A |
| or | | | | | |
| Bumetanide | Optional [4 mg] | - | - | A | A |
| Glucagon | ~~2~~ 1 mg | - | A | A | A |
| Glucose, oral | Optional [30 gm] | A | A | A | A |
| Hemostatic Agents | Optional | A | A | A | A |
| Hydrocortisone Sodium Succinate | Optional | - | * | * | * |
| Immunizing Agent | Optional | - | - | A | A |
| Ipratropium Bromide 0.02% SVN or MDI | 5 mL | - | - | A | A |
| Ketamine | Optional [200 mg] | - | - | - | A |
| Lactated Ringers | 1 L bag (2) | A | A | A | A |
| Lidocaine 2%, Preservative-free (IO Insertion) | Optional [100 mg] | - | A | A | A |
| Magnesium Sulfate | 5 g | - | - | - | A |
| Methylprednisolone Sodium Succinate | 250 mg | - | - | A | A |

| | | | | | |
|---|---|---|---|---|---|
| Morphine Sulfate<br>or<br>Fentanyl | 20 mg<br><br>200 mcg | -<br><br>- | A<br><br>- | A<br><br>A | A<br><br>A |
| Nalmefene HCl | Optional [4 mg] | - | A | A | A |
| Naloxone HCl | 10 mg | - | A | A | A |
| Naloxone HCl | Optional [Prefilled atomizers or auto-injectors; 2 doses] | A | A | A | A |
| Nitroglycerin Sublingual Spray<br>or<br>Nitroglycerin Tablets | 1 bottle<br><br>1 bottle | *<br><br>* | A<br><br>A | A<br><br>A | A<br><br>A |
| Normal Saline | 1 L bag (2)<br>Optional [250 mL bag (1)]<br>Optional [50 mL bag (2)] | A | A | A | A |
| Ondansetron HCl | Optional [4 mg] | - | - | A | A |
| Oxygen | 13 cubic feet | A | A | A | A |
| Oxytocin | Optional [10 units] | - | - | A | A |
| Phenylephrine Nasal Spray 0.5% | Optional [1 bottle] | - | - | A | A |
| Pralidoxime Chloride Auto-Injector | None | A | A | A | A |
| Proparacaine Ophthalmic | Optional [1 bottle] | - | - | A | A |
| Rocuronium | Optional [100 mg] | - | - | - | A |
| Sodium Bicarbonate 8.4% | Optional [100 mEq] | - | - | A | A |
| Succinylcholine | Optional [400 mg] | - | - | - | A |
| Thiamine HCl | Optional [100 mg] | - | - | A | A |
| Tuberculin PPD | Optional [5 mL] | - | - | A | A |
| Vasopressin | Optional [40 units] | - | - | - | A |

# 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 2017-02

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

[M17-23]

*Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2017, as a notice to the public regarding state agencies' rulemaking activities.*

**WHEREAS**, burdensome regulations inhibit job growth and economic development;

**WHEREAS**, job creators and entrepreneurs are especially hurt by red tape and regulations;

**WHEREAS**, all government agencies 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 of 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 comply with a state statutory requirement.
   g. 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.
   h. 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.
   i. 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.
   j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. All directors of state agencies subject to this Order shall engage their respective regulated or stakeholder communities to solicit comment on which rules the regulated community believes to be overly burdensome and not necessary to protect consumers, public health, or public safety. Each agency shall submit a report regarding the aforementioned information to the Governor's Office no later than September 1, 2017.
4. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. 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.

6. This Executive Order expires on December 31, 2017.

**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**
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this Eleventh day of January in the Year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**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 PROPOSED RULEMAKING

**PIMA COUNTY CODE**
**TITLE 17 – AIR QUALITY CONTROL**
**CHAPTER 4 GENERAL PROVISIONS**
**CHAPTER 8 AMBIENT AIR QUALITY STANDARDS**
**CHAPTER 11 GENERAL PROVISIONS FOR PERMITS**
**CHAPTER 12 INDIVIDUAL AND GENERAL PERMITS AND PERMIT REVISIONS FOR CLASS I PERMITS**
**CHAPTER 13 INDIVIDUAL AND GENERAL PERMITS AND PERMIT REVISIONS FOR CLASS II AND CLASS III PERMITS**
**CHAPTER 14 ACTIVITY PERMITS**
**CHAPTER 16 EMISSION LIMITING STANDARDS**
**CHAPTER 28 VIOLATIONS AND CONDITIONAL ORDERS**

[M17-82]

### PREAMBLE

**1.**

| Sections Affected | Rulemaking Action |
|---|---|
| PCC 17.04.340 | Amend |
| PCC 17.04.400 | Amend |
| PCC 17.08.150 | Amend |
| Chapter 11 | New Chapter |
| PCC 17.11 Article I | New Article |
| PCC 17.11.010 | New Section |
| PCC 17.11.010 | Amend |
| PCC 17.11.020 | New Section |
| PCC 17.11.030 | New Section |
| PCC 17.11.040 | New Section |
| PCC 17.11 Article II | New Article |
| PCC 17.11.050 | New Section |
| PCC 17.11.060 | New Section |
| PCC 17.11.060 | Amend |
| PCC 17.11.070 | New Section |
| PCC 17.11.070 | Amend |
| PCC 17.11.080 | New Section |
| PCC 17.11.080 | Amend |
| PCC 17.11.090 | New Section |
| PCC 17.11.090 | Amend |
| PCC 17.11.100 | New Section |
| PCC 17.11.110 | New Section |
| PCC 17.11.110 | Amend |
| PCC 17.11.120 | New Section |
| PCC 17.11.120 | Amend |
| PCC 17.11.130 | New Section |
| PCC 17.11.140 | New Section |
| PCC 17.11.150 | New Section |
| PCC 17.11.150 | Amend |
| PCC 17.11.160 | New Section |
| PCC 17.11.170 | New Section |
| PCC 17.11.170 | Amend |
| PCC 17.11.180 | New Section |
| PCC 17.11.190 | New Section |
| PCC 17.11.190 | Amend |
| PCC 17.11.200 | New Section |
| PCC 17.11.200 | Amend |
| PCC 17.11.210 | New Section |
| PCC 17.11.220 | New Section |
| PCC 17.11.220 | Amend |

| | |
|---|---|
| Chapter 12 | Amend |
| PCC 17.12 Article I | Amend |
| PCC 17.12.010 | Renumber |
| PCC 17.12.010 | Amend |
| PCC 17.12.020 | Renumber |
| PCC 17.12.020 | Amend |
| PCC 17.12.030 | Renumber |
| PCC 17.12.030 | Amend |
| PCC 17.12.035 | Renumber |
| PCC 17.12.040 | Renumber |
| PCC 17.12.040 | Amend |
| PCC 17.12.045 | Renumber |
| PCC 17.12.050 | Renumber |
| PCC 17.12.050 | Amend |
| PCC 17.12.060 | Renumber |
| PCC 17.12.060 | Amend |
| PCC 17.12.070 | Renumber |
| PCC 17.12.070 | Amend |
| PCC 17.12.080 | Renumber |
| PCC 17.12.080 | Amend |
| PCC 17.12.085 | Renumber |
| PCC 17.12 Article II | Amend |
| PCC 17.12.090 | Amend |
| PCC 17.12.100 | Renumber |
| PCC 17.12.100 | Amend |
| PCC 17.12.110 | Renumber |
| PCC 17.12.110 | Amend |
| PCC 17.12.120 | Renumber |
| PCC 17.12.120 | Amend |
| PCC 17.12.130 | Renumber |
| PCC 17.12.130 | Amend |
| PCC 17.12.140 | Renumber |
| PCC 17.12.140 | Amend |
| PCC 17.12.150 | Renumber |
| PCC 17.12.150 | Amend |
| PCC 17.12 Article III | Amend |
| PCC 17.12.160 | Renumber |
| PCC 17.12.160 | Amend |
| PCC 17.12.165 | Renumber |
| PCC 17.12.170 | Renumber |
| PCC 17.12.170 | Amend |
| PCC 17.12.180 | Renumber |
| PCC 17.12.180 | Amend |
| PCC 17.12.185 | Renumber |
| PCC 17.12 Article IV | Amend |
| PCC 17.12.190 | Renumber |
| PCC 17.12.190 | Amend |
| PCC 17.12.195 | Renumber |
| PCC 17.12.200 | Renumber |
| PCC 17.12.200 | Amend |
| PCC 17.12 Article V | Amend |
| PCC 17.12.210 | Renumber |
| PCC 17.12.210 | Amend |
| PCC 17.12.220 | Renumber |
| PCC 17.12.220 | Amend |
| PCC 17.12.230 | Renumber |
| PCC 17.12.235 | Renumber |
| PCC 17.12.240 | Renumber |
| PCC 17.12.245 | Renumber |
| PCC 17.12.250 | Renumber |
| PCC 17.12.255 | Renumber |
| PCC 17.12.260 | Renumber |
| PCC 17.12.270 | Renumber |
| PCC 17.12.275 | Renumber |
| PCC 17.12.280 | Renumber |
| PCC 17.12.290 | Renumber |
| PCC 17.12.300 | Renumber |
| PCC 17.12.310 | Renumber |
| PCC 17.12.320 | Renumber |
| PCC 17.12.330 | Renumber |

| | |
|---|---|
| PCC 17.12.340 | Renumber |
| PCC 17.12.345 | Renumber |
| PCC 17.12.350 | Renumber |
| PCC 17.12.360 | Renumber |
| PCC 17.12.365 | Renumber |
| PCC 17.12.370 | Renumber |
| PCC 17.12.380 | Repeal |
| PCC 17.12.390 | Renumber |
| PCC 17.12.400 | Renumber |
| PCC 17.12.410 | Repeal |
| PCC 17.12.420 | Repeal |
| PCC 17.12.430 | Repeal |
| PCC 17.12.440 | Repeal |
| PCC 17.12.450 | Repeal |
| PCC 17.12.460 | Repeal |
| PCC 17.12.465 | Renumber |
| PCC 17.12.470 | Renumber |
| PCC 17.12.475 | Renumber |
| PCC 17.12.480 | Renumber |
| Table 17.12.530 | Renumber |
| Table 17.12.540 | Renumber |
| PCC 17.12.500 | Renumber |
| PCC 17.12.510 | Renumber |
| PCC 17.12.520 | Renumber |
| PCC 17.12.525 | Repeal |
| PCC 17.12.530 | Renumber |
| PCC 17.12.540 | Renumber |
| PCC 17.12.545 | Repeal |
| PCC 17.12.550 | Repeal |
| PCC 17.12.560 | Repeal |
| PCC 17.12.570 | Repeal |
| PCC 17.12.580 | Repeal |
| PCC 17.12.590 | Repeal |
| PCC 17.12.600 | Repeal |
| PCC 17.12.610 | Repeal |
| PCC 17.12.620 | Renumber |
| PCC 17.12.630 | Repeal |
| PCC 17.12.640 | Repeal |
| PCC 17.12.650 | Repeal |
| Chapter 13 | New Chapter |
| PCC 17.13 Article I | New Article |
| PCC 17.13.010 | New Section |
| PCC 17.13.010 | Amend |
| PCC 17.13.020 | New Section |
| PCC 17.13.020 | Amend |
| PCC 17.13.030 | New Section |
| PCC 17.13.030 | Amend |
| PCC 17.13.040 | New Section |
| PCC 17.13.040 | Amend |
| PCC 17.13.050 | New Section |
| PCC 17.13.050 | Amend |
| PCC 17.13.060 | New Section |
| PCC 17.13.060 | Amend |
| PCC 17.13.070 | New Section |
| PCC 17.13.070 | Amend |
| PCC 17.13.080 | New Section |
| PCC 17.13.080 | Amend |
| PCC 17.13.090 | New Section |
| PCC 17.13 Article II | New Article |
| PCC 17.13.100 | New Section |
| PCC 17.13.100 | Amend |
| PCC 17.13.110 | New Section |
| PCC 17.13.110 | Amend |
| PCC 17.13.120 | New Section |
| PCC 17.13.120 | Amend |
| PCC 17.13.130 | New Section |
| PCC 17.13.130 | Amend |
| PCC 17.13.140 | New Section |
| PCC 17.13.140 | Amend |
| PCC 17.13.150 | New Section |

| | |
|---|---|
| PCC 17.13.150 | Amend |
| PCC 17.13.160 | New Section |
| PCC 17.13.160 | Amend |
| PCC 17.13.170 | New Section |
| PCC 17.13.170 | Amend |
| PCC 17.13 Article III | New Article |
| PCC 17.13.180 | New Section |
| PCC 17.13.180 | Amend |
| PCC 17.13.190 | New Section |
| PCC 17.13.190 | Amend |
| PCC 17.13.200 | New Section |
| PCC 17.13.200 | Amend |
| PCC 17.13 Article IV | New Article |
| PCC 17.13.210 | New Section |
| PCC 17.13.210 | Amend |
| PCC 17.13.220 | New Section |
| PCC 17.13.220 | Amend |
| PCC 17.13 Article V | New Article |
| PCC 17.13.230 | New Section |
| PCC 17.13.230 | Amend |
| PCC 17.13.240 | New Section |
| PCC 17.13.240 | Amend |
| PCC 17.13.250 | New Section |
| Chapter 14 | New Chapter |
| PCC 17.14 Article I | New Article |
| PCC 17.14.010 | New Section |
| PCC 17.14.020 | New Section |
| PCC 17.14.030 | New Section |
| PCC 17.14.030 | Amend |
| PCC 17.14 Article II | New Article |
| PCC 17.14.040 | New Section |
| PCC 17.14.040 | Amend |
| PCC 17.14.050 | New Section |
| PCC 17.14.050 | Amend |
| PCC 17.14 Article III | New Article |
| PCC 17.14.060 | New Section |
| PCC 17.14.060 | Amend |
| PCC 17.14.070 | New Section |
| PCC 17.14.070 | Amend |
| PCC 17.14 Article IV | New Article |
| PCC 17.14.080 | New Section |
| PCC 17.14.080 | Amend |
| PCC 17.14.090 | New Section |
| PCC 17.14.090 | Amend |
| PCC 17.16.050 | Amend |
| PCC 17.16.130 | Amend |
| PCC 17.16.160 | Amend |
| PCC 17.16.165 | Amend |
| PCC 17.16.180 | Amend |
| PCC 17.16.190 | Amend |
| PCC 17.16.200 | Amend |
| PCC 17.16.220 | Repeal |
| PCC 17.16.280 | Repeal |
| PCC 17.16.290 | Repeal |
| PCC 17.16.300 | Repeal |
| PCC 17.16.330 | Repeal |
| PCC 17.16.440 | Repeal |
| PCC 17.16.540 | Repeal |
| PCC 17.16.550 | Amend |
| PCC 17.16.580 | Amend |
| PCC 17.16.590 | Amend |
| PCC 17.16.610 | Amend |
| PCC 17.16.620 | Amend |
| PCC 17.16.630 | Amend |
| PCC 17.16.640 | Amend |
| PCC 17.16 Article IX | Repeal |
| PCC 17.16.645 | Repeal |
| PCC 17.16.650 | Repeal |
| PCC 17.16.655 | Repeal |
| PCC 17.16.660 | Repeal |

| | |
|---|---|
| PCC 17.16.665 | Repeal |
| PCC 17.16.670 | Repeal |
| PCC 17.16.675 | Repeal |
| PCC 17.16.680 | Repeal |
| PCC 17.16.685 | Repeal |
| PCC 17.16.690 | Repeal |
| PCC 17.16.700 | Repeal |
| PCC 17.16 Article X | Amend |
| PCC 17.28.065 | Repeal |
| PCC 17.28.100 | Amend |

**2. Statutory authority for the rulemaking:**

Authorizing Statutes: Arizona Revised Statutes (A.R.S.) §§ 49-471.04, 49-402, and 49-479
Implementing Statutes: A.R.S. §§ 49-112, 49-479, and 49-480

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

None

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

Name: Sarah Reitmeyer
Address: Pima County DEQ
33 N. Stone Avenue, Suite 700
Tucson, AZ 85701
Telephone: (520) 724-7437
Fax: (520) 838-7432
E-mail: sarah.reitmeyer@pima.gov

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

The Pima County Board of Supervisors (BOS) as the governing body for the Pima County Air Quality Control District adopts ordinances which are codified in the Pima County Code (PCC). The Pima County Air Quality Control District operates within the Pima County Department of Environmental Quality (PDEQ). PDEQ periodically proposes updates to PCC through the BOS. The intention of this rulemaking is to organize Title 17 in a more coherent manner by separating Class I (major source) rules and Class II, Class III, and General Permit (minor source) rules. This proposal is in response to PDEQ's necessity for future updates to the State Implementation Plan and Title V (Part 70) Program. These updates include reorganizing current sections found within Chapter 12 of the code to new or existing sections of Title 17. New Chapters are Chapters 11, 13, and 14, and New Sections are: PCC 17.11.010, PCC 17.11.020, PCC 17.11.030, PCC 17.11.040, PCC 17.11.050, PCC 17.11.060, PCC 17.11.070, PCC 17.11.080, PCC 17.11.090, PCC 17.11.100, PCC 17.11.110, PCC 17.11.120, PCC 17.11.130, PCC 17.11.140, PCC 17.11.150, PCC 17.11.160, PCC 17.11.170, PCC 17.11.180, PCC 17.11.190, PCC 17.11.200, PCC 17.11.210, PCC 17.11.220, PCC 17.13.010, PCC 17.13.020, PCC 17.13.030, PCC 17.13.040, PCC 17.13.050, PCC 17.13.060, PCC 17.13.070, PCC 17.13.080, PCC 17.13.090, PCC 17.13.100, PCC 17.13.110, PCC 17.13.120, PCC 17.13.130, PCC 17.13.140, PCC 17.13.150, PCC 17.13.160, PCC 17.13.170, PCC 17.13.180, PCC 17.13.190, PCC 17.13.200, PCC 17.13.210, PCC 17.13.220, PCC 17.13.230, PCC 17.13.240, PCC 17.13.250, PCC 17.14.010, PCC 17.14.020, PCC 17.14.030, PCC 17.14.040, PCC 17.14.050, PCC 17.14.060, PCC 17.14.070, PCC 17.14.080, and PCC 17.14.090.
Renumbered sections include: PCC 17.12.010, PCC 17.12.020, PCC 17.12.030, PCC 17.12.035, PCC 17.12.040, PCC 17.12.045, PCC 17.12.050, PCC 17.12.060, PCC 17.12.070, PCC 17.12.080, PCC 17.12.085, PCC 17.12.090, PCC 17.12.100, PCC 17.12.110, PCC 17.12.120, PCC 17.12.130, PCC 17.12.140, PCC 17.12.150, PCC 17.12.160, PCC 17.12.165, PCC 17.12.170, PCC 17.12.180, PCC 17.12.185, PCC 17.12.190, PCC 17.12.195, PCC 17.12.200, PCC 17.12.210, PCC 17.12.220, PCC 17.12.230, PCC 17.12.235, PCC 17.12.240, PCC 17.12.245, PCC 17.12.250, PCC 17.12.255, PCC 17.12.260, PCC 17.12.270, PCC 17.12.275, PCC 17.12.280, PCC 17.12.290, PCC 17.12.300, PCC 17.12.310, PCC 17.12.320, PCC 17.12.330, PCC 17.12.340, PCC 17.12.345, PCC 17.12.350, PCC 17.12.360, PCC 17.12.365, PCC 17.12.370, PCC 17.12.390, PCC 17.12.400, PCC 17.12.465, PCC 17.12.470, PCC 17.12.475, PCC 17.12.480, PCC 17.12.500, PCC 17.12.510, PCC 17.12.530, PCC 17.12.540, and PCC 17.12.620. Amended sections include: PCC 17.04.340, PCC 17.04.400. PCC 17.08.150, PCC 17.11.010, PCC 17.11.060, PCC 17.11.070, PCC 17.11.080, PCC 17.11.090, PCC 17.11.110, PCC 17.11.120, PCC 17.11.150, PCC 17.11.170, PCC 17.11.190, PCC 17.11.200, PCC 17.11.220, PCC 17.12.010, PCC 17.12.020, PCC 17.12.030, PCC 17.12.040, PCC 17.12.050, PCC 17.12.060, PCC 17.12.070, PCC 17.12.080, PCC 17.12.090, PCC 17.12.100, PCC 17.12.110, PCC 17.12.120, PCC 17.12.130, PCC 17.12.140, PCC 17.12.150, PCC 17.12.160, PCC 17.12.170, PCC 17.12.180, PCC 17.12.190, PCC 17.12.200, PCC 17.12.210, PCC 17.12.220, PCC 17.16.050, PCC 17.16.130, PCC 17.16.160, PCC 17.16.165, PCC 17.16.180, PCC 17.16.190, PCC 17.16.200, PCC 17.16.220, PCC 17.16.280, PCC 17.16.290, PCC 17.16.300, PCC 17.16.330, PCC 17.16.440, PCC 17.16.540, PCC 17.16.550, PCC 17.16.580, PCC 17.16.590, PCC 17.16.610, PCC 17.16.620, PCC 17.16.630, PCC 17.16.640, PCC 17.16.645, PCC 17.16.685, PCC 17.16.690, PCC 17.16.700, PCC 17.28.065, and PCC 17.28.100. These updates also include amendments to PCC Title 17 to update all PCC Title 17, Chapter 12 references within sections, update addresses and other minor grammatical changes. PDEQ is also proposing repealing Article IX of Chapter 17.16: Emissions of Hazardous Air Pollutants. This includes repealing the following sections: PCC 17.16.650, PCC 17.16.655, PCC 17.16.660, PCC 17.16.665, PCC 17.16.670, PCC 17.16.675, and PCC 17.16.680. Finally, PDEQ is proposing repealing sections within the code that had previously been reserved including sections: PCC 17.12.380, PCC 17.12.410, PCC 17.12.420, PCC 17.12.430, PCC 17.12.440, PCC 17.12.450, PCC 17.12.460, PCC 17.12.525, PCC 17.12.545, PCC 17.12.550, PCC 17.12.560, PCC 17.12.570, PCC 17.12.580, PCC 17.12.590, PCC 17.12.600, PCC 17.12.610, PCC 17.12.630, PCC 17.12.640, PCC 17.12.650, PCC 17.16.685, PCC 17.16.690, PCC 17.16.700, and PCC 17.28.065.

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

No studies were reviewed in reference to this rulemaking action.

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

Not Applicable

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

PDEQ periodically proposes updates to PCC through the BOS. The intention of this rulemaking is to organize Title 17 in a more coherent manner by separating Class I (major source) rules and Class II, Class III, and General Permit (minor source) rules. This proposal is in response to PDEQ's necessity for future updates to the State Implementation Plan and Title V (Part 70) Program. These revisions should not have an economic impact on businesses in Pima County, and should not impose additional costs on the regulated community, small businesses, political subdivisions, and members of the public beyond that already incurred by reason of federal or state rule or law. The costs of compliance for the Air Quality Permitting programs have already occurred, and were considered when the federal and state rule or law was proposed and adopted.

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

Name: Sarah Reitmeyer
Address: 33 N. Stone Avenue, Suite 700
Tucson, AZ 85701-1429
Telephone: (520) 724-7437
Fax: (520) 838-7432
E-mail: sarah.reitmeyer@pima.gov

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

Written comments will be accepted if received between the date of this publication and **June 12, 2017 by 5:00 p.m**. Written comments may be mailed or hand delivered to the Pima County Department of Environmental Quality (see #9 above). Written comments received during the comment period will be considered formal comments to the expedited rule or ordinance, and will be responded to in the notice of final rulemaking.

**Oral Proceeding:** **Tuesday, July 11, 2017**
**Time:** **9 a.m.**
**Location:** **Pima County Board of Supervisors**
**Public Hearing Room, First Floor**
**130 West Congress Street**
**Tucson, Arizona 85701**

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

None

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

**Title 17 - AIR QUALITY CONTROL**
**Chapter 17.04 - GENERAL PROVISIONS**
**Article IX. – Definitions and Meanings**

Section
17.04.340 - Words, phrases, and terms.

**Article X. - Procedures for Amending**

Section
17.04.400 - General procedures.

**CHAPTER 17.08 AMBIENT AIR QUALITY STANDARDS**
**Article IV. - Attainment/Nonattainment Area Designations**

Section
17.08.150 - Limitation of pollutants in classified attainment areas.

**Chapter 17.11 - GENERAL PROVISIONS FOR PERMITS**
**Article I. - Scope and Authority**

Sections
17.11.010 - Statutory authority.
17.11.020 - Planning, constructing, or operating without a permit.
17.11.030 - Notice by building permit agencies.
17.11.040 - Assistance to small business.

**Article II. - General Provisions for Stationary Source Permits**

Sections
17.11.050 - Transition from installation and operating permit program to unitary permit program.
17.11.060 - Permit display or posting.
17.11.070 - Public records-Confidentiality.
17.11.080 - Permit shield.
17.11.090 - Applicability-Classes of permits.
17.11.100 - Permits for state delegated emission sources.
17.11.110 - Portable sources.
17.11.120 - Material permit condition.
17.11.130 - Permits containing the terms and conditions of federal delayed compliance17.11.140 - Sampling, testing, and analysis requirements.
17.11.150 - Stack height limitation.
17.11.160 - Test methods and procedures.
17.11.170 - Quality assurance.
17.11.180 - Emission standards and limitations.
17.11.190 - Permits containing synthetic emission limitations and standards.
17.11.200 - Existing source emission monitoring.
17.11.210 - Performance tests.
17.11.220 - Refund of overpayment of permit fees.

**Chapter 17.12 - INDIVIDUAL AND GENERAL PERMITS AND PERMIT REVISIONS FOR CLASS I PERMITS**

**Article I. - Application Processing and Procedures**

Sections

17.12.010 - Permit application processing procedures for Class I permits.
17.12.020 - Grant or denial of applications for Class I permits.
17.12.030 - Appeals of permit actions for Class I permits.
17.12.035 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.
17.12.040 - Permit contents for Class I permits.
17.12.045 - Test methods and procedures.
17.12.050 - Establishment of an emissions cap for Class I permits.
17.12.060 - Review by the EPA and affected states for Class I permits.
17.12.070 - Acid Rain.
17.12.080 - Compliance plan-Certification for Class I permits.
17.12.085 - Notice by building permit agencies.

**Article II. - Permit Revisions, Renewals and Transfers for Class I Permits**

Sections

17.12.090 - Facility changes allowed without permit revisions for Class I permits.
17.12.100 - Administrative permit-amendments for Class I permits.
17.12.110 - Minor permit revisions for Class I permits.
17.12.120 - Significant permit revisions for Class I permits.
17.12.130 - Reopening, revocation, reissuance, or termination for Class I permits.
17.12.140 - Permit renewal and expiration for Class I permits.
17.12.150 - Transfers for Class I permits.

**Article III. - Emissions for Class I Sources**

Sections

17.12.160 - Annual emissions inventory questionnaire for Class I permits.
17.12.170 - Excess Emissions reporting requirements for Class I permits.
17.12.180 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.

**Article IV. - Public Participation and Notification Requirements**

Sections

17.12.190 - Public participation for Class I permits.
17.12.200 - Public notification for Class I permits.

**Article V. - Fees for Class I Permits**

Sections

17.12.210 - General provisions.
17.12.220 - Fees related to Class I permits.

**Chapter 17.13 - INDIVIDUAL AND GENERAL PERMITS AND PERMIT REVISIONS FOR CLASS II AND CLASS III PERMITS**

**Article I. – General Provisions**

Sections

17.13.010 – Application processing procedures for Class II and Class III permits.
17.13.020 - Permit contents for Class II and Class III permits.
17.13.030 - Grant or denial of applications for Class II and Class III permits.
17.13.040 - Appeals of permit actions for Class II and Class III permits.
17.13.050 - Annual summary of amendments for Class II or Class III permits.
17.13.060 - Voluntary termination of a permit for Class II and Class III permits.
17.13.070 - Establishment of an emissions cap for Class II and Class III permits.
17.13.080 - Application for coverage under general permit.
17.13.090 - General permit enforcement.

**Article II. - Permit Revisions, Renewals and Transfers for Class II and Class III Permits**

Sections

17.13.100 - Facility changes that require a permit revision for Class II or Class III permits.
17.13.110 - Procedures for certain changes that do not require a permit revision for Class II or Class III permits.
17.13.120 - Administrative permit amendments for Class II or Class III permits.
17.13.130 - Minor permit revisions for Class II or Class III permits.
17.13.140 - Significant permit revisions for Class II or Class III permits.
17.13.150 - Reopenings, revocation, reissuance, or termination for Class II or Class III permits.
17.13.160 - Renewal and expiration for Class II or Class III permits.
17.13.170 - Transfers for Class II or Class III permits.

**Article III. - Emissions for Class II and Class III Sources**

Sections

17.13.180 - Annual emissions inventory questionnaire for Class II or Class III permits.
17.13.190 - Excess Emissions reporting requirements for Class II or Class III permits.
17.13.200 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.

**Article IV. - Public Participation and Notification Requirements for Class II and Class III Permits**

Sections

17.13.210 - Public participation for Class II and Class III permits.
17.13.220 - Public notification for Class II and Class III permits.

**Article V. - Fees for Class II, Class III, and General Permits**

Sections

17.13.230 - General provisions.

17.13.240 - Fees related to Class II and Class III permits.
17.13.250 - Fees related to general permits.

**Chapter 17.14 - ACTIVITY PERMITS**
**Article I. - General Provisions**

Sections
17.14.010 - Definitions.
17.14.020- General provisions.
17.14.030 - Refund of overpayment of permit fees.

**Article II. - Fugitive Dust**

Sections
17.14.040 - Fugitive dust activity permits.
17.14.050 - Fugitive dust activity permit fees.

**Article III. - Asbestos NESHAP**

Sections
17.14.060 - Asbestos NESHAP activity permits.
17.14.070 - Asbestos NESHAP activity permit fees.

**Article IV. - Open Burning**

Sections
17.14.080 - Open burning permits.
17.14.090 - Open burning permit fees.

**Chapter 17.16 - EMISSION LIMITING STANDARDS**
**Article II. - Visible Emission Standards**

Sections
17.16.050 - Visibility limiting standard.

**Article IV. - New and Existing Stationary Source Performance Standards**

Sections
17.16.130 - Applicability.
17.16.160 - Standards of performance for fossil-fuel fired steam generators and general fuel burning equipment.
17.16.165 - Standards of performance for fossil-fuel fired industrial and commercial equipment.
17.16.180 - Standards of Performance for Existing Hospital/Medical/ Infectious Waste Incinerators.
17.16.190 - Standards of performance for nitric acid plants.
17.16.200 - Standards of performance for sulfuric acid plants.

**Article VIII. - New Major Sources and Major Modifications to Existing Major Sources**

Sections
17.16.550 - General.
17.16.580 - Special rule for sources of VOC or oxides of nitrogen in ozone nonattainment areas classified as serious or severe.
17.16.590 - Permit requirements for sources located in attainment and unclassifiable areas.
17.16.610 - Innovative control technology.
17.16.620 - Air quality models.
17.16.630 - Visibility protection.
17.16.640 - Special rule for non-operating sources of sulfur dioxide in sulfur dioxide nonattainment areas.

**Chapter 17.28 - VIOLATIONS AND CONDITIONAL ORDERS**
**Article II. - Conditional Orders**

Section
17.28.100 - Conditional orders.

**Chapter 17.04 - GENERAL PROVISIONS**

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**Article IX. - Definitions and Meanings**

**17.04.340 - Words, phrases, and terms.**

Words, phrases, and terms used in this title shall have the following meanings except where any narrative portion specifically indicates otherwise:

A. Definitions.

1. "Acid mist" means sulfuric acid mist as measured in the Arizona Testing Manual and 40 CFR 60, Appendix A.

2. "Act" or "Clean Air Act" means the Clean Air Act of 1963 (P.L. 88206; 42 United States Code sections 7401 through 7671) as amended by the Clean Air Act Amendments of 1990 (P.L. 101549).

3. "Activity" or "activities" means any land stripping, earthmoving, trenching, road construction, blasting (except blasting associated with an individual source permit issued for mining), and demolition or renovation of manmade facilities.

4. "Actual emissions" means the actual rate of emissions of an air pollutant from an emissions unit, as determined in accordance with paragraphs a through c.

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period that precedes the particular date and which is representative of normal source operation. The control officer may allow the use of a different time period upon a demonstration that it is more representative of normal source operation. Actual emissions shall be calculated using the 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 historic emissions (e.g., the source has only been operating for six months), the control officer may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit at a Class I source, other than an electric utility steam generating unit in subsection (e), 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 Class II source that has not begun normal operations on the particular date, actual emissions shall be based on applicable control 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 or operator maintains and submits to the ~~Control Officer~~control officer, on an annual basis for a period of 5 years from the date the unit resumes regular operations, 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~~control officer if the ~~Control Officer~~control officer determines the longer period to be more representative of normal source post-change operations.

5. "ADEQ" means the Arizona Department of Environmental Quality.

6. "ADHS" means the Arizona Department of Health Services.

7. "Administrator" means the administrator of the United States Environmental Protection Agency.

8. "Adverse effects to human health" means those effects that result in or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, including adverse effects that are known to be or may reasonably be anticipated to be caused by substances that are acutely toxic, chronically toxic, carcinogenic, mutagenic, teratogenic, neurotoxic or causative of reproductive dysfunction.

9. "Adverse environmental effect" means any significant and widespread adverse effect which may reasonably be anticipated on wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

10. "Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of a Class I area, as determined according to Section 17.16.630.

11. "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

12. "Affected source" means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act (Acid Deposition Control).

13. "Affected state" means any state whose air quality may be affected by a source applying for a permit, permit revision or permit renewal, and that is contiguous to Arizona; or that is within fifty miles of the permitted source.

14. "Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the Act (Acid Deposition Control).

15. "Afterburner" means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion.

16. "Air contaminant" means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, windborne matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.

17. "Air curtain destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.

18. "Air pollution" or "air pollutant" means the presence in the outdoor atmosphere of one or more air contaminants or combination 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 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.

19. "Air pollution control equipment" means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.

20. "Air quality control region (AQCR)" means an area so designated by the administrator pursuant to Section 107 of the Act (Air Quality Control Regions) and includes the following regions in Arizona:

a. Maricopa Intrastate Air Quality Control Region which is comprised of the county of Maricopa.

b. Pima Intrastate Air Quality Control Region which is comprised of the county of Pima.

c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo and Yavapai.

d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave and Yuma.

e. Central Arizona Intrastate Air Quality Control Region which encompasses the counties of Gila and Pinal.

f. Southeast Arizona Intrastate Air Quality Control Region which encompasses the counties of Cochise, Graham, Greenlee and Santa Cruz.

21. "Allowable emissions" means 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, and the most stringent of the following:

a. The applicable new source performance standards or national emission standards for hazardous air pollutants, as contained in Chapter 17.16, Articles VI or VII and in 40 CFR 60 and 61;

b. The applicable existing source performance standard, as approved for the SIP and contained in Chapter 17.16, Article IV; or

c. The emissions rate specified in any federally promulgated rule or federally enforceable permit conditions applicable to the state of Arizona.

22. "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but which has been demonstrated to produce results adequate for the control officer's determination of compliance in accordance with Section ~~17.12.045D~~17.11.160(D).

23. "Ambient air" means that portion of the atmosphere external to buildings to which the general public has access.

24. "Annual fee" means a fee paid yearly based on the average cost of service including all reasonable direct and indirect costs required to administer the program covering administrative and inspection activities.

25. "Applicable implementation plan" means those provisions of the state implementation plan approved by the administrator or a federal implementation plan promulgated in accordance with Title I of the Act (Air Pollution Prevention and Control).

26. "Applicable requirement" means any of the following:

a. Any federal applicable requirement.

b. Any other requirement established pursuant to this title or A.R.S. Title 49, Chapter 3.

27. "Approved" means approved "by the control officer". Any word implying acceptance, reasoning, or judgment means "by the control officer".

28. "AQCD" means the Pima County Air Quality Control District, operating within the Pima County Department of Environmental Quality (PDEQ).

29. "Architectural coating" means a coating used commercially or industrially for residential, commercial or industrial buildings and their appurtenances; structural steel; and other fabrications such as storage tanks, bridges, beams and girders.

30. "Area source" means those sources that emit less than 10 tons annually of a single hazardous air pollutant or less than 25 tons annually of a combination of hazardous air pollutants.

31. "A.R.S." means Arizona Revised Statutes, with standard references in this title by title and section, so that A.R.S. § 49-101 means Section 101 of Title 49 of the Arizona Revised Statutes.

32. "Arizona Testing Manual (ATM)" means the Arizona Testing Manual for Air Pollutant Emissions.

33. "Asphalt concrete plant" means any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements. This is limited to facilities, including drum dryer plants that introduce asphalt into the dryer, which employ two or more of the following processes:

a. A dryer.

b. Systems for screening, handling, storing, and weighing hot aggregate.

c. Systems for loading, transferring, and storing mineral filler.

d. Systems for mixing asphalt concrete.

e. The loading, transferring, and storage systems associated with emission control systems.

34. "ASTM" means the American Society for Testing and Materials.

35. "Attainment area" means an area so designated by the administrator acting pursuant to Section 107 of the Act (Air Quality Control Regions) as having ambient air pollutant concentration equal to or less than national primary or secondary ambient air quality standards for a particular pollutant or pollutants.

36. "Begin actual construction" means, in general, initiation of physical onsite 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 this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.

37. "Best available control technology (BACT)" means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated air pollutant which would be emitted from any proposed major stationary source or major modification which the control officer on a case-by-case basis, taking into account energy, environmental and economic impact and other costs, determines to be 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. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. 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. 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.

38. "Billable permit action" means the issuance or denial of a new permit, permit revision, permit transfer, costs associated with public participation under Section ~~17.12.340~~17.12.190 or Section 17.13.210 or the renewal of a permit.

39. "Black liquor" means waste liquor from the brown stock washer and spent cooking liquor that have been concentrated in the multiple-effect evaporator system.

40. "BTU" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

41. "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 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 which has the same two-digit code, as described in the Standard Industrial Classification Manual, 1972, as amended by the 1987 supplement.

42. "Calcine" means the solid materials produced by a lime plant.

43. "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

44. "Categorical sources" means 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;

    g. Primary copper smelters;

    h. Municipal incinerators capable of charging more than fifty 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;

    u. Fossil-fuel boilers, or combinations thereof, totaling more than 250 million 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 heat input.

45. "Cause" or "permit" (used as verbs) means to effect by action or participation, or by command, authority, or force; or allow, make possible, or consent to.

46. "CEM" means a continuous emissions monitoring system or continuous monitoring system that is the total equipment required under the emission monitoring provisions in this Title, used to sample and, if applicable, to condition, to analyze, and to provide, on a continuous basis, a permanent record of emission or process parameters.

47. "CFR" means the Code of Federal Regulations, with standard references in this title by title and part, so that "40 CFR 51" means "Title 40 of the Code of Federal Regulations, Part 51."

48. "Charge" means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel.

49. "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D38891, (Classification of Coals by Rank).

    a. "Clean Coal Technology" means any technology, including technologies applied at the precombustion, 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.

    b. "Clean coal technology demonstration project" means 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 from the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

    c. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for 5 years or less, and that complies with the SIP and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

50. "Combustion" means the burning of matter.

51. "Commence" means, as applied to construction of a source, or a major modification as defined in this section, that the owner or operator has all necessary preconstruction approvals or permits required and either has:

    a. Begun, or caused to begin, a continuous program of actual onsite 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 or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

52. "Complete" means, in reference to an application for a permit or permit revision, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the control officer from requesting or accepting any additional information.

53. "Concentrate" means enriched copper ore recovered from the froth flotation process.

54. "Concentrate dryer" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than five percent of the sulfur contained in the charge is eliminated in the facility.

55. "Concentrate roaster" means any facility in which a copper sulfide ore concentrate is heated in the presence of air to eliminate five percent or more of the sulfur contained in the charge.

56. "Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, total reduced sulfur compounds from condensate streams of various processes within a kraft pulp mill.

57. "Construction" means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in actual emissions.

58. "Continuous monitoring system" or "continuous emissions monitoring (CEM) system" means the total equipment, required under the emission monitoring provisions in this title, used to sample and, if applicable, to condition, to analyze, and to provide a permanent record of emission or process parameters.

59. "Control" means air pollution control or control of air pollution emissions.

60. "Control device" means the air pollution control equipment used to remove air contaminants generated by a process source from the effluent gas stream.

61. "Control officer" means the director of Pima County department of environmental quality who shall serve as the executive head of the Pima County air quality control district, or one of his authorized agents.

62. "Controlled atmosphere incinerator" means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.

63. "Conventional" or "criteria" air pollutant means any pollutant for which the administrator has promulgated a primary or secondary national ambient air quality standard.

64. "Converter" means any vessel to which copper matte is charged and oxidized to copper.

65. "County" means Pima County, Arizona.

66. "Delivery vessels" means any vehicular mounted container(s) such as railroad tank cars, tanker trucks, tank trailers or any other mobile container used to transport gasoline, petroleum or petroleum distillates.

67. "Designated representative" shall have the meaning given to it in section 402(26) of the Act (Definitions) and the regulations promulgated thereunder.

68. "Director" means the director of the Arizona Department of Environmental Quality (ADEQ).

69. "Discharge" means the release or escape of an effluent from a source into the atmosphere.

70. "Dispersion technique" means any technique that attempts to affect the concentration of a pollutant in the ambient air by any of the following:

a. Using that portion of a stack that exceeds good engineering practice stack height;

b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

c. 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 one 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:

i. 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 facility generating the gas stream;

ii. The merging of exhaust gas streams under any of the following conditions:

(1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) The merging is part of a change in operation at the facility 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

iii. Smoke management in agricultural or silvicultural prescribed burning programs;

iv. Episodic restrictions on residential wood burning and open burning;

v. Techniques that increase final exhaust gas plume rise if the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

71. "Dust" or "dust emissions" means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or storage of materials in the solid state.

72. "Dust suppressant" means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.

73. "Electric utility steam generating unit" means 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 electrical 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.

74. "Effluent" means any air contaminant that is emitted and subsequently escapes into the atmosphere.

75. "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

76. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.

77. "Emissions allowable under the permit" means a 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 emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

78. "Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated air pollutant.

79. "Emission standard" or "emission limitation" means a requirement established by the state, a local government, or the administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

80. "Enforceable" means all limitations and conditions that are enforceable by the administrator.

81. "Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency as established by 40 CFR 1.1, et seq.

82. "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated pursuant to Section ~~17.12.045~~17.11.160 (Test Methods and Procedures) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

83. "Excess emissions" or "emissions in excess of an emission limitation" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.

84. "Existing source" means either:

a. A source in operation prior to the effective date of this title, 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 title; or

b. For NSPS purposes, "existing source" may also mean any source which does not have an applicable new source performance standard under Chapter 17.16, Article VI.

85. "Federal applicable requirement" means any of the following as they apply to emissions units covered by a Class I or Class II permit (including requirements that have been promulgated or approved by EPA through rule making 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 EPA through rule making under Title I of the Act (Air Pollution Prevention and Control) 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 preconstruction permits issued pursuant to regulations approved or promulgated through rule making under Title I, including parts C or D, of the Act (Prevention of Significant Deterioration of Air Quality and Plan Requirements for Nonattainment Areas);

    c. Any standard or other requirement under section 111 of the Act (Standards of Performance for New Stationary Sources), including Section 111(d);

    d. Any standard or other requirement under Section 112 of the Act (Hazardous Air Pollutants), 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 of the Act (Acid Deposition Control) or the regulations promulgated thereunder and incorporated pursuant to Section ~~17.12.365~~17.12.070;

    f. Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Act (Inspections, Monitoring and Entry);

    g. Any standard or other requirement governing solid waste incineration, under Section 129 of the Act (Solid Waste Combustion);

    h. Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act (Federal Ozone Measures);

    i. Any standard or other requirement for tank vessels, under Section 183(f) of the Act (Federal Ozone Measures);

    j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the Act (Air Pollution from Outer Continental Shelf Activities);

    k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act (Stratospheric Ozone Production), 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 of Title I of the Act (Prevention of Significant Deterioration of Air Quality), but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act (Permit Requirements and Conditions).

86. "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

87. "Federally enforceable" means:

    a. The requirements of the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants contained in Articles VI and VII of Chapter 17.16.

    b. The requirements of such other state or county rules or regulations approved by the administrator, including the requirements of approved state and county operating and new source review permit programs that have been approved by the administrator.

    c. The requirements of any applicable implementation plan.

    d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping and reporting requirements, which are entered into voluntarily by a source pursuant to Section ~~17.12.190~~17.11.190.

88. "Federally listed hazardous air pollutant" means any air pollutant listed pursuant to Section 112(b) of the Act (Hazardous Air Pollutants) and adopted pursuant to A.R.S. ~~49426.03~~§ 49-426.03, subsection A and not deleted pursuant to that subsection.

89. "Final permit" means the version of a permit issued by the control officer after completion of all review required by this title.

90. "Fixed capital cost" means the capital needed to provide all the depreciable components.

91. "Floating roof" means a storage-vessel cover consisting of a pontoon, single-deck, double-deck, or internal floating solid material which rests upon the surface of and is supported by the liquid contents, and is equipped with a seal to close the space between the edge of the solid material and tank wall.

92. "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

93. "Fuel" means any material that is burned for the purpose of producing energy.

94. "Fuel burning equipment" means any machine, equipment, incinerator, device or other article, except stationary rotating machinery, in which combustion takes place.

95. "Fuel oil" means Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90a (Specification for Diesel Fuel Oils).

96. "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

97. "Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.

98. "Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.

99. "General permit" means a permit issued by ADEQ pursuant to A.A.C. Title 18, Chapter 2, Article 5 and administered, inspected and enforced by the department pursuant to this title.

100. "Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in Section ~~17.12.360~~17.11.150.

101. "Haul road" means a road constructed for the principle purpose of hauling construction materials, or to provide access to one or more construction sites, mining activities, or industrial operations.

102. "Hazardous air pollutant (HAP)" means any federally listed hazardous air pollutant and any air pollutant that the director has designated as a hazardous air pollutant pursuant to A.R.S. ~~49426.04~~§ 49-426.04, subsection A and has not deleted pursuant to A.R.S. ~~49426.04~~§ 49-426.04, subsection C.

103. "Hazardous air pollutant reasonably available control technology (HAPRACT)" means an emissions standard for hazardous air pollutants which the director, acting pursuant to A.R.S. ~~49426.06~~§ 49-426.06, subsection C, or the control officer, acting pursuant to A.R.S. ~~49480.04~~§ 49-480.04, subsection C, determines is reasonably available for a source. In making the foregoing determination the director or 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.

104. "Hazardous waste" means a hazardous waste as defined in 40 CFR 261, or a waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may either:

    a. Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating reversible illness; or

    b. Pose a serious present or potential hazard to human health or the environment if improperly disposed.

105. "Hazardous waste fuel" means hazardous wastes that are burned for energy recovery in an industrial furnace or boiler that is not regulated as a hazardous waste incinerator. Hazardous waste fuel includes fuel produced from hazardous waste by processing, blending, or other treatment.

106. "Heat input" means the quantity of heat in terms of BTUs generated by fuels fed into the fuel burning equipment under conditions of complete combustion.

107. "Herein" when used anywhere in this title, refers to the complete set of rules and regulations contained in this title.

108. "High sulfur oil" means fuel oil containing 0.90 percent or more by weight of sulfur.

109. "High terrain" means any area having an elevation of nine hundred feet or more above the base of the stack of a source.

110. "Incinerator" means any equipment, machine, device, contrivance or other article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material other than those used for pollution control.

111. "Indian governing body" means 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.

112. "Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

113. "Innovative control technology" means 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.

114. "Insignificant activity" means an activity in an emissions unit that is not otherwise subject to any applicable requirement and which belongs to one of the following categories:

    a. Landscaping, building maintenance, or janitorial activities.

    b. Gasoline storage tanks with capacity of ten thousand gallons or less.

    c. Diesel and fuel oil storage tanks with capacity of forty thousand gallons or less.

    d. Batch mixers with rated capacity of five cubic feet or less.

    e. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is two hundred tons/ 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 nonmetallic minerals.

    f. 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.

    g. Powder coating operations.

    h. Internal combustion (IC) engine-driven compressors, IC engine-driven electrical generator sets, and IC engine-driven water pumps used only for emergency replacement or standby service.

i. Lab equipment used exclusively for chemical and physical analyses.

j. Any other activity which the control officer determines is not necessary, because of its emissions due to size or production rate, to be included in an application in order to determine all applicable requirements and to calculate any fee under this title.

115. "Itemized bill" means a breakdown of the permit processing time into the categories of pre-application activities (teleconferences, accelerated processing meetings, permit regulatory discussions, etc.), completeness review, substantive review, and public involvement activities, and within each category, a further breakdown by employee name.

116. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

117. "Land stripping" or "land stripping activity" means removal of all or any portion of existing vegetation from parcels of land with equipment, which plows or scrapes the ground surface.

118. "Lead" means elemental lead or alloys in which the predominant component is lead.

119. "Lime hydrator" means a unit used to produce hydrated lime product.

120. "Lime kiln" means a unit used to calcinate lime rock or kraft pulp mill lime mud that consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

121. "Lime plant" includes any plant, which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.

122. "Lime product" means any product produced by the calcination of limestone.

123. "Loading facility" means any operation or facility (such as petroleum storage tank farms, pipeline terminals, bulk plants or loading docks) where petroleum or petroleum distillates are transferred or loaded into delivery vessels or other storage facilities for further distribution.

124. "Low sulfur oil" means fuel oil containing less than 0.90 percent by weight of sulfur.

125. "Low terrain" means any area other than high terrain.

126. "Lowest achievable emission rate (LAER)" means, for any source, the more stringent rate of emissions based on one of the following:

a. The most stringent emissions limitation that is contained in the SIP of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable; or

b. 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 applicable standards of performance in Chapter 17.16, Articles VI and VII.

127. "Major modification" means 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 volatile organic compounds is considered significant for ozone.

b. Any net emissions increase that is significant for oxides of nitrogen is considered significant for ozone for ozone nonattainment areas classified as marginal, moderate, serious or severe.

c. For the purposes of this definition the following are not a physical change or change in the method of operation:

i. Routine maintenance, repair and replacement;

ii. 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. Section 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. Sections 792—825r;

iii. Use of an alternative fuel by reason of an order or rule under Section 125 of the Act (Measures to Prevent Economic Disruption or Unemployment);

iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

v. Use of an alternative fuel or raw material by a stationary source that either:

(1) 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 the permitting provisions of this Title; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21, or under the permitting provisions of this title;

vi. 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 the permitting provisions of this title;

vii. Any change in ownership at a stationary source;

viii. The addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the ~~Director~~director determines that the addition, replacement, or use renders the unit less environmentally beneficial, or except:

(1) When the ~~Director~~director 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

(2) The ~~Director~~director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation;

ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:

(1) The SIP and

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

x. For electric utility steam generating units located in attainment and unclassifiable 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 any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis; and

xi. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.

128. "Major source" means:

a. A major source as defined in AAC R18-2-401, as amended on September 22, 1999 (and no future amendments) and which is on file with the office of the secretary of state.

b. A major source under section 112 of the Act:

i. 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 pursuant to 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 Article 11 of AAC Chapter 2. 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

ii. 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 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:

i. Coal cleaning plants (with thermal dryers);

ii. Kraft pulp mills;

iii. Portland cement plants;

iv. Primary zinc smelters;

v. Iron and steel mills;

vi. Primary aluminum ore reduction plants;

vii. Primary copper smelters;

viii. Municipal incinerators capable of charging more than 50 tons of refuse per day;

ix. Hydrofluoric, sulfuric, or nitric acid plants;

x. Petroleum refineries;

xi. Lime plants;

xii. Phosphate rock processing plants;

xiii. Coke oven batteries;

xiv. Sulfur recovery plants;

xv. Carbon black plants (furnace process);

xvi. Primary lead smelters;

xvii. Fuel conversion plants;

xviii. Sintering plants;

xix. Secondary metal production plants;

xx. Chemical process plants;

xxi. Fossil-fuel boilers or combinations thereof totaling more than 250 million British thermal units per hour heat input;

xxii. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;

xxiii. Taconite ore processing plants;

xxiv. Glass fiber processing plants;

xxv. Charcoal production plants;

xxvi. Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

xxvii. Any other stationary source category which as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

129. "Major source threshold" means 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 ~~17.04.340.127~~Section 17.04.340(A)(128).

130. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal manner, but does not include failures that are caused by poor maintenance, careless operations or any other upset condition or equipment breakdown that could have been prevented by the exercise of reasonable care.

131. "Material permit condition" shall mean a condition that satisfies all of the following:

a. The condition is in a permit or permit revision issued by the control officer after the effective date of this section.

b. The condition is identified within the permit as a material permit condition.

c. The condition is one of the following:

i. An enforceable emission standard imposed to avoid classification as a major modification or major source or to avoid triggering any other applicable requirement.

ii. A requirement to install, operate or maintain a maximum achievable control technology or hazardous air pollutant reasonably available control technology required pursuant to the requirements of A.R.S. § 49-426.06.

iii. A requirement for the installation or certification of a monitoring device.

iv. A requirement for the installation of air pollution control equipment.

v. A requirement for the operation of air pollution control equipment.

vi. Any opacity standard required by Section 111 (Standards of Performance for New Stationary Sources) or Title I, Part C or D (Air Pollution Prevention and Control) of the Act.

d. Violation of the condition is not covered by subsections A through F, or H through J of A.R.S. § 49-464 or subsections A through F, or H through J of A.R.S. § 49-514.

132. "Matte" means a metallic sulfide made by smelting copper sulfide ore concentrate or the roasted product of copper sulfide ores.

133. "Maximum achievable control technology (MACT)" means an emission standard that requires the maximum degree of reduction in emissions of the hazardous air pollutants subject to this title, including a prohibition on such emissions where achievable, that the control officer, after considering the cost of achieving such emission reduction and any nonair quality health and environmental impacts and energy requirements, determines to be achievable by a source to which such standard applies, through application of measures, processes, methods, systems or techniques including measures which:

a. reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

b. enclose systems or processes to eliminate emissions;

c. collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

d. are design, equipment, work practice, or operational standards, including requirements for operator training or certification; or

e. are a combination of the above.

134. "Minor source" means any stationary or portable source that is not a major source.

135. "Minor source baseline area" means the air quality control region in which the source is located.

136. "Miscellaneous metal parts and products" for purposes of industrial coating include all of the following:

a. Large farm machinery, such as harvesting, fertilizing and planting machines, tractors, and combines.

b. Small farm machinery, such as lawn and garden tractors, lawn mowers, and rototillers.

c. Small appliances, such as fans, mixers, blenders, crock pots, dehumidifiers, and vacuum cleaners.

d. Commercial machinery, such as office equipment, computers and auxiliary equipment, typewriters, calculators, and vending machines.

e. Industrial machinery, such as pumps, compressors, conveyor components, fans, blowers, and transformers.

f. Fabricated metal products, such as metal covered doors and frames.

g. Any other industrial category which coats metal parts or products under the code in the "Standard Industrial Classification Manual, 1987" of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (nonelectric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries), except all of the following:

i. Automobiles and light duty trucks.

ii. Metal cans.

iii. Flat metal sheets and strips in the form of rolls or coils.

iv. Magnet wire for use in electrical machinery.

v. Metal furniture.

vi. Large appliances.

vii. Exterior of airplanes.

viii. Automobile refinishing.

ix. Customized top coating of automobiles and trucks, if production is less than 35 vehicles per day.

x. Exterior of marine vessels.

137. "Mobile source" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest.

138. "Modification" or "modify" means a physical change in or 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.

139. "Monitoring device" means the total equipment, required under the applicable provisions of this title, used to measure and record, if applicable, process parameters.

140. "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on public highways.

141. "Multiple chamber incinerator" means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.

142. "Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser and hotwell used to concentrate the spent cooking liquid that is separated from the pulp.

143. "NAAQS" means national ambient air quality standards.

144. "National ambient air quality standard" means the ambient air pollutant concentration limits established by the administrator pursuant to 42 United States Code Section 7409.

145. "NAICS" means the 5 or 6-digit North American Industry Classification System-United States, 1997, number for industries used by the U.S Department of Commerce.

146. "Necessary preconstruction approvals or permits" means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.

147. "NESHAP" means the National Emission Standard for Hazardous Air Pollutants, according to 40 CFR 61.

148. "Net emissions increase" means:

a. The amount by which the sum of subparagraphs i and ii exceeds zero:

i. Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

ii. 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:

i. The date five years before construction on the particular change commences; and

ii. The date that the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if the control officer has not relied on it in issuing an 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 county 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 that occurs before the applicable baseline date, as described in Section 17.08.150, 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:

i. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

ii. It is federally enforceable at and after the time that actual construction on the particular change begins;

iii. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

iv. The emissions unit was actually operated and emitted the specific pollutant.

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 one hundred eighty days.

149. "Neutral sulfite semi-chemical pulping" means any operation in which pulp is produced from wood by cooking or digesting wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating or grinding.

150. "New source" means any source that is not an existing source.

151. "Nitric acid plant" means any facility producing nitric acid thirty to seventy percent in strength by either the pressure or atmospheric pressure process.

152. "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the appendices to 40 CFR 60.

153. "Nonattainment area" means an area so designated by the administrator acting pursuant to Section 107 of the Act (Air Quality Control Regions) as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.

154. "Nonattainment area plan" means an air pollution control plan developed in accordance with 42 United States Code Sections 7501 through 7515.

155. "Nonpoint source" means a source of air contaminants that lacks an identifiable plume or emission point.

156. "NSPS" means new source performance standards.

157. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

158. "Open outdoor fire" or "open burning" means combustion in the outdoors of any material, during which the products of combustion are not directed through a flue, chimney, duct, vent, stack, or other restrictive device designed or installed for the principle purpose of discharging the effluent to the atmosphere.

159. "Operation" means any physical or chemical action resulting in the change in location, form, physical properties or chemical character of a material.

160. "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

161. "Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than one hundred micrometers.

162. "Particulate matter emissions" means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in Section ~~17.12.045~~17.11.160 (Test Methods and Procedures)

163. "PDEQ" or "department" means the Pima County department of environmental quality.

164. "Permitting authority" means the department or a county department or agency that is charged with enforcing a permit program adopted pursuant to A.R.S. ~~49480~~§ 49-480, subsection A.

165. "Permit processing time" means all time spent by PDEQ staff or consultants on tasks specifically related to the processing of an application for the issuance or renewal of a particular permit or permit revision, including time spent processing an application that is denied.

166. "Person" includes any public or private corporation, company, partnership, firm, trust, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.

167. "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90 (Specification for Diesel Fuel Oils).

168. "Planning agency" means the organization designated by the Governor pursuant to 42 United States Code Section 7504 as having the authority and responsibility of preparing nonattainment area plans.

169. "Plume" means visible effluent.

170. "$PM_{2.5}$" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated in accordance with 40 CFR 53.

171. "$PM_{10}$" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.

172. "$PM_{10}$ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air as measured by applicable test methods and procedures described in Section ~~17.12.045~~17.11.160.

173. "Pollution control project" means any activity or project undertaken at an existing electric utility steam-generating unit to reduce emissions from the unit. The activities or project are limited to:

The installation of conventional or innovative pollution control technology, including advance flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls, and electrostatic precipitators;

a. An activity or project to accommodate switching to a fuel less polluting than the fuel used before the activity or project, including natural gas or coal re-burning, or the co-firing of natural gas and other fuels for the purpose of controlling emissions;

b. A permanent clean coal technology demonstration project conducted under Title 11, section 101 (d) of the Further Continuing Appropriations 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 Environmental Protection Agency; or

c. A permanent clean coal technology demonstration project that constitutes a re-powering project.

174. "Portable source" means any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49-426 that emits or may emit any air pollutant and is capable of being operated at more than one location.

175. "Potential to emit" or "potential emission rate" means the maximum capacity of a stationary source to emit pollutant, 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 enforceable.

176. "Primary ambient air quality standards" means the ambient air quality standards that define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Chapter 17.08, Article I.

177. "Primary standard attainment date" means the date defined within a nonattainment area plan in accordance with 42 United States Code Sections 7401 through 7515 and after which date primary national ambient air quality standards may not be violated.

178. "Private driveway" means a road constructed for the sole purpose of gaining access to a one or two-family residence.

179. "Private residence" means a one or two-family dwelling unit.

180. "Process" means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.

181. "Process source" means the last operation or process that produces an air contaminant resulting from either:

a. The separation of the air contaminants from the process material; or

b. The conversion of constituents of the process materials into air contaminants which is not an air pollution abatement operation.

182. "Process weight" means the total weight of all materials introduced into a source, including fuels, where these contribute to pollution generated by the process.

183. "Process weight rate" means a rate established pursuant to Section ~~17.16.130F~~17.16.130(F).

184. "Proposed permit" means the version of a permit for which the control officer offers public participation or affected state review under the provisions of ~~Chapter 17.12, Article II~~Section 17.12.190 or Section 17.13.210.

185. "Proposed final permit" means the version of a Class I permit that the department proposes to issue and forwards to the ~~Administrator~~administrator for review in compliance with subsection A of ~~section 17.12.200~~Section 17.12.060.

186. "Quantifiable" means, with respect to emissions, or 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.

187. "RACT (reasonably available control technology)" means, for facilities subject to an existing source performance standard, the emissions limitation of the existing source performance standard.

188. "Reactivation of very clean coal-fired electric utility steam generating unit:" means 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 ~~Control Officer's~~control officer's 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-NOx burners before commencement of operations following reactivation; and

d. Is otherwise in compliance with the Act.

189. "Reasonable further progress" means 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.

190. "Reclaiming machinery" means any machine, equipment device or other article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.

191. "Reconstruction" of sources located in nonattainment areas shall be presumed to have taken place where the fixed capital cost of the new components exceeds fifty percent of the fixed capital cost of a comparable entirely new stationary source, as determined in accordance with the provisions of 40 CFR 60.15(f)(1)—(3).

192. "Recovery furnace" means the unit, including the direct contact evaporator for a conventional furnace, used for burning black liquor to recover chemicals consisting primarily of sodium carbonate and sodium sulfide.

193. "Reference method" means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C.

194. "Regulated air pollutant" means any of the following:

a. Any conventional air pollutant as defined in A.R.S. § 49-401.01.

b. Nitrogen oxides and volatile organic compounds.

c. Any air contaminant that is subject to a standard contained in Chapter 17.16, Article VI.

~~d. Any hazardous air pollutant as defined in Chapter 17.16, Article IX.~~

~~e.~~ d. Any Class I or II substance listed in Section 602 of the Act (Listing of Class I and Class II Substances).

195. "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D-323-90 (Test Method for Vapor Pressure of Petroleum Products) (Reid Method).

196. "Replicable" means, 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.

197. "Re-powering" means:

a. Replacing an existing coal-fired boiler with one of the following clean coal technologies:

i. Atmospheric or pressurized fluidized bed combustion;

ii. Integrated gasification combined cycle;

iii. Magnetohydrodynamics;

iv. Direct and indirect coal-fired turbines;

v. Integrated gasification fuel cells; or

vi. As determined by the ~~Administrator~~administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above technologies; and

vii. 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 unit that has been awarded clean cost technology demonstration funding as of January 1, 1991, by the United States Department of Energy.

c. The ~~Control Officer~~control officer shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under Section 409 of the Act.

198. "Representative actual annual emissions" means the average rate, in tons per year, at which a 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 period within 10 years after that change, if the ~~Director~~director determines that the different period is more representative of source operations), considering the effect the change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the ~~Director~~director shall:

a. Consider all relevant information, including historical operational data, the company's representations, filings with Arizona or federal regulatory authorities, and compliance plans under Title IV of the Act; and

b. Exclude, in calculating any increase in emissions that results 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 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.

199. "Resource recovery project" means 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. Only energy conversion facilities that utilize solid waste that provides more than fifty percent of the heat input shall be considered a resource recovery project under this article.

200. "Responsible official" means 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:

i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

ii. 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 article, 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 of EPA); or

d. For affected sources:

i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act (Acid Deposition Control) or the regulations promulgated thereunder are concerned; and

ii. The designated representative for any other purposes under 40 CFR Part 70.

201. "Reverberatory smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided primarily by combustion of a fossil fuel.

202. "Road" means a path, trail, driveway, freeway, street, or access way which is constructed for principle use by vehicular traffic.

203. "Road construction" means the construction of a new roadway or the conversion of an existing unpaved road to a paved road.

204. "Rotary lime kiln" means a unit with an included rotary drum which is used to produce a lime product from limestone by calcination.

205. "Rules and regulations" means the complete set of Pima County air quality control district rules and regulations contained in this title, including any future revisions, additions, or amendments, specifically referring to this title and future amendments as distinguished from any former rules and regulations.

206. "Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.

207. "Secondary ambient air quality standards" means 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 specified in Chapter 17.08, Article I.

208. "Secondary emissions" means emissions that 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 off-site support facility that 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 that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

209. "Service road" means a road constructed for the principle purpose of providing maintenance or service of/to pipelines, power lines, farmland, public utilities, right-of-way, or refuse collection.

210. "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

211. "Significance levels" means the following ambient concentrations for the enumerated pollutants:

| | Averaging Time | | | | |
|---|---|---|---|---|---|
| Pollutant | Annual | 24 Hour | 8 Hour | 3 Hour | 1 Hour |
| $SO_2$ | 1 μg/m$^3$ | 5 μg/m$^3$ | | 25 μg/m$^3$ | |
| $NO_2$ | 1 μg/m$^3$ | | | | |
| CO | | | 0.5 mg/m$^3$ | | 2 mg/m$^3$ |
| $PM_{10}$ | 1 μg/m$^3$ | 5 μg/m$^3$ | | | |

Except for the annual pollutant concentrations, exceedance of significance levels shall be deemed to occur when the ambient concentrations of the above pollutants is exceeded more than once per year at any one location. If the concentrations occur at a specific location and at a time when Arizona ambient air quality standards for the pollutant are not violated, then the significance level does not apply.

212. "Significant" means:

a. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

| Pollutant | Emissions Rate (tons per year) |
|---|---|
| Carbon monoxide | 100 tpy |
| Nitrogen oxides | 40 tpy |
| Sulfur dioxide | 40 tpy |
| Particulate matter | 25 tpy |
| $PM_{10}$ | 15 tpy |
| VOC | 40 tpy |
| Lead | 0.6 tpy |
| Fluorides | 3 tpy |
| Sulfuric acid mist | 7 tpy |
| Hydrogen sulfide ($H_2S$) | 10 tpy |
| Total reduced sulfur (including $H_2S$) | 10 tpy |
| Reduced sulfur compounds (including $H_2S$) | 10 tpy |
| Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) | $3.5 \times 10^{-6}$ tpy |
| Municipal waste combustor metals (measured as particulate matter) | 15 tpy |
| Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) | 40 tpy |
| Municipal solid waste landfill emissions (measured as nonmethane organic compounds) | 50 tpy |

b. In ozone nonattainment areas classified as serious or severe, significant emissions of VOC shall be determined under Section 17.16.580.

c. In reference to a regulated air pollutant that is not listed in subparagraph (a), and is not a Class I or II substance listed in Section 602 of the Act ~~and is not a hazardous air pollutant according to Chapter 17.16, Article IX~~, any emission rate.

d. Notwithstanding the emission amount listed in paragraph a, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within ten kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than one $\mu g/m^3$ (twenty-four hour average).

213. "Slag" means the fused and vitrified matter separated during the reduction of a metal from its ore.

214. "Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the kraft mill recovery furnace.

215. "Smelter feed" means all materials utilized in the operation of a copper smelter including metals or concentrates, fuels and chemical reagents, calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous byproducts are emitted to the atmosphere.

216. "Smelting" means processing techniques for the smelting of a copper sulfide ore concentrate or calcine charge leading to the formation of separate layers of molten slag, molten copper, or copper matte.

217. "Smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided by an electric current, rapid oxidation of a portion of the sulfur contained in the concentrate as it passes through an oxidizing atmosphere, or the combustion of a fossil fuel.

218. "Smoke" means particulate matter resulting from incomplete combustion.

219. "Solvent degreasing" means the removal of loosely held uncured adhesives, uncured ink, uncured coatings and contaminants which include dirt, soil and grease from parts, products, tools, machinery, equipment, and general work areas using a solvent that contains two percent by weight or more of a regulated air pollutant.

220. "Solvent degreasing unit" means any single container with a capacity of two gallons or more used for solvent degreasing.

221. "Source" means 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.

222. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

223. "Stack in existence" means that the owner or operator had either:

a. Begun, or caused to begin, a continuous program of physical onsite construction of the stack; or

b. Entered into binding 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.

224. "Standard conditions" means a temperature of 293°K (68°F or 20°C) and a pressure of 101.3 kilopascals (29.92 inches Hg or 1013.25 mb).

225. "Startup" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

226. "State" means the state of Arizona unless the context indicates otherwise.

227. "State implementation plan (SIP)" means 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, pursuant to the Act.

228. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.

229. "Stationary source" means any building, structure, facility or installation subject to regulation that emits or may emit any air pollutant.

230. "Submerged fill pipe" means a fill pipe or nozzle which extends below the surface of liquid in the receiving vessel for at least ninety-five percent of the volume filled, or a similar device which extends to within six inches of the bottom of the receiving vessel.

231. "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.

232. "Supplementary control system (SCS)" means a system by which sulfur dioxide emissions are curtailed during periods when meteorological conditions conducive to ground-level concentrations in excess of ambient air quality standards for sulfur dioxide either exist or are anticipated.

233. "Synthetic minor" means a source with a permit that contains voluntarily accepted emissions limitations, controls, or other requirements (for example, a cap on production rates or house of operation, or limits on the type of fuel) under Section ~~17.12.190~~17.11.190 to reduce the potential to emit to a level below the major source threshold.

234. "Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01 and which is not an affected source.

235. "Total reduced sulfur (TRS)" means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during the kraft pulping operation and other operations and measured by Method 16 in 40 CFR 60, Appendix A.

236. "Total suspended particulate (TSP)" means all particulate matter as measured by the reference method described in 40 CFR 50, Appendix B, plus any particulate matter from fugitive emissions quantified by methods approved by the control officer.

237. "Trivial activities" means activities and emissions units, such as the following, that may be omitted from a Class I or Class II permit application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:

a. Combustion emissions from propulsion of mobile sources;

b. Air-conditioning units used for human comfort that do not have applicable requirements under title VI of the Act;

c. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;

d. Non-commercial food preparation;

e. Janitorial services and consumer use of janitorial products;

f. Internal combustion engines used for landscaping purposes;

g. Laundry activities, except for dry-cleaning and steam boilers;

h. Bathroom and toilet vent emissions;

i. Emergency or backup electrical generators at residential locations;

j. Tobacco smoking rooms and areas;

k. Blacksmith forges;

l. Plant maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots, if these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and do not otherwise trigger a permit revision. Cleaning and painting activities qualify as trivial activities if they are not subject to VOC or hazardous air pollutant (HAP) control requirements;

m. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision;

n. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capable of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device;

o. Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic;

p. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are insignificant activities based on size or production level thresholds. Brazing, soldering, and welding equipment, and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this definition;

q. Air compressors and pneumatically operated equipment, including hand tools;

r. Batteries and battery charging stations, except at battery manufacturing plants;

s. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP;

t. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;

u. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;

v. Drop hammers or hydraulic presses for forging or metalworking;

w. Equipment used exclusively to slaughter animals, not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

x. Vents from continuous emissions monitors and other analyzers;

y. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;

z. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation;

aa. Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOC or HAP;

bb. CO(2) lasers used only on metals and other materials that do not emit HAP in the process;

cc. 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;

dd. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;

ee. Laser trimmers using dust collection to prevent fugitive emissions;

ff. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents;

gg. Routine calibration and maintenance of laboratory equipment or other analytical instruments;

hh. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;

ii. Hydraulic and hydrostatic testing equipment;

jj. Environmental chambers not using HAP gases;

kk. Shock chambers;

ll. Humidity chambers;

mm. Solar simulators;

nn. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability purposes under ~~17.04.340(127)(c)~~Section 17.04.340(A)(128)(c) and any required fugitive dust control plan or its equivalent is submitted with the application;

oo. Process water filtration systems and demineralizers;

pp. Demineralized water tanks and demineralizer vents;

qq. Oxygen scavenging or de-aeration of water;

rr. Ozone generators;

ss. Fire suppression systems;

tt. Emergency road flares;

uu. Steam vents and safety relief valves;

ww. Steam leaks; and

xx. Steam cleaning operations and steam sterilizers.

238. "Unclassified area" means an area which the administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this title, is treated as an attainment area.

239. "Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds.

240. "Unpaved road" means a road which is not covered with dust-suppressing materials and maintained in such a manner that visible emissions of dust from the road surface are permanently prevented other than during times of normal cleaning and/or after flooding.

241. "Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.

242. "Used oil" means oil that has been refined from crude oil and that has been contaminated by physical or chemical impurities as a result of use.

243. "Used oil fuel" means used oil that is to be burned for energy recovery, including fuel which is produced from used oil by processing, blending or other treatment.

244. "Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.

245. "Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state.

246. "Vapor pressure" means the pressure exerted by the gaseous form of a substance in equilibrium with its liquid or solid form.

247. "Vapor recovery/disposal system" means a system that consists of one of the following:

a. A system that processes the displaced vapors and either recovers or disposes of the vapors being processed so as to prevent an emission rate greater than 0.29 pounds per one thousand gallons (thirty-five grams per one thousand liters) into the atmosphere.

b. A vapor handling system that directs at least ninety-five percent by weight of the displaced vapors to a vapor capture and/or recovery system.

c. Other equipment of an efficiency equal to or greater than paragraph a or b of this subdivision and approved by the control officer.

248. "Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, and coloration) from that which would have existed under natural conditions.

249. "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.

250. "Volatile organic compounds (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

a. Methane;

b. Ethane;

c. Methylene chloride (dichloromethane);

d. 1,1,1-trichloroethane (methyl chloroform);

e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);

f. Trichlorofluoromethane (CFC-11);

g. Dichlorodifluoromethane (CFC-12);

h. Chlorodifluoromethane (HCFC-22);

i. Trifluoromethane (HFC-23);

j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);

k. Chloropentafluoroethane (CFC-115);

l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);

m. 1,1,1,2-tetrafluoroethane (HFC-134a);

n. 1,1-dichloro 1-fluoroethane (HCFC-141b);

o. 1-chloro 1,1-difluoroethane (HCFC-142b);

p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);

q. Pentafluoroethane (HFC-125);

r. 1,1,2,2-tetrafluoroethane (HFC-134);

s. 1,1,1-trifluoroethane (HFC-143a);

t. 1,1-difluoroethane (HFC-152a);

u. Parachlorobenzotrifluoride (PCBTF);

v. Cyclic, branched, or linear completely methylated siloxanes;

w. Acetone;

x. Perchloroethylene (tetrachloroethylene);

y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);

z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);

aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);

bb. Difluoromethane (HFC-32);

cc. Ethylfluoride (HFC-161);

dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);

ee. 1,1,2,2,3-pentafluoropropane (HFC-245ca);

ff. 1,1,2,3,3-pentafluoropropane (HFC-245ea);

gg. 1,1,1,2,3-pentafluoropropane (HFC-245eb);

hh. 1,1,1,3,3-pentafluoropropane (HFC-245fa);

ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);

jj. 1,1,1,3,3-pentafluorobutane (HFC-365mfc);

kk. Chlorofluoromethane (HCFC-31);

ll. 1 chloro-1-fluoroethane (HCFC-151a);

mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);

nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$ or HFE-7100);

oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$);

pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE-7200);

qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$);

rr. Methyl acetate;

ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$, HFE-7000);

tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);

uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC-227ea);

vv. Methyl formate ($HCOOCH_3$);

ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300); and

xx. propylene carbonate

yy. dimethyl-carbonate

zz. 2,3,3,3-tetrafluoropropene (HFO-1234yf)

aaa. Perfluorocarbon compounds that 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;

bbb. 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.

251. "Wood waste burner" means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a byproduct.

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**Article X. - Procedures for Amending**

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**17.04.400 - General procedures.**

A. An amendment to this title shall be made in full accord with the following requirements:

1. No rule or regulation shall be enacted or amended except after the board of supervisors holds a public hearing on the proposed amendment. Members of the public shall be allowed to speak at the hearing.

2. The board of supervisors' public hearing on any set of proposed amendments shall be preceded by a public announcement of the hearing to include the date, time, and place of such hearing. The announcement shall be published at least twice in a newspaper of general circulation in the county, and shall be posted in at least three conspicuous places in the county.

3. At least one copy of the proposed amendment shall be made available for the general public's examination in the Air Quality Control District's general offices located at ~~130 West Congress Street~~33 North Stone Avenue, Suite 700, Tucson, Arizona 85701 at the time of notice of such hearing.

4. Copies of the notice of the board of supervisors' public hearing shall be mailed to the control officer of the Pinal County air quality control district, the director of the Maricopa County Air Quality Department; the ~~Director~~director of the Arizona Department of Environmental Quality; the regional administrator, Region IX, Environmental Protection Agency; the mayor of the city of Tucson; the mayor of the city of South Tucson, the mayor of the town of Marana; the mayor of the town of Oro Valley; and the executive director of the Pima Association of Governments.

5. A record of each public hearing shall be prepared and made available to any person upon request. The official records shall include the name of each commentator and a written summary of his comments.

6. Any revision to this title may be forwarded to the Arizona Department of Environmental Quality, along with a certification of the public notice actions, record of hearings, and other requirements of the Title. The control officer may include a request to the ~~Director~~director of the Arizona Department of Environmental Quality that such revision be submitted by the governor of the state to the Regional Administrator, Region IX, Environmental Protection Agency, as an official revision to Arizona's State Implementation Plan (SIP) for air quality control.

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**Chapter 17.08 - AMBIENT AIR QUALITY STANDARDS**

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**Article IV. - Attainment/Nonattainment Area Designations**

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**17.08.150 - Limitation of pollutants in classified attainment areas.**

A. Areas designated as Class I, II, or III shall be limited to the increases in air pollutant concentrations shown in Table 17.08.150 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.

B. 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.

1. The major source baseline date is:

a. January 6, 1975 for sulfur dioxide and particulate matter; and

b. February 8, 1988 for nitrogen dioxide.

2. 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:

a. A major source as defined in Chapter 17.04, Article IX, or a major modification submits a complete permit application to the administrator under 40 CFR 52.21; or

b. A major source as defined in Chapter 17.04, Article IX, or a major modification submits a complete permit application to the control officer under ~~Chapter 17.12, Article II~~Section 17.12.010(F) or Section 17.13.010(E).

3. A baseline concentration shall be determined for each pollutant for which there is a minor source baseline date and shall include both:

a. The actual emissions representative of sources in existence on the minor source baseline date, except as provided in paragraph 4 of this subsection; and

b. The allowable emissions of major sources as defined in Chapter 17.04, Article IX, which commenced construction before the major source base-

4. The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:

a. Actual emissions from any major source as defined in Chapter 17.04, Article IX, on which construction commenced after the major source baseline date; and

b. Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

C. The baseline date shall be established for each pollutant for which maximum allowable increases or other equivalent measures have been established if both:

1. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application under either subsection (B)(2)(a) or (b); and

2. In the case of a major source as defined in Chapter 17.04, Article IX, 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.

D. The baseline area shall be any area, within any intrastate area designated as attainment or unclassifiable, in which the major source as defined in Chapter 17.04, Article IX, 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 $\mu g/m^3$ (annual average) of the pollutant for which the minor source baseline date is established. Area redesignations under Section 17.08.100 cannot intersect or be smaller than the area of impact of any new major source as defined in Chapter 17.04, Article IX, or a major modification which either:

1. Establishes a minor source baseline date; or

2. Is subject to either 40 CFR 52.21 or Chapter 17.16, Article VIII, and would be constructed in Arizona.

E. The maximum allowable concentration of any air pollutant in any area to which subsection (A) of this section applies shall not exceed a concentration for each pollutant equal to the concentration permitted under the ambient air quality standards contained in Article I of this Chapter.

F. For 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:

1. 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;

2. 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 pursuant to 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;

3. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary activities of a new or altered source;

4. 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

5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides or particulate matter from major sources as defined in Chapter 17.04, Article IX, when the following conditions are met:

a. The permit issued to such sources specifies the time period during which the temporary emissions increase of sulfur dioxide, nitrogen oxides or particulate matter would occur. Such time period shall not be renewable and shall not exceed two years unless a longer period is specifically approved by the control officer.

b. No emissions increase shall be approved which would either:

i. 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

ii. Cause or contribute to the violation of a state ambient air quality standard.

c. The permit issued to such sources specifies that at the end of the time period described in paragraph a of this subdivision, the emissions levels from the sources would not exceed the levels occurring before the temporary emissions increase was approved.

6. The exception granted with respect to increment consumption under subdivisions 1 and 2 of subsection F shall not apply more than five years after the effective date of the order or natural gas curtailment plan on which the exception is based.

G. If the control officer or the administrator determines that the SIP is substantially inadequate to prevent significant deterioration or that an applicable maximum allowable increase as specified in subsection (A) of this section is being violated, the SIP shall be revised to correct the inadequacy or the violation. The SIP shall be revised within 60 days of such a finding by the control officer or within 60 days following notification by the administrator, or by such later date as prescribed by the administrator after consultation with the control officer.

H. 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.

**Table 17.08.150**
**Air Pollutant Concentration Increase Limits**

**Class I Areas**

| Pollutant | Applicable Standard | Maximum Allowable Increase ($\mu g/m^3$) |
|---|---|---|
| $PM_{10}$ | Annual arithmetic mean | 4 |
| $PM_{10}$ | 24-hour maximum | 8 |
| $SO_2$ | Annual arithmetic mean | 2 |
| $SO_2$ | 24-hour maximum | 5 |
| $SO_2$ | 3-hour maximum | 25 |
| $NO_2$ | Annual arithmetic mean | 2.5 |

**Class II Areas**

| Pollutant | Applicable Standard | Maximum Allowable Increase ($\mu g/m^3$) |
|---|---|---|
| $PM_{10}$ | Annual arithmetic mean | 17 |
| $PM_{10}$ | 24-hour maximum | 30 |
| $SO_2$ | Annual arithmetic mean | 20 |
| $SO_2$ | 24-hour maximum | 91 |
| $SO_2$ | 3-hour maximum | 512 |
| $NO_2$ | Annual arithmetic mean | 25 |

**Class III Areas**

| Pollutant | Applicable Standard | Maximum Allowable Increase ($\mu g/m^3$) |
|---|---|---|
| $PM_{10}$ | Annual arithmetic mean | 34 |
| $PM_{10}$ | 24-hour maximum | 60 |
| $SO_2$ | Annual arithmetic mean | 40 |
| $SO_2$ | 24-hour maximum | 182 |
| $SO_2$ | 3-hour maximum | 700 |
| $NO_2$ | Annual arithmetic mean | 50 |

**Chapter 17.11 - GENERAL PROVISIONS FOR PERMITS**

**Article I. - Scope and Authority**

**~~17.12.010~~17.11.010 - Statutory authority.**

A. Statutory provisions relating to the control officer's jurisdiction over permit requirements and authority for permit fees are contained in Articles 1 and 3 of Chapter 3 of Title 49 of the Arizona Revised Statutes.

B. Permits (requiring fees) shall be issued pursuant to A.R.S. § 49-480.

C. Open burning permits (requiring fees) shall be issued pursuant to A.R.S. § 49-501.

D. Issuance of an air permit shall not relieve the permittee from compliance with all local, county, state, and federal laws, statutes, and codes.

**~~17.12.020~~17.11.020 - Planning, constructing, or operating without a permit.**

No person may commence construction, operate or make a modification to any source subject to this title without complying with the requirements of this title.

**~~17.12.085~~17.11.030 - Notice by building permit agencies.**

All agencies of the county that issue or grant building permits or approvals shall examine the plans and specifications submitted by an applicant for a permit or approval to determine if an air pollution permit will possibly be required under the provisions of this title. If it appears that an air pollution permit will be required, the agency or political subdivision shall give written notice to the applicant to contact the control officer and shall furnish a copy of that notice to the control officer.

**~~17.12.130~~17.11.040 - Assistance to small business.**

The control officer shall appoint one or more representatives to provide small business stationary source technical and compliance assistance, consistent with the requirements of the Act and the State Implementation Plan. Assistance may include, but is not limited to, advice regarding the permit application process, emissions inventory requirements, and compliance and control technology standards.

**Article II. - General Provisions for Stationary Source Permits**

**~~17.12.150~~17.11.050 - Transition from installation and operating permit program to unitary permit program.**

A.A.C. R18-2-303, as amended on November 15, 1993 (and no future amendments) and which is on file with the office of the secretary of state, is hereby adopted in its entirety and is incorporated herein by this reference, except that all references to the "director" shall be to the "control officer."

**~~17.12.080~~17.11.060 - Permit display or posting.**

~~A.~~ Any person who has been granted an individual or general permit by PDEQ or a general permit by ADEQ shall maintain a complete copy of the permit onsite. If it is not feasible to maintain a copy of the permit onsite, the permittee may request, in writing, to maintain a copy of the permit at an alternate location. Upon written approval by the ~~Control Officer~~control officer, the permittee must maintain a complete copy of the permit at the approved alternative location.

**~~17.12.170~~17.11.070 - Public records-Confidentiality.**

A. The ~~Control Officer~~control officer shall make all permits, including all elements required to be in the permit pursuant to ~~§§ 17.12.180 or 17.12.185~~Section 17.12.040 or Section 17.13.020, available to the public. No permit shall be issued unless the information required by ~~§§ 17.12.180 or 17.12.185~~Section 17.12.040 or Section 17.13.020 is present in the permit.

B. Any records, reports or information obtained from any person under this title, including records, reports or information obtained or prepared by the control officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:

1. A showing, satisfactory to the control officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person. A request for confidentiality shall:

   a. Precisely identify the information in the documents submitted 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, is likely to cause substantial harm to the person's competitive position.

2. A determination by the county attorney that disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this chapter in superior court.

C. Notwithstanding subsection B of this section, the following information shall be available to the public:

1. The name and address of any permit applicant or permittee;

2. The chemical constituents, concentrations and amounts of any emission of any air contaminant;

3. The existence or level of a concentration of an air pollutant in the environment.

**~~17.12.310~~17.11.080 - Permit shield.**

A. Each permit issued under this chapter shall specifically identify all federal, state, and local air pollution control requirements that apply to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed in compliance with any applicable requirement identified in the permit as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The ~~Control Officer~~control officer may include in a permit determination that other requirements specifically identified are not applicable. Any permit under this chapter that does not expressly state that a permit shield exists shall not provide such a shield.

B. Nothing in this section or in any permit shall alter or affect the following:

1. The provisions of Section 303 of the Act (emergency orders), including the authority of the administrator under that section;

2. 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;

3. The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act (Permits and Compliance Plans);

4. The ability of the administrator or the control officer to obtain information from a source pursuant to Section 114 of the Act (Inspections, Monitoring and Entry), or any provision of state law;

5. The authority of the control officer to require compliance with new applicable requirements adopted after the permit is issued.

C. In addition to the provisions of Section ~~17.12.270~~17.12.130 or Section 17.13.150, a permit may be reopened by the ~~Control Officer~~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.

**~~17.12.140~~17.11.090 - Applicability-Classes of permits.**

A. Except as otherwise provided in this ~~article~~Title, no person shall commence construction of, operate, or make a modification to any source subject to regulation under this ~~article~~Title without first obtaining a permit or permit revision from the control officer. Permits issued pursuant to this section shall be issued for a period of five years.

B. There shall be three classes of permits as follows:

1. A Class I permit shall be required for a person to commence construction of or operate any of the following:

a. Any major source.

b. Solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Act (Solid Waste Combustion).

c. An affected source.

d. Any source in a source category designated by the administrator pursuant to 40 CFR 70.3 and adopted by the control officer by rule.

2. A Class II permit shall be required for a person to commence construction of or modify the following:

a. Any source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act (Standards of Performance for New Stationary Sources).

b. Any source, including an area source, subject to a standard or other requirement under Section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Act.

3. A Class III permit shall be required for a person to commence construction of or modify the following:

a. Any source that emits, or has the potential to emit, without controls, significant quantities of regulated air pollutants.

b. Stationary rotating machinery of greater than 325 brake horsepower.

c. Fuel-burning equipment which, at a location or property other than a one- or two-family residence, are fired at a sustained rate of more than one million BTUs per hour for more than an eight-hour period.

~~d. A person to begin actual construction of a source subject to Article IX of this Chapter.~~

~~e. A person to make a modification subject to Article IX of this Chapter to a source for which a permit has not been issued under this Article.~~

C. Notwithstanding subsections A and B of this section, 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:

1. Sources subject to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.

2. Sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR 61.145.

3. Agricultural equipment used in normal farm operations. "Agricultural equipment used in normal farm operations" does not include equipment that would be classified as a source that would require a permit under Title V of the Act (Permits), or would be subject to a standard under 40 CFR Parts 60 or 61.

D. No person may construct or reconstruct any major source of hazardous air pollutants, unless the control officer determines that maximum achievable control technology emission limitation (MACT) for new sources under Section 112 of the Act will be met. If MACT has not been established by the administrator, such determination shall be made on a case-by-case basis pursuant to 40 CFR 63.40 through 63.44, as incorporated by reference in 17.16.530(B). For purposes of this subsection, constructing and reconstructing a major source shall have the meanings described in 40 CFR 63.41.

**~~17.12.100~~17.11.100 - Permits for state delegated emission sources.**

A. If the ~~Director~~director of the Arizona Department of Environmental Quality delegates to the control officer jurisdiction over an emission source, all requirements and conditions for permits contained herein shall apply to the delegated source.

B. Additional requirements for delegated emission sources shall be as follows:

1. A permit may be issued by the control officer to operate portable equipment at more than one location in the county; and

2. Owners or operators holding permits for portable equipment shall notify the control officer of any change of operating location.

**~~17.12.300~~17.11.110 - Portable sources.**

A. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit, shall not operate in any other county.

B. Permits for portable sources shall include the following:

1. Conditions that will assure compliance with all applicable requirements at all authorized locations; and

2. Conditions that assure compliance with all other provisions of this title.

C. A portable source which has a county permit but proposes to operate outside the county shall obtain a permit from the director. Upon issuance of a permit by the director, the county shall terminate the county permit for that source. Before commencing operation in the new county, the source shall notify the director and the control officer who has jurisdiction over the geographic area that includes the new location according to subsection E of this section.

D. An owner of portable source equipment which requires a permit under this title shall obtain the permit prior to renting or leasing said equipment. 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 lessee or renter shall be responsible for the operation of this equipment in compliance with the permit conditions and any violations thereof.

E. A portable source may be transferred from one location to another provided that the owner or operator of such equipment provide notification according to the conditions specified in the permit. In no case will more than ten days notice be required.

**~~17.12.350~~17.11.120 - Material permit condition.**

A. For the purposes of A.R.S. §§ 49-464(G) and 49-514(G), a "material permit condition" shall mean a condition that satisfies all of the following:

1. The condition is in a permit or permit revision issued by the director or the control officer after the effective date of this section;

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 under Chapter 17.16 Article IX,~~

~~c.~~ b. A requirement for the installation or certification of a monitoring device,

~~d.~~ c. A requirement for the installation of air pollution control equipment,

~~e.~~ d. A requirement for the operation of air pollution control equipment,

~~f.~~ e. An opacity standard required by Section 111 (Standards of Performance for New Stationary Sources) or Title I, part C or D (Air Pollution Prevention and Control) of the Act.

4. Violation of the condition is not covered by A.R.S. § 49-464 (A) through (F), or (H) through (J) or A.R.S. § 49-514 (A) through (F), or (H) through (J).

B. For the purposes of paragraphs ~~(A)(3)(c), (d) and (e)~~(A)(3)(b), (c) and (d) of this section, a permit condition shall not be material where the failure to comply resulted from circumstances that were outside the control of the source. As used in this section, "circumstances outside the control of the source" shall mean circumstances where the violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a start up or shut down or resulted from upset of operations.

C. For purposes of this section, the term "emission standard" shall have the meaning specified in A.R.S. §§ 49-514 (T) and 49-464 (U).

**~~17.12.330~~17.11.130 - Permits containing the terms and conditions of federal delayed compliance orders (DCO) or consent decrees.**

A. The terms and conditions of either a DCO or consent decree shall be incorporated into a permit through a permit revision. 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.

B. 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 article.

C. For the purpose of this chapter, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.

**~~17.12.030~~17.11.140 - Sampling, testing, and analysis requirements.**

A. Prior to issuing a permit, the control officer may require the applicant to test the air for regulated air pollutants and/or provide an analysis showing the planned source's emissions impact on air quality, or to assess other air quality related variables in the impact area of the source as specified by the control officer.

B. Prior to issuing a permit, the control officer may require the applicant to measure the emissions from the source or the air quality in the vicinity of the source. Air Quality impact analyses shall be submitted in accordance with methodology either specified or approved by the control officer.

**~~17.12.360~~17.11.150 - Stack height limitation.**

A. 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:

1. Begun, or caused to begin, a continuous program of physical on-site construction of the stack;

2. 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

3. Coal fired steam electric generating units, subject to the provisions of Section 118 of the Act (Control of Pollution from Federal Facilities) which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.

B. GEP stack height is calculated as the greater of the following four numbers in subdivisions 1 through 4:

1. 213.25 feet (65 meters).

2. 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 CFR parts 51 and 52 and Section 17.16.560, Hg = 2.5H.

3. For all other stacks, Hg = H + 1.5L, where:

Hg = 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, state, or local control agency may require the use of a field study or fluid model to verify GEP stack height for the source; or

4. 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.

5. For a specific structure or terrain feature, "nearby" shall be:

a. For purposes of applying the formulae in subdivisions 2 and 3 of this subsection, 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);

b. For conducting demonstrations under subdivision 4 of this subsection, 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 ten 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 forty percent of the GEP stack height determined by the formula provided in subdivision 3, or eighty-five feet (twenty-six meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.

6. "Excessive concentrations" means, for the purpose of determining good engineering practice stack height under subdivision 4 of this subsection:

a. For sources seeking credit for stack height exceeding that established under subdivisions 2 and 3 of this subsection, 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 forty percent 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 chapter, 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 forty percent 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 Section 17.08.150. The allowable emission rate to be used in making demonstrations under subdivision 4 of this subsection shall be prescribed by the new source performance standard 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;

b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivisions 2 and 3 of this subsection, either.

i. A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in paragraph a of this subdivision, except that emission rate specified by any applicable SIP shall be used, or

ii. The actual presence of a local nuisance caused by the existing stack, as determined by the control officer; and

c. For sources seeking credit after January 12, 1979, for a stack height determined under subdivisions 2 and 3 of this subsection, where the control officer requires the use of a field study or fluid model to verify 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 subdivisions 2 and 3 of this subsection, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

C. The degree of emission limitation required of any source after the respective date given in subsection A of this section 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.

D. 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 maximum allowable increases under Section ~~7.08.150~~17.08.150 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 GEP stack height as determined herein and assuming the elevated terrain features to be equal in elevation to the GEP stack height. If this adjusted 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.

E. Before the control officer issues a permit or permit revision under this article to a source based on a good engineering practice stack height that exceeds the height allowed by subsection B of this section, ADEQ shall notify the public of the availability of the demonstration study and provide opportunity for public hearing in accordance with the requirements of Section ~~17.12.340~~17.12.190 and Section 17.13.210.

**~~17.12.045~~17.11.160 - Test methods and procedures.**

A. The following test methods and protocols are approved for use as directed by the department under this chapter. These standards adopted as of July 1, 2015, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the department and are also available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.

1. 40 CFR 50;
2. 40 CFR 50, Appendices A through N;
3. 40 CFR 51, Appendix M, Section IV of Appendix S, and Appendix W;
4. 40 CFR 52, Appendices D and E;
5. 40 CFR 53;
6. 40 CFR 58;
7. 40 CFR 58, all appendices;
8. 40 CFR 60, all appendices;
9. 40 CFR 61, all appendices;
10. 40 CFR 63, all appendices;
11. 40 CFR 75, all appendices.

B. Except as otherwise provided in this subsection the opacity of visible emissions shall be determined by Reference Method 9 of the Arizona Testing Manual or Appendix A in 40 CFR 60. A permit may specify a method, other than Method 9, for determining the opacity of emissions from a particular emissions unit, if the method has been promulgated by the administrator in 40 CFR 60, Appendix A.

C. Except as otherwise specified in this chapter, the heat content of solid fuel shall be determined according to ASTM Method D-3176-89, (Practice for Ultimate Analysis of Coal and Coke) and ASTM Method D-2015-91, (Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter).

D. Except for ambient air monitoring and emissions testing required under Chapter 17.16, Articles VI and VII, alternative and equivalent test methods in any test plan submitted to the control officer may be approved by the control officer for the duration of that plan provided that the following three criteria are met:

1. The alternative or equivalent test method measures the same chemical and physical characteristics as the test method it is intended to replace.
2. The alternative or equivalent test method has substantially the same or better reliability, accuracy, and precision as the test method it is intended to replace.
3. Applicable quality assurance procedures are followed in accordance with the Arizona Testing Manual, 40 CFR 60 or other methods approved by the control officer.

**~~17.12.070~~17.11.170 - Quality assurance.**

Facilities subject to permit requirements of this chapter shall submit a quality assurance plan to the control officer that meets the requirements of Section ~~17.12.045(D)(3)~~17.11.160(D)(3) within twelve months of the effective date of this section. Facilities subject to the requirements of Section ~~17.12.060~~17.11.200 shall submit a quality assurance plan as specified in the permit.

**~~17.12.210~~17.11.180 - 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.

**~~17.12.190~~17.11.190 - Permits containing synthetic emission limitations and standards.**

A. A source may voluntarily propose in its application emission limitations, controls or other requirements that are permanent, quantifiable and otherwise enforceable as a practical matter that incorporate pollution prevention programs that provide source operational flexibility and achieve regulatory compliance. A new or existing source requesting a permit with conditions for operation flexibility under this subsection shall pay to the control officer all applicable fees pursuant to Section ~~17.12.520~~17.13.240.

B. 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 Class I permit or to avoid one or more other federal applicable requirements. For the purposes of this section, "enforceable as a practical matter" means that specific means to assess compliance with a limit or trade provision are provided for in the permit in a manner that allows compliance with the limit or trade provision to be readily determined by an inspection of records and reports.

C. 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:

1. 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 the permit does not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to an applicable implementation plan, or that are otherwise federally enforceable.

2. All voluntarily accepted emissions limitations, controls or other requirements will be permanent, quantifiable and otherwise enforceable as a practical matter.

D. At the same time as notice of proposed issuance is first published pursuant to Section ~~17.12.340~~17.12.190 or Section 17.13.210, the control officer shall send a copy of any Class II permit proposed to be issued pursuant to this section to the administrator for review during the comment period described in the notice pursuant to Section ~~17.12.340D~~17.12.190(D) or Section 17.13.210(D).

E. The control officer shall send a copy of each final permit issued pursuant to this section to the administrator.

**~~17.12.060~~17.11.200 - Existing source emission monitoring.**

A. Every source subject to an existing source performance standard as specified in this title shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this section for the applicable source category.

1. Applicability.

a. Fossil-fuel fired steam generators as specified in subsection (C)(1) of this section, shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.

b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection (C)(4) of this section, shall be monitored for opacity.

c. Sulfuric acid plants, as specified in subsection (C)(3) of this section, shall be monitored for sulfur dioxide emissions.

d. Nitric acid plants, as specified in subsection (C)(2) of this section, shall be monitored for nitrogen oxides emissions.

2. Emission monitoring shall not be required when the source of emissions is not operating.

3. Variations.

a. Unless otherwise prohibited by the Act, the control officer may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the control officer on a case-by-case basis and shall include as a minimum, annual manual stack tests for the pollutants identified for each type of source in this section. Extreme economic reasons shall mean that the requirements of this section would cause the source to be unable to continue in business.

b. Alternative monitoring requirements may be prescribed when installation of a continuous monitoring system or monitoring device specified by this section would not provide accurate determinations of emissions (e.g., condensed, uncombined water vapor may prevent an accurate determination of opacity using commercially available continuous monitoring systems).

c. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated (e.g., some affected facilities may operate less than one month per year).

4. Monitoring System Malfunction. A temporary exemption from the monitoring and reporting requirements of this section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and is being repaired expeditiously.

B. Installation and performance testing required under this section shall be completed and monitoring and recording shall commence within eighteen months of the effective date of this section.

C. Minimum Monitoring Requirements.

1. Fossil-fuel Fired Steam Generators. Each fossil-fuel fired steam generator, except as provided in the following paragraphs, with an annual average capacity factor of greater than thirty percent, as reported to the Federal Power Commission for calendar year 1976, or as otherwise demonstrated to the Department by the owner or operator, shall conform with the following monitoring requirements when such facility is subject to an emission standard for the pollutant in question.

a. A continuous monitoring system for the measurement of opacity which meets the performance specifications of this section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this section by the owner or operator of any such steam generator of greater than two hundred fifty million BTU per hour heat input except where:

i. Gaseous fuel is the only fuel burned; or

ii. Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity rules without utilization of particulate matter collection equipment, and where the source has never been found to be in violation through any administrative or judicial proceedings, or accepted responsibility for any violation of any visible emission standard.

b. A continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this section shall be installed, calibrated, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the control officer, maintained and operated on any fossil-fuel fired steam generator of greater than two hundred fifty million BTU per hour heat input which has installed sulfur dioxide pollutant control equipment.

c. A continuous monitoring system for the measurement of nitrogen oxides which meets the performance specification of this section shall be installed, calibrated, using nitric oxide calibration gas mixtures or other gas mixtures approved by the control officer, maintained and operated on fossil-fuel fired steam generators of greater than one thousand million BTU per hour heat input when such facility is located in an air quality control region where the control officer has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient

air quality standard specified in Section 17.08.060, unless the source owner or operator demonstrates during source compliance tests as required by the department that such a source emits nitrogen oxides at levels thirty percent or more below the emission standard within this title.

d. A continuous monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this section shall be installed, calibrated, operated, and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this title.

2. Nitric Acid Plants. Each nitric acid plant of greater than three hundred tons per day production capacity, the production capacity being expressed as one hundred percent acid located in an air quality control region where the control officer has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in Chapter 17.08, Article I, shall install, calibrate, using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this section for each nitric acid producing facility within such plant.

3. Sulfuric Acid Plants. Each sulfuric acid plant as defined in Section 17.04.340, of greater than three hundred tons per day production capacity, the production being expressed as one hundred percent acid, shall install, calibrate, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the control officer, maintain and operate a continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this section for each sulfuric acid producing facility within such a plant.

4. Fluid Bed Catalytic Cracking Unit Catalyst Regenerators at Petroleum Refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than twenty thousand barrels per day fresh feed capacity shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of opacity which meets the performance specifications of this section for each regenerator within such refinery.

D. Minimum Specifications. Owners or operators of monitoring equipment installed to comply with this section shall demonstrate compliance with the following performance specifications:

1. The performance specifications set forth in Appendix B of 40 CFR 60 are incorporated herein by reference, and shall be used by the control officer to determine acceptability of monitoring equipment installed pursuant to this section. However where reference is made to the administrator in Appendix B of 40 CFR 60, the control officer may allow the use of either the state approved reference method or the federally approved reference method as published in 40 CFR 60. The performance specifications to be used with each type of monitoring system are listed below.

a. Continuous monitoring systems for measuring opacity shall comply with performance specification 1.

b. Continuous monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.

c. Continuous monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.

d. Continuous monitoring systems for measuring oxygen shall comply with performance specification 3.

e. Continuous monitoring systems for measuring carbon dioxide shall comply with performance specification 3.

2. Calibration Gases. Span and zero gases should be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A, Part 60, (Chapter 1, Title 40, CFR as amended. For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference Method 7; and for carbon dioxide or oxygen, use Reference Method 3). The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.

3. Cycling Time. Time includes the total time required to sample, analyze and record an emission measurement.

a. Continuous monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing for each successive six-minute period.

b. Continuous monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and date recording) for each successive fifteen-minute period.

4. Monitor Location. All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameter (i.e., oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous monitoring systems to obtain representative samples is contained in the applicable performance specifications of Appendix B of 40 CFR 60.

5. Combined Effluents. When the effluents from two or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one point, separate monitors shall be installed.

6. Zero and Drift. Owners or operators of all continuous monitoring systems installed in accordance with the requirements of this section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in subsection C of this section as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero span whenever the twenty-four-hour zero drift or twenty-four-hour calibration drift limits of the applicable performance specifications in Appendix B of Part 60, Chapter 1, Title 40 CFR are exceeded.

7. Span. Instrument span should be approximately 200 percent of the expected instrument data display output corresponding to the emission standard for the source.

E. Minimum Data Requirement. The following paragraphs set forth the minimum data reporting requirements for sources employing continuous monitoring equipment as specified in this section. These periodic reports do not relieve the source operator from the reporting requirements of ~~section 17.12.040 and 17.12.180~~Section 17.12.170 and Section 17.12.040.

1. The owners or operators of facilities required to install continuous monitoring systems shall submit to the control officer a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall

correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.

2. For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of all six-minute opacity averages greater than any applicable standards for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. Any time periods exempted shall be deleted before determining any averages in excess of opacity standards.

3. For gaseous measurements the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.

4. The date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of system repair or adjustment shall be reported. The control officer may require proof of continuous monitoring system performance whenever system repairs or adjustments have been made.

5. When no excess emissions have occurred and the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.

6. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two years from the date of collection of such data or submission of such summaries.

F. Data Reduction. Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.

1. For fossil-fuel fired steam generators the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million BTU) where necessary.

a. When the owner or operator of a fossil-fuel fired steam generator elects under (C)(1)(d) of this section to measure oxygen in the flue gases, the measurements of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).

i. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise added to stack gases, the following conversion procedure shall be used:

$$E_Q = C_{WS} F_W \frac{20.9}{20.9(1 - B_{wa}) - \%\, O_{2ws}}$$

ii. When measurements are on a wet basis and the water vapor content of the stack gas is determined at least once every fifteen minutes the following conversion procedure shall be used:

$$E_Q = C_{WS} F \frac{20.9}{20.9(1 - B_{wa}) - \%\, O_{2ws}}$$

Note: Use of this equation is contingent upon demonstrating the ability to accurately determine B(ws) such that any absolute error in B(ws) will not cause an error of more than ±1.5 percent in the term.

$$\frac{20.9}{20.9(1 - B_{wa}) - \%\, O_{2ws}}$$

iii. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E_Q = CF \frac{20.9}{20.9 - \%\, O_{2ws}}$$

b. When the owner or operator elects under (C)(1)(d) of this section to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used:

$$E_Q = CF_C \frac{100}{\%\, CO_2}$$

c. The values used in the equations under (F)(1) of this section are derived as follows:

EQ = pollutant emission, g/million cal (lb/million BTU)

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16 × 10[-5] M g/dscm per ppm (2.64 × 10[-9] M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole), M = 64 for sulfur dioxide and 46 for oxides of nitrogen.

$C_{WS}$ = pollutant concentrations at stack conditions, g/wscm (lb/wscf), determined by multiplying the average concentration (ppm) for each one-hour period by 4.15 × 10[-5] M lb/wscm per ppm) (2.59 × 10[-5] M lb/wscf per ppm) where M = pollutant molecular weight, g/g mole (lb/lb mole). M = 64 for sulfur dioxide and 46 for nitrogen oxides.

$\%O_2$, $\%CO_2$ = oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under (D)(1)(d) of this section.

F, $F_C$ = a factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted ($F_C$), respectively. Values of F and $F_c$ are given in § 60.45(f) of Part 60, Chapter 1, Title 40 CFR.

$F_W$ = a factor representing a ratio of the volume of wet flue gases generated to the caloric value of the fuel combusted. Values of $F_W$ are given in Reference Method 19 of the Arizona Testing Manual and in Appendix A-7, Method 19 of 40 CFR 60.

$B_{WA}$ = proportion by volume of water vapor in the ambient air. Approval may be given for determination of $B_{WA}$ by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within ±0.7 percent water vapor. Estimation methods for $B_{wa}$ are given in Reference Method 19 of the Arizona Testing Manual and in Appendix A-7, Method 19 of 40 CFR 60.

$B_{WS}$ = proportion by volume of water vapor in the stack gas.

2. For sulfuric acid plants as defined in Section 17.04.340, the owner or operator shall:

   a. Establish a conversion factor three times daily according to the procedures of § 60.84(b) of Chapter 1, Title 40 CFR;

   b. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton); and

   c. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.

3. For nitric acid plants the owner or operator shall:

   a. Establish a conversion factor according to the procedures of § 60.73(b) of Chapter 1, Title 40 CFR;

   b. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard;

   c. Report the average nitrogen oxides emission for each averaging period in excess of applicable emission standard in the quarterly summary.

4. The control officer may allow data reporting or reduction procedures varying from those set forth in this section if the owner or operator of a source shows to the satisfaction of the control officer that his procedures are at least as accurate as those in this section. Such procedures may include but are not limited to the following:

   a. Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period);

   b. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

**~~17.12.050~~17.11.210 - Performance tests.**

A. Sources required to conduct performance tests pursuant to this title shall do so within sixty days after the source has achieved the capability to operate at its maximum production rate on a sustained basis but no later than one hundred eighty days after initial startup of such source and at such other times as may be required by the control officer, the owner or operator of such source shall conduct performance tests and furnish the control officer a written report of the results of the tests.

B. Performance tests shall be conducted and data reduced in accordance with the test method and procedures contained in the Arizona Testing Manual, 40 CFR 52; Appendices D and E, 40 CFR 60; Appendices A through F; and 40 CFR 61, Appendices B and C, unless the control officer:

   1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

   2. Approves the use of an equivalent method;

   3. Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or

   4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the control officer's satisfaction that the source is in compliance with the standard.

   5. Nothing in this section shall be construed to abrogate the control officer's authority to require testing.

C. Performance tests shall be conducted under such conditions as the control officer shall specify to the plant operator based on representative performance of the source. The owner or operator shall make available to the control officer such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.

D. The owner or operator of a permitted source shall provide the control officer two weeks' prior notice of the performance test to afford the control officer the opportunity to have an observer present.

E. The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:

1. Sampling ports adequate for test methods applicable to such facility;

2. Safe sampling platform(s);

3. Safe access to sampling platform(s);

4. Utilities for sampling and testing equipment.

F. Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs is required to be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the control officer's approval, be determined using the arithmetic means of the results of the two other runs. If the control officer, or the control officer's designee, is present, tests may only be stopped with the control officer's, or such designee's, approval. If the control officer, or the control officer's designee, is not present, tests may only be stopped for good cause, which includes forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the operator's control. Termination of testing without good cause after the first run is commenced shall constitute a failure of the test.

G. Except as provided in subsection H of this section, compliance with the emission limits established in this title or as prescribed in permits issued pursuant to this title shall be determined by the performance tests specified in this section or in the permit.

H. In addition to performance tests specified in this section, compliance with specific emission limits may be determined by:

1. Opacity tests;

2. Emission limit compliance tests specifically designated as such in the regulation establishing the emission limit to be complied with;

3. Continuous emission monitoring, where applicable quality assurance procedures are followed and where it is designated in the permit or in an applicable requirement to show compliance.

I. Nothing in this section shall be so construed as to prevent the utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.

**~~17.12.620~~17.11.220 - Refund of overpayment of permit fees.**

No fees shall be refunded except those paid in excess of the amount required. An excess payment shall be refunded upon the written request of the permittee within one year of overpayment.

**Chapter 17.12 - INDIVIDUAL PERMITS AND PERMIT REVISIONS FOR CLASS I PERMITS**

**Sections:**

**Article I. - ~~General Provisions~~Application Processing and Procedures**

**~~17.12.160~~17.12.010 - ~~Statutory authority.~~Permit application processing procedures for Class I permits.**

~~A. Statutory provisions relating to the control officer's jurisdiction over permit requirements and authority for permit fees are contained in the Arizona Revised Statutes, A.R.S. 49-402, 49-471, and 49-401, et seq.~~

~~B. Permits (requiring fees) shall be issued pursuant to A.R.S. 49-480.~~

~~C. Open burning permits (requiring fees) shall be issued pursuant to A.R.S. 49-501.~~

~~D. Issuance of an air permit shall not relieve the permittee from compliance with all local, county, state, and federal laws, statutes, and codes.~~

A. Unless otherwise noted, this section applies to each source requiring a Class I permit or permit revision.

B. Standard Application Form and Required Information. To apply for any permit in this Section, applicants shall complete the "Standard Permit Application Form" and supply all information required by the "Filing Instructions" as shown in Title 18, Chapter 2, Appendix 1 of the A.A.C.

C. A proposed emission limitation, control or other requirement that meets the requirements of Section ~~17.12.190~~17.11.190.

D. Unless otherwise required by ~~17.12.150~~Section 17.11.050, a timely application is:

1. For purposes of permit renewal, a timely application is one that is submitted at least six months, but not greater than eighteen months, prior to the date of permit expiration.

2. For initial Phase II acid rain permits under Title IV of the Act and regulations incorporated pursuant to Section ~~17.12.365~~17.12.070, one that is submitted to the ~~Control Officer~~control officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.

3. Any existing source which becomes subject to a standard promulgated by the ~~Administrator~~administrator pursuant to Section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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.

E. If 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.

F. A complete application is one that satisfies all of the following:

1. To be complete, an application shall provide all information required pursuant to subsection B of this section (standard application form section), except that applications for 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 subsection H. of this section (section on certification of truth, accuracy, and completeness).

2. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Chapter 17.16, Article VIII. If the applicant determines that the proposed new source is a major source as defined in Section 17.04.340, or the proposed permit revision constitutes a major modification as defined in Section 17.04.340, then the application shall comply with all applicable requirements of Chapter 17.16, Article VIII.

~~3. An application for a new permit or a permit revision shall contain an assessment of the applicability of the requirements established under Chapter 17.16 Article IX. If the applicant determines that the proposed new source permit or permit revision is subject to the requirements of Chapter 17.16 Article IX, the application shall comply with all applicable requirements of that Article.~~

~~4.~~3. Except for proposed new major sources or major modifications subject to the requirements of Chapter 17.16, Article VIII, an application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless within sixty days of receipt of the application, the ~~Control Officer~~control officer notifies the applicant by certified mail that the application is not complete.

~~5.~~4. If a source wishes to voluntarily enter into an emissions limitation, control or other requirement pursuant to Section ~~17.12.190~~17.11.190, the 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.

~~6.~~5. If, while processing an application that has been determined or deemed to be complete, the ~~Control Officer~~control officer determines that additional information is necessary to evaluate or take final action on that application, the ~~Control Officer~~control officer may request such information in writing, delivered by certified mail and set a reasonable deadline for a response. Except for minor permit revisions as set forth in ~~§ 17.12.255~~Section 17.12.110, a source's ability to operate without a permit, as set forth in this article, 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~~control officer. If the ~~Control Officer~~control officer notifies an applicant that the application is not complete under subdivision 4 of this subsection, the application may not be deemed automatically complete until an additional sixty days after the next submittal by the applicant. The ~~Control Officer~~control officer may, after one submittal by the applicant pursuant to this subdivision, reject an application that is determined to be still incomplete and shall notify the applicant of the decision by certified mail. After a rejection under this subdivision, the ~~Control Officer~~control officer may deny or revoke an existing permit, as applicable.

~~7.~~6. The completeness determination shall not apply to revisions processed through the minor permit revision process.

~~8.~~7. Activities which are insignificant shall be listed in the application. The application need not provide emissions data regarding insignificant activities. If the ~~Control Officer~~control officer determines that an activity listed as insignificant is not insignificant, the ~~Control Officer~~control officer shall notify the applicant in writing and specify additional information required.

~~9.~~8. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted facility 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.

~~10.~~9. The ~~Control Officer~~control officer is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-487.

G. A source applying for a Class I permit that has submitted information with an application under a claim of confidentiality pursuant to A.R.S. §~~§~~ 49-432 and ~~17.12.170~~Section 17.11.070 shall submit a copy of such information directly to the ~~Administrator~~administrator.

H. 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.

I. Certification of Truth, Accuracy, and Completeness. Any application form, report, or compliance certification submitted pursuant to this title shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this title shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

J. Action on Application.

1. The ~~Control Officer~~control officer shall issue or deny each permit according to the provisions of A.R.S. § 49-481. The ~~Control Officer~~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.

2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:

a. The application received by the ~~Control Officer~~control officer for a permit, permit revision, or permit renewal shall be complete according to subsection F of this section.

b. Except for revisions qualifying as administrative or minor under ~~§§ 17.12.245 and 17.12.255~~Section 17.12.100 and Section 17.12.110, all of the requirements for public notice and participation under ~~§ 17.12.340~~Section 17.12.190 shall have been met.

c. The ~~Control Officer~~control officer shall have complied with the requirements of ~~§ 17.12.200~~Section 17.12.060 for notifying and responding to affected states, and if applicable, other notification requirements of ~~§§~~Sections 17.16.550~~D2~~(D)(2) and 17.16.630~~C2~~(C)(2).

d. The conditions of the permit shall require compliance with all applicable requirements.

e. For permits for which an application is required to be submitted to the administrator under ~~§ 17.12.200A~~Section 17.12.060(A) and to which the ~~Administrator~~administrator has properly objected to its issuance in writing within forty-five days of receipt of the proposed final permit and all necessary supporting information from PDEQ, the ~~Control Officer~~control officer has revised and submitted a proposed final permit in response to the objection and EPA has not objected to this proposed final permit.

f. For permits to which the ~~Administrator~~administrator has objected to issuance pursuant to a petition filed under 40 CFR 70.8(d), the ~~Administrator's~~administrator's objection has been resolved.

g. For a permit that contains voluntary emission limitations, controls, or other requirements established pursuant to ~~§ 17.12.190~~Section 17.11.190, the ~~Control Officer~~control officer shall have complied with the requirement of subsection C of ~~§ 17.12.190~~Section 17.11.190 to provide the ~~Administrator~~administrator with a copy of the proposed permit.

3. The control officer may issue a notice of termination of a permit issued pursuant to this chapter 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 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.

c. The terms and conditions of the permit have been or are being violated.

4. If the control officer issues a notice of denial or termination of a permit under this section, 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 a statement that the permit applicant or permittee is entitled to a hearing.

5. 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 any person who requests it, and for Class I permits, to the administrator.

6. Except as provided in 40 CFR 70.4(b)(11), Sections~~ 17.12.150~~ 17.11.050 and Section 17.16.550, regulations promulgated under Title IV or V of the Act (Acid Deposition Control or Permits), or the permitting of affected sources under the acid rain program pursuant to Section ~~17.12.365~~17.12.070, the control officer shall take final action on each permit application (and request for revision or renewal) within eighteen months after receiving a complete application.

7. Priority shall be given by the control officer to taking action on applications for construction or modification submitted pursuant to Title I, Parts C and D of the Act (Prevention of Significant Deterioration and Nonattainment Areas).

8. A proposed permit decision shall be published within nine months of receipt of a complete application and any additional information requested pursuant to subdivision (F)(5) of this section to process the application. The control officer shall provide notice of the decision as provided in Section ~~17.12.340~~17.12.190 and any public hearing shall be scheduled as expeditiously as possible.

K. Requirement for a Permit. Except as noted under the provisions in ~~§§ 17.12.230 and 17.12.255~~Section 17.12.090 and Section 17.12.110, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a properly issued permit. However, if an existing 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 this article until the ~~Control Officer~~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~~control officer, any additional information identified as being needed to process the application.

~~17.12.390~~L. Application for coverage under Class I general permit

1. Once the director 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 for general permits, or if none has been adopted, the standard application form contained in Title 18, Chapter 2, Appendix 1, of the A.A.C.

2. For sources required to obtain a permit under Title V of the Act (Permits), 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.

3. The control officer shall give notice of the general permit application pursuant to Section 17.12.190.

4. The control officer shall act on the application for coverage under the general permit as expeditiously as possible, but a final decision shall be reached within one hundred eighty days. The source may operate under the terms of its application 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 one hundred eighty days of receipt of notice. The control officer may defer acting on an application under this subsection if the control officer has provided notice of intent to renew or not renew the permit.

5. Sources operating under a general permit shall apply to the director for the permit revisions pursuant to A.A.C. Title 18, Chapter 2, Article 5.

~~17.12.370~~M. Class I general permit enforcement

The control officer shall administer, inspect and enforce all standards and applicable requirements contained in general permits issued by the director to sources operating in the county.

**~~17.12.110~~17.12.020 - ~~Planning, constructing, or operating without a permit.~~Grant or denial of applications for Class I permits.**

~~No person may commence construction, operate or make a modification to any source subject to this title without complying with the requirements of this title.~~

A. The control officer shall deny a permit or revision if the applicant does not show that every such source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of this title, Title 49, Chapter 3, Article 3, A.R.S., and the rules adopted by the director.

B. Prior to acting on an application for a permit, the control officer may require the applicant to provide and maintain such facilities as are necessary for sampling and 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 facilities.

C. In acting upon an application for a permit renewal, if the control officer finds that such source has been constructed not in accordance with any prior permit or revision issued pursuant to A.R.S. § 49-480.01, he shall require the person to obtain a permit revision or deny the application for such permit. The control officer shall not accept any further application for a permit for such source so constructed until he finds that such source has been reconstructed in accordance with the prior permit or a revision, or a revision to the permit has been obtained.

D. After a decision on a permit or 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 the 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 reasons for the objections specified by the control officer as reasons for such denial.

E. 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.

**~~17.12.120~~17.12.030 - ~~Sampling, testing, and analysis requirements.~~Appeals of permit actions for Class I permits.**

~~A. Prior to issuing a permit, the control officer may require the applicant to test the air for regulated air pollutants and/or provide an analysis showing the planned source's emissions impact on air quality, or to assess other air quality related variables in the impact area of the source as specified by the control officer.~~

~~B. Prior to issuing a permit, the control officer may require the applicant to measure the emissions from the source or the air quality in the vicinity of the source. Air Quality impact analyses shall be submitted in accordance with methodology either specified or approved by the control officer.~~

A. Within thirty days after the control officer gives notice of approval, denial or revocation of a permit, the applicant or any person who submitted comments pursuant to A.R.S. § 49-480, may request an appeal as provided under A.R.S. § 49-482. The decision after that hearing constitutes the final permit action from which judicial review may be taken pursuant to Chapter 17.28.

B. Any person who has an interest that is or may be adversely affected may commence a civil action in superior court against the control officer alleging that the control officer has failed to act in a timely manner consistent with the requirements of A.R.S. § 49-480. No action may be commenced before sixty days after the plaintiff has given notice to the control officer of the plaintiff's intent to file. The court has jurisdiction to require the control officer to act without additional delay.

**~~17.12.035 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.~~**

~~A. Applicability~~

~~This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:~~

~~1. Promulgated pursuant to Sections 111 or 112 of the Act,~~

~~2. Promulgated pursuant to Titles IV or VI of the Clean Air Act,~~

~~3. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A.,~~

~~4. Contained in section 17.12.280 (F), or~~

~~5. Included in a permit to meet the requirements of section 17.12.590 (A)(5).~~

~~B. Affirmative Defense for Malfunctions~~

~~Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of section 17.12.040 and has demonstrated all of the following:~~

~~1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;~~

~~2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;~~

~~3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to insure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;~~

~~4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;~~

5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article 2 of this Chapter that could be attributed to the emitting source;

8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;

9. All emissions monitoring systems were kept in operation if at all practicable; and

10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of section 17.12.040 and has demonstrated all of the following:

a. The excess emissions could not have been prevented through careful and prudent planning and design;

b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;

c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article I of this Chapter that could be attributed to the emitting source;

g. All emissions monitoring systems were kept in operation if at all practicable; and

h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsection (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and Section 17.12.040, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

**~~17.12.180~~17.12.040 - ~~Reporting requirements.~~Permit contents for Class I permits.**

A. The owner or operator of any source shall report to the Control Officer any emissions in excess of the limits established by this Chapter or the applicable permit. The report shall be in 2 parts as specified below:

1. Notification by telephone or facsimile within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).

2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (1).

B. The excess emissions report shall contain the following information:

1. The identity of each stack or other emission point where the excess emissions occurred;

2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

3. The time and duration or expected duration of the excess emissions;

4. The identity of the equipment from which the excess emissions emanated;

5. The nature and cause of the emissions;

~~6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;~~

~~7. The steps that were or are being taken to limit the excess emissions; and~~

~~8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.~~

~~C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).~~

A. Each permit issued shall include the following elements:

1. The date of issuance and the permit term.

2. Enforceable emission limitations and standards, including operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance and those that have been voluntarily accepted under Section ~~17.12.190~~17.11.190.

a. 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.

b. The permit shall state that, if an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act (Acid Deposition Control), both provisions shall be incorporated into the permit and shall be enforceable by the administrator.

c. Any permit containing an equivalency demonstration for an alternative emission limit submitted under Section ~~17.12.160D~~17.12.010(D) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

d. 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 Section 17.04.340.

3. Each permit shall contain the following requirements with respect to monitoring:

a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:

i. Monitoring and analysis procedures or test methods under 40 CFR 64;

ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and

iii. Monitoring and analysis procedures or test methods required under Section ~~17.12.220~~17.12.080.

b. 40 CFR 64 adopted July 1, 2015 and no future editions or amendments, is incorporated by reference as applicable requirements and on file with the department and shall be applied by the department. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;

c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental 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 subsection (A)(4). 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 ~~17.12.220~~17.12.080. Recordkeeping provisions may be sufficient to meet the requirements of this subsection; and

d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.

4. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established pursuant to Section ~~17.12.220~~17.12.080, where applicable, for the following:

a. Records of required monitoring information that include the following:

i. The date, place as defined in the permit, and time of sampling or measurements;

ii. The date(s) analyses were performed;

iii. The name of the company or entity that performed the analyses;

iv. A description of the analytical techniques or methods used;

v. The results of such analyses; and

vi. The operating conditions as existing at the time of sampling or measurement.

b. 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.

5. The permit shall incorporate all applicable reporting requirements, including reporting requirements established under Section ~~17.12.040~~17.12.170 and Section ~~17.12.190~~17.11.190, and require the following:

a. 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 Sections ~~17.12.160H~~17.12.010(H) and ~~17.12.220.A.5. 1~~17.12.080(A)(5).

b. 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. Notice in accordance with subsection E3d of this section shall be considered prompt for purposes of this paragraph.

6. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act (Acid Deposition Control) or the regulations promulgated thereunder.

a. A permit revision is not required for increases in emissions that are authorized by allowances acquired under the acid rain program, if the increases do not require a permit revision under any other applicable requirement.

b. A limit shall not be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

c. Any allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act (Acid Deposition Control).

d. Any permit issued under the requirements of this Chapter and Title V of the Act (Permits) to a unit subject to the provisions of Title IV of the Act (Acid Deposition Control) shall include conditions prohibiting all of the following:

i. 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.

ii. Exceedances of applicable emission rates.

iii. Use of any allowance prior to the year for which it was allocated.

iv. Contravention of any other provision of the permit.

7. 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.

8. Provisions stating the following:

a. The permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes A.R.S. Title 49, Chapter 3, and Pima County air quality rules. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.

b. 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 this permit.

c. 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 noncompliance does not stay any permit condition.

d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder.

e. 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, 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.

f. For any major source operating in a nonattainment area for all pollutants for which the source is classified as a major source, the source shall comply with reasonably available control technology.

9. A provision to ensure that the source pays fees to the control officer pursuant to A.R.S. § 49-426(E) and ~~Article VI~~Article V of this chapter.

10. 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.

11. 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:

a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

b. Extend the permit shield described in Section ~~17.12.310~~17.11.080 to all terms and conditions under each such operating scenario; and

c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this title.

12. 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 facility, 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:

a. Shall include all terms required under subsections A and C of this section to determine compliance;

b. May extend the permit shield described in subsection D of this section to all terms and conditions that allow such increases and decreases in emissions;

c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emission trades; and

d. Shall meet all applicable requirements and requirements of this title.

13. 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 state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.

14. Upon request of a permit applicant, the control officer shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap 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 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 paragraph 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 provide for Class I Sources, for notice that conforms to Sections ~~17.12.230(D) and (E)~~17.12.090(D) and (E) ~~and for Class II sources, for logging that conforms to Section 17.12.240(B)(5)~~. In addition, the notices for Class I ~~and Class II~~ sources shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.

15. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1, 2 and 3 and the rules adopted in Title 17.

B. Federally Enforceable Requirements.

1. The following permit conditions shall be enforceable by the administrator and citizens under the Act:

a. Except as provided in paragraph (B)(2) of this subsection, all terms and conditions in a Class I permit, including any provision designed to limit a source's potential to emit;

~~b. Terms or conditions in a Class II permit setting forth federal applicable requirements; and~~

~~c.~~b. Terms and conditions in any permit entered into voluntarily pursuant to Section ~~17.12.190~~17.11.190, as follows:

i. Emissions limitations, controls or other requirements; and

ii. Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in subdivision (i) of this subparagraph.

2. Notwithstanding subsection (B)(1)(a), the control officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Class I permit that are not required under the Act or under any of its applicable requirements.

C. Each permit shall contain a compliance plan that meets the requirements of Section ~~17.12.220~~17.12.080.

D. Each permit shall include the applicable permit shield provisions set forth in Section ~~17.12.310~~17.11.080.

E. Emergency Provision.

1. An "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that require immediate corrective action to restore normal operation and that causes the sources to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emission attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

2. An emergency constitutes an affirmative defense to an action brought for noncompliance with the technology-based emission limitations if the conditions of subsection (E)(3) are met.

3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An emergency occurred and that the permittee can identify the cause or causes of the emergency;

b. At the time of the emergency, the permitted facility was being properly operated;

c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and

d. The permittee submitted notice of the emergency to the control officer by certified mail or hand delivery within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.

4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

F. A Class I permit issued to a major source shall require that revisions be made under Section ~~17.12.270~~17.12.130 to incorporate additional applicable requirements adopted by the ~~Administrator~~administrator under the Act that become applicable to a source with a permit with a remaining permit term of three or more years. No reopening shall be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be

made as expeditiously as practicable, but not later than eighteen months after the promulgation of such standards and regulations. Any permit revision required pursuant to this subsection shall comply with provisions in Section ~~17.12.280~~17.12.140 for permit renewal and shall reset the five-year permit term.

~~**17.12.045 - Test methods and procedures.**~~

~~A. The following test methods and protocols are approved for use as directed by the department under this chapter. These standards adopted as of July 1, 2015, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the department and are also available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.~~

~~1. 40 CFR 50;~~

~~2. 40 CFR 50, Appendices A through N;~~

~~3. 40 CFR 51, Appendix M, Section IV of Appendix S, and Appendix W;~~

~~4. 40 CFR 52, Appendices D and E;~~

~~5. 40 CFR 53;~~

~~6. 40 CFR 58;~~

~~7. 40 CFR 58, all appendices;~~

~~8. 40 CFR 60, all appendices;~~

~~9. 40 CFR 61, all appendices;~~

~~10. 40 CFR 63, all appendices;~~

~~11. 40 CFR 75, all appendices.~~

~~B. Except as otherwise provided in this subsection the opacity of visible emissions shall be determined by Reference Method 9 of the Arizona Testing Manual or Appendix A in 40 CFR 60. A permit may specify a method, other than Method 9, for determining the opacity of emissions from a particular emissions unit, if the method has been promulgated by the administrator in 40 CFR 60, Appendix A.~~

~~C. Except as otherwise specified in this chapter, the heat content of solid fuel shall be determined according to ASTM Method D-3176-89, (Practice for Ultimate Analysis of Coal and Coke) and ASTM Method D-2015-91, (Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter).~~

~~D. Except for ambient air monitoring and emissions testing required under Chapter 17.16, Articles VI and VII, alternative and equivalent test methods in any test plan submitted to the control officer may be approved by the control officer for the duration of that plan provided that the following three criteria are met:~~

~~1. The alternative or equivalent test method measures the same chemical and physical characteristics as the test method it is intended to replace.~~

~~2. The alternative or equivalent test method has substantially the same or better reliability, accuracy, and precision as the test method it is intended to replace.~~

~~3. Applicable quality assurance procedures are followed in accordance with the Arizona Testing Manual, 40 CFR 60 or other methods approved by the control officer.~~

~~**17.12.195**~~**17.12.050 - ~~Performance tests.~~Establishment of an emissions cap for Class I permits.**

~~A. Sources required to conduct performance tests pursuant to this title shall do so within sixty days after the source has achieved the capability to operate at its maximum production rate on a sustained basis but no later than one hundred eighty days after initial startup of such source and at such other times as may be required by the control officer, the owner or operator of such source shall conduct performance tests and furnish the control officer a written report of the results of the tests.~~

~~B. Performance tests shall be conducted and data reduced in accordance with the test method and procedures contained in the Arizona Testing Manual, 40 CFR 52; Appendices D and E, 40 CFR 60; Appendices A through F; and 40 CFR 61, Appendices B and C, unless the control officer:~~

~~1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;~~

~~2. Approves the use of an equivalent method;~~

~~3. Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or~~

~~4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the control officer's satisfaction that the source is in compliance with the standard.~~

~~5. Nothing in this section shall be construed to abrogate the control officer's authority to require testing.~~

~~C. Performance tests shall be conducted under such conditions as the control officer shall specify to the plant operator based on representative performance of the source. The owner or operator shall make available to the control officer such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.~~

~~D. The owner or operator of a permitted source shall provide the control officer two weeks' prior notice of the performance test to afford the control officer the opportunity to have an observer present.~~

~~E. The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:~~

~~1. Sampling ports adequate for test methods applicable to such facility;~~

~~2. Safe sampling platform(s);~~

~~3. Safe access to sampling platform(s);~~

~~4. Utilities for sampling and testing equipment.~~

~~F. Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs is required to be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the control officer's approval, be determined using the arithmetic means of the results of the two other runs. If the control officer, or the control officer's designee, is present, tests may only be stopped with the control officer's, or such designee's, approval. If the control officer, or the control officer's designee, is not present, tests may only be stopped for good cause, which includes forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the operator's control. Termination of testing without good cause after the first run is commenced shall constitute a failure of the test.~~

~~G. Except as provided in subsection H of this section, compliance with the emission limits established in this title or as prescribed in permits issued pursuant to this title shall be determined by the performance tests specified in this section or in the permit.~~

~~H. In addition to performance tests specified in this section, compliance with specific emission limits may be determined by:~~

~~1. Opacity tests;~~

~~2. Emission limit compliance tests specifically designated as such in the regulation establishing the emission limit to be complied with;~~

~~3. Continuous emission monitoring, where applicable quality assurance procedures are followed and where it is designated in the permit or in an applicable requirement to show compliance.~~

~~I. Nothing in this section shall be so construed as to prevent the utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.~~

A. An applicant may, in its application for a new permit, renewal of an existing permit, or as a significant permit revision, request an emissions cap for a particular pollutant expressed in tons per year as determined on a 12-month rolling average, or any shorter averaging time necessary to enforce any applicable requirement, for any emissions unit, combination of emissions units, or an entire source to allow operating flexibility including emissions trading for the purpose of complying with the cap. This Section shall not apply to sources that hold an authority to operate under a general permit pursuant to ~~Article 5 of this Chapter~~Section 17.13.080.

~~B. An emissions cap for a Class II or Class III source that limits the emissions of a particular pollutant for the entire source shall not exceed any of the following:~~

~~1. The applicable requirement for the pollutant if expressed in tons per year;~~

~~2. The source's actual emissions plus the applicable significance level for the pollutant established in 17.04.340 (210);~~

~~3. The applicable major source threshold for the pollutant; or~~

~~4. A sourcewide emission limitation for the pollutant voluntarily agreed to by the source under 17.12.190.~~

~~C.~~B. In order to incorporate an emissions cap in a permit the applicant must demonstrate to the ~~Control Officer~~control officer that terms and conditions in the permit will:

1. Ensure compliance with all applicable requirements for the pollutant;

2. Contain replicable procedures to ensure that the emissions cap is enforceable as a practical matter and emissions trading conducted under it is quantifiable and enforceable as a practical matter. For the purposes of this Section, "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 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 ~~17.12.180 (A)(3),(4), and (5)~~Sections 17.12.040(A)(3), (A)(4), and (A)(5).

3. For a Class I permit, include all terms required under ~~17.12.180 (A) and 17.12.210~~Section 17.12.040(A) and Section 17.11.180.

~~D.~~C. Class I sources shall log an increase or decrease in actual emissions authorized as a trade under an emissions cap unless an applicable requirement requires notice to the ~~Control Officer~~control officer. The log shall contain the information required by the permit including, at a minimum, when the proposed emissions increase or decrease occurred, a description of the physical change or change in method of operation that produced the increase or decrease, the change in emissions from the physical change or change in method of operation, and how the increase or decrease in emissions complies with the permit. ~~Class II and Class III sources shall comply with 17.12.240 (B)(5).~~

~~E.~~D. The ~~Control Officer~~control officer shall not include in an emissions cap or emissions trading allowed under a cap any emissions unit for which the emissions are not quantifiable or for which there are no replicable procedures or practical means to enforce emissions trades.

**~~17.12.20~~17.12.060 - ~~Existing source emission monitoring.~~ ~~Permit r~~Review by the EPA and affected states for Class I permits.**

~~A. Every source subject to an existing source performance standard as specified in this title shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this section for the applicable source category.~~

~~1. Applicability.~~

~~a. Fossil-fuel fired steam generators as specified in subsection (C)(1) of this section, shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.~~

~~b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection (C)(4) of this section, shall be monitored for opacity.~~

~~c. Sulfuric acid plants, as specified in subsection (C)(3) of this section, shall be monitored for sulfur dioxide emissions.~~

~~d. Nitric acid plants, as specified in subsection (C)(2) of this section, shall be monitored for nitrogen oxides emissions.~~

~~2. Emission monitoring shall not be required when the source of emissions is not operating.~~

~~3. Variations.~~

~~a. Unless otherwise prohibited by the Act, the control officer may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the control officer on a case-by-case basis and shall include as a minimum, annual manual stack tests for the pollutants identified for each type of source in this section. Extreme economic reasons shall mean that the requirements of this section would cause the source to be unable to continue in business.~~

~~b. Alternative monitoring requirements may be prescribed when installation of a continuous monitoring system or monitoring device specified by this section would not provide accurate determinations of emissions (e.g., condensed, uncombined water vapor may prevent an accurate determination of opacity using commercially available continuous monitoring systems).~~

~~c. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated (e.g., some affected facilities may operate less than one month per year).~~

~~4. Monitoring System Malfunction. A temporary exemption from the monitoring and reporting requirements of this section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and is being repaired expeditiously.~~

~~B. Installation and performance testing required under this section shall be completed and monitoring and recording shall commence within eighteen months of the effective date of this section.~~

~~C. Minimum Monitoring Requirements.~~

~~1. Fossil-fuel Fired Steam Generators. Each fossil-fuel fired steam generator, except as provided in the following paragraphs, with an annual average capacity factor of greater than thirty percent, as reported to the Federal Power Commission for calendar year 1976, or as otherwise demonstrated to the Department by the owner or operator, shall conform with the following monitoring requirements when such facility is subject to an emission standard for the pollutant in question.~~

~~a. A continuous monitoring system for the measurement of opacity which meets the performance specifications of this section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this section by the owner or operator of any such steam generator of greater than two hundred fifty million BTU per hour heat input except where:~~

~~i. Gaseous fuel is the only fuel burned; or~~

~~ii. Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity rules without utilization of particulate matter collection equipment, and where the source has never been found to be in violation through any administrative or judicial proceedings, or accepted responsibility for any violation of any visible emission standard.~~

~~b. A continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this section shall be installed, calibrated, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the control officer, maintained and operated on any fossil-fuel fired steam generator of greater than two hundred fifty million BTU per hour heat input which has installed sulfur dioxide pollutant control equipment.~~

~~c. A continuous monitoring system for the measurement of nitrogen oxides which meets the performance specification of this section shall be installed, calibrated, using nitric oxide calibration gas mixtures or other gas mixtures approved by the control officer, maintained and operated on fossil-fuel fired steam generators of greater than one thousand million BTU per hour heat input when such facility is located in an air quality control region where the control officer has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in Section 17.08.060, unless the source owner or operator demonstrates during source compliance tests as required by the department that such a source emits nitrogen oxides at levels thirty percent or more below the emission standard within this title.~~

~~d. A continuous monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this section shall be installed, calibrated, operated, and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this title.~~

2. Nitric Acid Plants. Each nitric acid plant of greater than three hundred tons per day production capacity, the production capacity being expressed as one hundred percent acid located in an air quality control region where the control officer has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in Chapter 17.08, Article I, shall install, calibrate, using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this section for each nitric acid producing facility within such plant.

3. Sulfuric Acid Plants. Each sulfuric acid plant as defined in Section 17.04.340, of greater than three hundred tons per day production capacity, the production being expressed as one hundred percent acid, shall install, calibrate, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the control officer, maintain and operate a continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this section for each sulfuric acid producing facility within such a plant.

4. Fluid Bed Catalytic Cracking Unit Catalyst Regenerators at Petroleum Refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than twenty thousand barrels per day fresh feed capacity shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of opacity which meets the performance specifications of this section for each regenerator within such refinery.

D. Minimum Specifications. Owners or operators of monitoring equipment installed to comply with this section shall demonstrate compliance with the following performance specifications:

1. The performance specifications set forth in Appendix B of 40 CFR 60 are incorporated herein by reference, and shall be used by the control officer to determine acceptability of monitoring equipment installed pursuant to this section. However where reference is made to the administrator in Appendix B of 40 CFR 60, the control officer may allow the use of either the state approved reference method or the federally approved reference method as published in 40 CFR 60. The performance specifications to be used with each type of monitoring system are listed below.

a. Continuous monitoring systems for measuring opacity shall comply with performance specification 1.

b. Continuous monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.

c. Continuous monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.

d. Continuous monitoring systems for measuring oxygen shall comply with performance specification 3.

e. Continuous monitoring systems for measuring carbon dioxide shall comply with performance specification 3.

2. Calibration Gases. Span and zero gases should be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A, Part 60, (Chapter 1, Title 40, CFR as amended. For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference Method 7; and for carbon dioxide or oxygen, use Reference Method 3). The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.

3. Cycling Time. Time includes the total time required to sample, analyze and record an emission measurement.

a. Continuous monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing for each successive six-minute period.

b. Continuous monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and date recording) for each successive fifteen-minute period.

4. Monitor Location. All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameter (i.e., oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous monitoring systems to obtain representative samples is contained in the applicable performance specifications of Appendix B of 40 CFR 60.

5. Combined Effluents. When the effluents from two or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one point, separate monitors shall be installed.

6. Zero and Drift. Owners or operators of all continuous monitoring systems installed in accordance with the requirements of this section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in subsection C of this section as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero span whenever the twenty-four-hour zero drift or twenty-four-hour calibration drift limits of the applicable performance specifications in Appendix B of Part 60, Chapter 1, Title 40 CFR are exceeded.

7. Span. Instrument span should be approximately 200 percent of the expected instrument data display output corresponding to the emission standard for the source.

E. Minimum Data Requirement. The following paragraphs set forth the minimum data reporting requirements for sources employing continuous monitoring equipment as specified in this section. These periodic reports do not relieve the source operator from the reporting requirements of section 17.12.040 and 17.12.180.

1. The owners or operators of facilities required to install continuous monitoring systems shall submit to the control officer a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.

2. For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of all six-minute opacity averages greater than any applicable standards for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. Any time periods exempted shall be deleted before determining any averages in excess of opacity standards.

3. For gaseous measurements the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.

4. The date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of system repair or adjustment shall be reported. The control officer may require proof of continuous monitoring system performance whenever system repairs or adjustments have been made.

5. When no excess emissions have occurred and the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.

6. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two years from the date of collection of such data or submission of such summaries.

F. Data Reduction. Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.

1. For fossil-fuel fired steam generators the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million BTU) where necessary.

a. When the owner or operator of a fossil-fuel fired steam generator elects under (C)(1)(d) of this section to measure oxygen in the flue gases, the measurements of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).

i. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise added to stack gases, the following conversion procedure shall be used:

$$E_Q = C_{WS} F_W \frac{20.9}{20.9(1 - B_{wa}) - \%\, O_{2ws}}$$

ii. When measurements are on a wet basis and the water vapor content of the stack gas is determined at least once every fifteen minutes the following conversion procedure shall be used:

$$E_Q = C_{WS} F \frac{20.9}{20.9(1 - B_{wa}) - \%\, O_{2ws}}$$

Note: Use of this equation is contingent upon demonstrating the ability to accurately determine B(ws) such that any absolute error in B(ws) will not cause an error of more than ±1.5 percent in the term.

$$\frac{20.9}{20.9(1 - B_{wa}) - \%\, O_{2ws}}$$

iii. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E_Q = CF \frac{20.9}{20.9 - \%\, O_{2ws}}$$

b. When the owner or operator elects under (C)(1)(d) of this section to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used:

$$E_Q = CF_C \frac{100}{\%\, CO_2}$$

c. The values used in the equations under (F)(1) of this section are derived as follows:

EQ = pollutant emission, g/million cal (lb/million BTU)

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16 × 10[-5] M g/dscm per ppm (2.64 × 10[-9] M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole), M = 64 for sulfur dioxide and 46 for oxides of nitrogen.

$C_{ws}$ = pollutant concentrations at stack conditions, g/wscm (lb/wscf), determined by multiplying the average concentration (ppm) for each one-hour period by 4.15 × 10[-5] M lb/wscm per ppm) (2.59 × 10[-5] M lb/wscf per ppm) where M = pollutant molecular weight, g/g mole (lb/lb mole). M = 64 for sulfur dioxide and 46 for nitrogen oxides.

~~$\%O_2$, $\%CO_2$ = oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under (D)(1)(d) of this section.~~

~~F, $F_c$ = a factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted ($F_c$), respectively. Values of F and $F_c$ are given in § 60.45(f) of Part 60, Chapter 1, Title 40 CFR.~~

~~$F_w$ = a factor representing a ratio of the volume of wet flue gases generated to the caloric value of the fuel combusted. Values of $F_w$ are given in Reference Method 19 of the Arizona Testing Manual and in Appendix A-7, Method 19 of 40 CFR 60.~~

~~$B_{WA}$ = proportion by volume of water vapor in the ambient air. Approval may be given for determination of $B_{WA}$ by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within ±0.7 percent water vapor. Estimation methods for $B_{wa}$ are given in Reference Method 19 of the Arizona Testing Manual and in Appendix A-7, Method 19 of 40 CFR 60.~~

~~$B_{WS}$ = proportion by volume of water vapor in the stack gas.~~

~~2. For sulfuric acid plants as defined in Section 17.04.340, the owner or operator shall:~~

~~a. Establish a conversion factor three times daily according to the procedures of § 60.84(b) of Chapter 1, Title 40 CFR;~~

~~b. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton); and~~

~~c. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.~~

~~3. For nitric acid plants the owner or operator shall:~~

~~a. Establish a conversion factor acco to the procedures of § 60.73(b) of Chapter 1, Title 40 CFR;~~

~~b. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard;~~

~~c. Report the average nitrogen oxides emission for each averaging period in excess of applicable emission standard in the quarterly summary.~~

~~4. The control officer may allow data reporting or reduction procedures varying from those set forth in this section if the owner or operator of a source shows to the satisfaction of the control officer that his procedures are at least as accurate as those in this section. Such procedures may include but are not limited to the following:~~

~~a. Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period);~~

~~b. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.~~

A. Except as provided in Section ~~17.12.160(F)~~17.12.010(F) and as waived by the administrator, for each Class I permit, a copy of each of the following shall be provided to the administrator as follows:

1. The applicant shall provide a complete copy of the application including any attachments, compliance plans and other information required by Section ~~17.12.160(E)~~17.12.010(E) at the time of submittal of the application to the control officer.

2. The control officer shall provide the proposed final permit after public and affected state review.

3. The control officer shall provide the final permit at the time of issuance.

B. The control officer shall keep all records associated with all permits for a minimum of five years from issuance.

C. No permit for which an application is required to be submitted to the administrator under subsection A of this section shall be issued if the administrator properly objects to its issuance in writing within forty-five days of receipt of the proposed permit from the department and all necessary supporting information.

D. Review by Affected States.

1. For each Class I 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 ~~17.12.340~~17.12.190 except to the extent Section ~~17.12.255~~17.12.110 (Minor ~~Permit~~ Revisions for Class I permits) requires the timing of the notice to be different.

2. 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.

E. Any person who petitions the administrator pursuant to 40 CFR 70.8(d) shall notify the control officer by certified mail of such petition as soon as possible, but in no case more than ten days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. If the administrator objects to the permit as a result of a petition filed under this subsection, the control officer shall not issue the permit until the EPA's objection has been resolved, except that 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 forty-five-day administrative review period and prior to the administrator's objection.

F. If the control officer has issued a permit prior to receipt of the administrator's objection under subsection E of this section, and the administrator indicates that it should be revised, terminated, or revoked and reissued, the control officer shall respond consistent with Section ~~17.12.270~~17.12.130 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.

G. Prohibition on Default Issuance.

1. No Class I 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.

2. No permit or renewal shall be issued unless the control officer has acted on the application.

**~~17.12.365~~17.12.070 - ~~Quality assurance.~~Acid Rain.**

~~Facilities subject to permit requirements of this chapter shall submit a quality assurance plan to the control officer that meets the requirements of Section 17.12.045(D)(3) within twelve months of the effective date of this section. Facilities subject to the requirements of Section 17.12.060 shall submit a quality assurance plan as specified in the permit.~~

A. 40 CFR 72, 74, 75, and 76, and all accompanying appendices, adopted as of July 1, 2015, and no future editions or amendments are incorporated by reference as applicable requirements. These standards are on file with the department and shall be applied by the department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.

B. When used in 40 CFR 72, 74, 75, and 76 "Permitting Authority" means the Pima County department of environmental quality and "Administrator" means the administrator of the United States Environmental Protection Agency.

C. If the provisions or requirements of the regulations incorporated in this section conflict with any of the remaining portions of this title, the regulations incorporated in this section shall apply and take precedence.

**~~17.12.220~~17.12.080 - ~~Permit display or posting.~~Compliance plan-Certification for Class I permits.**

~~A. Any person who has been granted an individual or general permit by PDEQ or a general permit by ADEQ shall maintain a complete copy of the permit onsite. If it is not feasible to maintain a copy of the permit onsite, the permittee may request, in writing, to maintain a copy of the permit at an alternate location. Upon written approval by the Control Officer, the permittee must maintain a complete copy of the permit at the approved alternative location.~~

A. All Class I permits shall contain the following elements with respect to compliance:

1. The elements required by ~~17.12.180(A)(3), (4) and (5)~~Sections 17.12.040(A)(3), (A)(4), and (A)(5).

2. Requirements for certifications of compliance with terms and conditions contained in a Class I ~~or II~~ permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:

a. The frequency of submissions of compliance certifications, which shall not be less than annually.

b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices.

c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):

i. The identification of each term or condition of the permit that is the basis of the certification;

ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and other means shall include, at a minimum, the methods, and means required under ~~17.12.180 (A) (3)~~Section 17.12.040(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;

iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred; and

iv. Other facts the control officer may require to determine the compliance status of the source.

d. A requirement that permittees submit all compliance certifications to the control officer. Class I permittees shall also submit compliance certifications to the ~~Administrator~~administrator.

e. Additional requirements specified in Sections 114(a)(3) and 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions) or pursuant to Section ~~17.12.190~~17.11.190.

3. A requirement for any document required to be submitted by a permittee, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

4. Inspection and entry provisions that require that, upon presentation of proper credentials, the permittee shall allow the control officer to:

a. Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or records are required to be kept under the conditions of the permit;

b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;

c. Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;

d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and

e. Record any inspection by use of written, electronic, magnetic or photographic media.

5. A compliance plan that contains all the following:

a. A description of the compliance status of the source with respect to all applicable requirements;

b. A description as follows:

i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with requirements;

ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis; and

iii. For requirements for 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. A compliance schedule as follows:

i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;

ii. 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 provision, unless a more detailed schedule is expressly required by the applicable requirement;

iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. The 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. The schedule of compliance shall supplement, and shall not sanction noncompliance with, the applicable requirements on which it is based.

d. 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. The progress reports shall contain:

i. 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

ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measures adopted.

6. The compliance plan content requirements specified in subdivision (5) 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 (Acid Deposition Control) and incorporated under Section ~~17.12.365~~17.12.070 with regard to the schedule and each method the source will use to achieve compliance with the acid rain emissions limitations.

7. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.

**~~17.12.085 - Notice by building permit agencies.~~**

~~All agencies of the county that issue or grant building permits or approvals shall examine the plans and specifications submitted by an applicant for a permit or approval to determine if an air pollution permit will possibly be required under the provisions of this title. If it appears that an air pollution permit will be required, the agency or political subdivision shall give written notice to the applicant to contact the control officer and shall furnish a copy of that notice to the control officer.~~

**Article II. - ~~Individual SourcePermits~~Permit Revisions, Renewals and Transfers for Class I Permits**

**~~17.12.230~~17.12.090 - ~~Reserved.~~Facility changes allowed without permit revisions for Class I permits.**

A. A facility with a Class I permit may make changes without a permit revision if all of the following apply:

1. The changes are not modifications under any provision of Title I of the Act (Air Pollution Prevention and Control) or under A.R.S. § 49-401.01(24);

2. The changes do not exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;

3. The changes do not violate any applicable requirements or trigger any additional applicable requirements;

4. The changes satisfy all requirements for a minor permit revision under Section ~~17.12.255~~17.12.110; and

5. The changes do not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.

B. 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 the substitution meets all of the requirements of subsections (A), (D) and (E).

C. Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted facility, as established in the permit under Section ~~17.12.180(A)(12)~~17.12.040(A)(12), if an applicable implementation plan provides for the emissions trades without applying for a permit revision and based on the seven working days' notice prescribed in subsection (D) of this section. This provision is available if the permit does not provide for the emissions trading as a minor permit revision.

D. For each change under subsections (A) through (C), a written notice, by certified mail or hand delivery, shall be received by the control officer and the ~~Administrator~~administrator a minimum of seven (7) 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 (7) 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.

E. Each notification shall include:

1. When the proposed change will occur;

2. A description of the change;

3. Any change in emissions of regulated air pollutants;

4. The pollutants emitted subject to the emissions trade, if any;

5. 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;

6. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply; and

7. Any permit term or condition that is no longer applicable as a result of the change.

F. The permit shield described in Section ~~17.12.310~~17.11.080 shall not apply to any change made under subsections (A) through (C). 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.

G. Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another as provided under Section ~~17.12.180(A)(11)~~17.12.040(A)(11) shall not require any prior notice under this section.

H. Notwithstanding any other part of this section, 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 over the term of the permit, do not satisfy subsection (A).

I. The control officer shall make available to the public monthly summaries of all notices received under this section.

**~~17.12.245~~17.12.100 - ~~Permits for state delegated emission sources.~~Administrative permit amendments for Class I permits.**

~~A. If the Director of the Arizona Department of Environmental Quality delegates to the control officer jurisdiction over an emission source, all requirements and conditions for permits contained herein shall apply to the delegated source.~~

~~B. Additional requirements for delegated emission sources shall be as follows:~~

~~1. A permit may be issued by the control officer to operate portable equipment at more than one location in the county; and~~

~~2. Owners or operators holding permits for portable equipment shall notify the control officer of any change of operating location.~~

A. Except for provisions pursuant to Title IV of the Act (Acid Deposition Control), an administrative permit amendment is a permit revision that does any of the following:

1. Corrects typographical errors;

2. 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;

3. Requires more frequent monitoring or reporting by the permittee; and

4. Allows for a change in ownership or operational control of a source as approved under Section ~~17.12.290~~17.12.150 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.

B. 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 (Acid Deposition Control).

C. The ~~Control Officer~~control officer shall take no more than sixty days from receipt of a request for an administrative permit amendment to take final action on such request, and for Class I permits may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this section.

D. The control officer shall submit a copy of Class I permits revised under this section to the administrator.

E. Except for administrative permit amendments involving a transfer under Section ~~17.12.290~~17.12.150, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

**~~17.12.255~~17.12.110 - ~~Grant or denial of applications.~~Minor permit revisions for Class I permits.**

~~A. The control officer shall deny a permit or revision if the applicant does not show that every such source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of this title, Title 49, Chapter 3, Article 3, A.R.S., and the rules adopted by the director.~~

~~B. Prior to acting on an application for a permit, the control officer may require the applicant to provide and maintain such facilities as are necessary for sampling and 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 facilities.~~

~~C. In acting upon an application for a permit renewal, if the control officer finds that such source has been constructed not in accordance with any prior permit or revision issued pursuant to A.R.S. 49-480.01, he shall require the person to obtain a permit revision or deny the application for such permit. The control officer shall not accept any further application for a permit for such source so constructed until he finds that such source has been reconstructed in accordance with the prior permit or a revision, or a revision to the permit has been obtained.~~

~~D. After a decision on a permit or 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 the 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 reasons for the objections specified by the control officer as reasons for such denial.~~

~~E. 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.~~

A. Minor permit revision procedures may be used only for those changes at a Class I source that satisfy all of the following:

1. Do not violate any applicable requirement;
2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source specific determination of ambient impacts, or a visibility or increment analysis;
4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
   a. A federally enforceable emissions cap that the source would assume to avoid classification as a modification under any provision of Title I of the Act (Air Pollution Prevention and Control),
   b. An alternative emissions limit approved under regulations promulgated under the Section 112(i)(5) of the Act (Hazardous Air Pollutants);
5. Are not modifications under any provision of Title I of the Act (Air Pollution Prevention and Control);
6. Are not changes in fuels not represented in the permit application or provided for in the permit;
7. The increase in the source's potential to emit any regulated air pollutant is not significant as defined in Section 17.04.340; and
8. Are not required to be processed as a significant revision under Section ~~17.12.260~~17.12.120.

~~B. Minor permit provision procedures shall be used for the following changes at a Class II or Class III source:~~

~~1. A change that triggers a new applicable requirement if all of the following apply:~~
   ~~a. For emissions units not subject to an emissions cap, the net emissions increase is less than the significant level defined in 17.04.340;~~
   ~~b. A case-by-case determination of an emission limitation or other standard is not required; and~~
   ~~c. The change does not require the source to obtain a Class I permit;~~

~~2. Increasing operating hours or rates of production above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;~~

~~3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;~~

~~4. A change that results in emissions subject to monitoring, recordkeeping, or reporting under 17.12.180(A)(3),(4), or (5) and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;~~

~~5. A decrease in the emissions permitted under an emissions cap unless the decrease requires a change in the conditions required to enforce the cap or to ensure that emissions trades conducted under the cap are quantifiable and enforceable; and~~

~~6. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.~~

~~C.~~B. As approved by the control officer, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that the minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the administrator.

~~D.~~C. An application for minor permit revision shall be on the standard application form contained in Title 18, Chapter 2, Appendix 1 of the A.A.C. and include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
2. For Class I sources, and any source that is making the change immediately after it files the application, the source's suggested proposed permit;

3. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that the procedures be used;

~~E.~~D. EPA and Affected State Notification. For Class I permits, within five working days of 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 ~~17.12.200~~17.12.060.

~~F.~~E. The ~~Control Officer~~control officer shall follow the following timetable for action on an application for a minor permit revision:

1. For Class I permits, the control officer shall not issue a final permit revision until after the administrator's forty-five-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 the control officer may approve the permit revision before that time. Within ninety days of the control officer's receipt of an application under minor permit revision procedures, or fifteen days after the end of the administrator's forty-five-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 revision procedures in Section ~~17.12.260~~17.12.120; or

   d. Revise the proposed permit revision and transmit to the administrator the new proposed permit revision as required in Section ~~17.12.200~~17.12.060.

~~2. Within 60 days of the Control Officer's receipt of an application for a revision of a Class II or Class III permit under this section, 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 permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures pursuant to Section 17.12.260; or~~

   ~~d. Revise and issue the proposed permit revision.~~

~~G.~~F. The source may make the change proposed in its minor permit revision application immediately after it files the application. After the source makes the change allowed by the preceding sentence, and until the control officer takes any of the actions specified in subsection ~~(F)~~(E), 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 source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.

~~H.~~G. The permit shield under Section ~~17.12.310~~17.11.080 shall not extend to minor permit revisions.

~~I.~~H. Notwithstanding any other part of this section, the ~~Control Officer~~control officer may require a permit to be revised under Section ~~17.12.260~~17.12.120 for any change that, when considered together with any other changes submitted by the same source under this section ~~or 17.12.240~~ over the life of the permit, do not satisfy subsection (A) for Class I sources ~~or subsection (B) for Class II or Class III sources~~.

~~J.~~I. The ~~Control Officer~~control officer shall make available to the public monthly summaries of all applications for minor revisions.

**~~17.12.260~~17.12.120 - ~~Appeals of permit actions.~~Significant permit revisions for Class I permits.**

~~A. Within thirty days after the control officer gives notice of approval, denial or revocation of a permit, the applicant or any person who submitted comments pursuant to A.R.S. 49-480, may request an appeal as provided under A.R.S. 49-482. The decision after that hearing constitutes the final permit action from which judicial review may be taken pursuant to Chapter 17.28.~~

~~B. Any person who has an interest that is or may be adversely affected may commence a civil action in superior court against the control officer alleging that the control officer has failed to act in a timely manner consistent with the requirements of A.R.S. 49-480. No action may be commenced before sixty days after the plaintiff has given notice to the control officer of the plaintiff's intent to file. The court has jurisdiction to require the control officer to act without additional delay.~~

A. For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in ~~section 17.12.255 (A) (6) or (7)~~Section 17.12.110(A)(6) or (7) shall not be considered a significant permit revision under Part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or record keeping permit terms or conditions shall follow significant revision procedures.

~~B. A source with a Class II or Class III permit shall make the following changes only after the permit is revised following the public participation requirements of § 17.12.340:~~

~~1. Establishing or revising a voluntarily accepted emission limitation or standard as described by §§ 17.12.190 or 17.12.195, except a decrease in the limitation authorized by § 17.12.255;~~

~~2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;~~

~~3. A change to or addition of an emissions unit not subject to an emissions cap that will result in a net emission increase of a pollutant greater than the significance level in 17.04.340 (211);~~

~~4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:~~

~~a. 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 17.12.240(I)(1) and (I)(2) and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or~~

~~b. A change in an applicable requirement.~~

~~5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;~~

~~6. A change that will require any of the following:~~

~~a. A case-by-case determination of an emission limitation or other standard;~~

~~b. A source-specific determination of ambient impacts, or a visibility or increment analysis; or~~

~~c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.~~

~~7. A change that requires the source to obtain a Class I permit.~~

~~C.~~B. Any modifications to major sources 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 revision procedures and any rules adopted under A.R.S. §§ 49-426.03 and 49-480.03.

~~D.~~C. Significant permit revisions shall meet all requirements of this ~~article~~Chapter for applications, public participation, review by affected states, and review by the administrator that apply to permit issuance and renewal.

~~E. Notwithstanding § 17.12.160.E.1, when an existing source applies for a significant permit revision to revise its permit from a Class II or Class III permit to a Class I permit, it shall submit a Class I permit application for the entire source in accordance with § 17.12.160.B. The control officer shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in sections 17.12.200 and 17.12.340.~~

~~F.~~D. The ~~Control Officer~~control officer shall process the majority of significant permit revision applications received each calendar year within 9 months of receipt of a complete permit application but in no case longer than 18 months. Applications for which the ~~Control Officer~~control officer undertakes accelerated processing under ~~section 17.12.510~~Section 17.12.220 shall not be included in this requirement.

**~~17.12.270~~17.12.130 - ~~Assistance to small business. Permit r~~Reopenings ~~-~~, ~~R~~revocation ~~and~~, reissuance ~~-~~, or ~~T~~termination for Class I permits.**

~~The control officer shall appoint one or more representatives to provide small business stationary source technical and compliance assistance, consistent with the requirements of the Act and the State Implementation Plan. Assistance may include, but is not limited to, advice regarding the permit application process, emissions inventory requirements, and compliance and control technology standards.~~

A. Reopening for Cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

a. 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 eighteen 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 ~~17.12.280 (B)~~17.12.140(B). Any permit reopening required pursuant to this paragraph shall comply with provisions in Section ~~17.12.280~~17.12.140 for permit renewal and shall reset the five-year permit term.

b. 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 Class I permit.

c. The ~~Control Officer~~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.

d. The control officer or the administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.

2. 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 affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

3. Reopenings under subdivision (A)(1) of this section shall not be initiated before a notice of such intent is provided to the source by the control officer at least thirty 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.

4. When a permit is reopened and revised pursuant to this section, the control officer may make appropriate revisions to the permit shield established pursuant to Section ~~17.12.310~~17.11.080.

B. Within ten days of receipt of notice from the administrator that cause exists to reopen a Class I permit, the control officer shall notify the source. The source shall have thirty days to respond to the control officer. Within ninety days of receipt of notice from the administrator that cause exists to reopen a permit, or within any extension to the ninety days granted by EPA, the control officer shall forward to the administrator and the source a proposed determination of termination, revision, revocation or reissuance of the permit. Within ninety days of receipt of an EPA objection to the control officer's proposal, the control officer shall resolve the objection and act on the permit.

C. The ~~Control Officer~~control officer may issue a notice of termination of a permit issued pursuant to this title 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.

If the control officer issues a notice of termination under this section, 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. A notice of termination issued by the control officer shall become effective immediately upon the expiration of the time during which a request for a hearing may be made pursuant to A.R.S. § 49-511 unless the person or persons named in such notice shall have made a timely request for a hearing before the hearing board.

**~~Article II. - Individual Source Permits~~**

**~~17.12.280~~17.12.140 - ~~Applicability—Classes of permits.~~Permit renewal and expiration for Class I permits.**

~~A. Except as otherwise provided in this article, no person shall commence construction of, operate, or make a modification to any source subject to regulation under this article without first obtaining a permit or permit revision from the control officer. Permits issued pursuant to this section shall be issued for a period of five years.~~

~~B. There shall be three classes of permits as follows:~~

~~1. A Class I permit shall be required for a person to commence construction of or operate any of the following:~~

~~a. Any major source.~~

~~b. Solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Act (Solid Waste Combustion).~~

~~c. An affected source.~~

~~d. Any source in a source category designated by the administrator pursuant to 40 CFR 70.3 and adopted by the control officer by rule.~~

~~2. A Class II permit shall be required for a person to commence construction of or modify the following:~~

~~a. Any source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act (Standards of Performance for New Stationary Sources).~~

~~b. Any source, including an area source, subject to a standard or other requirement under Section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Act.~~

~~3. A Class III permit shall be required for a person to commence construction of or modify the following:~~

~~a. Any source that emits, or has the potential to emit, without controls, significant quantities of regulated air pollutants.~~

~~b. Stationary rotating machinery of greater than 325 brake horsepower.~~

~~c. Fuel-burning equipment which, at a location or property other than a one- or two-family residence, are fired at a sustained rate of more than one million BTUs per hour for more than an eight-hour period.~~

~~d. A person to begin actual construction of a source subject to Article IX of this Chapter.~~

~~e. A person to make a modification subject to Article IX of this Chapter to a source for which a permit has not been issued under this Article.~~

~~C. Notwithstanding subsections A and B of this section, 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:~~

~~1. Sources subject to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.~~

~~2. Sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR 61.145.~~

~~3. Agricultural equipment used in normal farm operations. "Agricultural equipment used in normal farm operations" does not include equipment that would be classified as a source that would require a permit under Title V of the Act (Permits), or would be subject to a standard under 40 CFR Parts 60 or 61.~~

~~D. No person may construct or reconstruct any major source of hazardous air pollutants, unless the control officer determines that maximum achievable control technology emission limitation (MACT) for new sources under Section 112 of the Act will be met. If MACT has not been established by the administrator, such determination shall be made on a case-by-case basis pursuant to 40 CFR 63.40 through 63.44, as incorporated by reference in 17.16.530(B). For purposes of this subsection, constructing and reconstructing a major source shall have the meanings described in 40 CFR 63.41.~~

A. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and administrator review, that would apply to that permit's initial issuance.

B. Except as provided in Section ~~17.12.150(A)~~17.11.050, permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. § 41-1064 has been submitted in accordance with Section ~~17.12.160~~17.12.010. Any testing that is required for renewal shall be completed before the proposed permit is issued by the control officer.

C. The control officer shall act on an application for a permit renewal within the same time frames as on an initial permit.

**~~17.12.290~~17.12.150 - ~~Transition from installation and operating permit program to unitary permit program. Permit~~Transfers for Class I permits.**

~~A.A.C. R18-2-303, as amended on November 15, 1993 (and no future amendments) and which is on file with the office of the secretary of state, is hereby adopted in its entirety and is incorporated herein by this reference, except that all references to the "director" shall be to the "control officer."~~

A. Except as provided in A.R.S. § 49-483 and subsection B of this section, a permit may be transferred to another person if:

1. The person who holds the permit gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

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 organization to receive the permit;

2. The new owner gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

a. 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;

b. A description of the equipment to be transferred;

c. A written agreement containing a specific date for transfer or permit responsibility, coverage, and liability between the current and new permittee;

d. Provisions for the payment of any fees pursuant to Chapter 17.12, ~~Article VI~~Article V that will be due and payable before the effective date of transfer;

e. Sufficient information about the source's technical and financial capabilities of operating the source to allow the ~~Control Officer~~control officer to make the decision in subsection B of this section including:

i. The qualifications of each person principally responsible for the operation of the source,

ii. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement,

iii. 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 facility 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 10K form required under A.R.S. ~~Section~~§ 49-109, or a statement that this information has been filed in compliance with A.R.S. ~~Section~~§ 49-109.

B. 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 this title or the provisions of the permit. Notice of 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. If the transfer is not denied within ten working days after receipt of the notice, it shall be deemed approved.

C. To appeal the transfer denial:

1. Both the transferor and transferee shall petition the hearing board in writing for a public hearing; and

2. The appeal process for a permit shall be followed.

D. The ~~Control Officer~~control officer shall make available to the public monthly summaries of all notices received under this section.

**Article III. - ~~General Permits for Individual Sources~~Emissions for Class I Sources**

**~~17.12.320~~17.12.160 - ~~Permit application processing procedures for Class I permits.~~Annual emissions inventory questionnaire for Class I permits.**

~~A. Unless otherwise noted, this section applies to each source requiring a Class I permit or permit revision.~~

~~B. Standard Application Form and Required Information. To apply for any permit in this Section, applicants shall complete the "Standard Permit Application Form" and supply all information required by the "Filing Instructions" as shown in Title 18, Chapter 2, Appendix 1 of the A.A.C.~~

~~C. A proposed emission limitation, control or other requirement that meets the requirements of Section 17.12.190.~~

~~D. Unless otherwise required by 17.12.150, a timely application is:~~

~~1. For purposes of permit renewal, a timely application is one that is submitted at least six months, but not greater than eighteen months, prior to the date of permit expiration.~~

~~2. For initial Phase II acid rain permits under Title IV of the Act and regulations incorporated pursuant to Section 17.12.365, one that is submitted to the Control Officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.~~

~~3. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to Section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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.~~

~~E. If 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.~~

~~F. A complete application is one that satisfies all of the following:~~

~~1. To be complete, an application shall provide all information required pursuant to subsection B of this section (standard application form section), except that applications for 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 subsection H. of this section (section on certification of truth, accuracy, and completeness).~~

~~2. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Chapter 17.16, Article VIII. If the applicant determines that the proposed new source is a major source as defined in Section 17.04.340, or the proposed permit revision constitutes a major modification as defined in Section 17.04.340, then the application shall comply with all applicable requirements of Chapter 17.16, Article VIII.~~

~~3. An application for a new permit or a permit revision shall contain an assessment of the applicability of the requirements established under Chapter 17.16 Article IX. If the applicant determines that the proposed new source permit or permit revision is subject to the requirements of Chapter 17.16 Article IX, the application shall comply with all applicable requirements of that Article.~~

~~4. Except for proposed new major sources or major modifications subject to the requirements of Chapter 17.16, Article VIII, an application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless within sixty days of receipt of the application, the Control Officer notifies the applicant by certified mail that the application is not complete.~~

~~5. If a source wishes to voluntarily enter into an emissions limitation, control or other requirement pursuant to Section 17.12.190, the 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.~~

~~6. 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 take final action on that application, the Control Officer may request such information in writing, delivered by certified mail and set a reasonable deadline for a response. Except for minor permit revisions as set forth in § 17.12.255, a source's ability to operate without a permit, as set forth in this article, 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. If the Control Officer notifies an applicant that the application is not complete under subdivision 4 of this subsection, the application may not be deemed automatically complete until an additional sixty days after the next submittal by the applicant. The Control Officer may, after one submittal by the applicant pursuant to this subdivision, reject an application that is determined to be still incomplete and shall notify the applicant of the decision by certified mail. After a rejection under this subdivision, the Control Officer may deny or revoke an existing permit, as applicable.~~

~~7. The completeness determination shall not apply to revisions processed through the minor permit revision process.~~

~~8. Activities which are insignificant shall be listed in the application. The application need not provide emissions data regarding insignificant activities. If the Control Officer determines that an activity listed as insignificant is not insignificant, the Control Officer shall notify the applicant in writing and specify additional information required.~~

~~9. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted facility 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.~~

~~10. The Control Officer is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-487.~~

~~G. A source applying for a Class I permit that has submitted information with an application under a claim of confidentiality pursuant to A.R.S. §§ 49-432 and 17.12.170 shall submit a copy of such information directly to the Administrator.~~

~~H. 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.~~

~~I. Certification of Truth, Accuracy, and Completeness. Any application form, report, or compliance certification submitted pursuant to this title shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this title shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.~~

~~J. Action on Application.~~

~~1. The Control Officer shall issue or deny each permit according to the provisions of A.R.S. § 49-481. 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.~~

~~2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:~~

~~a. The application received by the Control Officer for a permit, permit revision, or permit renewal shall be complete according to subsection F of this section.~~

~~b. Except for revisions qualifying as administrative or minor under §§ 17.12.245 and 17.12.255, all of the requirements for public notice and participation under § 17.12.340 shall have been met.~~

~~c. The Control Officer shall have complied with the requirements of § 17.12.200 for notifying and responding to affected states, and if applicable, other notification requirements of §§ 17.16.550D2 and 17.16.630C2.~~

~~d. The conditions of the permit shall require compliance with all applicable requirements.~~

~~e. For permits for which an application is required to be submitted to the administrator under § 17.12.200A and to which the Administrator has properly objected to its issuance in writing within forty-five days of receipt of the proposed final permit and all necessary supporting information from PDEQ, the Control Officer has revised and submitted a proposed final permit in response to the objection and EPA has not objected to this proposed final permit.~~

~~f. For permits to which the Administrator has objected to issuance pursuant to a petition filed under 40 CFR 70.8(d), the Administrator's objection has been resolved.~~

~~g. For a permit that contains voluntary emission limitations, controls, or other requirements established pursuant to § 17.12.190, the Control Officer shall have complied with the requirement of subsection C of § 17.12.190 to provide the Administrator with a copy of the proposed permit.~~

~~3. The control officer may issue a notice of termination of a permit issued pursuant to this chapter 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 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.~~

~~c. The terms and conditions of the permit have been or are being violated.~~

~~4. If the control officer issues a notice of denial or termination of a permit under this section, 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 a statement that the permit applicant or permittee is entitled to a hearing.~~

~~5. 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 any person who requests it, and for Class I permits, to the administrator.~~

~~6. Except as provided in 40 CFR 70.4(b)(11), Sections 17.12.150 and 17.16.550, regulations promulgated under Title IV or V of the Act (Acid Deposition Control or Permits), or the permitting of affected sources under the acid rain program pursuant to Section 17.12.365, the control officer shall take final action on each permit application (and request for revision or renewal) within eighteen months after receiving a complete application.~~

~~7. Priority shall be given by the control officer to taking action on applications for construction or modification submitted pursuant to Title I, Parts C and D of the Act (Prevention of Significant Deterioration and Nonattainment Areas).~~

~~8. A proposed permit decision shall be published within nine months of receipt of a complete application and any additional information requested pursuant to subdivision E6 of this section to process the application. The control officer shall provide notice of the decision as provided in Section 17.12.340 and any public hearing shall be scheduled as expeditiously as possible.~~

~~K. Requirement for a Permit. Except as noted under the provisions in §§ 17.12.230 and 17.12.255, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a properly issued permit. However, if an existing 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 this article 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.~~

A. Every source with a Class I permit shall complete and submit to the control officer an annual emissions inventory questionnaire. The questionnaire is due by March 31st, or ninety days after the control officer makes the inventory form available, whichever occurs later, and shall include emission information for the previous calendar year. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed. ~~Sources with a Class II or Class III permit shall complete an annual emission inventory questionnaire when requested by the control officer. The questionnaire is due ninety days after the control officer makes a written request and shall include emission information for the previous calendar year.~~

B. The questionnaire shall be on a form provided by or approved by the control officer and shall include the following information:

1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.

2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.

3. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation or estimation determined pursuant to subsection C of this section of the following regulated air pollutants:

a. Any single regulated air pollutant in a quantity greater than one ton or the amount listed for the pollutant in the definition of "significant" in Section 17.04.340, whichever is less.

b. Any combination of regulated air pollutants in a quantity greater than 2.5 tons.

C. Actual quantities of emissions shall be determined using the following emission facts or data:

1. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.

2. When sufficient data pursuant to subsection (C)(1) of this section is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to Section ~~17.12.050~~17.11.210 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.

3. When sufficient data pursuant to subsection (C)(1) or (C)(2) of this section is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC, ~~(and no future editions) which is incorporated by reference and is on file with the Department. AP-42 can be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, telephone (202) 783-3238~~ including Supplements A through F and all updates published through July 1, 2011 (and no future editions). AP-42 is incorporated by reference and is on file with the Department of Environmental Quality and can be obtained from the Government Printing Office, 732 North Capitol Street, NW, Washington, D.C. 20401, telephone (202) 512-1800, or by downloading the document from the web site for the EPA Clearinghouse for Emission Inventories and Emission Factors.

4. When sufficient data pursuant to subsections (C)(1) through (C)(3) of this section is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.

5. When sufficient data pursuant to subsections (C)(1) through (C)(4) of this section is not available, emissions estimates shall be calculated by equivalent methods approved by the control officer. The control officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in subsections (C)(1) through (C)(4) of this section.

D. Actual quantities of emissions calculated under subsection C of this section shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored or combusted.

E. An amendment to an annual emission inventory questionnaire, containing the documentation required by subsection (B)(3) of this section, shall be submitted to the control officer by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the control officer by a previous questionnaire. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the control officer shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was due to reasonable cause and not willful neglect.

F. The control officer may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S. ~~Section~~§ 49-476.01.

~~**17.12.165 - Permit application processing procedures for Class II and Class III permits.**~~

~~A. This section applies to each source requiring a Class II or Class III permit or permit revision.~~

~~B. Standard Application Form and Required Information. To apply for any permit in this Section, applicants shall complete the "Standard Permit Application Form" and supply all information required by the "Filing Instructions" developed by the Control Officer. At a minimum an application must include the following:~~

~~1. The applicable requirements to which the source may be subject.~~

~~2. A statement or evidence that the source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting, or without causing to be emitted, air contaminants in violation of the provisions of A.R.S. Title 49, Chapter 3, Article 3, and this Title.~~

~~3. The fees to which the source may be subject.~~

~~4. A proposed emission limitation, control or other requirement that meets the requirements of section 17.12.190.~~

~~C. Unless otherwise required by § 17.12.150, a timely application is:~~

~~1. For a source applying for a permit for the first time, one that is submitted within 12 months after the source become subject to the permit program.~~

~~2. For purposes of permit renewal, one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.~~

~~3. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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 new standard.~~

~~D. If 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.~~

~~E. A complete application is one that satisfies all of the following:~~

~~1. To be complete, an application shall provide all information required pursuant to subsection B, of this Section (standard application form section), except that applications for a 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 subsection H of this section (section on certification of truth, accuracy, and completeness).~~

~~2. An application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless within 60 days of receipt of the application, the Control Officer notifies the applicant by certified mail that the application is not complete.~~

~~3. An application for a new permit or a permit revision shall contain an assessment of the applicability of the requirements established under Chapter 17.16 Article IX. If the applicant determines that the proposed new source permit or permit revision is subject to the requirements of Chapter 17.16 Article IX, the application shall comply with all applicable requirements of that Article.~~

~~4. If a source wishes to voluntarily enter into an emission limitation, control or other requirement pursuant to section 17.12.190, the source shall describe that emissions limitation, control or other requirement in its application, along with the proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emission limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.~~

5. 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 take final action on that application, the Control Officer may request such information in writing, delivered by mail and set a reasonable deadline for a response. Except for minor permit revisions as set forth in § 17.12.255, a source's ability to operate without a permit, as set forth in this Article, 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. If the Control Officer notifies an applicant that the application is not complete under subdivision 4 of this subsection, the application may not be deemed automatically complete until an additional 60 days after the next submittal by the applicant. The Control Officer may, after/on submittal by the applicant pursuant to this subdivision, reject an application that is determined to be still incomplete and shall notify the applicant of the decision by certified mail. After a rejection under this subdivision, the Control Officer may deny or revoke an existing permit, as applicable.

6. The completeness determination shall not apply to revisions processed through the minor permit revision process.

7. If a permit applicant request terms and conditions allowing for the trading of emission increases and decreases in the permitted facility 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.

8. The Control Officer is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-487.

F. The Control Officer, either upon the Control Officer's own initiative or the request of a permit applicant, may waive a requirement that specific information or data be submitted in the application for a particular source if the Control Officer determines that the information or data would be unnecessary to determine the sources potential emissions, applicable requirements, or air pollution control equipment effectiveness.

G. 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 fact 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 files a complete application, but prior to release of a proposed permit.

H. Certification of Truth, Accuracy, and Completeness. Any application form or report submitted pursuant to this Title shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Title shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

I. Action on Application.

1. The Control Officer shall issue or deny each permit according to the provisions of A.R.S. § 49-481. 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.

2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:

a. The application received by the control Officer for a permit, permit revision, or permit renewal shall be complete according to subsection E of this Section.

b. Except for revision qualifying as administrative or minor under §§ 17.12.245 and 17.12.255, all of the requirements for public notice shall require compliance with all applicable requirements.

c. The conditions of the permit shall require compliance with all applicable requirements.

d. For Class II or Class III permits that contain voluntary emission limitations, controls, or other requirements established pursuant to section 171.12.190, the Control Officer shall have complied with the requirement of subsection C of section 17.12.190 to provide the Administrator with a copy of the proposed permit.

3. The control officer may issue a notice of termination of a permit issued pursuant to this Section 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 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.

c. The terms and conditions of the permit have been or are being violated.

4. If the Control Officer issues a notice of denial or termination of a permit under this Section, 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 a statement that the permit applicant or permittee is entitled to a hearing.

5. 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.

6. The Control Officer shall take final action on each permit application (and request for revision or renewal) within eighteen months after receiving a complete application.

7. A proposed permit decision shall be published within nine months of receipt of a complete application and any additional information requested pursuant to subdivision (E)(6) of this Section to process the application. The Control Officer shall provide notice of the decision as provided in § 17.12.340 and any public hearing shall be scheduled as expeditiously as possible.

J. Requirement for a Permit. Except as noted under the provision in §§ 17.12.240 and 17.12.255, no source may operate after the time that is required to submit a timely and complete application, except in compliance with a properly issued permit. However, if an existing 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 this Article 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.~~

**~~17.12.040~~17.12.170 - ~~Public records—Confidentiality.~~Excess Emissions ~~R~~reporting requirements for Class I permits.**

~~A. The Control Officer shall make all permits, including all elements required to be in the permit pursuant to §§ 17.12.180 or 17.12.185, available to the public. No permit shall be issued unless the information required by §§ 17.12.180 or 17.12.185 is present in the permit.~~

~~B. Any records, reports or information obtained from any person under this title, including records, reports or information obtained or prepared by the control officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:~~

~~1. A showing, satisfactory to the control officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person. A request for confidentiality shall:~~

~~a. Precisely identify the information in the documents submitted 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, is likely to cause substantial harm to the person's competitive position.~~

~~2. A determination by the county attorney that disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this chapter in superior court.~~

~~C. Notwithstanding subsection B of this section, the following information shall be available to the public:~~

~~1. The name and address of any permit applicant or permittee;~~

~~2. The chemical constituents, concentrations and amounts of any emission of any air contaminant;~~

~~3. The existence or level of a concentration of an air pollutant in the environment.~~

A. The owner or operator of any source shall report to the ~~Control Officer~~control officer any emissions in excess of the limits established by this Chapter or the applicable permit. The report shall be in 2 parts as specified below:

1. Notification by telephone or facsimile within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).

2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (1).

B. The excess emissions report shall contain the following information:

1. The identity of each stack or other emission point where the excess emissions occurred;

2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

3. The time and duration or expected duration of the excess emissions;

4. The identity of the equipment from which the excess emissions emanated;

5. The nature and cause of the emissions;

6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;

7. The steps that were or are being taken to limit the excess emissions; and

8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.

C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).

**~~17.12.035~~17.12.180 - ~~Permit contents for Class I permits.~~Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.**

~~A. Each permit issued shall include the following elements:~~

~~1. The date of issuance and the permit term.~~

~~2. Enforceable emission limitations and standards, including operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance and those that have been voluntarily accepted under Section 17.12.190.~~

~~a. 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.~~

~~b. The permit shall state that, if an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act (Acid Deposition Control), both provisions shall be incorporated into the permit and shall be enforceable by the administrator.~~

c. Any permit containing an equivalency demonstration for an alternative emission limit submitted under Section 17.12.160D shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

d. 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 Section 17.04.340.

3. Each permit shall contain the following requirements with respect to monitoring:

a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:

i. Monitoring and analysis procedures or test methods under 40 CFR 64;

ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and

iii. Monitoring and analysis procedures or test methods required under Section 17.12.220.

b. 40 CFR 64 adopted July 1, 2015 and no future editions or amendments, is incorporated by reference as applicable requirements and on file with the department and shall be applied by the department. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;

c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental 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 subsection (A)(4). 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 17.12.220. Recordkeeping provisions may be sufficient to meet the requirements of this subsection; and

d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.

4. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established pursuant to Section 17.12.220, where applicable, for the following:

a. Records of required monitoring information that include the following:

i. The date, place as defined in the permit, and time of sampling or measurements;

ii. The date(s) analyses were performed;

iii. The name of the company or entity that performed the analyses;

iv. A description of the analytical techniques or methods used;

v. The results of such analyses; and

vi. The operating conditions as existing at the time of sampling or measurement.

b. 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.

5. The permit shall incorporate all applicable reporting requirements, including reporting requirements established under Section 17.12.040 and Section 17.12.190, and require the following:

a. 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 Sections 17.12.160H and 17.12.220.A.5.1

b. 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. Notice in accordance with subsection E3d of this section shall be considered prompt for purposes of this paragraph.

6. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act (Acid Deposition Control) or the regulations promulgated thereunder.

a. A permit revision is not required for increases in emissions that are authorized by allowances acquired under the acid rain program, if the increases do not require a permit revision under any other applicable requirement.

b. A limit shall not be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

c. Any allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act (Acid Deposition Control).

d. Any permit issued under the requirements of this Chapter and Title V of the Act (Permits) to a unit subject to the provisions of Title IV of the Act (Acid Deposition Control) shall include conditions prohibiting all of the following:

i. 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.

ii. Exceedances of applicable emission rates.

iii. Use of any allowance prior to the year for which it was allocated.

iv. Contravention of any other provision of the permit.

7. 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.

8. Provisions stating the following:

a. The permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes A.R.S. Title 49, Chapter 3, and Pima County air quality rules. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.

b. 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 this permit.

c. 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 noncompliance does not stay any permit condition.

d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder.

e. 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, 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.

f. For any major source operating in a nonattainment area for all pollutants for which the source is classified as a major source, the source shall comply with reasonably available control technology.

9. A provision to ensure that the source pays fees to the control officer pursuant to A.R.S. 49-426(E) and Article VI of this chapter.

10. 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.

11. 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:

a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

b. Extend the permit shield described in Section 17.12.310 to all terms and conditions under each such operating scenario; and

c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this title.

12. 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 facility, 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:

a. Shall include all terms required under subsections A and C of this section to determine compliance;

b. May extend the permit shield described in subsection D of this section to all terms and conditions that allow such increases and decreases in emissions;

c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emission trades; and

d. Shall meet all applicable requirements and requirements of this title.

13. 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 state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.

14. Upon request of a permit applicant, the control officer shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap 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 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 paragraph 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 provide for Class I Sources, for notice that conforms to Section 17.12.230(D) and (E) and for Class II sources, for logging that conforms to Section 17.12.240(B)(5). In addition, the notices for Class I and Class II sources shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.

15. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1, 2 and 3 and the rules adopted in Title 17.

B. Federally Enforceable Requirements.

~~1. The following permit conditions shall be enforceable by the administrator and citizens under the Act:~~

~~a. Except as provided in paragraph (B)(2) of this subsection, all terms and conditions in a Class I permit, including any provision designed to limit a source's potential to emit;~~

~~b. Terms or conditions in a Class II permit setting forth federal applicable requirements; and~~

~~c. Terms and conditions in any permit entered into voluntarily pursuant to Section 17.12.190, as follows:~~

~~i. Emissions limitations, controls or other requirements; and~~

~~ii. Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in subdivision (i) of this subparagraph.~~

~~2. Notwithstanding subsection (B)(1)(a), the control officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Class I permit that are not required under the Act or under any of its applicable requirements.~~

~~C. Each permit shall contain a compliance plan that meets the requirements of Section 17.12.220.~~

~~D. Each permit shall include the applicable permit shield provisions set forth in Section 17.12.310.~~

~~E. Emergency Provision.~~

~~1. An "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that require immediate corrective action to restore normal operation and that causes the sources to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emission attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.~~

~~2. An emergency constitutes an affirmative defense to an action brought for noncompliance with the technology-based emission limitations if the conditions of subsection (E)(3) are met.~~

~~3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~

~~a. An emergency occurred and that the permittee can identify the cause or causes of the emergency;~~

~~b. At the time of the emergency, the permitted facility was being properly operated;~~

~~c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and~~

~~d. The permittee submitted notice of the emergency to the control officer by certified mail or hand delivery within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.~~

~~4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~

~~5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.~~

~~F. A Class I permit issued to a major source shall require that revisions be made under Section 17.12.270 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 reopening shall be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than eighteen months after the promulgation of such standards and regulations. Any permit revision required pursuant to this subsection shall comply with provisions in Section 17.12.280 for permit renewal and shall reset the five-year permit term.~~

A. Applicability

This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:

1. Promulgated pursuant to Sections 111 or 112 of the Act,

2. Promulgated pursuant to Titles IV or VI of the Clean Air Act,

3. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A.~~,~~ or,

~~4. Contained in section 17.12.280 (F), or~~

~~5.~~4. Included in a permit to meet the requirements of ~~section 17.12.590 (A)(5)~~Section 17.16.590(A)(5).

B. Affirmative Defense for Malfunctions

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of ~~section 17.12.040~~Section 17.12.170 and has demonstrated all of the following:

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;

2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to insure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;

4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in ~~Article 2 of this Chapter~~Article I of Chapter 17.08 that could be attributed to the emitting source;

8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;

9. All emissions monitoring systems were kept in operation if at all practicable; and

10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of ~~section 17.12.040~~Section 17.12.170 and has demonstrated all of the following:

a. The excess emissions could not have been prevented through careful and prudent planning and design;

b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;

c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article I of ~~this Chapter~~Chapter 17.08 that could be attributed to the emitting source;

g. All emissions monitoring systems were kept in operation if at all practicable; and

h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsection (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and Section ~~17.12.040~~17.12.170, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

**~~17.12.185 - Permit contents for Class II and Class III permits.~~**

~~A. Each permit issued shall include the following elements:~~

~~1. The date of issuance and the permit term.~~

~~2. Enforceable emission limitations and standards, including operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance and those that have been voluntarily accepted under section 17.12.190.~~

~~a. 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.~~

~~b. Any permit containing an equivalency demonstration for an alternative emission limit submitted under Section 17.12.165(D) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.~~

~~3. Each permit shall contain the following requirements with respect to monitoring:~~

~~a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:~~

~~i. Monitoring and analysis procedures or test methods under 40 CFR 64;~~

~~ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and~~

~~iii. Monitoring and analysis procedures or test methods required under § 17.12.190.~~

~~b. 40 CFR 64 as codified July 1, 2004, is incorporated by reference and on file with the Control Officer. This incorporation by reference contains no future editions or amendments. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;~~

~~c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), monitoring that is commensurate with the size and rate of emission from each emission unit shall be established by the Control Officer. Recordkeeping provisions that are sufficient to meet the requirements of this subsection; and~~

~~d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.~~

~~4. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established pursuant to section 17.12.190, where applicable, for the following:~~

~~a. Records of required monitoring information that includes the following:~~

~~i. The date, place as defined in the permit, and time of sampling or measurements;~~

~~ii. The date(s) analyses were performed;~~

~~iii. The name of the company or entity that performed the analyses;~~

~~iv. A description of the analytical techniques or methods used;~~

~~v. The results of such analyses; and~~

~~vi. The operating conditions as existing at the time of sampling or measurement.~~

~~b. Retention of records of all required monitoring data and support information for a period of at least 5 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.~~

~~5. The permit shall incorporate all applicable reporting requirements including reporting requirements established under section 17.12.040 and section 17.12.190.~~

~~6. 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.~~

~~7. Provisions stating the following:~~

~~a. The permittee shall comply with all conditions of the permit including all applicable requirements of A.R.S. Title 49, Chapter 3, and Pima County air quality rules. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.~~

~~b. 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 this permit.~~

~~c. 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 noncompliance does not stay any permit condition.~~

~~d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder.~~

~~e. 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, 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.~~

~~8. A provision to ensure that the source pays fees to the control officer pursuant to A.R.S. § 49-426(E) and Article VI of this chapter.~~

~~9. 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.~~

~~10. 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:~~

a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

b. Extend the permit shield described in 17.12.310 to all terms and conditions under each such operating scenario; and

c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this title.

11. 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 facility, 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:

a. Shall include all terms required under subsections A and C of this section to determine compliance;

b. May extend the permit shield described in subsection D of this section to all terms and conditions that allow such increases and decreases in emissions;

c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emission trades; and

d. Shall meet all applicable requirements and requirements of this title.

12. 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 state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.

13. Upon request of a permit applicant, the Control Officer shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap 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 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 paragraph 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 provide for logging that conforms to 17.12.240 (B) (5). In addition, the notices shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.

14. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1, 2 and 3 and the rules adopted in Title 17.

B. Federally Enforceable Requirements

1. The following permit conditions shall be enforceable by the Administrator and citizens under the Act:

a. Terms or conditions in a Class II or III permit setting forth federally applicable requirements; and

b. Terms and conditions in any permit entered into voluntarily pursuant to section 17.12.190, as follows:

i. Emissions limitations, controls or other requirements; and

ii. Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in subsection (B)(1)(c)(i).

2. Terms and conditions included in a permit that are federally enforceable under the Act or under any of its applicable requirements will be specifically designated as such.

C. Each permit shall contain a compliance plan that meets the requirements of 17.12.310.

D. Emergency provision.

1. An "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God that require immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

2. An emergency constitutes an affirmative defense to an action brought for noncompliance with the technology-based emission limitations if the conditions of subsection (D) (3) are met.

3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An emergency occurred and that the permittee can identify the cause or causes of the emergency;

b. At the time of the emergency, the permitted facility was being properly operated;

c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and

d. The permittee submitted notice of the emergency to the Control Officer by certified mail or hand delivery within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.

4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

~~5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.~~

~~E. A permit issued to a source shall require that revisions be made under 17.12.270 to incorporate additional applicable requirements that become applicable to a source with a permit with a remaining permit term of three or more years. No reopening shall be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than eighteen months after the promulgation of such standards and regulations. Any permit revision required pursuant to this subsection shall comply with provisions in 17.12.280 for permit renewal and shall reset the five year permit term.~~

**Article IV. - ~~Activity Permits~~Public Participation and Notification Requirements**

**~~17.12.340~~17.12.190 - ~~Permits containing synthetic emission limitations and standards.~~Public participation for Class I permits.**

~~A. A source may voluntarily propose in its application emission limitations, controls or other requirements that are permanent, quantifiable and otherwise enforceable as a practical matter that incorporate pollution prevention programs that provide source operational flexibility and achieve regulatory compliance. A new or existing source requesting a permit with conditions for operation flexibility under this subsection shall pay to the control officer all applicable fees pursuant to Section 17.12.520.~~

~~B. 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 Class I permit or to avoid one or more other federal applicable requirements. For the purposes of this section, "enforceable as a practical matter" means that specific means to assess compliance with a limit or trade provision are provided for in the permit in a manner that allows compliance with the limit or trade provision to be readily determined by an inspection of records and reports.~~

~~C. 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:~~

~~1. 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 the permit does not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to an applicable implementation plan, or that are otherwise federally enforceable.~~

~~2. All voluntarily accepted emissions limitations, controls or other requirements will be permanent, quantifiable and otherwise enforceable as a practical matter.~~

~~D. At the same time as notice of proposed issuance is first published pursuant to Section 17.12.340, the control officer shall send a copy of any Class II permit proposed to be issued pursuant to this section to the administrator for review during the comment period described in the notice pursuant to Section 17.12.340D.~~

~~E. The control officer shall send a copy of each final permit issued pursuant to this section to the administrator.~~

A. The ~~Control Officer~~control officer shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking the following actions:

1. A permit issuance or renewal of a permit.

2. A significant permit revision.

3. Revocation and reissuance or reopening of a permit.

4. Any conditional orders pursuant to Section 17.28.100.

~~5. Granting a variance from a general permit under Chapter 17.16 Article IX.~~

B. The ~~Control Officer~~control officer shall provide public notice of receipt of complete applications for permits to construct or make a major modification to major sources by publishing a notice in a newspaper of general circulation in the county where the source will be located.

C. The ~~Control Officer~~control officer shall provide notice required pursuant to subsection A of this section, or any other section of this title, as follows:

1. The control officer shall publish the notice once each week for two consecutive weeks for any Class I ~~or Class II~~ permit in two newspapers of general circulation in the county where the source is or will be located.

2. The ~~Control Officer~~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.

D. The notice required by subsection C shall include the following:

1. Identification of the affected facility;

2. Name and address of the permittee or applicant;

3. Name and address of the permitting authority processing the permit action;

4. The activity or activities involved in the permit action;

5. The emissions change involved in any permit revisions;

6. The air contaminants to be emitted;

7. If applicable, that a notice of confidentiality has been filed under Section ~~17.12.170~~17.11.070;

~~8. If applicable, that the source has submitted a risk management analysis under Section 17.16.685;~~

~~9.~~8. 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;

~~10.~~9. The name, address, and telephone number of a person from PDEQ from whom additional information may be obtained;

~~11.~~10. 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 PDEQ office, and the times at which they shall be available for public inspection.

E. 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 pursuant to the provisions of A.R.S. § 49-426. If a public hearing is requested, the control officer shall schedule the hearing and publish notice as described in A.R.S. § 49-444 and subsection D of this section. The control officer shall give notice of any public hearing at least 30 days in advance of the hearing.

F. At the time the control officer publishes the first notice according to subdivision (C)(1) of this section, the applicant shall post a notice containing the information required in subsection D of this section 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.

G. The ~~Control Officer~~control officer shall provide at least thirty days from the date of its first notice for an opportunity for public comment for every Class I ~~and Class II~~ permit. For a source required to obtain a permit pursuant to Section ~~17.12.140.B.3.a~~17.11.090(B)(3)(a)., the ~~Control Officer~~control officer shall provide at least 30 days from the date of its first notice for an opportunity for public comment. For sources required to obtain a permit pursuant to Section ~~17.12.140.B.3.b~~17.11.090(B)(3)(b) or Section ~~17.12.140.B.3.c.~~17.11.090(B)(3)(c), the ~~Control Officer~~control officer shall provide at least 5 days from the date of its first notice for an opportunity for public comment. The ~~Control Officer~~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, the record and copies of the ~~Control Officer's~~control officer's responses shall be made available to the applicant and all commenters.

~~**17.12.195 - Establishment of an emissions cap.**~~

~~A. An applicant may, in its application for a new permit, renewal of an existing permit, or as a significant permit revision, request an emissions cap for a particular pollutant expressed in tons per year as determined on a 12-month rolling average, or any shorter averaging time necessary to enforce any applicable requirement, for any emissions unit, combination of emissions units, or an entire source to allow operating flexibility including emissions trading for the purpose of complying with the cap. This Section shall not apply to sources that hold an authority to operate under a general permit pursuant to Article 5 of this Chapter.~~

~~B. An emissions cap for a Class II or Class III source that limits the emissions of a particular pollutant for the entire source shall not exceed any of the following:~~

~~1. The applicable requirement for the pollutant if expressed in tons per year;~~

~~2. The source's actual emissions plus the applicable significance level for the pollutant established in 17.04.340 (210);~~

~~3. The applicable major source threshold for the pollutant; or~~

~~4. A sourcewide emission limitation for the pollutant voluntarily agreed to by the source under 17.12.190.~~

~~C. In order to incorporate an emissions cap in a permit the applicant must demonstrate to the Control Officer that terms and conditions in the permit will:~~

~~1. Ensure compliance with all applicable requirements for the pollutant;~~

~~2. Contain replicable procedures to ensure that the emissions cap is enforceable as a practical matter and emissions trading conducted under it is quantifiable and enforceable as a practical matter. For the purposes of this Section, "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 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 17.12.180 (A)(3),(4), and (5).~~

~~3. For a Class I permit, include all terms required under 17.12.180 (A) and 17.12.210.~~

~~D. Class I sources shall log an increase or decrease in actual emissions authorized as a trade under an emissions cap unless an applicable requirement requires notice to the Control Officer. The log shall contain the information required by the permit including, at a minimum, when the proposed emissions increase or decrease occurred, a description of the physical change or change in method of operation that produced the increase or decrease, the change in emissions from the physical change or change in method of operation, and how the increase or decrease in emissions complies with the permit. Class II and Class III sources shall comply with 17.12.240 (B)(5).~~

~~E. The Control Officer shall not include in an emissions cap or emissions trading allowed under a cap any emissions unit for which the emissions are not quantifiable or for which there are no replicable procedures or practical means to enforce emissions trades.~~

**~~17.12.345~~17.12.200 - ~~Permit review by the EPA and affected states.~~Public notification for Class I permits.**

~~A. Except as provided in Section 17.12.160(F) and as waived by the administrator, for each Class I permit, a copy of each of the following shall be provided to the administrator as follows:~~

~~1. The applicant shall provide a complete copy of the application including any attachments, compliance plans and other information required by Section 17.12.160(E) at the time of submittal of the application to the control officer.~~

~~2. The control officer shall provide the proposed final permit after public and affected state review.~~

~~3. The control officer shall provide the final permit at the time of issuance.~~

~~B. The control officer shall keep all records associated with all permits for a minimum of five years from issuance.~~

~~C. No permit for which an application is required to be submitted to the administrator under subsection A of this section shall be issued if the administrator properly objects to its issuance in writing within forty-five days of receipt of the proposed permit from the department and all necessary supporting information.~~

~~D. Review by Affected States.~~

~~1. For each Class I 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 17.12.340 except to the extent Section 17.12.255 (Minor Permit Revisions) requires the timing of the notice to be different.~~

~~2. 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.~~

~~E. Any person who petitions the administrator pursuant to 40 CFR 70.8(d) shall notify the control officer by certified mail of such petition as soon as possible, but in no case more than ten days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. If the administrator objects to the permit as a result of a petition filed under this subsection, the control officer shall not issue the permit until the EPA's objection has been resolved, except that 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 forty-five-day administrative review period and prior to the administrator's objection.~~

~~F. If the control officer has issued a permit prior to receipt of the administrator's objection under subsection E of this section, and the administrator indicates that it should be revised, terminated, or revoked and reissued, the control officer shall respond consistent with Section 17.12.270 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.~~

~~G. Prohibition on Default Issuance.~~

~~1. No Class I 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.~~

~~2. No permit or renewal shall be issued unless the control officer has acted on the application.~~

The control officer shall utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

**Article V. - ~~Open Burning Permits~~Fees for Class I Permits**

**~~17.12.500~~17.12.210 - ~~Emission standards and limitations.~~General provisions.**

~~Wherever applicable requirements apply different standards or limitations to a source for the same item, all applicable requirements shall be included in the permit.~~

A. Permits issued pursuant to a program adopted under this title are subject to payment of a reasonable fee to be determined as outlined in this chapter.

B. Funds received for permits issued pursuant to this chapter shall be deposited in a special public health fund and shall be used by the control officer to defray the costs of implementing provisions of this title.

~~C. An applicant for an activity or open burning permit shall pay a fee calculated according to the schedules listed at the end of this chapter and any other provisions established in subsequent sections.~~

**~~17.12.510~~17.12.220 - ~~Compliance plan—Certification.~~Fees related to Class I permits.**

~~A. All Class I permits shall contain the following elements with respect to compliance:~~

~~1. The elements required by 17.12.180(A)(3), (4) and (5).~~

~~2. Requirements for certifications of compliance with terms and conditions contained in a Class I or II permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:~~

~~a. The frequency of submissions of compliance certifications, which shall not be less than annually.~~

~~b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices.~~

c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):

i. The identification of each term or condition of the permit that is the basis of the certification;

ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and other means shall include, at a minimum, the methods, and means required under 17.12.180 (A) (3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;

iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred; and

iv. Other facts the control officer may require to determine the compliance status of the source.

d. A requirement that permittees submit all compliance certifications to the control officer. Class I permittees shall also submit compliance certifications to the Administrator.

e. Additional requirements specified in Sections 114(a)(3) and 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions) or pursuant to Section 17.12.190.

3. A requirement for any document required to be submitted by a permittee, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

4. Inspection and entry provisions that require that, upon presentation of proper credentials, the permittee shall allow the control officer to:

a. Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or records are required to be kept under the conditions of the permit;

b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;

c. Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;

d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and

e. Record any inspection by use of written, electronic, magnetic or photographic media.

5. A compliance plan that contains all the following:

a. A description of the compliance status of the source with respect to all applicable requirements;

b. A description as follows:

i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with requirements;

ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis; and

iii. For requirements for 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. A compliance schedule as follows:

i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;

ii. 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 provision, unless a more detailed schedule is expressly required by the applicable requirement;

iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. The 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. The schedule of compliance shall supplement, and shall not sanction noncompliance with, the applicable requirements on which it is based.

d. 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. The progress reports shall contain:

~~i. 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~~

~~ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measures adopted.~~

~~6. The compliance plan content requirements specified in subdivision (5) 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 (Acid Deposition Control) and incorporated under Section 17.12.365 with regard to the schedule and each method the source will use to achieve compliance with the acid rain emissions limitations.~~

~~7. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.~~

A. Source Category. The owner or operator of a source required to have an air quality permit from the control officer shall pay the fees described in this Section unless authorized to operate under a general permit issued under ~~Article III~~Section 17.12.010(L). The fees are based on a source being classified in the following category: Class I sources are those required or that elect to have a permit under Section ~~17.12.140(B)(1)~~17.11.090(B)(1).

B. Fees for Permit Actions. ~~The~~Except as otherwise provided in this subsection the owner or operator of a Class I source shall pay to the control officer $105.80 per hour, adjusted annually under subsection (F), for all permit processing time required for a billable permit action. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final itemized bill. The minimum fee for any billable permit action is one hour of the current hourly rate. Except as provided in subsection (E), the control officer shall not issue a permit or permit revision until the final bill is paid in full. The owner or operator of a Class I source that applies for authority to operate under a general permit shall pay to the control officer $540 with the submittal of each application. This fee applies to the owner or operator of any source that intends to continue operating under the authority of a general permit that has been proposed for renewal.

C. The owner or operator of a Class I source that has undergone initial startup by January 1 shall annually pay to the control officer an administrative fee plus an emissions-based fee as follows:

1. The applicable administrative fee from the table below, as adjusted annually under subsection (F). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (D), whichever, is later.

| Class I Source Category | Administrative Fee |
|---|---|
| Aerospace | $15,570 |
| Cement Plants | $47,680 |
| Combustion/Boilers | $11,590 |
| Compressor Stations | $9,530 |
| Electronics | $15,340 |
| Expandable Foam | $10,990 |
| Foundries | $14,610 |
| Landfills | $11,940 |
| Lime Plants | $44,660 |
| Copper and Nickel Mines | $11,220 |
| Gold Mines | $11,220 |
| Mobile Home Manufacturing | $11,110 |
| Paper Mills | $15,330 |
| Paper Coaters | $11,590 |
| Petroleum Products Terminal Facilities | $17,020 |
| Polymeric Fabric Coaters | $15,330 |
| Reinforced Plastics | $11,590 |

| | |
|---|---|
| Semiconductor Fabrication | $20,170 |
| Copper Smelters | $47,680 |
| Utilities—Natural Gas | $12,310 |
| Utilities—Fossil Fuel Except Natural Gas | $24,380 |
| Vitamin/Pharmaceutical Manufacturing | $11,830 |
| Wood Furniture | $11,590 |
| Others | $11,940 |
| Others with Continuous Emissions Monitoring | $15,340 |

2. An emissions-based fee of $14.18 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (d) and due by February 1 or 60 days after the control officer mails the invoice under subsection (D), whichever is later.

   a. For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under Section ~~17.12.320~~17.12.160.

   b. For purposes of this Section, regulated pollutants consist of the following:

      i. Nitrogen oxides and any volatile organic compounds;

      ii. Conventional air pollutants, except carbon monoxide and ozone;

      iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and

      iv. Any federally listed hazardous air pollutant.

   c. For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:

      i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;

      ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM~~10~~$_{10}$;

      iii. Emissions from insignificant activities listed in the permit application for the source under Section ~~17.12.160~~17.12.010(F)(8);

      iv. Fugitive emissions of PM~~10~~$_{10}$ from activities other than crushing, belt transfers, screening, or stacking; and

      v. Fugitive emissions of VOC from solution-extraction units.

   d. The control officer shall adjust the rate for emission-based fees every November 1, beginning on November 1, 2008, by multiplying $14.18 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

D. The control officer shall mail the owner or operator of each source an invoice for all fees due under subsections (C) by December 1.

E. Any person who receives a final itemized bill from the control officer under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:

1. The request shall be made in writing, and received by the control officer within 30 days of the date of the final bill. Unless the control officer and person agree otherwise, the informal review shall take place within 30 days after the control officer's receipt of the request. The control officer shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The control officer shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The control officer shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The control officer's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests in writing a hearing pursuant to A.R.S. § 49-482.

3. If the final itemized bill is paid under protest, the control officer shall take final action on the permit or permit revision.

F. The control officer shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, beginning on November 1, 2008, by multiplying $105.80 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The control officer shall adjust the administrative fees listed in subsection (C) every November 1, to the nearest $10, beginning on November 1, 2008, by multiplying the administrative fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the

Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

G. An applicant for a Class I permit or permit revision may request that the control officer provide accelerated processing of the application by providing the control officer written notice 60 days before filing the application. The request shall be accompanied by an initial fee of $15,000. The fee is non-refundable to the extent of the control officer's costs for accelerating the processing if the control officer undertakes the accelerated processing described below:

1. If an applicant requests accelerated permit processing, the control officer may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:

a. For applications for initial Class I permits under Section ~~17.12.140~~17.12.010 or significant permit revisions under Section ~~17.12.260~~17.12.120, the control officer shall issue or deny the proposed permit or permit revision within 120 days after the control officer determines that the application is complete.

b. For minor permit revisions under Section ~~17.12.255~~17.12.110, the control officer shall issue or deny the permit revision within 60 days after receiving a complete application.

2. At any time after an applicant requests accelerated permit processing, the control officer may require additional advance payments based on the most recent estimate of additional costs.

3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final bill. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the control officer in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the control officer shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of Section ~~17.12.340~~17.12.190, or EPA and affected state review as required under Section ~~17.12.200~~17.12.060 or Section ~~17.12.255~~17.12.110.

H. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the administrative fee required under subsection (C). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the control officer by November 1 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.

I. Transition.

1. Subsections (A) through (H) of this Section are effective December 20, 2007. The first administrative fees are due on February 1, 2008.

2. All fees incurred after December 20, 2007, are payable in accordance with the rates contained in this Section.

a. Emission-based fees for calendar year 2006 shall be billed at $14.18 per ton and be due on February 1, 2008.

b. Permit processing fees incurred after December 20, 2007 for any new permit, permit revision, transfer, or renewal shall be billed in accordance with the rates in this Section.

c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the control officer.

~~**17.12.230 - Facility changes allowed without permit revisions Class I.**~~

~~A. A facility with a Class I permit may make changes without a permit revision if all of the following apply:~~

~~1. The changes are not modifications under any provision of Title I of the Act (Air Pollution Prevention and Control) or under A.R.S. § 49-401.01(24);~~

~~2. The changes do not exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;~~

~~3. The changes do not violate any applicable requirements or trigger any additional applicable requirements;~~

~~4. The changes satisfy all requirements for a minor permit revision under Section 17.12.255; and~~

~~5. The changes do not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.~~

~~B. 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 the substitution meets all of the requirements of subsections (A), (D) and (E).~~

~~C. Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted facility, as established in the permit under Section 17.12.180(A)(12), if an applicable implementation plan provides for the emissions trades without applying for a permit revision and based on the seven working days' notice prescribed in subsection (D) of this section. This provision is available if the permit does not provide for the emissions trading as a minor permit revision.~~

~~D. For each change under subsections (A) through (C), a written notice, by certified mail or hand delivery, shall be received by the control officer and the Administrator a minimum of seven (7) 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 (7) 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.~~

~~E. Each notification shall include:~~

~~1. When the proposed change will occur;~~

~~2. A description of the change;~~

3. Any change in emissions of regulated air pollutants;

4. The pollutants emitted subject to the emissions trade, if any;

5. 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;

6. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply; and

7. Any permit term or condition that is no longer applicable as a result of the change.

F. The permit shield described in Section 17.12.310 shall not apply to any change made under subsections (A) through (C). 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.

G. Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another as provided under Section 17.12.180(A)(11) shall not require any prior notice under this section.

H. Notwithstanding any other part of this section, 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 over the term of the permit, do not satisfy subsection (A).

I. The control officer shall make available to the public monthly summaries of all notices received under this section.

**17.12.235 - Facility changes that require a permit revision Class II or Class III.**

A. The following changes at a source with a Class II or Class III permit shall require a permit revision:

1. A change that triggers a new applicable requirement, violates an existing applicable requirement, or is a modification under A.R.S. § 49-401.01(24).

2. Establishment of, or change in, an emissions cap;

3. A change that will require a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;

4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under 17.12.180 (A)(3), (4), or (5) if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;

5. 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;

6. A change that requires the source to obtain a Class I permit;

7. 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;

8. Establishment or revision of a limit under 17.12.190;

9. Increasing operating hours or rates of production above the permitted level; and

10. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:

a. 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 17.12.240.I.1 and I.2 and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

b. From a change in an applicable requirement.

B. A source with a Class II or Class III 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 subsection (A). A change that does not require a permit revision may still be subject to requirements in 17.12.245.

**17.12.240 - Procedures for certain changes that do not require a permit revision Class II or Class III.**

A. Except for a physical change or change in the method of operation at a Class II or Class III source requiring a permit revision under 17.12.235, or a change subject to logging or notice requirements in subsection (B) or (C), a change at a Class II or Class III source shall not be subject to revision, notice, or logging requirements under this Chapter.

B. Except as otherwise provided in the conditions applicable to an emissions cap created under 17.12.195, the following changes may be made if the source keeps onsite records of the changes according to subsection (I) below:

1. Implementing an alternative operating scenario, including raw material changes;

2. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;

3. Engaging in any new insignificant activity listed in 17.04.340(113)(a) through (i) but not listed in the permit;

4. 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

5. 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.

~~C. Except as provided in the conditions applicable to an emissions cap created under 17.12.195, the following changes may be made if the source provides written notice to the Department in advance of the change as provided below:~~

~~1. 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: seven days. The Control Officer may require verification of efficiency of the new equipment by performance tests;~~

~~2. 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 pollutant but does not require a permit revision: seven days;~~

~~3. 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;~~

~~4. A change that would trigger an applicable requirement that already exists in the permit: 30 days unless otherwise required by the applicable requirement;~~

~~5. A change that amounts to reconstruction of the source or an affected facility: seven days. For purposes of this subsection, reconstruction of a source or an affected facility shall be presumed if the fixed capital cost of the new components exceeds 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~~

~~6. 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.~~

~~D. For each change under subsection (C), 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. The written notice shall include:~~

~~1. When the proposed change will occur,~~

~~2. A description of the change,~~

~~3. Any change in emissions of regulated air pollutants, and~~

~~4. Any permit term or condition that is no longer applicable as a result of the change.~~

~~E. A source may implement any change in subsection (C) without the required notice by applying for a minor permit revision under 17.12.255 and complying with 17.12.255 (D)(2) and (G).~~

~~F. The permit shield described in 17.12.310 shall not apply to any change made under this Section, other than implementation of an alternate operating scenario under subsection (B)(1).~~

~~G. Notwithstanding any other part of this Section, 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 over the term of the permit, constitutes a change under 17.12.235(A).~~

~~H. If a source change is described under both subsections (B) and (C), the source shall comply with subsection (C). If a source change is described under both subsections (C) and 17.12.235(B), the source shall comply with 17.12.235(B).~~

~~I. A copy of all logs required under subsection (B) 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.~~

~~1. Each log entry required by a change under 17.12.240 (B) shall include at least the following information:~~

~~a. A description of the change, including:~~

~~i. A description of any process change.~~

~~ii. A description of any equipment change, including both old and new equipment descriptions, model numbers and serial numbers, or any other unique equipment number.~~

~~iii. A description of any process material change.~~

~~b. The date and time that the change occurred.~~

~~c. The provision of 17.12.240(B) that authorizes the change to be made with logging.~~

~~d. The date the entry was made and the first and last name of the person making the entry.~~

~~2. Logs shall be kept for five years from the date created. Logging shall be performed in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, approved by the Control Officer.~~

~~**17.12.245 - Administrative permit amendments.**~~

~~A. Except for provisions pursuant to Title IV of the Act (Acid Deposition Control), an administrative permit amendment is a permit revision that does any of the following:~~

~~1. Corrects typographical errors;~~

2. 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;

3. Requires more frequent monitoring or reporting by the permittee; and

4. Allows for a change in ownership or operational control of a source as approved under Section 17.12.290 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.

B. 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 (Acid Deposition Control).

C. The Control Officer shall take no more than sixty days from receipt of a request for an administrative permit amendment to take final action on such request, and for Class I permits may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this section.

D. The control officer shall submit a copy of Class I permits revised under this section to the administrator.

E. Except for administrative permit amendments involving a transfer under Section 17.12.290, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

**17.12.250 - Annual summary permit amendments for Class II or Class III permits.**

The Control Officer may amend any Class II or Class III permit annually without following § 17.12.270 in order to incorporate changes reflected in logs or notices filed under § 17.12.240. The amendment shall be effective to the anniversary date of the permit. The Control Officer shall make available to the public for any source:

1. A complete record of logs and notices sent to the Department under § 17.12.240; and

2. Any amendments or revisions to the source's permit.

**17.12.255 - Minor permit revisions.**

A. Minor permit revision procedures may be used only for those changes at a Class I source that satisfy all of the following:

1. Do not violate any applicable requirement;

2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;

4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:

a. A federally enforceable emissions cap that the source would assume to avoid classification as a modification under any provision of Title I of the Act (Air Pollution Prevention and Control),

b. An alternative emissions limit approved under regulations promulgated under the Section 112(i)(5) of the Act (Hazardous Air Pollutants);

5. Are not modifications under any provision of Title I of the Act (Air Pollution Prevention and Control);

6. Are not changes in fuels not represented in the permit application or provided for in the permit;

7. The increase in the source's potential to emit any regulated air pollutant is not significant as defined in Section 17.04.340; and

8. Are not required to be processed as a significant revision under Section 17.12.260.

B. Minor permit provision revision procedures shall be used for the following changes at a Class II or Class III source:

1. A change that triggers a new applicable requirement if all of the following apply:

a. For emissions units not subject to an emissions cap, the net emissions increase is less than the significant level defined in 17.04.340;

b. A case-by-case determination of an emission limitation or other standard is not required; and

c. The change does not require the source to obtain a Class I permit;

2. Increasing operating hours or rates of production above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;

3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;

4. A change that results in emissions subject to monitoring, recordkeeping, or reporting under 17.12.180(A)(3),(4), or (5) and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;

5. A decrease in the emissions permitted under an emissions cap unless the decrease requires a change in the conditions required to enforce the cap or to ensure that emissions trades conducted under the cap are quantifiable and enforceable; and

6. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.

~~C. As approved by the control officer, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that the minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the administrator.~~

~~D. An application for minor permit revision shall be on the standard application form contained in Title 18, Chapter 2, Appendix 1 of the A.A.C. and include the following:~~

~~1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;~~

~~2. For Class I sources, and any source that is making the change immediately after it files the application, the source's suggested proposed permit;~~

~~3. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that the procedures be used;~~

~~E. EPA and Affected State Notification. For Class I permits, within five working days of 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 17.12.200.~~

~~F. The Control Officer shall follow the following timetable for action on an application for a minor permit revision:~~

~~1. For Class I permits, the control officer shall not issue a final permit revision until after the administrator's forty-five-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 the control officer may approve the permit revision before that time. Within ninety days of the control officer's receipt of an application under minor permit revision procedures, or fifteen days after the end of the administrator's forty-five-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 revision procedures in Section 17.12.260; or~~

~~d. Revise the proposed permit revision and transmit to the administrator the new proposed permit revision as required in Section 17.12.200.~~

~~2. Within 60 days of the Control Officer's receipt of an application for a revision of a Class II or Class III permit under this section, 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 permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures pursuant to Section 17.12.260; or~~

~~d. Revise and issue the proposed permit revision.~~

~~G. The source may make the change proposed in its minor permit revision application immediately after it files the application. After the source makes the change allowed by the preceding sentence, and until the control officer takes any of the actions specified in subsection (F), 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 source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.~~

~~H. The permit shield under Section 17.12.310 shall not extend to minor permit revisions.~~

~~I. Notwithstanding any other part of this section, the Control Officer may require a permit to be revised under Section 17.12.260 for any change that, when considered together with any other changes submitted by the same source under this section or 17.12.240 over the life of the permit, do not satisfy subsection (A) for Class I sources or subsection (B) for Class II or Class III sources.~~

~~J. The Control Officer shall make available to the public monthly summaries of all applications for minor revisions.~~

~~**17.12.260 - Significant permit revisions.**~~

~~A. For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in section 17.12.255 (A) (6) or (7) shall not be considered a significant permit revision under Part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or record keeping permit terms or conditions shall follow significant revision procedures.~~

~~B. A source with a Class II or Class III permit shall make the following changes only after the permit is revised following the public participation requirements of § 17.12.340:~~

~~1. Establishing or revising a voluntarily accepted emission limitation or standard as described by §§ 17.12.190 or 17.12.195, except a decrease in the limitation authorized by § 17.12.255;~~

~~2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;~~

~~3. A change to or addition of an emissions unit not subject to an emissions cap that will result in a net emission increase of a pollutant greater than the significance level in 17.04.340 (211);~~

~~4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:~~

a. 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 17.12.240(I)(1) and (I)(2) and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

b. A change in an applicable requirement.

5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;

6. A change that will require any of the following:

a. A case-by-case determination of an emission limitation or other standard;

b. A source-specific determination of ambient impacts, or a visibility or increment analysis; or

c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.

7. A change that requires the source to obtain a Class I permit.

C. Any modifications to major sources 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 revision procedures and any rules adopted under A.R.S. 49-426.03 and 49-480.03.

D. Significant permit revisions shall meet all requirements of this article for applications, public participation, review by affected states, and review by the administrator that apply to permit issuance and renewal.

E. Notwithstanding § 17.12.160.E.1, when an existing source applies for a significant permit revision to revise its permit from a Class II or Class III permit to a Class I permit, it shall submit a Class I permit application for the entire source in accordance with § 17.12.160.B. The control officer shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in sections 17.12.200 and 17.12.340.

F. The Control Officer shall process the majority of significant permit revision applications received each calendar year within 9 months of receipt of a complete permit application but in no case longer than 18 months. Applications for which the Control Officer undertakes accelerated processing under section 17.12.510 shall not be included in this requirement.

**17.12.270 - Permit reopenings—Revocation and reissuance—Termination.**

A. Reopening for Cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

a. 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 eighteen 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 17.12.280 (B). Any permit reopening required pursuant to this paragraph shall comply with provisions in Section 17.12.280 for permit renewal and shall reset the five-year permit term.

b. 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 Class I permit.

c. 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.

d. The control officer or the administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.

2. 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 affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

3. Reopenings under subdivision (A)(1) of this section shall not be initiated before a notice of such intent is provided to the source by the control officer at least thirty 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.

4. When a permit is reopened and revised pursuant to this section, the control officer may make appropriate revisions to the permit shield established pursuant to Section 17.12.310.

B. Within ten days of receipt of notice from the administrator that cause exists to reopen a Class I permit, the control officer shall notify the source. The source shall have thirty days to respond to the control officer. Within ninety days of receipt of notice from the administrator that cause exists to reopen a permit, or within any extension to the ninety days granted by EPA, the control officer shall forward to the administrator and the source a proposed determination of termination, revision, revocation or reissuance of the permit. Within ninety days of receipt of an EPA objection to the control officer's proposal, the control officer shall resolve the objection and act on the permit.

C. The Control Officer may issue a notice of termination of a permit issued pursuant to this title 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.

If the control officer issues a notice of termination under this section, 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. A notice of termination issued by the control officer shall become effective immediately upon the expiration of the time during which a request for a hearing may be made pursuant to A.R.S. 49-511 unless the person or persons named in such notice shall have made a timely request for a hearing before the hearing board.

**17.12.275 - Voluntary termination of a permit.**

Except for a Class I permit, a permittee may voluntarily request that a permit issued under this Title be terminated.

A. The request for a permit termination shall be completed on a form provided by the Control Officer.

1. A responsible official shall certify the truth and accuracy of the submitted form.

2. The "Notice of Intent to Terminate the Permit" shall set forth the specific reason and timeline for the termination by the permittee.

3. The submittal of the "Notice of Intent to Terminate the Permit" by a facility does not halt the applicability of any permit condition or any applicable requirement of this Title.

B. The Control Officer may approve a "Notice of Intent to Terminate the Permit," if the source has paid all applicable fees, and is in compliance with all applicable requirements of this Title.

1. Termination of a permit does not relieve a source of any applicable fees.

2. The Control Officer will transmit the approval or denial of the "Notice of Intent to Terminate the Permit" by certified mail, with a return receipt requested.

C. Notices issued under this section may not be appealed under A.R.S. §§ 49-471.01 or 49.482.

**17.12.280 - Permit renewal and expiration.**

A. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and administrator review, that would apply to that permit's initial issuance.

B. Except as provided in Section 17.12.150(A), permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. 41-1064 has been submitted in accordance with Section 17.12.160. Any testing that is required for renewal shall be completed before the proposed permit is issued by the control officer.

C. The control officer shall act on an application for a permit renewal within the same time frames as on an initial permit.

**17.12.290 - Permit transfers.**

A. Except as provided in A.R.S. § 49-483 and subsection B of this section, a permit may be transferred to another person if:

1. The person who holds the permit gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

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 organization to receive the permit;

2. The new owner gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

a. 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;

b. A description of the equipment to be transferred;

c. A written agreement containing a specific date for transfer or permit responsibility, coverage, and liability between the current and new permittee;

d. Provisions for the payment of any fees pursuant to Chapter 17.12, Article VI that will be due and payable before the effective date of transfer;

e. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Control Officer to make the decision in subsection B of this section including:

i. The qualifications of each person principally responsible for the operation of the source,

ii. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement,

iii. 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 facility 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 10K form required under A.R.S. Section 49-109, or a statement that this information has been filed in compliance with A.R.S. Section 49-109.

~~B. 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 this title or the provisions of the permit. Notice of 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. If the transfer is not denied within ten working days after receipt of the notice, it shall be deemed approved.~~

~~C. To appeal the transfer denial:~~

~~1. Both the transferor and transferee shall petition the hearing board in writing for a public hearing; and~~

~~2. The appeal process for a permit shall be followed.~~

~~D. The Control Officer shall make available to the public monthly summaries of all notices received under this section.~~

~~**17.12.300 - Portable sources.**~~

~~A. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. 49-479 shall obtain a permit from that county. A portable source with a county permit, shall not operate in any other county.~~

~~B. Permits for portable sources shall include the following:~~

~~1. Conditions that will assure compliance with all applicable requirements at all authorized locations; and~~

~~2. Conditions that assure compliance with all other provisions of this title.~~

~~C. A portable source which has a county permit but proposes to operate outside the county shall obtain a permit from the director. Upon issuance of a permit by the director, the county shall terminate the county permit for that source. Before commencing operation in the new county, the source shall notify the director and the control officer who has jurisdiction over the geographic area that includes the new location according to subsection E of this section.~~

~~D. An owner of portable source equipment which requires a permit under this title shall obtain the permit prior to renting or leasing said equipment. 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 lessee or renter shall be responsible for the operation of this equipment in compliance with the permit conditions and any violations thereof.~~

~~E. A portable source may be transferred from one location to another provided that the owner or operator of such equipment provide notification according to the conditions specified in the permit. In no case will more than ten days notice be required.~~

~~**17.12.310 - Permit shield.**~~

~~A. Each permit issued under this chapter shall specifically identify all federal, state, and local air pollution control requirements that apply to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed in compliance with any applicable requirement identified in the permit as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Control Officer may include in a permit determination that other requirements specifically identified are not applicable. Any permit under this chapter that does not expressly state that a permit shield exists shall not provide such a shield.~~

~~B. Nothing in this section or in any permit shall alter or affect the following:~~

~~1. The provisions of Section 303 of the Act (emergency orders), including the authority of the administrator under that section;~~

~~2. 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;~~

~~3. The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act (Permits and Compliance Plans);~~

~~4. The ability of the administrator or the control officer to obtain information from a source pursuant to Section 114 of the Act (Inspections, Monitoring and Entry), or any provision of state law;~~

~~5. The authority of the control officer to require compliance with new applicable requirements adopted after the permit is issued.~~

~~C. In addition to the provisions of Section 17.12.270, a permit may 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.~~

~~**17.12.320 - Annual emissions inventory questionnaire.**~~

~~A. Every source with a Class I permit shall complete and submit to the control officer an annual emissions inventory questionnaire. The questionnaire is due by March 31st, or ninety days after the control officer makes the inventory form available, whichever occurs later, and shall include emission information for the previous calendar year. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed. Sources with a Class II or Class III permit shall complete an annual emission inventory questionnaire when requested by the control officer. The questionnaire is due ninety days after the control officer makes a written request and shall include emission information for the previous calendar year.~~

~~B. The questionnaire shall be on a form provided by or approved by the control officer and shall include the following information:~~

~~1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.~~

~~2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.~~

~~3. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation or estimation determined pursuant to subsection C of this section of the following regulated air pollutants:~~

~~a. Any single regulated air pollutant in a quantity greater than one ton or the amount listed for the pollutant in the definition of "significant" in Section 17.04.340, whichever is less.~~

~~b. Any combination of regulated air pollutants in a quantity greater than 2.5 tons.~~

~~C. Actual quantities of emissions shall be determined using the following emission facts or data:~~

~~1. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.~~

~~2. When sufficient data pursuant to subsection (C)(1) of this section is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to Section 17.12.050 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.~~

~~3. When sufficient data pursuant to subsection (C)(1) or (C)(2) of this section is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC (and no future editions) which is incorporated by reference and is on file with the Department. AP-42 can be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, telephone (202) 783-3238.~~

~~4. When sufficient data pursuant to subsections (C)(1) through (C)(3) of this section is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.~~

~~5. When sufficient data pursuant to subsections (C)(1) through (C)(4) of this section is not available, emissions estimates shall be calculated by equivalent methods approved by the control officer. The control officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in subsections (C)(1) through (C)(4) of this section.~~

~~D. Actual quantities of emissions calculated under subsection C of this section shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored or combusted.~~

~~E. An amendment to an annual emission inventory questionnaire, containing the documentation required by subsection (B)(3) of this section, shall be submitted to the control officer by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the control officer by a previous questionnaire. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the control officer shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was due to reasonable cause and not willful neglect.~~

~~F. The control officer may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S. Section 49-476.01.~~

~~**17.12.330 - Permits containing the terms and conditions of federal delayed compliance orders (DCO) or consent decrees.**~~

~~A. The terms and conditions of either a DCO or consent decree shall be incorporated into a permit through a permit revision. 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.~~

~~B. 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 article.~~

~~C. For the purpose of this chapter, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.~~

~~**17.12.340 - Public participation.**~~

~~A. The Control Officer shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking the following actions:~~

~~1. A permit issuance or renewal of a permit.~~

~~2. A significant permit revision.~~

~~3. Revocation and reissuance or reopening of a permit.~~

~~4. Any conditional orders pursuant to Section 17.28.100.~~

~~5. Granting a variance from a general permit under Chapter 17.16 Article IX.~~

~~B. The Control Officer shall provide public notice of receipt of complete applications for permits to construct or make a major modification to major sources by publishing a notice in a newspaper of general circulation in the county where the source will be located.~~

~~C. The Control Officer shall provide notice required pursuant to subsection A of this section, or any other section of this title, as follows:~~

~~1. The control officer shall publish the notice once each week for two consecutive weeks for any Class I or Class II permit in two newspapers of general circulation in the county where the source is or will be located.~~

~~2. 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.~~

~~D. The notice required by subsection C shall include the following:~~

~~1. Identification of the affected facility;~~

~~2. Name and address of the permittee or applicant;~~

~~3. Name and address of the permitting authority processing the permit action;~~

4. The activity or activities involved in the permit action;

5. The emissions change involved in any permit revisions;

6. The air contaminants to be emitted;

7. If applicable, that a notice of confidentiality has been filed under Section 17.12.170;

8. If applicable, that the source has submitted a risk management analysis under Section 17.16.685;

9. 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;

10. The name, address, and telephone number of a person from PDEQ from whom additional information may be obtained;

11.. 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 PDEQ office, and the times at which they shall be available for public inspection.

E. 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 pursuant to the provisions of A.R.S. 49-426. If a public hearing is requested, the control officer shall schedule the hearing and publish notice as described in A.R.S. 49-444 and subsection D of this section. The control officer shall give notice of any public hearing at least 30 days in advance of the hearing.

F. At the time the control officer publishes the first notice according to subdivision (C)(1) of this section, the applicant shall post a notice containing the information required in subsection D of this section 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.

G. The Control Officer shall provide at least thirty days from the date of its first notice for an opportunity for public comment for every Class I and Class II permit. For a source required to obtain a permit pursuant to Section 17.12.140.B.3.a., the Control Officer shall provide at least 30 days from the date of its first notice for an opportunity for public comment. For sources required to obtain a permit pursuant to Section 17.12.140.B.3.b or 17.12.140.B.3.c., the Control Officer shall provide at least 5 days from the date of its first notice for an opportunity for public comment. 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, the record and copies of the Control Officer's responses shall be made available to the applicant and all commenters.

**17.12.345 - Public notification.**

A.R.S. 49-104 (B)(3) (as amended in 1995) is hereby adopted in its entirety and is incorporated herein by this reference, except that all references to the "Director" shall be to the "Control Officer."

**17.12.350 - Material permit condition.**

A. For the purposes of A.R.S. 49-464(G) and 49-514(G), a "material permit condition" shall mean a condition that satisfies all of the following:

1. The condition is in a permit or permit revision issued by the director or the control officer after the effective date of this section;

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 under Chapter 17.16 Article IX,

c. b. A requirement for the installation or certification of a monitoring device,

d. c. A requirement for the installation of air pollution control equipment,

e. d. A requirement for the operation of air pollution control equipment,

f. e. An opacity standard required by Section 111 (Standards of Performance for New Stationary Sources) or Title I, part C or D (Air Pollution Prevention and Control) of the Act.

4. Violation of the condition is not covered by A.R.S. § 49-464 (A) through (F), or (H) through (J) or A.R.S. § 49-514 (A) through (F), or (H) through (J).

B. For the purposes of paragraphs (A)(3)(c), (d) and (e) of this section, a permit condition shall not be material where the failure to comply resulted from circumstances that were outside the control of the source. As used in this section, "circumstances outside the control of the source" shall mean circumstances where the violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a start up or shut down or resulted from upset of operations.

C. For purposes of this section, the term "emission standard" shall have the meaning specified in A.R.S. §§ 49-514 (T) and 49-464 (U).

**17.12.360 - Stack height limitation.**

A. 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:

~~1. Begun, or caused to begin, a continuous program of physical on-site construction of the stack;~~

~~2. 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~~

~~3. Coal fired steam electric generating units, subject to the provisions of Section 118 of the Act (Control of Pollution from Federal Facilities) which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.~~

~~B. GEP stack height is calculated as the greater of the following four numbers in subdivisions 1 through 4:~~

~~1. 213.25 feet (65 meters).~~

~~2. 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 CFR parts 51 and 52 and Section 17.16.560, Hg = 2.5H.~~

~~3. For all other stacks, Hg = H + 1.5L, where:~~

~~Hg = 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, state, or local control agency may require the use of a field study or fluid model to verify GEP stack height for the source; or~~

~~4. 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.~~

~~5. For a specific structure or terrain feature, "nearby" shall be:~~

~~a. For purposes of applying the formulae in subdivisions 2 and 3 of this subsection, 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);~~

~~b. For conducting demonstrations under subdivision 4 of this subsection, 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 ten 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 forty percent of the GEP stack height determined by the formula provided in subdivision 3, or eighty-five feet (twenty-six meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.~~

~~6. "Excessive concentrations" means, for the purpose of determining good engineering practice stack height under subdivision 4 of this subsection:~~

~~a. For sources seeking credit for stack height exceeding that established under subdivisions 2 and 3 of this subsection, 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 forty percent 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 chapter, 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 forty percent 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 Section 17.08.150. The allowable emission rate to be used in making demonstrations under subdivision 4 of this subsection shall be prescribed by the new source performance standard 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;~~

~~b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivisions 2 and 3 of this subsection, either.~~

~~i. A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in paragraph a of this subdivision, except that emission rate specified by any applicable SIP shall be used, or~~

~~ii. The actual presence of a local nuisance caused by the existing stack, as determined by the control officer; and~~

~~c. For sources seeking credit after January 12, 1979, for a stack height determined under subdivisions 2 and 3 of this subsection, where the control officer requires the use of a field study or fluid model to verify 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 subdivisions 2 and 3 of this subsection, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.~~

~~C. The degree of emission limitation required of any source after the respective date given in subsection A of this section 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.~~

~~D. 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 maximum allowable increases under Section 7.08.150 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 GEP stack height as determined herein and assuming the elevated terrain features to be equal in~~

~~elevation to the GEP stack height. If this adjusted 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.~~

~~E. Before the control officer issues a permit or permit revision under this article to a source based on a good engineering practice stack height that exceeds the height allowed by subsection B of this section, ADEQ shall notify the public of the availability of the demonstration study and provide opportunity for public hearing in accordance with the requirements of Section 17.12.340.~~

**~~17.12.365 - Acid rain.~~**

~~A. 40 CFR 72, 74, 75, and 76, and all accompanying appendices, adopted as of July 1, 2015, and no future editions or amendments are incorporated by reference as applicable requirements. These standards are on file with the department and shall be applied by the department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.~~

~~B. When used in 40 CFR 72, 74, 75, and 76 "Permitting Authority" means the Pima County department of environmental quality and "Administrator" means the administrator of the United States Environmental Protection Agency.~~

~~C. If the provisions or requirements of the regulations incorporated in this section conflict with any of the remaining portions of this title, the regulations incorporated in this section shall apply and take precedence.~~

**~~Article III. - General Permits for Individual Sources~~**

**~~17.12.370 - General permit enforcement.~~**

~~The control officer shall administer, inspect and enforce all standards and applicable requirements contained in general permits issued by the director to sources operating in the county.~~

**~~17.12.380 - Reserved.~~**

**~~17.12.390 - Application for coverage under general permit.~~**

~~A. Once the director 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 for general permits, or if none has been adopted, the standard application form contained in Title 18, Chapter 2, Appendix 1, of the A.A.C.~~

~~B. For sources required to obtain a permit under Title V of the Act (Permits), 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.~~

~~C. The Control Officer shall give notice of the general permit application pursuant to Section 17.12.340.~~

~~D. The control officer shall act on the application for coverage under the general permit as expeditiously as possible, but a final decision shall be reached within one hundred eighty days. The source may operate under the terms of its application 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 one hundred eighty days of receipt of notice. The control officer may defer acting on an application under this subsection if the control officer has provided notice of intent to renew or not renew the permit.~~

~~E. Sources operating under a general permit shall apply to the director for the permit revisions pursuant to A.A.C. Title 18, Chapter 2, Article 5.~~

**~~17.12.400 - Fees related to general permits.~~**

~~A. Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the control officer $540 with the submittal of each application. This fee applies to the owner or operator of any source that intends to continue operating under the authority of a general permit that has been proposed for renewal.~~

~~B. Annual Fee. The owner or operator of a source with authority to operate under a general permit shall pay to the control officer an annual fee from the table below, by February 1 or 60 days after the control officer mails the invoice, whichever is late.~~

| ~~General Permit Source Category~~ | ~~Annual Fee~~ |
|---|---|
| ~~Class II Area Sources~~ | ~~$540~~ |
| ~~Other Class II General Permits~~ | ~~$3,250~~ |
| ~~Class III Gasoline Service Stations~~ | ~~$540~~ |
| ~~Class III Crematories~~ | ~~$1,085~~ |
| ~~Other Class III General Permits~~ | ~~$1,085~~ |

**~~17.12.410 - Reserved.~~**

**~~17.12.420 - Reserved.~~**

**~~17.12.430 - Reserved.~~**

**~~17.12.440 - Reserved.~~**

**~~17.12.450 - Reserved.~~**

**~~17.12.460 - Reserved.~~**

**~~Article IV. - Activity Permits~~**

**~~17.12.465 - Definitions.~~**

~~In addition to the definitions contained in Section 17.04.340, words, phrases and terms used in this Article shall have the following meanings:~~

~~A. "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or intentional burning of any facility.~~

~~B. "Earthmoving" means the movement of earthen material which causes or has the potential to cause fugitive dust.~~

~~C. "Fugitive Dust" means the particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human, animal, and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind.~~

~~D. "Project" means the specific plan, design or phase of the plan for which the person obtains a permit.~~

~~E. "Regulated asbestos containing material" or "RACM" means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by 40 CFR 61, Subpart M.~~

~~F. "Renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.~~

~~G. "Trenching" means the construction of a narrow excavation, in relation to its length, made below the surface of the ground for purposes of facilitating the installation and repair of underground utilities.~~

**~~17.12.470 - Fugitive dust activity permits.~~**

~~A. No person shall conduct, cause or allow land stripping, earthmoving, blasting, trenching or road construction without first obtaining an activity permit from the Control Officer.~~

~~B. There shall be two types of activity permits as follows:~~

~~1. A single activity permit shall be obtained by persons conducting any one of the following activities:~~

~~a. Land stripping and/or earthmoving activities totaling more than one acre in size;~~

~~b. Trenching activities totaling more than 300 feet in length;~~

~~c. Road construction activities totaling more than 50 feet in length; and~~

~~d. Blasting activities.~~

~~2. A multiple activity permit may be obtained by persons conducting more than one dust producing activity to include, but not limited to, land stripping, earthmoving, trenching, blasting, and road construction at a single project site covering an acre or greater.~~

~~C. In the case of an emergency, action may be taken to stabilize the situation before obtaining an activity permit. Upon stabilizing the emergency situation, an activity permit shall be obtained.~~

~~D. Permittees shall notify the control officer within five working days of the start and completion of the project.~~

~~E. The following terms apply to the duration of the activity permit:~~

~~1. An activity permit is valid for one year from the date of issue.~~

~~2. Upon approval by the control officer, two permits covering the same scope of work or identical project may be obtained and will be valid for a period of two years from the date of issue.~~

~~3. Permit coverage shall not be transferred from the original permit holder.~~

~~4. Permits may be voluntarily terminated pursuant to Section 17.12.275.~~

~~F. The following exemptions will apply to this Section:~~

~~1. Class I, II, or III air quality permit holders pursuant to Section 17.12.140 whose permit authorizes the above described activities in subsection B.1.a thru d.~~

~~2. Trenching activities associated with the installation of irrigation lines for landscaping purposes that disturbs less than the first foot of topsoil.~~

~~3. Trenching activities located beneath a road for which a current fugitive dust activity permit for road construction has been issued.~~

**~~17.12.475 - NESHAP activity permits.~~**

~~A. No person shall allow or commence demolition or renovation of any NESHAP facility as defined in 40 CFR 61 Subpart M without first obtaining an activity permit from the control officer.~~

~~B. A NESHAP activity permit shall be obtained by persons conducting the following activities:~~

1. ~~Demolition of load supporting structural members.~~

2. ~~Renovation of more than 260 linear feet of RACM on pipes.~~

3. ~~Renovation of more than 160 square feet of RACM on other facility components.~~

4. ~~Renovation of more than 35 cubic feet of RACM off facility components.~~

~~**Article V. - Open Burning Permits**~~

~~**17.12.480 - Open burning permits.**~~

A. ~~In addition to the definitions contained in A.R.S. § 49-501, in this Section:~~

1. ~~"Agricultural burning" means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.~~

2. ~~"Air curtain destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.~~

3. ~~"Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.~~

4. ~~"Class I area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.~~

5. ~~"Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.~~

6. ~~"Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.~~

7. ~~"Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.~~

8. ~~"Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.~~

9. ~~"Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, demolition debris or prohibited materials.~~

10. ~~"Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.~~

11. ~~"Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.~~

12. ~~"Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning.~~

13. ~~"Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.~~

14. ~~"Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.~~

B. ~~Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.~~

C. ~~Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the control officer or a delegated authority:~~

1. ~~Fires used only for:~~

a. ~~Cooking of food,~~

b. ~~Providing warmth for human beings,~~

c. ~~Recreational purposes,~~

d. ~~Branding of animals,~~

e. ~~Orchard heaters for the purpose of frost protection in farming or nursery operations, and~~

f. ~~The proper disposal of flags under 4 U.S.C. 1, § 8.~~

~~2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:~~

~~a. Control of an active wildfire; or~~

~~b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).~~

~~3. Fire set by or permitted by the control officer of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.~~

~~4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions.~~

~~D. Open outdoor fires requiring a permit.~~

~~1. The following open outdoor fires are allowed with an open burning permit from the control officer or a delegated authority:~~

~~a. Construction burning;~~

~~b. Agricultural burning;~~

~~c. Residential burning;~~

~~d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under;~~

~~e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);~~

~~f. Open outdoor fires of dangerous material under subsection (E);~~

~~g. Open outdoor fires of household waste under subsection (F); and~~

~~h. Open outdoor fires that use an air curtain destructor, as defined in 17.12.480 (A)(2).~~

~~2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an PDEQ-approved application form.~~

~~3. Open outdoor fire permits issued under this Section shall include:~~

~~a. A list of the materials that the permittee may burn under the permit;~~

~~b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;~~

~~c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:~~

~~i. Year-round: ignite fire no earlier than one hour after sunrise; and~~

~~ii. Year-round: extinguish fire no later than two hours before sunset;~~

~~d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:~~

~~i. Prevent dispersion of smoke into populated areas;~~

~~ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;~~

~~iii. Do not create a public nuisance or adversely affect public safety;~~

~~iv. Do not cause an adverse impact to visibility in a Class I area; and~~

~~v. Do not cause uncontrollable spreading of the fire;~~

~~e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions;~~

~~f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:~~

~~i. The date of each burn;~~

~~ii. The type and quantity of fuel burned for each date open burning occurred;~~

~~iii. The fire type, such as pile or pit, for each date open burning occurred; and~~

~~iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;~~

~~g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;~~

~~h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;~~

~~i. A requirement that the permittee attend the fire at all times until it is completely extinguished;~~

~~j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;~~

~~k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;~~

~~l. A requirement that the permittee have a copy of the burn permit on-site during open burning;~~

~~m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;~~

~~n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared by ADEQ or PDEQ;~~

~~o. A statement that the control officer, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and~~

~~p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.~~

~~4. The control officer or a delegated authority shall not issue an open burning permit under this Section:~~

~~a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;~~

~~b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or~~

~~c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the control officer has not issued a variance under A.R.S. § 49-763.01.~~

~~E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the control officer has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The control officer shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.~~

~~F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the control officer or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:~~

~~1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or~~

~~2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.~~

~~G. The control officer shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.~~

~~H. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.~~

~~I. The term of any open burning permit shall be as specified by the control officer, subject to the following limitations:~~

~~1. The term of a temporary open burning permit shall not exceed three consecutive or nonconsecutive days within a thirty-day period; and~~

~~2. The term of an extended open burning permit shall expire as specified on the original application, and shall in no case exceed ninety days.~~

~~**Article VI. - Fees**~~

~~**17.12.500 - General provisions.**~~

~~A. Permits issued pursuant to a program adopted under this title are subject to payment of a reasonable fee to be determined as outlined in this chapter.~~

~~B. Funds received for permits issued pursuant to this chapter shall be deposited in a special public health fund and shall be used by the control officer to defray the costs of implementing provisions of this title.~~

~~C. An applicant for an activity or open burning permit shall pay a fee calculated according to the schedules listed at the end of this chapter and any other provisions established in subsequent sections.~~

~~**17.12.510 - Fees related to Class I permits.**~~

~~A. Source Category. The owner or operator of a source required to have an air quality permit from the control officer shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article III. The fees are based on a source being classified in the following category: C~~

~~lass I sources are those required or that elect to have a permit under Section 17.12.140(B)(1).~~

~~B. Fees for Permit Actions. The owner or operator of a Class I source shall pay to the control officer $105.80 per hour, adjusted annually under subsection (F), for all permit processing time required for a billable permit action. Upon completion of permit processing activities other than issuance or denial of the permit~~

~~or permit revision, the control officer shall send notice of the decision to the applicant along with a final itemized bill. The minimum fee for any billable permit action is one hour of the current hourly rate. Except as provided in subsection (E), the control officer shall not issue a permit or permit revision until the final bill is paid in full.~~

~~C. The owner or operator of a Class I source that has undergone initial startup by January 1 shall annually pay to the control officer an administrative fee plus an emissions-based fee as follows:~~

~~1. The applicable administrative fee from the table below, as adjusted annually under subsection (F). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (D), whichever, is later.~~

| ~~Class I Source Category~~ | ~~Administrative Fee~~ |
|---|---|
| ~~Aerospace~~ | ~~$15,570~~ |
| ~~Cement Plants~~ | ~~$47,680~~ |
| ~~Combustion/Boilers~~ | ~~$11,590~~ |
| ~~Compressor Stations~~ | ~~$9,530~~ |
| ~~Electronics~~ | ~~$15,340~~ |
| ~~Expandable Foam~~ | ~~$10,990~~ |
| ~~Foundries~~ | ~~$14,610~~ |
| ~~Landfills~~ | ~~$11,940~~ |
| ~~Lime Plants~~ | ~~$44,660~~ |
| ~~Copper and Nickel Mines~~ | ~~$11,220~~ |
| ~~Gold Mines~~ | ~~$11,220~~ |
| ~~Mobile Home Manufacturing~~ | ~~$11,110~~ |
| ~~Paper Mills~~ | ~~$15,330~~ |
| ~~Paper Coaters~~ | ~~$11,590~~ |
| ~~Petroleum Products Terminal Facilities~~ | ~~$17,020~~ |
| ~~Polymeric Fabric Coaters~~ | ~~$15,330~~ |
| ~~Reinforced Plastics~~ | ~~$11,590~~ |
| ~~Semiconductor Fabrication~~ | ~~$20,170~~ |
| ~~Copper Smelters~~ | ~~$47,680~~ |
| ~~Utilities—Natural Gas~~ | ~~$12,310~~ |
| ~~Utilities—Fossil Fuel Except Natural Gas~~ | ~~$24,380~~ |
| ~~Vitamin/Pharmaceutical Manufacturing~~ | ~~$11,830~~ |
| ~~Wood Furniture~~ | ~~$11,590~~ |
| ~~Others~~ | ~~$11,940~~ |
| ~~Others with Continuous Emissions Monitoring~~ | ~~$15,340~~ |

2. An emissions-based fee of $14.18 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (d) and due by February 1 or 60 days after the control officer mails the invoice under subsection (D), whichever is later.

a. For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under Section 17.12.320.

b. For purposes of this Section, regulated pollutants consist of the following:

i. Nitrogen oxides and any volatile organic compounds;

ii. Conventional air pollutants, except carbon monoxide and ozone;

iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and

iv. Any federally listed hazardous air pollutant.

c. For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:

i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;

ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM 10;

iii. Emissions from insignificant activities listed in the permit application for the source under Section 17.12.160;

iv. Fugitive emissions of PM 10 from activities other than crushing, belt transfers, screening, or stacking; and

v. Fugitive emissions of VOC from solution-extraction units.

d. The control officer shall adjust the rate for emission-based fees every November 1, beginning on November 1, 2008, by multiplying $14.18 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

D. The control officer shall mail the owner or operator of each source an invoice for all fees due under subsections (C) by December 1.

E. Any person who receives a final itemized bill from the control officer under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:

1. The request shall be made in writing, and received by the control officer within 30 days of the date of the final bill. Unless the control officer and person agree otherwise, the informal review shall take place within 30 days after the control officer's receipt of the request. The control officer shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The control officer shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The control officer shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The control officer's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests in writing a hearing pursuant to A.R.S. § 49-482.

3. If the final itemized bill is paid under protest, the control officer shall take final action on the permit or permit revision.

F. The control officer shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, beginning on November 1, 2008, by multiplying $105.80 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The control officer shall adjust the administrative fees listed in subsection (C) every November 1, to the nearest $10, beginning on November 1, 2008, by multiplying the administrative fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

G. An applicant for a Class I permit or permit revision may request that the control officer provide accelerated processing of the application by providing the control officer written notice 60 days before filing the application. The request shall be accompanied by an initial fee of $15,000. The fee is non-refundable to the extent of the control officer's costs for accelerating the processing if the control officer undertakes the accelerated processing described below:

1. If an applicant requests accelerated permit processing, the control officer may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:

a. For applications for initial Class I permits under Section 17.12.140 or significant permit revisions under Section 17.12.260, the control officer shall issue or deny the proposed permit or permit revision within 120 days after the control officer determines that the application is complete.

b. For minor permit revisions under Section 17.12.255, the control officer shall issue or deny the permit revision within 60 days after receiving a complete application.

2. At any time after an applicant requests accelerated permit processing, the control officer may require additional advance payments based on the most recent estimate of additional costs.

3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final bill. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the control officer in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed

~~actual accelerated permit costs, the control officer shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of Section 17.12.340, or EPA and affected state review as required under Section 17.12.200 or Section 17.12.255.~~

~~H. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the administrative fee required under subsection (C). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the control officer by November 1 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.~~

~~I. Transition.~~

~~1. Subsections (A) through (H) of this Section are effective December 20, 2007. The first administrative fees are due on February 1, 2008.~~

~~2. All fees incurred after December 20, 2007, are payable in accordance with the rates contained in this Section.~~

~~a. Emission-based fees for calendar year 2006 shall be billed at $14.18 per ton and be due on February 1, 2008.~~

~~b. Permit processing fees incurred after December 20, 2007 for any new permit, permit revision, transfer, or renewal shall be billed in accordance with the rates in this Section.~~

~~c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the control officer.~~

~~**17.12.520 - Fees related to Class II and Class III permits.**~~

~~A. Source Categories. The owner or operator of a source required to have an air quality permit from the control officer shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article III. The fees are based on a source being classified in one of the following two categories:~~

~~1. Class II sources are those required to have a permit under Section 17.12.140(B)(2).~~

~~2. Class III sources are those required to have a permit under Section 17.12.140(B)(3).~~

~~B. Fees for Permit Actions. The owner or operator of a Class II or Class III source shall pay to the control officer $105.80 per hour, adjusted annually under subsection (G), for all permit processing time required for a billable permit action. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action is $25,000. The minimum fee for any billable permit action is one hour of the current hourly rate. Except as provided in subsection (F), the control officer shall not issue a permit or permit revision until the final bill is paid in full.~~

~~C. Class II Annual Fee. The owner or operator of a Class II source that has undergone initial startup by January 1 shall pay the annual fee from the table below, adjusted annually under subsection (G). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (E), whichever is later.~~

| ~~Class II Source Category~~ | ~~Annual Fee~~ |
|---|---|
| ~~Area Sources~~ | ~~$540~~ |
| ~~NSPS/NESHAP Boilers and Generators~~ | ~~$2,500~~ |
| ~~NSPS/NESHAP True Minor Sources~~ | ~~$6,040~~ |
| ~~NSPS/NESHAP Synthetic Minor Sources~~ | ~~$11,040~~ |

~~D. Class III Annual Fee. The owner or operator of a Class III source that has undergone initial startup by January 1 shall pay the annual fee from the table below, adjusted annually under subsection (G). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (E), whichever is later.~~

| ~~Class III Source Category~~ | ~~Annual Fee~~ |
|---|---|
| ~~True Minor Sources~~ | ~~$1,960~~ |
| ~~Non-NSPS/NESHAP Boilers and Generators~~ | ~~$1,960~~ |
| ~~Synthetic Minor Sources~~ | ~~$3,920~~ |

~~E. The control officer shall mail the owner or operator of each source an invoice for all applicable fees due under subsections (C) or (D) by December 1.~~

~~F. Any person who receives a final itemized bill from the control officer under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:~~

1. The request shall be made in writing, and received by the control officer within 30 days of the date of the final bill. Unless the control officer and person agree otherwise, the informal review shall take place within 30 days after the control officer's receipt of the request. The control officer shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The control officer shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The control officer shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The control officer's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests in writing a hearing pursuant to A.R.S. § 49-482.

3. If the final itemized bill is paid under protest, the control officer shall take final action on the permit or permit revision.

G. The control officer shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, beginning on November 1, 2008, by multiplying $105.80 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The control officer shall adjust the annual fees listed in subsections (C) and (D) every November 1, to the nearest $10, beginning on November 1, 2008, by multiplying the fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

H. An applicant for a Class II or Class III permit or permit revision may request that the control officer provide accelerated processing of the application by providing the control officer written notice 60 days before filing the application. The request shall be accompanied by an initial fee of $15,000. The fee is non-refundable to the extent of the control officer's costs for accelerating the processing if the control officer undertakes the accelerated processing described below:

1. If an applicant requests accelerated permit processing, the control officer may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:

a. For applications for initial Class II and Class III permits under Section 17.12.140 or significant permit revisions under Section 17.12.260, the control officer shall issue or deny the proposed permit or permit revision within 120 days after the control officer determines that the application is complete.

b. For minor permit revisions under Section 17.12.255, the control officer shall issue or deny the permit revision within 60 days after receiving a complete application.

2. At any time after an applicant requests accelerated permit processing, the control officer may require additional advance payments based on the most recent estimate of additional costs.

3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable action for a Class II and Class III source is $25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the control officer in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the control officer shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of Section 17.12.340, or EPA and affected state review as required under Section 17.12.200 or Section 17.12.255.

I. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the annual fee required under subsection (C) or (D). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the control officer by November 1 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.

J. Transition.

1. Subsections (A) through (I) of this Section are effective December 20, 2007. The first annual fees are due on February 1, 2008.

2. All fees incurred after December 20, 2007, are payable in accordance with the rates contained in this Section.

a. Permit processing fees incurred after December 20, 2007 for any new permit, permit revision, transfer, or renewal shall be billed in accordance with the rates in this Section.

b. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the control officer.

**17.12.525 - Reserved.**

**17.12.530 - Open burning permit fees.**

Refer to Table 17.12.530, Open Burning Permit Fee Schedules.

**17.12.540 - Activity permit fees.**

A. Refer to Table 17.12.540, Activity Permit Fee Schedules.

B. The control officer may waive the activity permit fee if all the following apply:

1. The permit is being obtained for cleanup of an illegal dump; and

2. The illegal dump was caused by a party other than the property owner where the dump is located.

**17.12.545 - Reserved.**

**17.12.550 - Reserved.**

**~~17.12.560 - Reserved.~~**

**~~17.12.570 - Reserved.~~**

**~~17.12.580 - Reserved.~~**

**~~17.12.590 - Reserved.~~**

**~~17.12.600 - Reserved.~~**

**~~17.12.610 - Reserved.~~**

**~~17.12.620 - Refund of permit fees.~~**

~~No fees shall be refunded except those paid in excess of the amount required. An excess payment shall be refunded upon the written request of the permittee within one year of overpayment.~~

**~~17.12.630 - Reserved.~~**

**~~17.12.640 - Reserved.~~**

**~~17.12.650 - Reserved.~~**

**~~Table 17.12.480—Repealed~~**

**~~Table 17.12.530~~**
**~~OPEN BURNING PERMIT FEE SCHEDULES~~**

| ~~S.S.[1]~~ | ~~Permit Activity~~ | ~~Rate Components~~ | ~~Minimum Fee~~ |
|---|---|---|---|
| ~~A~~ | ~~Residential Burning[2]~~ | ~~$16.13 base, plus $3.53 per day of burning~~ | ~~$19.66~~ |
| ~~B~~ | ~~Commercial/Agricultural Burning[3]~~ | ~~$26.50 base, plus $5.00 per day of burning~~ | ~~$31.50~~ |

~~1. Sub-schedule for identification only.~~

~~2. The term of a residential burning permit shall not exceed three (3) consecutive or non-consecutive days within a thirty-day period.~~

~~3. The term of a commercial/agricultural burning permit shall not exceed ninety days.~~

**~~Table 17.12.540~~**
**~~FUGITIVE DUST ACTIVITY PERMIT FEES SCHEDULE (effective July 5, 2007)~~**

| ~~S.S.[1]~~ | ~~ACTIVITY~~ | ~~RATE COMPONENTS~~ | |
|---|---|---|---|
| ~~A~~ | ~~Land stripping and/or earthmoving~~ | ~~>1-2 acres~~<br>~~>2-10 acres~~<br>~~>10-40 acres~~<br>~~>40+ acres~~ | ~~$100.00~~<br>~~$500.00~~<br>~~$1,500.00~~<br>~~$3,000.00~~ |
| ~~B~~ | ~~Trenching~~ | ~~300-500 feet~~<br>~~501-1,500 feet~~<br>~~1,501-5,000 feet~~<br>~~5,001+ feet~~ | ~~$75.00~~<br>~~$200.00~~<br>~~$400.00~~<br>~~$800.00~~ |
| ~~C~~ | ~~Road construction~~ | ~~50-1,000 feet~~<br>~~1,001-3,000 feet~~<br>~~3,001-6,000 feet~~<br>~~6,001+ feet~~ | ~~$50.00~~<br>~~$250.00~~<br>~~$500.00~~<br>~~$1,000.00~~ |
| ~~D~~ | ~~Blasting~~ | | ~~$25.00~~ |
| ~~E~~ | ~~Multiple Activity Permit~~ | ~~>1-10 acres~~<br>~~>10-40 acres~~<br>~~>40+ acres~~ | ~~$625.00~~<br>~~$2,000.00~~<br>~~$4,000.00~~ |
| | **~~NESHAP Activity Permit~~** | | |
| ~~F~~ | ~~Demolition or Renovation of NESHAP Facility~~ | | ~~$420.00~~ |

~~1. Sub-schedule for identification only.~~

**Chapter 17.13 - INDIVIDUAL AND GENERAL PERMITS AND PERMIT REVISIONS FOR CLASS II AND CLASS III PERMITS**

**Article I. – General Provisions**

**~~17.12.165~~17.13.010 – ~~Permit a~~Application processing procedures for Class II and Class III permits.**

A. This section applies to each source requiring a Class II or Class III permit or permit revision.

B. Standard Application Form and Required Information. To apply for any permit in this Section, applicants shall complete the "Standard Permit Application Form" and supply all information required by the "Filing Instructions" developed by the ~~Control Officer~~control officer. At a minimum an application must include the following:

1. The applicable requirements to which the source may be subject.

2. A statement or evidence that the source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting, or without causing to be emitted, air contaminants in violation of the provisions of A.R.S. Title 49, Chapter 3, Article 3, and this Title.

3. The fees to which the source may be subject.

4. A proposed emission limitation, control or other requirement that meets the requirements of ~~section 17.12.190~~Section17.11.190.

C. Unless otherwise required by ~~§ 17.12.150~~Section 17.11.050, a timely application is:

1. For a source applying for a permit for the first time, one that is submitted within 12 months after the source become subject to the permit program.

2. For purposes of permit renewal, one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.

3. Any existing source which becomes subject to a standard promulgated by the ~~Administrator~~administrator pursuant to section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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 new standard.

D. If 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.

E. A complete application is one that satisfies all of the following:

1. To be complete, an application shall provide all information required pursuant to subsection B, of this Section (standard application form section), except that applications for a 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 subsection H of this section (section on certification of truth, accuracy, and completeness).

2. An application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless within 60 days of receipt of the application, the ~~Control Officer~~control officer notifies the applicant by certified mail that the application is not complete.

~~3. An application for a new permit or a permit revision shall contain an assessment of the applicability of the requirements established under Chapter 17.16 Article IX. If the applicant determines that the proposed new source permit or permit revision is subject to the requirements of Chapter 17.16 Article IX, the application shall comply with all applicable requirements of that Article.~~

~~4.~~ 3. If a source wishes to voluntarily enter into an emission limitation, control or other requirement pursuant to ~~section 17.12.190~~Section 17.11.190, the source shall describe that emissions limitation, control or other requirement in its application, along with the proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emission limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.

~~5.~~ 4. 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 take final action on that application, the ~~Control Officer~~control officer may request such information in writing, delivered by mail and set a reasonable deadline for a response. Except for minor permit revisions as set forth in ~~§ 17.12.255~~Section17.13.130, a source's ability to operate without a permit, as set forth in this Article, 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~~control officer. If the ~~Control Officer~~control officer notifies an applicant that the application is not complete under subdivision 3 of this subsection, the application may not be deemed automatically complete until an additional 60 days after the next submittal by the applicant. The ~~Control Officer~~control officer may, after/on submittal by the applicant pursuant to this subdivision, reject an application that is determined to be still incomplete and shall notify the applicant of the decision by certified mail. After a rejection under this subdivision, the ~~Control Officer~~control officer may deny or revoke an existing permit, as applicable.

~~6.~~ 5. The completeness determination shall not apply to revisions processed through the minor permit revision process.

~~7.~~ 6. If a permit applicant request terms and conditions allowing for the trading of emission increases and decreases in the permitted facility 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.

~~8.~~ 7. The ~~Control Officer~~control officer is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-487.

F. The ~~Control Officer~~control officer, either upon the ~~Control Officer's~~control officer's own initiative or the request of a permit applicant, may waive a requirement that specific information or data be submitted in the application for a particular source if the ~~Control Officer~~control officer determines that the information or data would be unnecessary to determine the sources potential emissions, applicable requirements, or air pollution control equipment effectiveness.

G. 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 fact 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 files a complete application, but prior to release of a proposed permit.

H. Certification of Truth, Accuracy, and Completeness. Any application form or report submitted pursuant to this Title shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Title shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

I. Action on Application.

1. The ~~Control Officer~~control officer shall issue or deny each permit according to the provisions of A.R.S. § 49-481. The ~~Control Officer~~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.

2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:

a. The application received by the control ~~Officer~~officer for a permit, permit revision, or permit renewal shall be complete according to subsection E of this Section.

b. Except for revision qualifying as administrative or minor under ~~§§ 17.12.245 and 17.12.255~~Section 17.13.120 and Section 17.13.130, all of the requirements for public notice shall require compliance with all applicable requirements.

c. The conditions of the permit shall require compliance with all applicable requirements.

d. For Class II or Class III permits that contain voluntary emission limitations, controls, or other requirements established pursuant to ~~section 171.12.190~~Section 17.11.190, the ~~Control Officer~~control officer shall have complied with the requirement of subsection C of ~~section 17.12.190~~Section 17.11.190 to provide the ~~Administrator~~administrator with a copy of the proposed permit.

3. The control officer may issue a notice of termination of a permit issued pursuant to this Section if:

a. The ~~Control Officer~~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 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.

c. The terms and conditions of the permit have been or are being violated.

4. If the ~~Control Officer~~control officer issues a notice of denial or termination of a permit under this Section, 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 a statement that the permit applicant or permittee is entitled to a hearing.

5. The ~~Control Officer~~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.

6. The ~~Control Officer~~control officer shall take final action on each permit application (and request for revision or renewal) within eighteen months after receiving a complete application.

7. A proposed permit decision shall be published within nine months of receipt of a complete application and any additional information requested pursuant to subdivision (E)(4) of this Section to process the application. The ~~Control Officer~~control officer shall provide notice of the decision as provided in ~~§ 17.12.340~~Section 17.13.210 and any public hearing shall be scheduled as expeditiously as possible.

J. Requirement for a Permit. Except as noted under the provisions in ~~§§ 17.12.240 and 17.12.255~~Section 17.13.110 and Section 17.13.130, no source may operate after the time that is required to submit a timely and complete application, except in compliance with a properly issued permit. However, if an existing 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 this Article until the ~~Control Officer~~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~~control officer, any additional information identified as being needed to process the application.

**~~17.12.185~~17.13.020 - Permit contents for Class II and Class III permits.**

A. Each permit issued shall include the following elements:

1. The date of issuance and the permit term.

2. Enforceable emission limitations and standards, including operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance and those that have been voluntarily accepted under ~~section 17.12.190~~Section 17.11.190.

a. 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.

b. Any permit containing an equivalency demonstration for an alternative emission limit submitted under Section ~~17.12.165(D)~~17.13.010(D) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

3. Each permit shall contain the following requirements with respect to monitoring:

a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:

i. Monitoring and analysis procedures or test methods under 40 CFR 64;

ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and

iii. Monitoring and analysis procedures or test methods required under ~~§ 17.12.190~~Section 17.11.190.

b. 40 CFR 64 as codified July 1, 2004, is incorporated by reference and on file with the ~~Control Officer~~control officer. This incorporation by reference contains no future editions or amendments. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;

c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), monitoring that is commensurate with the size and rate of emission from each emission unit shall be established by the ~~Control Officer~~control officer. Recordkeeping provisions that are sufficient to meet the requirements of this subsection; and

d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.

4. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established pursuant to ~~section 17.12.190~~Section 17.11.190, where applicable, for the following:

a. Records of required monitoring information that includes the following:

i. The date, place as defined in the permit, and time of sampling or measurements;

ii. The date(s) analyses were performed;

iii. The name of the company or entity that performed the analyses;

iv. A description of the analytical techniques or methods used;

v. The results of such analyses; and

vi. The operating conditions as existing at the time of sampling or measurement.

b. Retention of records of all required monitoring data and support information for a period of at least 5 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.

5. The permit shall incorporate all applicable reporting requirements including reporting requirements established under ~~section 17.12.040 and section 17.12.190~~Section 17.13.190 and Section 17.11.190.

6. 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.

7. Provisions stating the following:

a. The permittee shall comply with all conditions of the permit including all applicable requirements of A.R.S. Title 49, Chapter 3, and Pima County air quality rules. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.

b. 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 this permit.

c. 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 noncompliance does not stay any permit condition.

d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder.

e. The permittee shall furnish to the ~~Control Officer~~control officer, within a reasonable time, any information that the ~~Control Officer~~control officer may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the ~~Control Officer~~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~~administrator along with a claim of confidentiality.

8. A provision to ensure that the source pays fees to the control officer pursuant to A.R.S. § 49-426(E) and ~~Article VI~~Article V of this chapter.

9. 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.

10. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the ~~Control Officer~~control officer. Such terms and conditions shall:

a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

b. Extend the permit shield described in ~~17.12.310~~Section 17.11.080 to all terms and conditions under each such operating scenario; and

c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this title.

11. Terms and conditions, if the permit applicant requests them, as approved by the ~~Control Officer~~control officer, for the trading of emissions increases and decreases in the permitted facility, 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:

    a. Shall include all terms required under subsections A and C of this section to determine compliance;

    b. May extend the permit shield described in subsection D of this section to all terms and conditions that allow such increases and decreases in emissions;

    c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emission trades; and

    d. Shall meet all applicable requirements and requirements of this title.

12. Terms and conditions, if the permit applicant requests them and they are approved by the ~~Control Officer~~control officer, setting forth intermittent operating scenarios including potential periods of downtime. If such terms and conditions are included, the state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.

13. Upon request of a permit applicant, the ~~Control Officer~~control officer shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap 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~~control officer shall not 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 paragraph 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 provide for logging that conforms to ~~17.12.240 (B) (5)~~Section 17.13.110(B)(5). In addition, the notices shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.

14. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1, 2 and 3 and the rules adopted in Title 17.

B. Federally Enforceable Requirements

1. The following permit conditions shall be enforceable by the ~~Administrator~~administrator and citizens under the Act:

    a. Terms or conditions in a Class II or III permit setting forth federally applicable requirements; and

    b. Terms and conditions in any permit entered into voluntarily pursuant to ~~section 17.12.190~~Section 17.11.190, as follows:

        i. Emissions limitations, controls or other requirements; and

        ii. Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in subsection (B)(1)(c)(i).

2. Terms and conditions included in a permit that are federally enforceable under the Act or under any of its applicable requirements will be specifically designated as such.

~~C. Each permit shall contain a compliance plan that meets the requirements of 17.12.310.~~

~~D.~~C. Emergency provision.

1. An "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God that require immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

2. An emergency constitutes an affirmative defense to an action brought for noncompliance with the technology-based emission limitations if the conditions of subsection ~~(D) (3)~~(C)(3) are met.

3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

    a. An emergency occurred and that the permittee can identify the cause or causes of the emergency;

    b. At the time of the emergency, the permitted facility was being properly operated;

    c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and

    d. The permittee submitted notice of the emergency to the ~~Control Officer~~control officer by certified mail or hand delivery within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.

4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

~~E.~~D. A permit issued to a source shall require that revisions be made under ~~17.12.270~~Section 17.13.150 to incorporate additional applicable requirements that become applicable to a source with a permit with a remaining permit term of three or more years. No reopening shall be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than eighteen months

after the promulgation of such standards and regulations. Any permit revision required pursuant to this subsection shall comply with provisions in ~~17.12.280~~Section 17.13.160 for permit renewal and shall reset the five year permit term.

**~~17.12.110~~17.13.030 - Grant or denial of applications for Class II and Class III permits.**

A. The control officer shall deny a permit or revision if the applicant does not show that every such source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of this title, Title 49, Chapter 3, Article 3, A.R.S., and the rules adopted by the director.

B. Prior to acting on an application for a permit, the control officer may require the applicant to provide and maintain such facilities as are necessary for sampling and 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 facilities.

C. In acting upon an application for a permit renewal, if the control officer finds that such source has been constructed not in accordance with any prior permit or revision issued pursuant to A.R.S. § 49-480.01, he shall require the person to obtain a permit revision or deny the application for such permit. The control officer shall not accept any further application for a permit for such source so constructed until he finds that such source has been reconstructed in accordance with the prior permit or a revision, or a revision to the permit has been obtained.

D. After a decision on a permit or 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 the 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 reasons for the objections specified by the control officer as reasons for such denial.

E. 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.

**~~17.12.120~~17.13.040 - Appeals of permit actions for Class II and Class III permits.**

A. Within thirty days after the control officer gives notice of approval, denial or revocation of a permit, the applicant or any person who submitted comments pursuant to A.R.S. § 49-480, may request an appeal as provided under A.R.S. § 49-482. The decision after that hearing constitutes the final permit action from which judicial review may be taken pursuant to Chapter 17.28.

B. Any person who has an interest that is or may be adversely affected may commence a civil action in superior court against the control officer alleging that the control officer has failed to act in a timely manner consistent with the requirements of A.R.S. § 49-480. No action may be commenced before sixty days after the plaintiff has given notice to the control officer of the plaintiff's intent to file. The court has jurisdiction to require the control officer to act without additional delay.

**~~17.12.250~~17.13.050 - Annual summary ~~permit~~ of amendments for Class II or Class III permits.**

The ~~Control Officer~~control officer may amend any Class II or Class III permit annually without following ~~§ 17.12.270~~Section 17.13.150 in order to incorporate changes reflected in logs or notices filed under ~~§ 17.12.240~~Section 17.13.110. The amendment shall be effective to the anniversary date of the permit. The ~~Control Officer~~control officer shall make available to the public for any source:

1. A complete record of logs and notices sent to the Department under ~~§ 17.12.240~~Section 17.13.110; and

2. Any amendments or revisions to the source's permit.

**~~17.12.275~~17.13.060 - Voluntary termination of a permit for Class II and Class III permits.**

~~Except for a Class I permit, a~~A permittee may voluntarily request that a permit issued under this Title be terminated.

A. The request for a permit termination shall be completed on a form provided by the ~~Control Officer~~control officer.

1. A responsible official shall certify the truth and accuracy of the submitted form.

2. The "Notice of Intent to Terminate the Permit" shall set forth the specific reason and timeline for the termination by the permittee.

3. The submittal of the "Notice of Intent to Terminate the Permit" by a facility does not halt the applicability of any permit condition or any applicable requirement of this Title.

B. The ~~Control Officer~~control officer may approve a "Notice of Intent to Terminate the Permit," if the source has paid all applicable fees, and is in compliance with all applicable requirements of this Title.

1. Termination of a permit does not relieve a source of any applicable fees.

2. The ~~Control Officer~~control officer will transmit the approval or denial of the "Notice of Intent to Terminate the Permit" by certified mail, with a return receipt requested.

C. Notices issued under this section may not be appealed under A.R.S. §§ 49-471.01 or ~~49.482~~49-482.

**~~17.12.195~~17.13.070 - Establishment of an emissions cap for Class II and Class III permits.**

A. An applicant may, in its application for a new permit, renewal of an existing permit, or as a significant permit revision, request an emissions cap for a particular pollutant expressed in tons per year as determined on a 12-month rolling average, or any shorter averaging time necessary to enforce any applicable requirement, for any emissions unit, combination of emissions units, or an entire source to allow operating flexibility including emissions trading for the purpose of complying with the cap. This Section shall not apply to sources that hold an authority to operate under a general permit pursuant to ~~Article 5 of this Chapter~~Section 17.13.080.

B. An emissions cap for a Class II or Class III source that limits the emissions of a particular pollutant for the entire source shall not exceed any of the following:

1. The applicable requirement for the pollutant if expressed in tons per year;

2. The source's actual emissions plus the applicable significance level for the pollutant established in ~~17.04.340 (210)~~Section 17.04.340(A)(211);

3. The applicable major source threshold for the pollutant; or

4. A sourcewide emission limitation for the pollutant voluntarily agreed to by the source under ~~17.12.190~~Section 17.11.190.

C. In order to incorporate an emissions cap in a permit the applicant must demonstrate to the ~~Control Officer~~control officer that terms and conditions in the permit will:

1. Ensure compliance with all applicable requirements for the pollutant;

2. Contain replicable procedures to ensure that the emissions cap is enforceable as a practical matter and emissions trading conducted under it is quantifiable and enforceable as a practical matter. For the purposes of this Section, "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 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 ~~17.12.180 (A)(3),(4), and (5)~~Sections 17.13.020(A)(3), (A)(4), and (A)(5).

~~3. For a Class I permit, include all terms required under 17.12.180 (A) and 17.12.210.~~

D. ~~Class I sources shall log an increase or decrease in actual emissions authorized as a trade under an emissions cap unless an applicable requirement requires notice to the Control Officer. The log shall contain the information required by the permit including, at a minimum, when the proposed emissions increase or decrease occurred, a description of the physical change or change in method of operation that produced the increase or decrease, the change in emissions from the physical change or change in method of operation, and how the increase or decrease in emissions complies with the permit.~~ Class II and Class III sources shall comply with ~~17.12.240 (B)(5)~~Section 17.13.110(B)(5).

E. The ~~Control Officer~~control officer shall not include in an emissions cap or emissions trading allowed under a cap any emissions unit for which the emissions are not quantifiable or for which there are no replicable procedures or practical means to enforce emissions trades.

**~~17.12.390~~17.13.080 - Application for coverage under general permit.**

A. Once the director 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 for general permits, or if none has been adopted, the standard application form contained in Title 18, Chapter 2, Appendix 1, of the A.A.C.

~~B. For sources required to obtain a permit under Title V of the Act (Permits), 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.~~

~~C.~~B. The ~~Control Officer~~control officer shall give notice of the general permit application pursuant to Section ~~17.12.340~~17.13.210.

~~D.~~C. The control officer shall act on the application for coverage under the general permit as expeditiously as possible, but a final decision shall be reached within one hundred eighty days. The source may operate under the terms of its application 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 one hundred eighty days of receipt of notice. The control officer may defer acting on an application under this subsection if the control officer has provided notice of intent to renew or not renew the permit.

~~E.~~D. Sources operating under a general permit shall apply to the director for the permit revisions pursuant to A.A.C. Title 18, Chapter 2, Article 5.

**~~17.12.370~~17.13.090 - General permit enforcement.**

The control officer shall administer, inspect and enforce all standards and applicable requirements contained in general permits issued by the director to sources operating in the county.

**Article II. - Permit Revisions, Renewals and Transfers for Class II and Class III Permits**

**~~17.12.235~~17.13.100 - Facility changes that require a permit revision for Class II or Class III permits.**

A. The following changes at a source with a Class II or Class III permit shall require a permit revision:

1. A change that triggers a new applicable requirement, violates an existing applicable requirement, or is a modification under A.R.S. § 49-401.01(24).

2. Establishment of, or change in, an emissions cap;

3. A change that will require a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;

4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under ~~17.12.180 (A)(3), (4), or (5)~~Sections 17.13.020(A)(3), (A)(4), or (A)(5). if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;

5. 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;

6. A change that requires the source to obtain a Class I permit;

7. 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;

8. Establishment or revision of a limit under ~~17.12.190~~Section 17.11.190;

9. Increasing operating hours or rates of production above the permitted level; and

10. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:

    a. 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 ~~17.12.240.I.1 and I.2~~Sections 17.13.110(I)(1) and (I)(2) and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

    b. From a change in an applicable requirement.

B. A source with a Class II or Class III 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 subsection (A). A change that does not require a permit revision may still be subject to requirements in ~~17.12.245~~Section 17.13.120.

**~~17.12.240~~17.13.110 - Procedures for certain changes that do not require a permit revision for Class II or Class III permits.**

A. Except for a physical change or change in the method of operation at a Class II or Class III source requiring a permit revision under ~~17.12.235~~Section 17.13.100, or a change subject to logging or notice requirements in subsection (B) or (C), a change at a Class II or Class III source shall not be subject to revision, notice, or logging requirements under this Chapter.

B. Except as otherwise provided in the conditions applicable to an emissions cap created under ~~17.12.195~~Section 17.13.070, the following changes may be made if the source keeps onsite records of the changes according to subsection (I) below:

1. Implementing an alternative operating scenario, including raw material changes;

2. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;

3. Engaging in any new insignificant activity listed in ~~17.04.340(113)(a)~~Sections 17.04.340(A)(113)(a) through (i) but not listed in the permit;

4. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The ~~Control Officer~~control officer may require verification of efficiency of the new equipment by performance tests; and

5. 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.

C. Except as provided in the conditions applicable to an emissions cap created under ~~17.12.195~~Section 17.13.070, the following changes may be made if the source provides written notice to the Department in advance of the change as provided below:

1. 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: seven days. The ~~Control Officer~~control officer may require verification of efficiency of the new equipment by performance tests;

2. 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 pollutant but does not require a permit revision: seven days;

3. 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~~control officer may require verification of efficiency of the new equipment by performance tests;

4. A change that would trigger an applicable requirement that already exists in the permit: 30 days unless otherwise required by the applicable requirement;

5. A change that amounts to reconstruction of the source or an affected facility: seven days. For purposes of this subsection, reconstruction of a source or an affected facility shall be presumed if the fixed capital cost of the new components exceeds 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

6. 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.

D. For each change under subsection (C), the written notice shall be by certified mail or hand delivery and shall be received by the ~~Control Officer~~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. The written notice shall include:

1. When the proposed change will occur,
2. A description of the change,
3. Any change in emissions of regulated air pollutants, and
4. Any permit term or condition that is no longer applicable as a result of the change.

E. A source may implement any change in subsection (C) without the required notice by applying for a minor permit revision under ~~17.12.255~~Section 17.13.130 and complying with ~~17.12.255 (D)(2)~~Sections 17.13.130(D)(1) and (F).

F. The permit shield described in ~~17.12.310~~Section 17.11.080 shall not apply to any change made under this Section, other than implementation of an alternate operating scenario under subsection (B)(1).

G. Notwithstanding any other part of this Section, the ~~Control Officer~~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 over the term of the permit, constitutes a change under ~~17.12.235(A)~~Section 17.13.100(A).

H. If a source change is described under both subsections (B) and (C), the source shall comply with subsection (C). If a source change is described under both subsections (C) and ~~17.12.235(B)~~Section 17.13.100(B), the source shall comply with ~~17.12.235(B)~~Section 17.13.100(B).

I. A copy of all logs required under subsection (B) shall be filed with the ~~Control Officer~~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.

1. Each log entry required by a change under ~~17.12.240 (B)~~Section 17.13.110(B) shall include at least the following information:
   a. A description of the change, including:
      i. A description of any process change.
      ii. A description of any equipment change, including both old and new equipment descriptions, model numbers and serial numbers, or any other unique equipment number.
      iii. A description of any process material change.
   b. The date and time that the change occurred.
   c. The provision of ~~17.12.240(B)~~Section 17.13.110 that authorizes the change to be made with logging.
   d. The date the entry was made and the first and last name of the person making the entry.
2. Logs shall be kept for five years from the date created. Logging shall be performed in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, approved by the ~~Control Officer~~control officer.

**~~17.12.245~~17.13.120 - Administrative ~~permit~~ amendments for Class II or Class III permits.**

A. Except for provisions pursuant to Title IV of the Act (Acid Deposition Control), an administrative permit amendment is a permit revision that does any of the following:

1. Corrects typographical errors;
2. 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;
3. Requires more frequent monitoring or reporting by the permittee; and
4. Allows for a change in ownership or operational control of a source as approved under Section ~~17.12.290~~17.13.170 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.

B. 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 (Acid Deposition Control).

C. The ~~Control Officer~~control officer shall take no more than sixty days from receipt of a request for an administrative permit amendment to take final action on such request~~, and for Class I permits may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this section~~.

~~D. The control officer shall submit a copy of Class I permits revised under this section to the administrator.~~

~~E.~~D. Except for administrative permit amendments involving a transfer under Section ~~17.12.290~~17.13.170, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

**~~17.12.255~~17.13.130 - Minor ~~permit~~ revisions for Class II or Class III permits.**

~~A. Minor permit revision procedures may be used only for those changes at a Class I source that satisfy all of the following:~~

~~1. Do not violate any applicable requirement;~~

~~2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;~~

~~3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source specific determination of ambient impacts, or a visibility or increment analysis;~~

~~4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:~~

~~a. A federally enforceable emissions cap that the source would assume to avoid classification as a modification under any provision of Title I of the Act (Air Pollution Prevention and Control);~~

~~b. An alternative emissions limit approved under regulations promulgated under the Section 112(i)(5) of the Act (Hazardous Air Pollutants);~~

~~5. Are not modifications under any provision of Title I of the Act (Air Pollution Prevention and Control);~~

~~6. Are not changes in fuels not represented in the permit application or provided for in the permit;~~

~~7. The increase in the source's potential to emit any regulated air pollutant is not significant as defined in Section 17.04.340; and~~

~~8. Are not required to be processed as a significant revision under Section 17.12.260.~~

~~B.~~A. Minor permit ~~provision~~ revision procedures shall be used for the following changes at a Class II or Class III source:

1. A change that triggers a new applicable requirement if all of the following apply:

   a. For emissions units not subject to an emissions cap, the net emissions increase is less than the significant level defined in Section 17.04.340;

   b. A case-by-case determination of an emission limitation or other standard is not required; and

   c. The change does not require the source to obtain a Class I permit;

2. Increasing operating hours or rates of production above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;

3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;

4. A change that results in emissions subject to monitoring, recordkeeping, or reporting under ~~17.12.180 (A)(3), (4), or (5)~~Sections 17.13.020(A)(3), (A)(4), or (A)(5) and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;

5. A decrease in the emissions permitted under an emissions cap unless the decrease requires a change in the conditions required to enforce the cap or to ensure that emissions trades conducted under the cap are quantifiable and enforceable; and

6. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.

~~C.~~B. As approved by the control officer, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that the minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the administrator.

~~D.~~C. An application for minor permit revision shall be on the standard application form contained in Title 18, Chapter 2, Appendix 1 of the A.A.C. and include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

~~2. For Class I sources, and any source that is making the change immediately after it files the application, the source's suggested proposed permit;~~

~~3.~~2. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that the procedures be used;

~~E. EPA and Affected State Notification. For Class I permits, within five working days of 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 17.12.200.~~

~~F.~~D. The ~~Control Officer~~control officer shall follow the following timetable for action on an application for a minor permit revision:

~~1. For Class I permits, the control officer shall not issue a final permit revision until after the administrator's forty-five-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 the control officer may approve the permit revision before that time. Within ninety days of the control officer's receipt of an application under minor permit revision procedures, or fifteen days after the end of the administrator's forty-five-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 revision procedures in Section 17.12.260; or~~

~~d. Revise the proposed permit revision and transmit to the administrator the new proposed permit revision as required in Section 17.12.200.~~

~~2.~~1. Within 60 days of the ~~Control Officer's~~control officer's receipt of an application for a revision of a Class II or Class III permit under this section, the ~~Control Officer~~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 permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures pursuant to Section ~~17.12.260~~17.13.140; or

d. Revise and issue the proposed permit revision.

~~G.~~F. The source may make the change proposed in its minor permit revision application immediately after it files the application. After the source makes the change allowed by the preceding sentence, and until the control officer takes any of the actions specified in subsection ~~(F)~~(D), 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 source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.

~~H.~~G. The permit shield under Section ~~17.12.310~~17.11.080 shall not extend to minor permit revisions.

~~I.~~H. Notwithstanding any other part of this section, the ~~Control Officer~~control oficer may require a permit to be revised under Section ~~17.12.260~~17.13.140 for any change that, when considered together with any other changes submitted by the same source under this section or ~~17.12.240~~17.13.110 over the life of the permit, or subsection (A) ~~for Class II or Class III sources~~of this section.

~~J.~~I. The ~~Control Officer~~control officer shall make available to the public monthly summaries of all applications for minor revisions.

**~~17.12.260~~17.13.140 - Significant ~~permit~~ revisions for Class II or Class III permits.**

~~A. For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in section 17.12.255 (A) (6) or (7) shall not be considered a significant permit revision under Part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or record keeping permit terms or conditions shall follow significant revision procedures.~~

~~B.~~A. A source with a Class II or Class III permit shall make the following changes only after the permit is revised following the public participation requirements of ~~§ 17.12.340~~Section 17.13.210:

1. Establishing or revising a voluntarily accepted emission limitation or standard as described by ~~§§ 17.12.190 or 17.12.195~~Section 17.11.190 or Section 17.13.070, except a decrease in the limitation authorized by ~~§ 17.12.255~~Section 17.13.130;

2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;

3. A change to or addition of an emissions unit not subject to an emissions cap that will result in a net emission increase of a pollutant greater than the significance level in ~~17.04.340 (211)~~Section 17.04.340(A)(211);

4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:

   a. 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 ~~17.12.240(I)(1) and (I)(2)~~Sections 17.13.110(I)(1) and (I)(2) and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

   b. A change in an applicable requirement.

5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;

6. A change that will require any of the following:

   a. A case-by-case determination of an emission limitation or other standard;

   b. A source-specific determination of ambient impacts, or a visibility or increment analysis; or

   c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.

7. A change that requires the source to obtain a Class I permit.

~~C. Any modifications to major sources 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 revision procedures and any rules adopted under A.R.S. 49-426.03 and 49-480.03.~~

~~D.~~B. Significant permit revisions shall meet all requirements of this ~~article~~Chapter for applications, public participation, review by affected states, and review by the administrator that apply to permit issuance and renewal.

~~E.~~C. ~~Notwithstanding § 17.12.160.E.1, w~~When an existing source applies for a significant permit revision to revise its permit from a Class II or Class III permit to a Class I permit, it shall submit a Class I permit application for the entire source in accordance with ~~§ 17.12.160.B~~Section 17.12.010. The control officer shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in ~~sections 17.12.200 and 17.12.340~~Section 17.12.060 and Section 17.13.210.

~~F.~~D. The ~~Control Officer~~control officer shall process the majority of significant permit revision applications received each calendar year within 9 months of receipt of a complete permit application but in no case longer than 18 months. Applications for which the ~~Control Officer~~control officer undertakes accelerated processing under ~~section 17.12.510~~Section 17.13.240(H) shall not be included in this requirement.

**~~17.12.270~~17.13.150 - ~~Permit r~~Reopenings, ~~R~~revocation, reissuance, or ~~T~~termination for Class II or Class III permits.**

A. Reopening for Cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

   a. 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 eighteen 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 ~~17.12.280 (B)~~17.13.160. Any permit reopening required pursuant to this paragraph shall comply with provisions in Section ~~17.12.280~~17.13.160 for permit renewal and shall reset the five-year permit term.

   ~~b. 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 Class I permit.~~

   ~~c.~~b. The ~~Control Officer~~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.

   ~~d.~~c. The control officer or the administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.

2. 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 affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

3. Reopenings under subdivision (A)(1) of this section shall not be initiated before a notice of such intent is provided to the source by the control officer at least thirty 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.

4. When a permit is reopened and revised pursuant to this section, the control officer may make appropriate revisions to the permit shield established pursuant to Section ~~17.12.310~~17.11.080.

~~B. Within ten days of receipt of notice from the administrator that cause exists to reopen a Class I permit, the control officer shall notify the source. The source shall have thirty days to respond to the control officer. Within ninety days of receipt of notice from the administrator that cause exists to reopen a permit, or within any extension to the ninety days granted by EPA, the control officer shall forward to the administrator and the source a proposed determination of termination, revision, revocation or reissuance of the permit. Within ninety days of receipt of an EPA objection to the control officer's proposal, the control officer shall resolve the objection and act on the permit.~~

~~C.~~B. The ~~Control Officer~~control officer may issue a notice of termination of a permit issued pursuant to this title 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.

If the control officer issues a notice of termination under this section, 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. A notice of termination issued by the control officer shall become effective immediately upon the expiration of the time during which a request for a hearing may be made pursuant to A.R.S. § 49-511 unless the person or persons named in such notice shall have made a timely request for a hearing before the hearing board.

**~~17.12.280~~17.13.160 - ~~Permit r~~Renewal and expiration for Class II or Class III permits.**

A. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and administrator review, that would apply to that permit's initial issuance.

B. Except as provided in Section ~~17.12.150(A)~~17.11.050, permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. 41-1064 has been submitted in accordance with Section ~~17.12.160~~17.13.010. Any testing that is required for renewal shall be completed before the proposed permit is issued by the control officer.

C. The control officer shall act on an application for a permit renewal within the same time frames as on an initial permit.

**~~17.12.290~~17.13.170 - ~~Permit t~~Transfers for Class II or Class III permits.**

A. Except as provided in A.R.S. § 49-483 and subsection B of this section, a permit may be transferred to another person if:

1. The person who holds the permit gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

   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 organization to receive the permit;

2. The new owner gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

   a. 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;

   b. A description of the equipment to be transferred;

c. A written agreement containing a specific date for transfer or permit responsibility, coverage, and liability between the current and new permittee;

d. Provisions for the payment of any fees pursuant to ~~Chapter 17.12, Article VI~~Article V of this Section that will be due and payable before the effective date of transfer;

e. Sufficient information about the source's technical and financial capabilities of operating the source to allow the ~~Control Officer~~control officer to make the decision in subsection B of this section including:

i. The qualifications of each person principally responsible for the operation of the source,

ii. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement,

iii. 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 facility 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 10K form required under A.R.S. ~~Section~~§ 49-109, or a statement that this information has been filed in compliance with A.R.S. ~~Section~~§ 49-109.

B. 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 this title or the provisions of the permit. Notice of 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. If the transfer is not denied within ten working days after receipt of the notice, it shall be deemed approved.

C. To appeal the transfer denial:

1. Both the transferor and transferee shall petition the hearing board in writing for a public hearing; and

2. The appeal process for a permit shall be followed.

D. The ~~Control Officer~~control officer shall make available to the public monthly summaries of all notices received under this section.

**Article III. - Emissions for Class II and Class III Sources**

**~~17.12.320~~17.13.180 - Annual emissions inventory questionnaire for Class II or Class III permits.**

A. ~~Every source with a Class I permit shall complete and submit to the control officer an annual emissions inventory questionnaire. The questionnaire is due by March 31st, or ninety days after the control officer makes the inventory form available, whichever occurs later, and shall include emission information for the previous calendar year. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.~~ Sources with a Class II or Class III permit shall complete an annual emission inventory questionnaire when requested by the control officer. The questionnaire is due ninety days after the control officer makes a written request and shall include emission information for the previous calendar year.

B. The questionnaire shall be on a form provided by or approved by the control officer and shall include the following information:

1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.

2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.

3. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation or estimation determined pursuant to subsection C of this section of the following regulated air pollutants:

a. Any single regulated air pollutant in a quantity greater than one ton or the amount listed for the pollutant in the definition of "significant" in Section 17.04.340, whichever is less.

b. Any combination of regulated air pollutants in a quantity greater than 2.5 tons.

C. Actual quantities of emissions shall be determined using the following emission facts or data:

1. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.

2. When sufficient data pursuant to subsection (C)(1) of this section is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to Section ~~17.12.050~~17.11.210 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.

3. When sufficient data pursuant to subsection (C)(1) or (C)(2) of this section is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC, ~~(and no future editions) which is incorporated by reference and is on file with the Department. AP-42 can be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, telephone (202) 783-3238~~ including Supplements A through F and all updates published through July 1, 2011 (and no future editions). AP-42 is incorporated by reference and is on file with the Department of Environmental Quality and can be obtained from the Government Printing Office, 732 North Capitol Street, NW, Washington, D.C. 20401, telephone (202) 512-1800, or by downloading the document from the web site for the EPA Clearinghouse for Emission Inventories and Emission Factors.

4. When sufficient data pursuant to subsections (C)(1) through (C)(3) of this section is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.

5. When sufficient data pursuant to subsections (C)(1) through (C)(4) of this section is not available, emissions estimates shall be calculated by equivalent methods approved by the control officer. The control officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in subsections (C)(1) through (C)(4) of this section.

D. Actual quantities of emissions calculated under subsection C of this section shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored or combusted.

E. An amendment to an annual emission inventory questionnaire, containing the documentation required by subsection (B)(3) of this section, shall be submitted to the control officer by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the control officer by a previous questionnaire. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the control officer shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was due to reasonable cause and not willful neglect.

F. The control officer may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S. ~~Section~~§ 49-476.01.

**~~17.12.040~~17.13.190 - Excess Emissions ~~R~~reporting ~~R~~ requirements for Class II or Class III permits.**

A. The owner or operator of any source shall report to the ~~Control Officer~~control officer any emissions in excess of the limits established by this Chapter or the applicable permit. The report shall be in 2 parts as specified below:

1. Notification by telephone or facsimile within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).

2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (1).

B. The excess emissions report shall contain the following information:

1. The identity of each stack or other emission point where the excess emissions occurred;

2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

3. The time and duration or expected duration of the excess emissions;

4. The identity of the equipment from which the excess emissions emanated;

5. The nature and cause of the emissions;

6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;

7. The steps that were or are being taken to limit the excess emissions; and

8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.

C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).

**~~17.12.035~~17.13.200 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.**

A. Applicability

This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:

1. Promulgated pursuant to Sections 111 or 112 of the Act,

2. Promulgated pursuant to Titles IV or VI of the Clean Air Act,

3. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A or,

~~4. Contained in section 17.12.280 (F), or~~

~~5.~~4. Included in a permit to meet the requirements of ~~section 17.12.590 (A)(5)~~Section 17.16.590(A)(5).

B. Affirmative Defense for Malfunctions

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of ~~section 17.12.040~~Section 17.13.190 and has demonstrated all of the following:

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;

2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to insure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;

4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in ~~Article 2 of this Chapter~~Article I of Chapter 17.08 that could be attributed to the emitting source;

8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;

9. All emissions monitoring systems were kept in operation if at all practicable; and

10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of ~~section 17.12.040~~Section 17.13.190 and has demonstrated all of the following:

a. The excess emissions could not have been prevented through careful and prudent planning and design;

b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;

c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article I of ~~this Chapter~~Chapter 17.08 that could be attributed to the emitting source;

g. All emissions monitoring systems were kept in operation if at all practicable; and

h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsection (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and Section ~~17.12.040~~17.13.190, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

**Article IV. - Public Participation and Notification Requirements for Class II and Class III Permits**

**~~17.12.340~~17.13.210 - Public participation for Class II and Class III permits.**

A. The ~~Control Officer~~control officer shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking the following actions:

1. A permit issuance or renewal of a permit.

2. A significant permit revision.

3. Revocation and reissuance or reopening of a permit.

4. Any conditional orders pursuant to Section 17.28.100.

~~5. Granting a variance from a general permit under Chapter 17.16 Article IX.~~

B. The ~~Control Officer~~control officer shall provide public notice of receipt of complete applications for permits to construct or make a major modification to major sources by publishing a notice in a newspaper of general circulation in the county where the source will be located.

C. The ~~Control Officer~~control officer shall provide notice required pursuant to subsection A of this section, or any other section of this title, as follows:

1. The control officer shall publish the notice once each week for two consecutive weeks for any ~~Class I or~~ Class II permit in two newspapers of general circulation in the county where the source is or will be located.

2. The ~~Control Officer~~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.

D. The notice required by subsection C shall include the following:

1. Identification of the affected facility;

2. Name and address of the permittee or applicant;

3. Name and address of the permitting authority processing the permit action;

4. The activity or activities involved in the permit action;

5. The emissions change involved in any permit revisions;

6. The air contaminants to be emitted;

7. If applicable, that a notice of confidentiality has been filed under Section ~~17.12.170~~17.11.070;

~~8. If applicable, that the source has submitted a risk management analysis under Section 17.16.685;~~

~~9.~~8. 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;

~~10.~~9. The name, address, and telephone number of a person from PDEQ from whom additional information may be obtained;

~~11.~~10. 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 PDEQ office, and the times at which they shall be available for public inspection.

E. 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 pursuant to the provisions of A.R.S. § 49-426. If a public hearing is requested, the control officer shall schedule the hearing and publish notice as described in A.R.S. § 49-444 and subsection D of this section. The control officer shall give notice of any public hearing at least 30 days in advance of the hearing.

F. At the time the control officer publishes the first notice according to subdivision (C)(1) of this section, the applicant shall post a notice containing the information required in subsection D of this section 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.

G. The ~~Control Officer~~control officer shall provide at least thirty days from the date of its first notice for an opportunity for public comment for every Class I and Class II permit. For a source required to obtain a permit pursuant to Section ~~17.12.140.B.3.a~~17.11.090(B)(3)(a)., the ~~Control Officer~~control officer shall provide at least 30 days from the date of its first notice for an opportunity for public comment. For sources required to obtain a permit pursuant to Section ~~17.12.140.B.3.b or 17.12.140.B.3.c.~~17.11.090(B)(3)(b) or 17.11.090(B)(3)(c), the ~~Control Officer~~control officer shall provide at least 5 days from the date of its first notice for an opportunity for public comment. The ~~Control Officer~~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, the record and copies of the ~~Control Officer's~~control officer's responses shall be made available to the applicant and all commenters.

**~~17.12.345~~17.13.220 - Public notification for Class II and Class III permits.**

~~A.R.S. 49-104 (B)(3) (as amended in 1995) is hereby adopted in its entirety and is incorporated herein by this reference, except that all references to the "Director" shall be to the "Control Officer."~~

The control officer shall utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

**Article V. - Fees for Class II, Class III, and General Permits**

**~~17.12.500~~17.13.230 - General provisions.**

A. Permits issued pursuant to a program adopted under this title are subject to payment of a reasonable fee to be determined as outlined in this chapter.

B. Funds received for permits issued pursuant to this chapter shall be deposited in a special public health fund and shall be used by the control officer to defray the costs of implementing provisions of this title.

~~C. An applicant for an activity or open burning permit shall pay a fee calculated according to the schedules listed at the end of this chapter and any other provisions established in subsequent sections.~~

**~~17.12.520~~17.13.240 - Fees related to Class II and Class III permits.**

A. Source Categories. The owner or operator of a source required to have an air quality permit from the control officer shall pay the fees described in this Section unless authorized to operate under a general permit issued under ~~Article III~~Article I. The fees are based on a source being classified in one of the following two categories:

1. Class II sources are those required to have a permit under Section ~~17.12.140(B)(2)~~17.11.090(B)(2).

2. Class III sources are those required to have a permit under Section ~~17.12.140(B)(3)~~17.11.090(B)(3).

B. Fees for Permit Actions. The owner or operator of a Class II or Class III source shall pay to the control officer $105.80 per hour, adjusted annually under subsection (G), for all permit processing time required for a billable permit action. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action is $25,000. The minimum fee for any billable permit action is one hour of the current hourly rate. Except as provided in subsection (F), the control officer shall not issue a permit or permit revision until the final bill is paid in full.

C. Class II Annual Fee. The owner or operator of a Class II source that has undergone initial startup by January 1 shall pay the annual fee from the table below, adjusted annually under subsection (G). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (E), whichever is later.

| Class II Source Category | Annual Fee |
|---|---|
| Area Sources | $540 |
| NSPS/NESHAP Boilers and Generators | $2,500 |
| NSPS/NESHAP True Minor Sources | $6,040 |
| NSPS/NESHAP Synthetic Minor Sources | $11,040 |

D. Class III Annual Fee. The owner or operator of a Class III source that has undergone initial startup by January 1 shall pay the annual fee from the table below, adjusted annually under subsection (G). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (E), whichever is later.

| Class III Source Category | Annual Fee |
|---|---|
| True Minor Sources | $1,960 |
| Non-NSPS/NESHAP Boilers and Generators | $1,960 |
| Synthetic Minor Sources | $3,920 |

E. The control officer shall mail the owner or operator of each source an invoice for all applicable fees due under subsections (C) or (D) by December 1.

F. Any person who receives a final itemized bill from the control officer under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:

1. The request shall be made in writing, and received by the control officer within 30 days of the date of the final bill. Unless the control officer and person agree otherwise, the informal review shall take place within 30 days after the control officer's receipt of the request. The control officer shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The control officer shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The control officer shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The control officer's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests in writing a hearing pursuant to A.R.S. § 49-482.

3. If the final itemized bill is paid under protest, the control officer shall take final action on the permit or permit revision.

G. The control officer shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, beginning on November 1, 2008, by multiplying $105.80 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The control officer shall adjust the annual fees listed in subsections (C) and (D) every November 1, to the nearest $10, beginning on November 1, 2008, by multiplying the fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

H. An applicant for a Class II or Class III permit or permit revision may request that the control officer provide accelerated processing of the application by providing the control officer written notice 60 days before filing the application. The request shall be accompanied by an initial fee of $15,000. The fee is non-refundable to the extent of the control officer's costs for accelerating the processing if the control officer undertakes the accelerated processing described below:

1. If an applicant requests accelerated permit processing, the control officer may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:

a. For applications for initial Class II and Class III permits under Section ~~17.12.140~~17.13.010 or significant permit revisions under Section ~~17.12.260~~17.13.140, the control officer shall issue or deny the proposed permit or permit revision within 120 days after the control officer determines that the application is complete.

b. For minor permit revisions under Section ~~17.12.255~~17.13.130, the control officer shall issue or deny the permit revision within 60 days after receiving a complete application.

2. At any time after an applicant requests accelerated permit processing, the control officer may require additional advance payments based on the most recent estimate of additional costs.

3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable action for a Class II and Class III source is $25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the control officer in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the control officer shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of Section ~~17.12.340~~17.13.210, or EPA and affected state review as required under Section ~~17.12.200~~17.12.060 or Section ~~17.12.255~~17.13.130.

I. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the annual fee required under subsection (C) or (D). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the control officer by November 1 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.

J. Transition.

1. Subsections (A) through (I) of this Section are effective December 20, 2007. The first annual fees are due on February 1, 2008.

2. All fees incurred after December 20, 2007, are payable in accordance with the rates contained in this Section.

a. Permit processing fees incurred after December 20, 2007 for any new permit, permit revision, transfer, or renewal shall be billed in accordance with the rates in this Section.

b. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the control officer.

**~~17.12.400~~17.13.250 - Fees related to general permits.**

A. Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the control officer $540 with the submittal of each application. This fee applies to the owner or operator of any source that intends to continue operating under the authority of a general permit that has been proposed for renewal.

B. Annual Fee. The owner or operator of a source with authority to operate under a general permit shall pay to the control officer an annual fee from the table below, by February 1 or 60 days after the control officer mails the invoice, whichever is late.

| General Permit Source Category | Annual Fee |
|---|---|
| Class II Area Sources | $540 |
| Other Class II General Permits | $3,250 |
| Class III Gasoline Service Stations | $540 |
| Class III Crematories | $1,085 |
| Other Class III General Permits | $1,085 |

**Chapter 17.14 - ACTIVITY PERMITS**

**Article I. - General Provisions**

**~~17.12.465~~17.14.010 - Definitions.**

In addition to the definitions contained in Section 17.04.340, words, phrases and terms used in this Chapter shall have the following meanings:

A. "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or intentional burning of any facility.

B. "Earthmoving" means the movement of earthen material which causes or has the potential to cause fugitive dust.

C. "Fugitive Dust" means the particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human, animal, and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind.

D. "Project" means the specific plan, design or phase of the plan for which the person obtains a permit.

E. "Regulated asbestos containing material" or "RACM" means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by 40 CFR 61, Subpart M.

F. "Renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

G. "Trenching" means the construction of a narrow excavation, in relation to its length, made below the surface of the ground for purposes of facilitating the installation and repair of underground utilities.

**~~17.12.500~~17.14.020- General provisions.**

A. Permits issued pursuant to a program adopted under this title are subject to payment of a reasonable fee to be determined as outlined in this chapter.

B. Funds received for permits issued pursuant to this chapter shall be deposited in a special public health fund and shall be used by the control officer to defray the costs of implementing provisions of this title.

C. An applicant for an activity or open burning permit shall pay a fee calculated according to the schedules listed at the end of this chapter and any other provisions established in subsequent sections.

**~~17.12.620~~17.14.030 - Refund of overpayment of permit fees.**

No fees shall be refunded except those paid in excess of the amount required. An excess payment shall be refunded upon the written request of the permittee within one year of overpayment.

**Article II. - Fugitive Dust**

**~~17.12.470~~17.14.040 - Fugitive dust activity permits.**

A. No person shall conduct, cause or allow land stripping, earthmoving, blasting, trenching or road construction without first obtaining an activity permit from the ~~Control Officer~~control officer.

B. There shall be two types of activity permits as follows:

1. A single activity permit shall be obtained by persons conducting any one of the following activities:

a. Land stripping and/or earthmoving activities totaling more than one acre in size;

b. Trenching activities totaling more than 300 feet in length;

c. Road construction activities totaling more than 50 feet in length; and

d. Blasting activities.

2. A multiple activity permit may be obtained by persons conducting more than one dust producing activity to include, but not limited to, land stripping, earthmoving, trenching, blasting, and road construction at a single project site covering an acre or greater.

C. In the case of an emergency, action may be taken to stabilize the situation before obtaining an activity permit. Upon stabilizing the emergency situation, an activity permit shall be obtained.

D. Permittees shall notify the control officer within five working days of the start and completion of the project.

E. The following terms apply to the duration of the activity permit:

1. An activity permit is valid for one year from the date of issue.

2. Upon approval by the control officer, two permits covering the same scope of work or identical project may be obtained and will be valid for a period of two years from the date of issue.

3. Permit coverage shall not be transferred from the original permit holder.

4. Permits may be voluntarily terminated pursuant to Section ~~17.12.275~~17.13.060.

F. The following exemptions will apply to this Section:

1. Class I, II, or III air quality permit holders pursuant to Section ~~17.12.140~~17.11.090 whose permit authorizes the above described activities in subsection B.1.a thru d.

2. Trenching activities associated with the installation of irrigation lines for landscaping purposes that disturbs less than the first foot of topsoil.

3. Trenching activities located beneath a road for which a current fugitive dust activity permit for road construction has been issued.

**~~17.12.540~~17.14.050 - Fugitive dust activity permit fees.**

A. ~~Refer to Table 17.12.540,~~ Fugitive Dust Activity Permit Fee Schedule~~s~~ (effective July 5, 2007).

**~~Table 17.12.540~~**
**~~FUGITIVE DUST ACTIVITY PERMIT FEES SCHEDULE (effective July 5, 2007)~~**

| S.S.[1] | ACTIVITY | RATE COMPONENTS | |
|---|---|---|---|
| A | Land stripping and/or earthmoving | >1-2 acres<br>>2-10 acres<br>>10-40 acres<br>>40+ acres | $100.00<br>$500.00<br>$1,500.00<br>$3,000.00 |
| B | Trenching | 300-500 feet<br>501-1,500 feet<br>1,501-5,000 feet<br>5,001+ feet | $75.00<br>$200.00<br>$400.00<br>$800.00 |
| C | Road construction | 50-1,000 feet<br>1,001-3,000 feet<br>3,001-6,000 feet<br>6,001+ feet | $50.00<br>$250.00<br>$500.00<br>$1,000.00 |
| D | Blasting | | $25.00 |
| E | Multiple Activity Permit | >1-10 acres<br>>10-40 acres<br>>40+ acres | $625.00<br>$2,000.00<br>$4,000.00 |
| ~~**NESHAP Activity Permit**~~ | | | |
| ~~F~~ | ~~Demolition or Renovation of NESHAP Facility~~ | | ~~$420.00~~ |

1. S.S. - Sub-schedule for identification only.

B. The control officer may waive the Fugitive Dust activity permit fee if all the following apply:

1. The permit is being obtained for cleanup of an illegal dump; and
2. The illegal dump was caused by a party other than the property owner where the dump is located.

**Article III. - Asbestos NESHAP**

**~~17.12.475~~17.14.060 - Asbestos NESHAP activity permits.**

A. No person shall allow or commence demolition or renovation of any NESHAP facility as defined in 40 CFR 61 Subpart M without first obtaining an asbestos NESHAP activity permit from the control officer.

B. ~~A~~An asbestos NESHAP activity permit shall be obtained by persons conducting the following activities:

1. Demolition of load supporting structural members.
2. Renovation of more than 260 linear feet of RACM on pipes.
3. Renovation of more than 160 square feet of RACM on other facility components.
4. Renovation of more than 35 cubic feet of RACM off facility components.

**~~17.12.540~~17.14.070 - Asbestos NESHAP activity permit fees.**

A. ~~Refer to Table 17.12.540,~~ Asbestos NESHAP Activity Permit Fee Schedule~~s~~ (effective July 5, 2007).

~~**Table 17.12.540**~~
~~**FUGITIVE DUST ACTIVITY PERMIT FEES SCHEDULE (effective July 5, 2007)**~~

| S.S.[1] | ACTIVITY | RATE COMPONENTS | |
|---|---|---|---|
| ~~A~~ | ~~Land stripping and/or earthmoving~~ | ~~>1-2 acres~~<br>~~>2-10 acres~~<br>~~>10-40 acres~~<br>~~>40+ acres~~ | ~~$100.00~~<br>~~$500.00~~<br>~~$1,500.00~~<br>~~$3,000.00~~ |
| ~~B~~ | ~~Trenching~~ | ~~300-500 feet~~<br>~~501-1,500 feet~~ | ~~$75.00~~<br>~~$200.00~~ |

| | | | |
|---|---|---|---|
| | | ~~1,501-5,000 feet~~<br>~~5,001+ feet~~ | ~~$400.00~~<br>~~$800.00~~ |
| ~~C~~ | ~~Road construction~~ | ~~50-1,000 feet~~<br>~~1,001-3,000 feet~~<br>~~3,001-6,000 feet~~<br>~~6,001+ feet~~ | ~~$50.00~~<br>~~$250.00~~<br>~~$500.00~~<br>~~$1,000.00~~ |
| ~~D~~ | ~~Blasting~~ | | ~~$25.00~~ |
| ~~E~~ | ~~Multiple Activity Permit~~ | ~~>1-10 acres~~<br>~~>10-40 acres~~<br>~~>40+ acres~~ | ~~$625.00~~<br>~~$2,000.00~~<br>~~$4,000.00~~ |
| **NESHAP Activity Permit** | | | |
| ~~F~~ | Demolition or Renovation of NESHAP Facility | | $420.00 |

~~1. Sub-schedule for identification only.~~

B. The control officer may waive the Asbestos NESHAP activity permit fee if all the following apply:

1. The permit is being obtained for cleanup of an illegal dump; and
2. The illegal dump was caused by a party other than the property owner where the dump is located.

**Article IV. - Open Burning**

**~~17.12.480~~17.14.080 - Open burning permits.**

A. In addition to the definitions contained in A.R.S. § 49-501, in this Article:

1. "Agricultural burning" means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.
2. "Air curtain destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
3. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.
4. "Class I area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
5. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
6. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
7. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
8. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
9. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, demolition debris or prohibited materials.
10. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
11. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
12. "Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning.
13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation;

polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.

14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.

B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.

C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the control officer or a delegated authority:

1. Fires used only for:

a. Cooking of food,

b. Providing warmth for human beings,

c. Recreational purposes,

d. Branding of animals,

e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and

f. The proper disposal of flags under 4 U.S.C. 1, § 8.

2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:

a. Control of an active wildfire; or

b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).

3. Fire set by or permitted by the control officer of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.

4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions.

D. Open outdoor fires requiring a permit.

1. The following open outdoor fires are allowed with an open burning permit from the control officer or a delegated authority:

a. Construction burning;

b. Agricultural burning;

c. Residential burning;

d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under;

e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);

f. Open outdoor fires of dangerous material under subsection (E);

g. Open outdoor fires of household waste under subsection (F); and

h. Open outdoor fires that use an air curtain destructor, as defined in ~~17.12.480 (A)(2)~~Section 17.14.080(A)(2).

2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an PDEQ-approved application form.

3. Open outdoor fire permits issued under this Section shall include:

a. A list of the materials that the permittee may burn under the permit;

b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;

c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:

i. Year-round: ignite fire no earlier than one hour after sunrise; and

ii. Year-round: extinguish fire no later than two hours before sunset;

d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:

i. Prevent dispersion of smoke into populated areas;

ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;

iii. Do not create a public nuisance or adversely affect public safety;

iv. Do not cause an adverse impact to visibility in a Class I area; and

v. Do not cause uncontrollable spreading of the fire;

e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions;

f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:

i. The date of each burn;

ii. The type and quantity of fuel burned for each date open burning occurred;

iii. The fire type, such as pile or pit, for each date open burning occurred; and

iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;

g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;

h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;

i. A requirement that the permittee attend the fire at all times until it is completely extinguished;

j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;

k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;

l. A requirement that the permittee have a copy of the burn permit on-site during open burning;

m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;

n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared by ADEQ or PDEQ;

o. A statement that the control officer, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and

p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.

4. The control officer or a delegated authority shall not issue an open burning permit under this Section:

a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;

b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or

c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the control officer has not issued a variance under A.R.S. § 49-763.01.

E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the control officer has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The control officer shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.

F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the control officer or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:

1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or

2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.

G. The control officer shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.

H. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

I. The term of any open burning permit shall be as specified by the control officer, subject to the following limitations:

1. The term of a temporary open burning permit shall not exceed three consecutive or nonconsecutive days within a thirty-day period; and

2. The term of an extended open burning permit shall expire as specified on the original application, and shall in no case exceed ninety days.

**~~17.12.530~~17.14.090 - Open burning permit fees.**

~~Refer to Table 17.12.530,~~ Open Burning Permit Fee Schedules.

~~**Table 17.12.530**~~
~~**OPEN BURNING PERMIT FEE SCHEDULES**~~

| S.S.[1] | Permit Activity | Rate Components | Minimum Fee |
|---|---|---|---|
| A | Residential Burning[2] | $16.13 base, plus $3.53 per day of burning | $19.66 |
| B | ~~Commercial~~Construction/Agricultural Burning[3] | $26.50 base, plus $5.00 per day of burning | $31.50 |

1. S.S. - Sub-schedule for identification only.
2. The term of a residential burning permit shall not exceed three (3) consecutive or non-consecutive days within a thirty-day period.
3. The term of a ~~commercial~~construction/agricultural burning permit shall not exceed ninety days.

**Chapter 17.16 - EMISSION LIMITING STANDARDS**

**Sections:**

**Article II. - Visible Emission Standards**

**17.16.050 - Visibility limiting standard.**

A. No person shall cause, suffer, allow or permit operations or activities likely to result in excessive amounts of airborne dust without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.

B. Except for sources located within the boundaries of the Tohono O'Odham, Pasqua Yaqui and San Xavier Indian Reservations, opacity of an emission from any nonpoint source, as measured in accordance with the Arizona Testing Manual, Reference Method 9, shall not exceed the following:

1. Twenty percent for such nonpoint sources in eastern Pima County, east of the eastern boundary of the Tohono O'Odham Reservation.
2. Forty percent for such nonpoint sources in all other areas of Pima County.

C. Open fires permitted according to Chapter ~~17.12~~17.14 are exempt from the requirements of this section.

D. No person shall cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne, without taking reasonably necessary and feasible precautions to control generation of airborne particulate matter. Sources may be required to cease temporarily the activity or operation which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.

1. Sources required to obtain an air quality permit under ARS § 49-426, § 49-480 or ~~Rule 17.12.470~~Section 17.14.040 may request to have the actions constituting reasonably necessary and feasible precautions approved and included as permit conditions. Compliance with such permit conditions shall be considered compliance with this subsection.
2. This subsection shall not apply when wind speeds exceed twenty-five (25) miles per hour (using the Beaufort Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.
3. This subsection shall not apply to the generation of airborne particulate matter from undisturbed land.

. . .

**Article IV. - New and Existing Stationary Source Performance Standards**

**17.16.130 - Applicability.**

A. This article shall apply only to a source that is all of the following:

1. An existing source, as defined in 17.04.340;
2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
3. A stationary source, as defined in 17.04.340.

B. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (a), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:

1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the control officer as provided in subsection (D) and (E), after the effective date of this rule;
2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and

3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).

C. If the presence of uncombined water is the only reason for an exceedance of any visible emissions requirement in this article, the exceedance shall not constitute a violation of the applicable opacity limit.

D. A person owning or operating a source may petition the control officer for an alternative applicable opacity limit. The petition shall be submitted to PDEQ within three months after the effective date of this rule.

1. The petition shall contain:

a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:

i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;

ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and

iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.

b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.

c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:

a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.

b. Evidence that the source conducted the stack tests according to ~~17.12.050~~Section 17.11.210, and that they were witnessed by the control officer or the control officer's agent or representative.

c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.

3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:

a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and

b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the ~~Administrator~~administrator or the ~~Administrator's~~administrator's agent or representative to be present.

E. If the control officer receives a petition under subsection (D) the control officer shall approve or deny the petition as provided below by October 15, 2004:

1. If the petition is approved under subsection (D)(1) or (D)(2), the control officer shall include an alternative opacity limit in a proposed significant permit revision for the source under ~~17.12.260 and 17.12.340~~Sections 17.12.120, 17.13.140, 17.12.190, and 17.13.210 . The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.

2. If the petition is approved under subsection (D)(3), the control officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.

3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under ~~17.12.220(5)(c)(iii)~~Section 17.12.080(A)(5)(c)(iii) by April 23, 2006.

4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under ~~17.12.220(5)(c)~~Section 17.12.080(A)(5)(c).

F. The control officer, ~~Administrator~~administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:

1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.

2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

. . .

**17.16.160 - Standards of performance for fossil-fuel fired steam generators and general fuel burning equipment.**

A. This section applies to the following:

1. Sources in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under Section 17.16.170.

2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to seventy-three megawatts capacity.

B. For purposes of this section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with Section ~~17.12.045~~17.11.160. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.

C. No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:

1. For equipment having a heat input rate of four thousand two hundred million BTU per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

Q = the heat input in million BTU per hour.

2. For equipment having a heat input rate greater than four thousand two hundred million BTU per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

where "E" and "Q" have the same meaning as in paragraph 1 of this subsection.

D. When low sulfur oil is fired:

1. Existing fuel burning equipment or steam power generating installations which commenced construction or a major alteration prior to May 30, 1972 shall not emit more than 1.0 pound of sulfur dioxide maximum three hour average, per million BTU (four hundred thirty nanograms per joule) heat input.

2. Existing fuel burning equipment or steam power generating installations which commenced construction or a major alteration after May 30, 1972 shall not emit more than 0.80 pounds of sulfur dioxide maximum three hour average per million BTU (three hundred forty nanograms per joule) heat input.

E. When high sulfur oil is fired all existing steam power generating and general fuel burning installations which are subject to the provisions of this section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million BTU (nine hundred forty-six nanograms per joule) heat input.

F. When solid fuel is fired:

1. Existing general fuel burning equipment and steam power generating installations which commenced construction or a major alteration prior to May 30, 1972 shall not emit more than 1.0 pound of sulfur dioxide maximum three-hour average, per million BTU (four hundred thirty nanograms per joule) heat input.

2. Existing general fuel burning equipment and steam power generating installations which commenced construction or a major alteration after May 30, 1972 shall not emit more than 0.80 pounds, maximum three-hour average, per million BTU (three hundred forty nanograms per joule) heat input.

G. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee, unless the applicant demonstrates to the satisfaction of the control officer that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to insure that the sulfur dioxide ambient air quality standards set forth in Chapter 17.08, Article I will not be violated.

1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.

2. In cases where the permittee is authorized to use high sulfur oil it shall submit to the control officer monthly reports detailing its efforts to obtain low sulfur oil.

3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.

4. Nothing in this section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.

H. Existing steam power generating installations which commenced construction or a major alteration after May 30, 1972 shall not emit nitrogen oxides in excess of the following amounts:

1. 0.20 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million BTU heat input when gaseous fossil fuel is fired;

2. 0.30 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million BTU heat input when liquid fossil fuel is fired;

3. 0.70 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million BTU heat input when solid fossil fuel is fired.

I. Emission and fuel monitoring systems, where deemed necessary by the control officer for sources subject to the provisions of this section, shall conform to the requirements of Section ~~17.12.060~~17.11.200.

J. The applicable reference methods given in the Appendices to 40 CFR 60 shall be used to determine compliance with the standards as prescribed in subsections C through G and I of this section. All tests shall be run at the heat input calculated under subsection B of this section.

**17.16.165 - Standards of performance for fossil-fuel fired industrial and commercial equipment.**

A. This section applies to industrial and commercial installations which are less than seventy-three megawatts capacity (two hundred fifty million British thermal units per hour); but in the aggregate on any premises are rated at greater than five hundred thousand British thermal units per hour (0.146 megawatts); and in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

B. For purposes of this section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with Section ~~17.12.045~~17.11.160. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter that may be emitted.

C. No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any fuel-burning operation in excess of the amounts calculated by one of the following equations:

1. For equipment having a heat input rate of four thousand two hundred million BTU per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

Q = the heat input in million BTU per hour.

2. For equipment having a heat input rate greater than four thousand two hundred million BTU per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

where "E" and "Q" have the same meanings as in subdivision 1 of this subsection.

D. The actual values shall be calculated from the applicable equations and rounded off to two decimal places.

E. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million BTU heat input when low sulfur oil is fired.

F. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 2.2 pounds of sulfur dioxide per million BTU heat input when high sulfur oil is fired.

G. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may be omitted from the permit if the applicant demonstrates to the satisfaction of the control officer both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to insure that the sulfur dioxide ambient air quality standards set forth in Section 17.08.020 will not be violated.

1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.

2. In cases where the permittee is authorized to use high sulfur oil it shall submit to the control officer monthly reports detailing its efforts to obtain low sulfur oil.

3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.

4. Nothing in this section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.

H. When coal is fired, fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pound of sulfur dioxide per million BTU heat input.

I. The owner or operator subject to the provisions of this section shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device.

1. For the purpose of reports required under excess emissions reporting required by Sections ~~17.12.035, 17.12.040, and 17.12.180~~17.12.180, 17.13.200, 17.12.170, 17.13.190, and 17.12.040, the owner or operator shall report all six-minute periods in which the opacity of any plume or effluent exceeds 15 percent.

2. The format for the excess emissions report shall comply with the requirements of ~~17.12.040(B)~~Sections 17.12.170(B) and 17.13.190(B).

J. The test methods and procedures required by this section are as follows:

1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standards as prescribed in this section.

a. Method 1 for selection of sampling site and sample traverses.

b. Method 3 for gas analysis to be used when applying Reference Methods 5 and 6.

c. Methods 4 and 5 for concentration of particulate matter and the associated moisture content.

d. Method 6 for concentration of $SO^2$.

2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the control officer. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than one hundred sixty degrees Celsius (three hundred twenty degrees Fahrenheit).

3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one meter (3.28 ft). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

4. For Method 6, the minimum sampling time shall be twenty minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately thirty-minute intervals.

5. Gross calorific value shall be determined in accordance with the applicable ASTM methods: D-2015-91 (Test for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter) for solid fuels, D-240-87 (Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter) for liquid fuels, and D-1826-88 (Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter) for gaseous fuels. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the fossil-fuel fired system.

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**17.16.180 - Standards of Performance for Existing Hospital/Medical/ Infectious Waste Incinerators.**

A. This Section applies to any hospital/medical/infectious waste incinerator (HMIWI) for which construction was commenced on or before June 20, 1996. All federal regulations cited within this Section are incorporated by reference in 17.16.490. An incinerator subject to this Section is not subject to 17.16.170. The following types of incinerators are not subject to this Section:

1. An incinerator during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, if the owner or operator of the incinerator does both of the following:

a. Notifies the ~~Control Officer~~control officer of an exemption claim.

b. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned.

2. Any co-fired incinerator if the owner or operator of the incinerator does all of the following:

a. Notifies the ~~Control Officer~~control officer of an exemption claim.

b. Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels or wastes to be burned.

c. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste burned, and the weight of all other fuels and wastes burned at the co-fired incinerator.

3. Any incinerator required to have a permit under Section 3005 of the Solid Waste Disposal Act.

4. Any incinerator subject to 40 CFR 60, Subparts Cb, Ea, or Eb (standards or guidelines for certain municipal waste incinerators).

5. Any pyrolysis unit, as defined in 40 CFR 60.51c.

6. Cement kilns firing hospital waste or medical/infectious waste.

B. A physical or operational change made to an existing HMIWI unit solely for the purpose of complying with emission limitations under this Section is not considered a modification and does not result in an existing HMIWI unit becoming subject to the provisions of 17.16.490 (16).

C. In addition to the definitions provided in 40 CFR 60.51c, the following definitions apply to this Section:

1. "Rural HMIWI" means any small HMIWI that is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and that burns less than 2,000 pounds per week of hospital waste and medical/infectious waste. The 2,000 pounds per week limitation does not apply during performance tests.

2. "Standard Metropolitan Statistical Area" or "SMSA" means any area listed in Office of Management and Budget (OMB) Bulletin 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993 which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. A copy of the bulletin is on file with the Office of the Secretary of State and the Department.

3. "State Plan" means the plan that 40 CFR 60 subpart Ce requires states to develop to regulate existing HMIWI built on or before June 20, 1996.

D. Beginning September 15, 2000, an HMIWI shall operate under a Class I permit.

E. An owner or operator of an HMIWI shall comply with the following emissions limitations:

1. The emissions limitations in Table 1 unless the HMIWI is a rural HMIWI.

2. The emissions limitations in Table 2, if the HMIWI is a rural HMIWI.

3. An owner or operator of an HMIWI shall not cause to be discharged into the atmosphere from the stack of that HMIWI any gases that exhibit greater than 10% opacity (6-minute block average).

4. An owner or operator of a large existing HMIWI shall comply with the opacity requirements in 40 CFR 60.52c (c), (d), and (e).

F. An owner or operator of an HMIWI shall comply with the operator training requirements found in 40 CFR 60.53c within one year following approval of the State Plan.

G. An owner or operator of an HMIWI shall comply with the waste management requirements found in 40 CFR 60.55c.

H. An owner or operator of a rural HMIWI shall comply with the following inspection requirements:

1. The owner or operator shall conduct or hire another party to conduct an initial equipment inspection within one year following approval of the State Plan.

2. At a minimum, an inspection shall include the following:

a. Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation. Clean pilot flame sensor, as necessary.

b. Inspect adjustment of primary and secondary chamber combustion air, and adjust as necessary.

c. Inspect hinges and door latches, and lubricate as necessary.

d. Inspect dampers, fans, and blowers for proper operation.

e. Inspect HMIWI door and door gaskets for proper sealing.

f. Inspect motors for proper operation.

g. Inspect primary chamber refractory lining. Clean and repair or replace lining as necessary.

h. Inspect incinerator shell for corrosion and hot spots.

i. Inspect secondary/tertiary chamber and stack, clean as necessary.

j. Inspect mechanical loader, including limit switches, for proper operation, if applicable.

k. Visually inspect waste bed (grates), and repair or seal, as appropriate.

l. For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments.

m. Inspect each air pollution control device for proper operation, if applicable.

n. Inspect waste heat boiler systems to ensure proper operation, if applicable.

o. Inspect bypass stack components.

p. Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment.

q. Generally observe that the equipment is maintained in good operating condition.

3. Within 10 operating days following an equipment inspection, the owner or operator shall complete all necessary repairs unless the owner or operator obtains written approval from the ~~Control Officer~~control officer establishing a date by which all necessary repairs of the facility shall be completed.

4. The owner or operator of any rural HMIWI shall conduct or hire another party to conduct an equipment inspection annually (no more than 12 months following the previous annual equipment inspection), as outlined in subsections (2) and (3).

I. An owner or operator of an HMIWI shall comply with the following compliance, performance testing, and monitoring requirements:

1. Except as provided in subsection (2), an existing HMIWI shall meet the requirements for compliance and performance testing in 40 CFR 60.56c, excluding the fugitive emissions testing requirements under 40 CFR 60.56c(b)(12) and (c)(3).

2. A rural HMIWI shall meet the following compliance and performance testing requirements:

a. Conduct the performance testing requirements in 40 CFR 60.56c(a), (b)(1) through (b)(9), (b)(11) (Hg only), and (c)(1). The 2,000 lb/week limitation under 40 CFR 60.33e(b) does not apply during performance tests.

b. Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limitations.

c. Ensure that the facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times except during periods of startup, shutdown, and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature is a violation of the established operating parameter.

d. Except as provided in subsection (I)(2)(e), operating the facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously is a violation of the PM, CO, and dioxin/furan emission limitations.

e. The owner or operator may conduct a repeat performance test within 30 days after violation of any applicable operating parameter to demonstrate that the facility is not in violation of any applicable emission limit. Repeat performance tests conducted under this subsection shall be conducted using the identical operating parameters that indicated a violation under subsection (I)(2)(d).

3. The owner or operator shall comply with the monitoring requirements listed in 40 CFR 60.57c of subpart Ec, except as provided in subsection (I)(4).

4. A rural HMIWI shall meet the following monitoring requirements:

a. Install, calibrate (to manufacturer's specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

b. Install, calibrate (to manufacturer's specifications), maintain, and operate a device that automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

c. Obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75% of the operating hours per day and for 90% of the operating hours per calendar quarter that the facility is incinerating hospital waste or medical/infectious waste.

J. An owner or operator of an HMIWI shall comply with the following reporting and recordkeeping requirements:

1. An owner or operator of each HMIWI shall comply with the requirements listed in 40 CFR 60.58c(b), (c), (d), (e), and (f), excluding 40 CFR 60.58c(b)(2)(ii) (fugitive emissions) and (b)(7) (siting).

2. An owner or operator of each rural HMIWI shall perform all the following:

a. Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days after an inspection or the time-frame established by the ~~Control Officer~~control officer.

b. Submit an annual report to PDEQ, Air Quality Division, ~~150 W. Congress Street~~33 N. Stone Ave, Suite 700, Tucson, Arizona 85701. The report shall contain information recorded under subsection (2)(a) and be submitted no later than 60 days following the year in which data were collected. The owner or operator shall send subsequent reports no later than 12 calendar months following the previous report (after receiving a Class I permit, the owner or operator shall submit these reports semiannually). The facility's manager shall sign the report.

**Table 1**
**Emission Limitations for Small, Medium, and Large HMIWI**

| Pollutant | Units (7% oxygen, dry basis) | Emission Limitation | | |
|---|---|---|---|---|
| | | Small HMIWI | Medium HMIWI | Large HMIWI |
| Particulate matter | Milligrams per dry standard cubic meter (grains per dry standard cubic foot). | 115 (0.05) | 69 (0.03) | 34 (0.015) |
| Carbon monoxide | Parts per million by volume | 40 | 40 | 40 |
| Dioxin/furans | Nanograms per dry standard cubic meter total dioxin/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter toxic equivalent quantity (grains per billion dry standard cubic feet) | 125 (55) or 2.3 (1.0) | 125 (55) or 2.3 (1.0) | 125 (55) or 2.3 (1.0) |
| Hydrogen chloride | Parts per million by volume or percent reduction | 100 or 93% | 100 or 93% | 100 or 93% |
| Sulfur dioxide | Parts per million by volume | 55 | 55 | 55 |
| Nitrogen oxides | Parts per million by volume | 250 | 250 | 250 |
| Lead | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction | 1.2 (0.52) or 70% | 1.2 (0.52) or 70% | 1.2 (0.52) or 70% |
| Cadmium | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction | 0.16 (0.07) or 65% | 0.16 (0.07) or 65% | 0.16 (0.07) or 65% |
| Mercury | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction | 0.55 (0.24) or 85% | 0.55 (0.24) or 85% | 0.55 (0.24) or 85% |

**Table 2**
**Emissions Limitations for Rural HMIWI**

| Pollutant | Units (7% oxygen, dry basis) | Emission Limitation |
|---|---|---|
| Particulate matter | Milligrams per dry standard cubic meter (grains per dry standard cubic foot) | 197 (0.086) |
| Carbon monoxide | Parts per million by volume | 40 |
| Dioxin/furans | Nanograms per dry standard cubic meter total dioxin/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter toxic equivalent quantity (grains per billion dry standard cubic feet) | 800 (350) or 15 (6.6) |
| Hydrogen chloride | Parts per million by volume | 3100 (1.0) |
| Sulfur dioxide | Parts per million by volume | 55 |
| Nitrogen oxides | Parts per million by volume | 250 |
| Lead | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) | 10 (4.4) |
| Cadmium | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) | 4 (1.7) |
| Mercury | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) | 7.5 (3.3) |

**17.16.190 - Standards of performance for nitric acid plants.**

A. No person shall cause, allow or permit discharge from any nitric acid plant producing weak nitric acid, which is either:

1. Thirty to seventy percent in strength by either the increased pressure or atmospheric pressure process; or

2. More than 1.5 kg of total oxides of nitrogen per metric ton (3.0 lbs/ton) of acid produced expressed as nitrogen dioxide.

B. The opacity of any plume subject to the provisions of this section shall not exceed ten percent.

C. A continuous monitoring system for the measurement of nitrogen oxides shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with Section ~~17.12.060~~17.11.200.

D. The test methods and procedures required by this section are as follows:

1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standard prescribed in subsection A of this section as follows:

a. Method 7 for the concentration of NOx;

b. Method 1 for sample and velocity traverses;

c. Method 2 for velocity and volumetric flow rate;

d. Method 3 for gas analysis.

2. For Method 7, the sample site shall be selected according to Method 1 and the sampling point shall be the centroid of the stack or duct or at a point no closer to the walls than one meter (3.28 ft.). Each run shall consist of at least four grab samples taken at approximately fifteen-minute intervals. The arithmetic mean of the samples shall constitute the run value. A velocity traverse shall be performed once per run.

3. Acid production rate, expressed in metric tons per hour of one hundred percent nitric acid, shall be both:

a. Determined during each testing period by suitable methods; and

b. Confirmed by a material balance over the production system.

4. For each run, nitrogen oxides, expressed in g/metric ton of one hundred percent nitric acid, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation:

g/hr = Q;sub§\sub; × c

where:

Q;sub§\sub; = volumetric flow rate of the effluent in dscm/hr, as determined in accordance with paragraph (1)(c) of this subsection, and

c = $NO_x$ concentration in g/dscm, as determined in accordance with paragraph (1)(a) of this subsection.

**17.16.200 - Standards of performance for sulfuric acid plants.**

A. Facilities that produce sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfide and mercaptans or acid sludge shall not discharge into the atmosphere:

1. Greater than two kg of sulfur dioxide per metric ton (four lbs/ton) of sulfuric acid produced (calculated as one hundred percent $H_2SO_4$); or

2. Greater than 0.075 kg of sulfuric acid mist per metric ton (0.15 lbs/ton) or sulfuric acid produced (calculated as one hundred percent $H_2SO_4$).

B. This section shall not apply to metallurgical plants or other facilities where conversion to sulfuric acid is utilized as a means of controlling emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

C. A continuous monitoring system for the measurement of sulfur dioxide shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with Section ~~17.12.060~~17.11.200.

D. The test methods and procedures required by this section are as follows:

1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with standards prescribed in subsection A of this section as follows:

a. Method 8 for concentration of $SO_2$ and acid mist;

b. Method 1 for sample and velocity traverses;

c. Method 2 for velocity and volumetric flow rate;

d. Method 3 for gas analysis.

2. The moisture content can be considered to be zero. For Method 8 the sampling time for each run shall be at least sixty minutes and the minimum sample volume shall be 1.15 dscm (40.6 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the control officer.

3. Acid production rate, expressed in metric tons per hour of one hundred percent $H_2SO_4$, shall be both:

a. Determined during each testing period by suitable methods; and

b. Confirmed by a material balance over the production system.

4. Acid mist and sulfur dioxide emissions, expressed in g/metric ton of one hundred percent $H_2SO_4$, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation, g/hr = Q;sub§ .....sub; × c, where Q;sub§

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~~**17.16.220 - Reserved.**~~

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~~**17.16.280 - Reserved.**~~

~~**17.16.290 - Reserved.**~~

~~**17.16.300 - Reserved.**~~

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~~**17.16.330 - Reserved.**~~

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**Article V. - Emissions from New and Existing Portable Sources**

~~**17.16.440 - Reserved.**~~

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**Article VII. - National Emission Standards for Hazardous Air Pollutants**

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~~**17.16.540 - Reserved.**~~

**Article VIII. - New Major Sources and Major Modifications to Existing Major Sources**

**17.16.550 - General.**

A. No person shall commence construction of a new major source or the major modification of a source without first obtaining a permit or a permit revision from the control officer. For purposes of this article, "major source" shall have the same meaning as defined in A.A.C. R18-2-401.

B. An application for a permit or permit revision under this article shall not be considered complete unless the application demonstrates that:

1. The requirements in subsection C of this section are met.

2. The more stringent of the applicable new source performance standards in Article VI or the existing source performance standards in Article IV are applied to the proposed new major source or major modification of a major source.

3. The visibility requirements contained in Section 17.16.630 are satisfied.

4. All applicable provisions of ~~Chapter 17.12~~Chapters 17.11, 17.12, and 17.13 are met.

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.

   a. The degree of emission limitation required for control of any pollutant under this article shall not be affected in any manner by:

      i. Stack height in excess of GEP stack height except as provided in Section ~~17.12.360~~17.11.150, or

      ii. Any other dispersion technique, unless implemented prior to December 31, 1970.

6. The new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in this title.

7. The new major source or major modification will not exceed the limitations, if applicable, on emission from nonpoint sources contained in Article III of this chapter.

8. A stationary source that will emit five or more tons of lead per year will not violate the ambient air quality standards for lead as contained in Section 17.08.070.

9. The new major source or major modification will not have an adverse impact on visibility, as determined according to Section 17.16.630.

C. Except for assessing air quality impacts within Class I areas, the air impact analysis required to be conducted in connection with the filing for a permit shall initially consider only the geographical area located within a fifty kilometer 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 fifty kilometers, 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.

D. Unless the requirements have been satisfied pursuant to ~~Chapter 17.12~~Chapters 17.11, 17.12, and 17.13, the control officer shall comply with following requirements:

1. Within sixty days after receipt of an application for a permit or permit revision subject to this article, or any addition to such application, the control officer shall advise the applicant of any deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the control officer received all required information. The permit application shall not be deemed complete if the control officer fails to meet the requirements of this subdivision.

2. A copy of any notice required by Sections ~~17.12.340~~17.12.190 and 17.13.210 shall be sent to the permit applicant, to the administrator, and to the following officials and agencies having cognizance over the location where the proposed major source or major modification would occur:

   a. The air pollution control officer, if one exists, for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;

   b. The county manager 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;

   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.

3. The control officer shall take final action on the application within one year of the proper filing of the completed application. The control officer shall notify the applicant in writing of his approval or denial.

4. The control officer shall cancel a permit or permit revision under this article if the proposed construction or major modification is not begun within eighteen months of issuance, or if during the construction or major modification, work is suspended for more than eighteen months.

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**17.16.580 - Special rule for sources of VOC or oxides of nitrogen in ozone nonattainment areas classified as serious or severe.**

A. Applicability. The provisions of this section 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 section, all requirements of ~~Chapter 17.12~~Chapters 17.11, 17.12, and 17.13 and Articles III and IV of this chapter apply.

B. "Significant" means, for the purposes of a major modification of any stationary source of VOC or oxides of nitrogen, any physical changes or changes in the method of operations that results in net increases in emissions of either pollutant by more than twenty-five tons when aggregated with all other creditable

increases in emissions from the source over the prior five consecutive calendar years, including the calendar year in which the increase is proposed. Emissions decreases shall only be creditable if they are simultaneous with the proposed modification.

C. For any stationary source that emits or has the potential to emit less than one hundred tons VOC or oxides of nitrogen per year, a significant increase in VOC or oxides of nitrogen from any discrete emitting unit, operation, or other pollutant emitting activity shall constitute a major modification unless the increase in emissions is offset from other units, operations or activities at the source at a ratio of 1.3 to one for the increase in VOC or oxides of nitrogen emissions from such unit, operation or activity within the facility only. If such a change qualifies as a major modification under this section, BACT shall be substituted for LAER. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in subsections E and F of this section.

D. For any stationary source that emits or has the potential to emit one hundred tons or more of VOC or oxides of nitrogen per year, any significant increase in VOC or oxides of nitrogen emissions from any discrete emitting unit, operation, or other pollutant emitting activity shall constitute a major modification. If the increase in emissions from such modification is offset from other units, operations or activities at the source at a ratio of 1.3 to one for the increase in VOC or oxides of nitrogen emissions from such unit, operation or activity, BACT shall be substituted for LAER. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in subsections E and F of this section.

E. For any new major source or major modification which is classified as such 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 such source or modification shall be offset at a ratio of 1.2 to one. Such offset shall be made in accordance with the provisions of Section 17.16.570.

F. For any new major source or major modification which 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 such source or modification shall be offset at a ratio of 1.3 to one. If the SIP requires all existing major sources of these pollutants in the nonattainment area to apply BACT, then the offset ratio shall be 1.2 to one. All such offsets shall be made in accordance with the provisions of Section 17.16.570.

**17.16.590 - Permit requirements for sources located in attainment and unclassifiable areas.**

A. Except as provided in subsections B through G of this section and Section 17.16.610, Innovative control technology, no permit or permit revision under this article shall be issued to a person proposing to construct a new major source or 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:

1. A new major source shall apply best available control technology (BACT) for each pollutant listed in Section ~~17.04.340(212)(a)~~17.04340(A)(212)(a) for which the potential to emit is significant.

2. A major modification shall apply BACT for each pollutant listed in Section ~~17.04.340(212)(a)~~17.04.340(A)(212)(a) 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 change in the method of operation in the unit.

3. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen 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 BACT for the source.

4. 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 or innovative fuel combustion techniques, for control of such pollutant. In no event shall such application of 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 Article~~s~~ VI~~ and IX~~ of this chapter. 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.

5. The person applying for the permit or permit revision under this article performs an air impact analysis and monitoring as specified in Section 17.16.600 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 Table 17.08.150, and minor and mobile sources for oxides of nitrogen:

   a. Would not cause or contribute to an increase in concentrations of any pollutant by an amount in excess of any applicable baseline concentration in Table 17.08.150 for any attainment or unclassified area; or

   b. Would not contribute to an increase in ambient concentrations for a pollutant by an amount in excess of the significance level for such pollutant in any 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 or oxides of nitrogen, or a major modification to a major source of volatile organic compounds 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 fifty kilometers 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 volatile organic compounds 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 volatile organic compounds emitted from the source are not expected to contribute to violations of the ozone standards in the adjacent nonattainment areas.

6. Air Quality Models.

   a. All estimates of ambient concentrations required under this section shall be based on the applicable air quality models, data basis, and other requirements specified in 40 CFR 51, Appendix W, "Guideline On Air Quality Models," as of July 1, 2004 (and no future amendments or editions), which shall be referred to hereinafter as "Guideline", and is adopted by reference and is on file with PDEQ.

b. Where an air quality impact model specified in the "Guideline" is inappropriate, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment. Written approval of the EPA administrator shall be obtained for any modification or substitution.

B. 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 article demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant.

C. 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 Chapter 17.04, Article IX or belongs to the category of sources for which New Source Performance Standards under 40 CFR Part 60 or National Emission Standards for Hazardous Air Pollutants under 40 CFR Part 61 promulgated by the administrator prior to August 7, 1980.

D. 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.

E. 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 under this article, is in compliance with the conditions of that permit or permit revision under this article, 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 ten calendar days in advance of the proposed relocation unless a different time duration is previously approved by the control officer.

F. Special Rules Applicable to Federal Land Managers.

1. Notwithstanding any other provision of this section, 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 Section 17.08.100(B) 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 specified in Table 17.08.150. If the control officer concurs with such demonstrations, the permit or permit revision under this article shall be denied.

2. 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 article 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 article 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:

| Sulfur Oxide Period of exposure | Maximum Allowable Increase (Micrograms per cubic meter) |
|---|---|
| Low terrain areas: | |
| 24-hour maximum | 36 |
| 3-hour maximum | 130 |
| High terrain areas: | |
| 24-hour maximum | 62 |
| 4-hour maximum | 221 |

G. The issuance of a permit or permit revision under this article in accordance with this section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

H. 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 section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

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**17.16.610 - Innovative control technology.**

A. Notwithstanding the provisions of Sections 17.16.590(A)(1), (2) and (3), 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 requirements otherwise applicable to the new source or modification.

B. The control officer shall approve the installation of a system of innovative control technology if the following conditions are met:

1. 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;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 17.16.590(A)(2) by a date specified in the permit or permit revision for the source. Such date shall not be later than four years from the time of startup or seven years from permit or permit revision issuance;

3. The source or modification would meet requirements equivalent to those in Section ~~17.16.590A~~17.16.590(A) 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 article;

4. Before the date specified in the permit or permit revision under this article, the source or modification would not:

a. Cause or contribute to any violation of an applicable state ambient air quality standard, or

b. Impact any area where an applicable increment is known to be violated;

5. All other applicable requirements, including those for public participation contained in Sections ~~17.12.340~~17.12.190 and 17.13.210, have been met;

6. The control officer receives the consent of the governors of other affected states;

7. The limits on pollutants contained in Section 17.08.150 for Class I areas will be met for all periods during the life of the source or modification.

C. The control officer shall withdraw any approval to employ a system of innovative control technology made under this section if:

1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3. 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.

D. 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 subsection C of this section, 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 through use of a demonstrated system of control.

**17.16.620 - Air quality models.**

A. Where the control officer requires a person requesting a permit or permit revision under this article to perform air quality impact modeling to obtain such permit or permit revision under this article, the modeling shall be performed in a manner consistent with the "Guideline on Air Quality Models (Revised)".

B. Where the person requesting a permit or permit revision under this article 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 shall make a written finding that:

1. No model in the Guideline is appropriate for a particular permit or permit revision under this article under consideration; or

2. The data base required for the appropriate model in the Guideline is not available; and

3. 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

4. The model proposed as a substitute or modification has been approved by the administrator.

C. Use of a modified or substituted model shall be subject to notice and opportunity for public comment pursuant to Sections ~~17.12.340~~17.12.190 and 17.13.210.

**17.16.630 - Visibility protection.**

A. For any new major source or major modification subject to the provisions of this title, no permit or permit revision under this article shall be issued to a person proposing to construct or modify the source unless the applicant has provided:

1. 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

2. Results of monitoring of visibility in any area near the proposed source for such purposes and by such means as the control officer determines are necessary and appropriate.

B. A determination of an adverse impact on visibility shall be made based on consideration of all of the following factors:

1. The times of visitor use of the area;

2. The frequency and timing of natural conditions in the area that reduce visibility;

3. All of the following visibility impairment characteristics:

a. Geographic extent,

b. Intensity,

c. Duration,

d. Frequency,

e. Time of day;

4. The correlation between the characteristics listed in subdivision 3 of this subsection and the factors described in subdivisions 1 and 2 of this subsection.

C. The control officer shall not issue a permit or permit revision pursuant to this chapter or ~~Chapter 17.12~~Chapters 17.11, 17.12, and 17.13 for any new major source or major modification subject to this title unless the following requirements have been met:

1. The ~~Control Officer~~control officer shall notify the individuals identified in subdivision 2 of this subsection within thirty days of receipt of any advance notification of any such permit or permit revision application under this article.

2. Within thirty days after receipt of the permit or permit revision application under this article 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 the federal official charged with direct responsibility for management of any lands within any such area. The notice shall:

a. Include a copy of all information relevant to the permit or permit revision application under this article,

b. 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

c. Provide for no less than a thirty-day period within which written comments may be submitted.

3. The control officer shall consider any analysis provided by the federal land manager that is received within the comment period provided in subdivision 2 of this subsection.

a. 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 under Sections ~~17.12.340~~17.12.190 and 17.13.210, either explain the decision or specify where the explanation can be obtained.

b. 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 article for the proposed major new source or major modification.

4. When the proposed permit decision is made, pursuant to Section ~~17.12.160(I)~~17.12.010(J)(8), and available for public review, the control officer shall provide the individuals identified in subdivision 2 of this subsection with a copy of the proposed permit decision and shall make available to them any materials used in making that determination.

**17.16.640 - Special rule for non-operating sources of sulfur dioxide in sulfur dioxide nonattainment areas.**

A. If an emissions unit that is a major source of sulfur dioxide located in a sulfur dioxide nonattainment area has not operated for more than twenty-four consecutive calendar months, it may only be restarted if the owner or operator of such source does all of the following:

1. Demonstrates, according to the air quality impact analysis requirements of Section 17.16.590 A5 and 6 that emissions from that unit, including fugitive emissions, will not cause or contribute to a violation of the ambient standard for sulfur dioxide in Section 17.08.020;

2. Demonstrates that startup of that unit will not require reconstruction; and

3. Submits a startup plan that includes a source testing plan.

B. The demonstration and plan shall be submitted at least one hundred eighty days prior to the expected day when the restarting of the non-operating unit will commence. The control officer may request additional information, as necessary to evaluate the submittals. The unit shall not be restarted unless the control officer approves the submittal.

C. If the control officer disapproves a demonstration or plan required in subsection A of this section, or such demonstration or plan, including additional information requested by the control officer, is not submitted in a timely manner, the source shall be required to obtain a permit pursuant to the requirements for a new major source or major modification as contained in this chapter.

D. The conduct of performance tests that comply with the requirements of Section ~~17.12.050~~17.11.210 and demonstrate compliance with emission limits prescribed in a permit for that source or an applicable rule shall constitute operation of an emitting unit for the purposes of this section.

~~**Article IX. - Emissions of Hazardous Air Pollutants (HAPS)**~~

~~**17.16.645 - Reserved.**~~

~~**17.16.650 - Definitions.**~~

~~The following definitions and the definitions contained in Section 17.04.340 and A.R.S. § 49-401.01 apply to this Article unless a different meaning is clearly indicated by the context.~~

~~1. "Acute adverse effects to human health" means those effects described in A.R.S. § 49-401.01(2) that are of short duration or rapid onset.~~

~~2. "Acute Ambient Air Concentration (AAAC)" means that concentration of a hazardous air pollutant, in the ambient air, above which the general population, including susceptible populations, could experience acute adverse affects to human health.~~

3. "Affected source" notwithstanding the definition at Section 17.04.340(12), in this Article, has the meaning of "affected source" contained in 40 CFR 63.2, as of July 1, 2004 (and no future amendments or editions), which is incorporated herein by reference, and is on file with the Department.

4. "Ambient air concentration (AAC)" means that concentration of a hazardous air pollutant in the ambient air, listed in Section 17.16.685(C)(1) or determined according to Section 17.16.685(C)(2) or (C)(3), above which the general population, including susceptible populations, could experience adverse effects to human health.

5. "Arizona maximum achievable control technology" or "AZMACT" means an emission standard that requires the maximum degree of reduction in emissions of the hazardous air pollutants subject to this Chapter, including a prohibition on the emissions where achievable and that the Control Officer, according to Section 17.16.680 has determined to be an affected source to which the standard applies, through application of measures, processes, methods, systems or techniques including measures that:

   a. Reduce the volume of, or eliminate emissions of, the pollutants through process changes, substitution of materials, or other modifications

   b. Enclose systems or processes to eliminate emissions;

   c. Collect, capture or treat the pollutants when released from a process, stack, storage or fugitive emissions point;

   d. Are design, equipment, work practice, or operational standards, including requirements of operator training or certification; or

   e. Are a combination of the above.

6. "Chemical Abstract Service (CAS) Number" means a unique, identifying number assigned by the Chemical Abstract Service to each distinct chemical substance.

7. "Chronic adverse effects to human health" means those effects described in A.R.S. § 49-401.01(2) that are of a persistent, recurring, or long-term nature or that are delayed in onset.

8. "Chronic Ambient Air Concentration (CAAC)" means that concentration of a hazardous air pollutant, in the ambient air, above which the general population, including susceptible populations, could experience chronic adverse effects to human health.

9. "Federally listed hazardous air pollutants" means any air pollutant adopted under Section 17.16.660.

10. "Hazardous air pollutant" means any federally listed hazardous air pollutant.

11. "Major source of state hazardous air pollutants (HAPS)" means:

   a. A stationary source that emits or has the potential to emit in the aggregate, including fugitive emissions, ten tons per year or more of any state hazardous air pollutant or twenty-five tons per year or more of any combination of state hazardous air pollutants.

   b. Any change to a minor source of hazardous air pollutants that would increase its emissions to the qualifying levels in subsection (a).

12. "Minor source of state hazardous air pollutants (HAPs)" means a stationary source that emits or has the potential to emit, including fugitive emissions, one ton or more but less than 10 tons per year of any hazardous air pollutant or two and one-half tons or more but less than 25 tons per year of any combination of hazardous air pollutants.

13. "Modification" or "modify" means a physical change in, or change in the method of operation of a source that increases the actual emissions of any state hazardous air pollutant (HAP) emitted by the source by more than any de minimis amount listed in Table 1, or which results in the emission of any HAP not previously emitted by source by more than any de minimis amount listed in Table 1, including a change that increases a source's actual emissions of any state HAP that results in total source emissions that exceed 1 tpy of any individual HAP or 2.5 tpy of any combination of HAPs. A physical change in, or change in the method of operation of, a source is not a modification under this definition if:

   a. The change, together with any other changes implemented or planned by the source, qualifies for an alternative emission limitation under § 112(i)(5) of the Clean Air Act;

   b. The Clean Air Act § 112(d) or (f) imposes a standard requiring the change that is implemented after the Administrator promulgates the standard;

   c. The change is routine maintenance, repair, replacement;

   d. The change is the 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;

   e. The change is the use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

   f. The change is the use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

   g. The change is an increase in the hours of operation or in the production rate, unless the change would be prohibited under an enforceable permit condition; or

   h. The change is any change in ownership at a stationary source.

14. "Potential to emit" or "potential emission rate" means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, taking into account controls that are enforceable under any federal, state, or local law, rule or regulation, or that are inherent in the design of the source.

15. "SIC Code" means the standard industrial classification code number for a source category derived from 1987 Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987).

16. "State hazardous air pollutant" (HAP) means any federally listed hazardous air pollutant.

~~17. "Technology transfer" means the process by which existing control technologies that have been successfully applied in one or more source categories that have similar processes or emissions units are reviewed for potential use in a different source category.~~

**~~Table 1. State HAPs De Minimis Levels~~**

| ~~Chemical~~ | ~~De Minimis (lb/hr)~~ | ~~De Minimis (lb/yr)~~ |
|---|---|---|
| ~~1,1,1—Trichloroethane (Methyl Chloroform)~~ | ~~117~~ | ~~14,247~~ |
| ~~1,1,2,2—Tetrachloroethane~~ | ~~N/A~~ | ~~0.20~~ |
| ~~1,3—Butadiene~~ | ~~N/A~~ | ~~0.39~~ |
| ~~1,4—Dichlorobenzene~~ | ~~N/A~~ | ~~1.9~~ |
| ~~2,2,4—Trimethylpentane~~ | ~~51~~ | ~~N/A~~ |
| ~~2,4—Dinitrotoluene~~ | ~~N/A~~ | ~~0.13~~ |
| ~~2—Chloroacetophenone~~ | ~~N/A~~ | ~~0.19~~ |
| ~~Acetaldehyde~~ | ~~N/A~~ | ~~5.3~~ |
| ~~Acetophenone~~ | ~~1.4~~ | ~~2,261~~ |
| ~~Acrolein~~ | ~~0.013~~ | ~~0.129~~ |
| ~~Acrylonitrile~~ | ~~N/A~~ | ~~0.17~~ |
| ~~Antimony Compounds (Selected compound: Antimony)~~ | ~~0.71~~ | ~~9.0~~ |
| ~~Arsenic Compounds (Selected compound: Arsenic)~~ | ~~N/A~~ | ~~0.0027~~ |
| ~~Benzene~~ | ~~N/A~~ | ~~1.5~~ |
| ~~Benzyl Chloride~~ | ~~N/A~~ | ~~0.25~~ |
| ~~Beryllium Compounds (Selected compound: Beryllium)~~ | ~~0.000707~~ | ~~0.0049~~ |
| ~~Biphenyl~~ | ~~2.1~~ | ~~1,130~~ |
| ~~bis(2-Ethylhexyl) Phthalate~~ | ~~0.71~~ | ~~3.0~~ |
| ~~Bromoform~~ | ~~0.42~~ | ~~11~~ |
| ~~Cadmium Compounds (Selected compound: Cadmium)~~ | ~~N/A~~ | ~~0.0065~~ |
| ~~Carbon Disulfide~~ | ~~18~~ | ~~4,522~~ |
| ~~Carbon Tetrachloride~~ | ~~N/A~~ | ~~0.78~~ |
| ~~Carbonyl Sulfide~~ | ~~1.7~~ | ~~N/A~~ |
| ~~Chlorobenzene~~ | ~~57~~ | ~~6,442~~ |
| ~~Chloroform~~ | ~~N/A~~ | ~~2.2~~ |
| ~~Chromium Compounds (Selected compound: Hexavalent Chromium)~~ | ~~N/A~~ | ~~0.0010~~ |
| ~~Cobalt Compounds (Selected compound: Cobalt)~~ | ~~N/A~~ | ~~0.0042~~ |

| | | |
|---|---|---|
| ~~Cumene~~ | ~~53~~ | ~~2,583~~ |
| ~~Cyanide Compounds (Selected compound: Hydrogen Cyanide)~~ | ~~0.22~~ | ~~19~~ |
| ~~Dibenzofurans~~ | ~~1.4~~ | ~~45~~ |
| ~~Dichloromethane (Methylene Chloride)~~ | ~~20~~ | ~~25~~ |
| ~~Dimethyl formamide~~ | ~~9.3~~ | ~~194~~ |
| ~~Dimethyl Sulfate~~ | ~~0.018~~ | ~~N/A~~ |
| ~~Ethyl Benzene~~ | ~~14~~ | ~~6,442~~ |
| ~~Ethyl Chloride (Chloroethane)~~ | ~~71~~ | ~~64,420~~ |
| ~~Ethylene Dibromide (Dibromoethane)~~ | ~~N/A~~ | ~~0.020~~ |
| ~~Ethylene glycol~~ | ~~2.8~~ | ~~2,583~~ |
| ~~Ethylidene Dichloride (1,1—Dichloroethane)~~ | ~~354~~ | ~~3,230~~ |
| ~~Formaldehyde~~ | ~~N/A~~ | ~~0.90~~ |
| ~~Glycol Ethers (Selected compound: Diethylene glycol, monoethyl ether)~~ | ~~14~~ | ~~19~~ |
| ~~Hexachlorobenzene~~ | ~~N/A~~ | ~~0.026~~ |
| ~~Hexane~~ | ~~659~~ | ~~13,689~~ |
| ~~Hydrochloric Acid~~ | ~~0.93~~ | ~~129~~ |
| ~~Hydrogen Fluoride (Hydrofluoric Acid)~~ | ~~0.56~~ | ~~90~~ |
| ~~Isophorone~~ | ~~0.71~~ | ~~12,946~~ |
| ~~Manganese Compounds (Selected compound: Manganese)~~ | ~~0.14~~ | ~~0.32~~ |
| ~~Mercury Compounds (Selected compound: Elemental Mercury)~~ | ~~0.058~~ | ~~1.9~~ |
| ~~Methanol~~ | ~~53~~ | ~~25,830~~ |
| ~~Methyl Bromide~~ | ~~15~~ | ~~32~~ |
| ~~Methyl Chloride~~ | ~~67~~ | ~~582~~ |
| ~~Methyl Hydrazine~~ | ~~N/A~~ | ~~0.0024~~ |
| ~~Methyl Isobutyl Ketone (Hexone)~~ | ~~28~~ | ~~19,388~~ |
| ~~Methyl Methacrylate~~ | ~~18~~ | ~~4,522~~ |
| ~~Methyl Tert-Butyl Ether~~ | ~~N/A~~ | ~~46~~ |
| ~~N,N-Dimethylaniline~~ | ~~1.4~~ | ~~45~~ |
| ~~Naphthalene~~ | ~~N/A~~ | ~~0.35~~ |
| ~~Nickel Compounds (Selected compound: Nickel Refinery Dust)~~ | ~~N/A~~ | ~~0.049~~ |

| | | |
|---|---|---|
| ~~Phenol~~ | ~~3.3~~ | ~~1,295~~ |
| ~~Polychlorinated Biphenyls (Selected Compound: Aroclor 1254)~~ | ~~N/A~~ | ~~0.12~~ |
| ~~Polycyclic Organic Matter (Selected compound: Benzo(a)pyrene)~~ | ~~N/A~~ | ~~0.013~~ |
| ~~Propionaldehyde~~ | ~~N/A~~ | ~~5.3~~ |
| ~~Propylene Dichloride~~ | ~~14~~ | ~~26~~ |
| ~~Selenium Compounds (Selected compound: Selenium)~~ | ~~0.028~~ | ~~113~~ |
| ~~Styrene~~ | ~~31~~ | ~~6,442~~ |
| ~~Tetrachloroethylene (Perchlorethylene)~~ | ~~N/A~~ | ~~2.0~~ |
| ~~Toluene~~ | ~~109~~ | ~~146,766~~ |
| ~~Trichloroethylene~~ | ~~N/A~~ | ~~0.10~~ |
| ~~Vinyl Acetate~~ | ~~22~~ | ~~1,295~~ |
| ~~Vinyl Chloride~~ | ~~N/A~~ | ~~1.3~~ |
| ~~Vinylidene Chloride (1,2-Dichloroethylene)~~ | ~~2.1~~ | ~~1,295~~ |
| ~~Xylene (Mixed Isomers)~~ | ~~98~~ | ~~644~~ |

~~**17.16.655 - Applicability.**~~

~~A. The provisions of this Article apply to:~~

~~1. Minor sources of state hazardous air pollutants that are in one of the source categories listed in Table 2; and~~

~~2. Major sources of state hazardous air pollutants.~~

~~B. The provisions of this Article shall not apply to:~~

~~1. Affected sources for which a standard under 40 C.F.R. 61 or 40 CFR 63 imposes an emissions limitation.~~

~~2. Affected sources at a minor source of state HAPs if the minor source:~~

~~i. Is in a source category for which a standard under 40 CFR 63 has been adopted; and~~

~~ii. Agrees to comply with the emissions limitation under Section 17.12.190.~~

~~C. If the Clean Air Act has established provisions including specific schedules for the regulation of source categories under Section 112(e)(5) and 112(n), those provisions and schedules shall apply to the regulation of those source categories.~~

~~D. For any category or subcategory of facilities licensed by the Nuclear Regulatory Commission, the Control Officer shall not adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation adopted by the Administrator under Section 112 of the Act.~~

~~E. The provisions of this Article shall not apply to sources for which the Administrator has made one of the following findings under Section 112(n) of the Clean Air Act, 42 U.S.C. 7412(n):~~

~~1. A finding that regulation is not appropriate or necessary, or~~

~~2. A finding that the source should apply alternative control strategies.~~

~~**Table 2. State HAPs Minor Source Categories**~~

| ~~Primary SIC Code~~ | ~~Source Category~~ |
|---|---|
| ~~2434~~ | ~~Wood Kitchen Cabinets~~ |
| ~~2451~~ | ~~Mobile Homes~~ |

| | |
|---|---|
| ~~2621~~ | ~~Paper Mills~~ |
| ~~2679~~ | ~~Converted Paper Products, n.e.c.[1]~~ |
| ~~2851~~ | ~~Paints and Allied Products~~ |
| ~~2911~~ | ~~Petroleum Refining~~ |
| ~~3086~~ | ~~Plastics Foam Products~~ |
| ~~3088~~ | ~~Plastics Plumbing Fixtures~~ |
| ~~3089~~ | ~~Plastics Products, n.e.c.[1]~~ |
| ~~3241~~ | ~~Cement, Hydraulic~~ |
| ~~3281~~ | ~~Cut Stone and Stone Products~~ |
| ~~3296~~ | ~~Mineral Wool~~ |
| ~~3312~~ | ~~Blast Furnaces and Steel Mills~~ |
| ~~3331~~ | ~~Primary Copper~~ |
| ~~3411~~ | ~~Metal Cans~~ |
| ~~3444~~ | ~~Sheet Metal Work~~ |
| ~~3451~~ | ~~Screw Machine Products~~ |
| ~~3479~~ | ~~Metal Coating and Allied Services~~ |
| ~~3585~~ | ~~Refrigeration and Heating Equipment~~ |
| ~~3672~~ | ~~Printed Circuit Boards~~ |
| ~~3999~~ | ~~Mfg. Industries, n.e.c.[1]~~ |
| ~~4922~~ | ~~Natural Gas Transmission~~ |
| ~~5169~~ | ~~Chemicals and Allied Products, n.e.c[1]~~ |
| ~~5171~~ | ~~Petroleum Bulk Stations and Terminals [1] Not Elsewhere Classified~~ |

~~**17.16.660 - State list of hazardous air pollutants.**~~

~~A. The following federally listed hazardous air pollutants listed in § 112(b)(1) of the Clean Air Act, 42 U.S.C. 7412(b)(1) are hazardous air pollutants under this Article::~~

| ~~CAS No.~~ | ~~Chemical Name~~ |
|---|---|
| ~~75070~~ | ~~Acetaldehyde~~ |
| ~~60355~~ | ~~Acetamide~~ |
| ~~75058~~ | ~~Acetonitrile~~ |
| ~~98862~~ | ~~Acetophenone~~ |
| ~~53963~~ | ~~2-Acetylaminofluorene~~ |

| | |
|---|---|
| ~~107028~~ | ~~Acrolein~~ |
| ~~79061~~ | ~~Acrylamide~~ |
| ~~79107~~ | ~~Acrylic acid~~ |
| ~~107131~~ | ~~Acrylonitrile~~ |
| ~~107051~~ | ~~Allyl chloride~~ |
| ~~92671~~ | ~~4-Aminobiphenyl~~ |
| ~~62533~~ | ~~Aniline~~ |
| ~~90040~~ | ~~o-Anisidine~~ |
| ~~1332214~~ | ~~Asbestos~~ |
| ~~71432~~ | ~~Benzene (including benzene from gasoline)~~ |
| ~~92875~~ | ~~Benzidine~~ |
| ~~98077~~ | ~~Benzotrichloride~~ |
| ~~100447~~ | ~~Benzyl chloride~~ |
| ~~92524~~ | ~~Biphenyl~~ |
| ~~117817~~ | ~~Bis(2-ethylhexyl)phthalate (DEHP)~~ |
| ~~542881~~ | ~~Bis(chloromethyl)ether~~ |
| ~~75252~~ | ~~Bromoform~~ |
| ~~106990~~ | ~~1,3-Butadiene~~ |
| ~~156627~~ | ~~Calcium cyanamide~~ |
| ~~133062~~ | ~~Captan~~ |
| ~~63252~~ | ~~Carbaryl~~ |
| ~~75150~~ | ~~Carbon disulfide~~ |
| ~~56235~~ | ~~Carbon tetrachloride~~ |
| ~~463581~~ | ~~Carbonyl sulfide~~ |
| ~~120809~~ | ~~Catechol~~ |
| ~~133904~~ | ~~Chloramben~~ |
| ~~57749~~ | ~~Chlordane~~ |
| ~~7782505~~ | ~~Chlorine~~ |
| ~~79118~~ | ~~Chloroacetic acid~~ |
| ~~532274~~ | ~~2-Chloroacetophenone~~ |

| | |
|---|---|
| ~~108907~~ | ~~Chlorobenzene~~ |
| ~~510156~~ | ~~Chlorobenzilate~~ |
| ~~67663~~ | ~~Chloroform~~ |
| ~~107302~~ | ~~Chloromethyl methyl ether~~ |
| ~~126998~~ | ~~Chloroprene~~ |
| ~~1319773~~ | ~~Cresols/Cresylic acid (isomers and mixture)~~ |
| ~~95487~~ | ~~o-Cresol~~ |
| ~~108394~~ | ~~m-Cresol~~ |
| ~~106445~~ | ~~p-Cresol~~ |
| ~~98828~~ | ~~Cumene~~ |
| ~~94757~~ | ~~2,4-D, salts and esters~~ |
| ~~3547044~~ | ~~DDE~~ |
| ~~334883~~ | ~~Diazomethane~~ |
| ~~132649~~ | ~~Dibenzofurans~~ |
| ~~96128~~ | ~~1,2-Dibromo-3-chloropropane~~ |
| ~~84742~~ | ~~Dibutylphthalate~~ |
| ~~106467~~ | ~~1,4-Dichlorobenzene(p)~~ |
| ~~91941~~ | ~~3,3-Dichlorobenzidene~~ |
| ~~111444~~ | ~~Dichloroethyl ether (Bis(2-chloroethyl)ether)~~ |
| ~~542756~~ | ~~1,3-Dichloropropene~~ |
| ~~62737~~ | ~~Dichlorvos~~ |
| ~~111422~~ | ~~Diethanolamine~~ |
| ~~121697~~ | ~~N,N-Diethyl aniline (N,N-Dimethylaniline)~~ |
| ~~64675~~ | ~~Diethyl sulfate~~ |
| ~~119904~~ | ~~3,3-Dimethoxybenzidine~~ |
| ~~60117~~ | ~~Dimethyl aminoazobenzene~~ |
| ~~119937~~ | ~~3,3-Dimethyl benzidine~~ |
| ~~79447~~ | ~~Dimethyl carbamoyl chloride~~ |
| ~~68122~~ | ~~Dimethyl formamide~~ |
| ~~57147~~ | ~~1,1-Dimethyl hydrazine~~ |

| | |
|---|---|
| ~~131113~~ | ~~Dimethyl phthalate~~ |
| ~~77781~~ | ~~Dimethyl sulfate~~ |
| ~~534521~~ | ~~4,6-Dinitro-o-cresol, and salts~~ |
| ~~51285~~ | ~~2,4-Dinitrophenol~~ |
| ~~121142~~ | ~~2,4-Dinitrotoluene~~ |
| ~~123911~~ | ~~1,4-Dioxane (1,4-Diethyleneoxide)~~ |
| ~~122667~~ | ~~1,2-Diphenylhydrazine~~ |
| ~~106898~~ | ~~Epichlorohydrin (1-Chloro-2,3-epoxypropane)~~ |
| ~~106887~~ | ~~1,2-Epoxybutane~~ |
| ~~140885~~ | ~~Ethyl acrylate~~ |
| ~~100414~~ | ~~Ethyl benzene~~ |
| ~~51796~~ | ~~Ethyl carbamate (Urethane)~~ |
| ~~75003~~ | ~~Ethyl chloride (Chloroethane)~~ |
| ~~106934~~ | ~~Ethylene dibromide (Dibromoethane)~~ |
| ~~107062~~ | ~~Ethylene dichloride (1,2-Dichloroethane)~~ |
| ~~107211~~ | ~~Ethylene glycol~~ |
| ~~151564~~ | ~~Ethylene imine (Aziridine)~~ |
| ~~275218~~ | ~~Ethylene oxide~~ |
| ~~96457~~ | ~~Ethylene thiourea~~ |
| ~~75343~~ | ~~Ethylidene dichloride (1,1-Dichloroethane)~~ |
| ~~50000~~ | ~~Formaldehyde~~ |
| ~~76448~~ | ~~Heptachlor~~ |
| ~~118741~~ | ~~Hexachlorobenzene~~ |
| ~~87683~~ | ~~Hexachlorobutadiene~~ |
| ~~77474~~ | ~~Hexachlorocyclopenta-diene~~ |
| ~~67721~~ | ~~Hexachloroethane~~ |
| ~~822060~~ | ~~Hexamethylene-1,6-diiso-cyanate~~ |
| ~~680319~~ | ~~Hexamethylphosphoramide~~ |
| ~~110543~~ | ~~Hexane~~ |
| ~~302012~~ | ~~Hydrazine~~ |

| | |
|---|---|
| ~~7647010~~ | ~~Hydrochloric acid~~ |
| ~~7664393~~ | ~~Hydrogen fluoride (Hydrofluoric acid)~~ |
| ~~123319~~ | ~~Hydroquinone~~ |
| ~~78591~~ | ~~Isophorone~~ |
| ~~58899~~ | ~~Lindane (all isomers)~~ |
| ~~108316~~ | ~~Maleic anhydride~~ |
| ~~67561~~ | ~~Methanol~~ |
| ~~72435~~ | ~~Methoxychlor~~ |
| ~~74839~~ | ~~Methyl bromide (Bromomethane)~~ |
| ~~74873~~ | ~~Methyl chloride (Chloromethane)~~ |
| ~~71556~~ | ~~Methyl chloroform (1,1,1-Trichloroethane)~~ |
| ~~60344~~ | ~~Methyl hydrazine~~ |
| ~~74884~~ | ~~Methyl iodide (Iodomethane)~~ |
| ~~108101~~ | ~~Methyl isobutyl ketone (Hexone)~~ |
| ~~624839~~ | ~~Methyl isocyanate~~ |
| ~~80626~~ | ~~Methyl methacrylate~~ |
| ~~1634044~~ | ~~Methyl tert butyl ether~~ |
| ~~101144~~ | ~~4,4-Methylene bis(2-chloroaniline)~~ |
| ~~75092~~ | ~~Methylene chloride (Dichloromethane)~~ |
| ~~101688~~ | ~~Methylene diphenyl diisocyanate (MDI)~~ |
| ~~101779~~ | ~~4,4-Methylenedianiline~~ |
| ~~91203~~ | ~~Naphthalene~~ |
| ~~98953~~ | ~~Nitrobenzene~~ |
| ~~92933~~ | ~~4-Nitrobiphenyl~~ |
| ~~100027~~ | ~~4-Nitrophenol~~ |
| ~~79469~~ | ~~2-Nitropropane~~ |
| ~~684935~~ | ~~N-Nitroso-N-methylurea~~ |
| ~~62759~~ | ~~N-Nitrosodimethylamine~~ |
| ~~59892~~ | ~~N-Nitrosomorpholine~~ |
| ~~56382~~ | ~~Parathion~~ |

| | |
|---|---|
| ~~82688~~ | ~~Pentachloronitrobenzene (Quintobenzene)~~ |
| ~~87865~~ | ~~Pentachlorophenol~~ |
| ~~108952~~ | ~~Phenol~~ |
| ~~106503~~ | ~~p-Phenylenediamine~~ |
| ~~75445~~ | ~~Phosgene~~ |
| ~~7803512~~ | ~~Phosphine~~ |
| ~~7723140~~ | ~~Phosphorus~~ |
| ~~85449~~ | ~~Phthalic anhydride~~ |
| ~~1336363~~ | ~~Polychlorinated biphenyls (Aroclors)~~ |
| ~~1120714~~ | ~~1,3-Propane sultone~~ |
| ~~57578~~ | ~~beta-Propiolactone~~ |
| ~~123386~~ | ~~Propionaldehyde~~ |
| ~~114261~~ | ~~Propoxur (Baygon)~~ |
| ~~78875~~ | ~~Propylene dichloride (1,2-Dichloropropane)~~ |
| ~~75569~~ | ~~Propylene oxide~~ |
| ~~75558~~ | ~~1,2-Propylenimine (2-Methyl aziridine)~~ |
| ~~91225~~ | ~~Quinoline~~ |
| ~~106514~~ | ~~Quinone~~ |
| ~~100425~~ | ~~Styrene~~ |
| ~~96093~~ | ~~Styrene oxide~~ |
| ~~1746016~~ | ~~2,3,7,8-Tetrachlorodi-benzo-p-dioxin~~ |
| ~~79345~~ | ~~1,1,2,2-Tetrachloroethane~~ |
| ~~127184~~ | ~~Tetrachloroethylene (Perchloroethylene)~~ |
| ~~7550450~~ | ~~Titanium tetrachloride~~ |
| ~~108883~~ | ~~Toluene~~ |
| ~~95807~~ | ~~2,4-Toluene diamine~~ |
| ~~584849~~ | ~~2,4-Toluene diisocyanate~~ |
| ~~95534~~ | ~~o-Toluidine~~ |
| ~~8001352~~ | ~~Toxaphene (chlorinated camphene)~~ |
| ~~120821~~ | ~~1,2,4-Trichlorobenzene~~ |

| | |
|---|---|
| ~~79005~~ | ~~1,1,2-Trichloroethane~~ |
| ~~79016~~ | ~~Trichloroethylene~~ |
| ~~95954~~ | ~~2,4,5-Trichlorophenol~~ |
| ~~88062~~ | ~~2,4,6-Trichlorophenol~~ |
| ~~121448~~ | ~~Triethylamine~~ |
| ~~1582098~~ | ~~Trifluralin~~ |
| ~~540841~~ | ~~2,2,4-Trimethylpentane~~ |
| ~~108054~~ | ~~Vinyl acetate~~ |
| ~~593602~~ | ~~Vinyl bromide~~ |
| ~~75014~~ | ~~Vinyl chloride~~ |
| ~~75354~~ | ~~Vinylidene chloride (1,1-Dichloroethylene)~~ |
| ~~1330207~~ | ~~Xylenes (isomers and mixture)~~ |
| ~~95476~~ | ~~o-Xylenes~~ |
| ~~108383~~ | ~~m-Xylenes~~ |
| ~~106423~~ | ~~p-Xylenes~~ |
| ~~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 [1]~~ |
| ~~0~~ | ~~Glycol Ethers [2]~~ |
| ~~0~~ | ~~Lead Compounds~~ |
| ~~0~~ | ~~Manganese Compounds~~ |
| ~~0~~ | ~~Mercury Compounds~~ |
| ~~0~~ | ~~Fine Mineral Fibers [3]~~ |
| ~~0~~ | ~~Nickel Compounds~~ |
| ~~0~~ | ~~Polycylic Organic Matter [4]~~ |

| | |
|---|---|
| ~~0~~ | ~~Radionuclides (including radon) [5]~~ |
| ~~0~~ | ~~Selenium Compounds~~ |

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

~~[2] Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R(OCH$_2$CH$_2$)$_n$-OR' where:~~

~~i. n = 1, 2, or 3;~~

~~ii. R = alkyl C7 or less;~~

~~iii. R = phenyl or alkyl substituted phenyl;~~

~~iv. R' = H or alkyl C7 or less; or~~

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

~~Glycol ethers does not include ethylene glycol monobutyl ether.~~

~~[3] Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.~~

~~[4] Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.~~

~~[5] A type of atom which spontaneously undergoes radioactive decay.~~

~~B. For all listings above which contain the word "compounds" and for 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.~~

**~~17.16.665 - Notice of types and amounts of HAPS.~~**

~~An owner or operator of a source subject to this Article shall provide the Control Officer with notice, in a permit application, of the types and amounts of HAPs emitted by the source. The notice shall include readily available data regarding emissions from the source. The Control Officer shall not require the owner or operator to conduct performance tests, sampling, or monitoring to fulfill the requirements of this Section.~~

**~~17.16.670 - Modifications; Permits; Permit Revisions.~~**

~~A. Any person who constructs or modifies a source that is subject to Section 17.16.655 must first obtain a permit or significant permit revision that complies with Article II, of Chapter 17.12, and subsection (B) or (C).~~

~~B. A permit or significant permit revision that the Department issues to a new or modified source that is subject to this program under Section 17.16.655(A)(1) shall impose HAPRACT under Section 17.16.675, unless the applicant demonstrates, with a Risk Management Analysis under Section 17.16.685, that the imposition of HAPRACT is not necessary to avoid adverse effects to human health or adverse environmental effects.~~

~~C. A permit or significant permit revision that the Department issues to a new or modified source that is subject to this program under Section 17.16.655(A)(2) shall impose AZMACT under Section 17.16.680, unless the applicant demonstrates, with a Risk Management Analysis under Section 17.16.685, that the imposition of AZMACT is not necessary to avoid adverse effects to human health or adverse environmental effects.~~

~~D. If the Control Officer establishes a general permit establishing HAPRACT according to the Arizona Administrative Code Title 18, Article 5 of Chapter 2, the following apply:~~

~~1. The owner or operator of a source covered by that general permit may obtain a variance from HAPRACT by complying with Section 17.16.685 when the source applies for the general permit;~~

~~2. If the owner or operator makes applicable demonstration required by Section 17.16.685 and otherwise qualifies for the general permit, the Control Officer shall approve the application according to A.R.S. § 49-480.04 and issue an authorization-to-operate granting a variance from the specific provisions of the general permit relating to HAPRACT; and~~

~~3. Except as modified by a variance, the general permit governs the source.~~

~~E. When determining whether HAP emissions from a new source or modification exceed the thresholds prescribed by Section 17.16.650(11) or (12), or a de minimis amount described in Section 17.16.650 Table 1, the Control Officer shall exclude particulate matter emissions that consist of natural crustal material and that are produced either by natural forces, such as wind or erosion, or by anthropogenic activities, such as agricultural operations, excavation, blasting, drilling, handling storage, earth moving, crushing, grinding or traffic over unpaved roads, or other similar activities.~~

~~F. In addition to the requirements of Title 18, Chapter 2, Appendix 1 of the Arizona Administrative Code "Standard Permit Application Form and Filing Instructions," an application for a permit or permit revision required under this Section shall include one of the following:~~

~~1. The applicant's proposal and documentation for HAPRACT under Section 17.16.675;~~

~~2. The applicant's proposal and documentation for AZMACT under Section 17.16.680; or~~

~~3. A risk management analysis submitted under Section 17.16.685.~~

~~G. Any applicant for a permit or permit revision under this Article may request accelerated permit processing under Section 17.12.510(N).~~

**~~17.16.675 - Case-by-case HAPRACT determinations.~~**

~~A. The applicant shall include in the application sufficient documentation to show that the proposed control technology or methodology meets the requirements of A.R.S. § 49-480.04 and this Section.~~

~~B. An applicant subject to Section 17.16.670(B) shall propose HAPRACT for the new source or modification, to be included in the applicant's permit or significant permit revision. The applicant shall document each of the following steps:~~

~~1. The applicant shall identify the range of applicable control technologies, including:~~

~~a. A survey of similar emission sources to determine the emission limitations currently achieved in practice in the United States;~~

~~b. Controls applied to similar source categories, emissions units, or gas streams through technology transfer; and~~

~~c. Innovative technologies that are demonstrated to be reliable, that reduce emissions for the HAP under review at least to the extent achieved by the control technology that would otherwise have been proposed and that meets all the requirements of A.R.S. § 49-480.04 and the Section.~~

~~2. The applicant shall propose as HAPRACT one of the control technologies identified under subsection (B)(1), and shall provide:~~

~~a. The rationale for selecting the specific control technologies from the range identified in subsection (B)(1);~~

~~b. Estimated control efficiency, described as percent HAP removed;~~

~~c. Expected emission rate in tons per year and pounds per hour;~~

~~d. Expected emission reduction in tons per year and pounds per hour;~~

~~e. Economic impacts and cost effectiveness of implementing the proposed control technology;~~

~~f. Other environmental impacts of the proposed control technology; and~~

~~g. Energy impacts of the proposed technology.~~

~~3. The applicant shall identify rejected control technologies identified in subsection (B)(1), and shall provide for each rejected control technology;~~

~~a. The rationale for rejecting the specific control technologies identified in subsection (B)(1);~~

~~b. Estimated control efficiency, described as percent HAP removed;~~

~~c. Expected emission rates in tons per year and pounds per hour;~~

~~d. Expected emission reduction in tons per year and pounds per hour;~~

~~e. Economic impacts and cost effectiveness of implementing the rejected control technologies;~~

~~f. Other environmental impacts of the rejected control technology; and~~

~~g. Energy impacts of the rejected control technologies.~~

~~C. The Control Officer shall determine whether the applicant's HAPRACT selection complies with A.R.S. § 49-480.04 and this Section, based on the documentation provided in subsection (B).~~

~~1. If the Control Officer finds that the applicant's proposal complies with A.R.S. § 49-480.04 and this Section, the Control Officer shall include the applicant's proposed HAPRACT selection in the permit or permit revision.~~

~~2. If the Control Officer finds that the applicant's proposal fails to comply with A.R.S. § 49-480.04 and this Section, the Control Officer shall:~~

~~a. Notify the applicant that the proposal fails to meet requirements;~~

~~b. Specify the deficiencies in the proposal; and~~

~~3. If the applicant does not submit a new proposal, the Control Officer shall deny the application for a permit or permit revision.~~

~~4. If the Control Officer finds that the new proposal fails to comply with A.R.S. § 49-480.04 and this Section, the Control Officer shall deny the application for a permit or permit revision.~~

~~D. If the Control Officer finds that a reliable method of measuring HAP emissions is not available, the Control Officer shall require, in the permit, the applicant to comply with a design, equipment, work practice or operational standard, or combination of these, but shall not impose a numeric emissions limitation upon the applicant.~~

~~E. The Control Officer shall not impose a control technology that would require the application of measures that are incompatible with measures required under Article VII or 40 CFR 63. An applicable control technology for a source or source category that is promulgated by the Administrator shall supersede control technology imposed by the Control Officer for that source or source category.~~

~~**17.16.680 - Case-by-case AZMACT Determination.**~~

~~A. The applicant shall include in the application sufficient documentation to show that the proposed control technology meets the requirements of A.R.S. § 49-480.04 and this Section.~~

~~B. An applicant subject to Section 17.16.670(C) shall propose AZMACT for the new source or modification, to be included in the applicant's permit or permit revision. The applicant shall document each of the following steps:~~

~~1. The applicant shall identify all available control options, taking into consideration the measures cited in Section 17.16.650(4). The analysis shall include a survey of emission sources to determine the most stringent emission limitation currently achieved in practice in the United States, and may include controls applied through technology transfer to similar source categories and gas streams.~~

~~2. The applicant shall eliminate options that are technically infeasible because of source-specific factors. The applicant shall clearly document the demonstration of technical infeasibility, and shall base the demonstration upon physical, chemical and engineering barriers that would preclude the successful use of each control option that the applicant has eliminated.~~

~~3. The applicant shall list the remaining control technologies in order of overall removal efficiency for the HAP under review, with the most effective at the top of the list. The list shall include the following information, for the control technology proposed and for any control technology that is ranked higher than the proposed technology:~~

~~a. Estimated control efficiency, described by percent of HAP removed;~~

~~b. Expected emission rate in tons per year and pounds per hour;~~

~~c. Expected emission reduction in tons per year and pounds per hour;~~

~~d. Economic impacts and cost effectiveness;~~

~~e. Other environmental impacts; and~~

~~f. Energy impacts.~~

~~4. The applicant shall evaluate the most effective controls, listed according to subsection (B)(3), and document the results as follows:~~

~~a. For new major sources, the applicant shall consider the factors described in subsection (B)(3) to arrive at the final control technology proposed as AZMACT.~~

~~i. The applicant shall discuss the beneficial and adverse economic, environmental, and energy impacts and quantify them where possible, focusing on the direct impacts of each control technology.~~

~~ii. If the applicant proposes the top alternative in the list as AZMACT, the applicant shall consider whether other environmental impacts mandate the selection of an alternative control technology. If the applicant does not propose the top alternative as AZMACT, the applicant shall evaluate the next most stringent technology in the list. The applicant shall continue the evaluation process until the applicant arrives at a technology that the applicant does not eliminate because of source-specific, economic, environmental or energy impacts.~~

~~b. For a modification, the applicant shall evaluate the control technologies according to subsection (B)(4)(a). AZMACT for a modification may be less stringent than AZMACT for a new source in the same source category but shall not be less stringent than:~~

~~i. In cases where the applicant has identified 30 or more sources, the average emission limitation achieved by the best performing 12% of the existing similar sources, which the applicant shall include in the permit application; or~~

~~ii. In cases where the applicant has identified fewer than 30 similar sources, the average emission limitation achieved by the best performing five sources, which the applicant shall include in the permit application.~~

~~5. The applicant shall propose as AZMACT for the HAP under review:~~

~~a. The most effective control technology or methodology not eliminated in the evaluation described in subsection (B)(4); or~~

~~b. An innovative technology that reduces emissions to the extent achieved by the control technology that the applicant otherwise would have proposed under subsection (5)(a), and that meets all the requirements of A.R.S. § 40-426.06 and this Section.~~

~~C. The Control Officer shall not approve a control technology or methodology less stringent than any applicable federal New Source Performance Standard (NSPS) at 40 CFR 60 or National Emission Standard for Hazardous Air Pollutants (NESHAP) at 40 CFR 61.~~

~~D. The Control Officer shall determine whether the applicant's AZMACT proposal complies with A.R.S. § 49-480.04 and this Section.~~

~~1. If the Control Officer determines that the applicant's proposal complies with A.R.S § 49-480.04 and this Section, the Control Officer shall include the applicant's proposed AZMACT selection in the permit or permit revision~~

~~2. If the Control Officer determines that the applicant's proposal does not comply with A.R.S. § 49-480.04 and this Section, the Control Officer shall:~~

~~a. Notify the applicant that the proposal does not meet the requirements;~~

~~b. Specify the deficiencies; and~~

~~3. If the applicant does not submit a new proposal, the Control Officer shall deny the application for a permit or permit revision.~~

~~4. If the Control Officer determines that the new proposal fails to comply with A.R.S. § 49-480.04 and this Section, the Control Officer shall deny the application for a permit or permit revision.~~

~~E. If a reliable method of measuring HAP emissions is not available, the Control Officer shall require the applicant to comply with a design, equipment, work practice or operational standard, or combination of these, to be included in the applicant's permit, but shall not impose a numeric emissions limitation.~~

~~F. The control officer shall not impose a control technology that would require the application of measures that are incompatible with measures required under Article VII or 40 CFR 63. An applicable control technology for a source or source category that is promulgated by the Administrator shall supersede control technology imposed by the Control Officer for that source or source category.~~

~~**17.16.685 - Risk Management Analyses.**~~

~~A. Applicability.~~

~~1. An applicant seeking to demonstrate that HAPRACT or AZMACT is not necessary to prevent adverse effects to human health or the environment by conducting an RMA shall first apply for a permit or significant permit revision that complies with Article II of Chapter 17.12.~~

~~2. An applicant seeking to demonstrate that HAPRACT or AZMACT is not necessary to prevent adverse effects to human health or the environment shall conduct a risk management analysis (RMA) according to this Section.~~

~~3. The RMA for a new source shall apply to:~~

~~i. The source's annual total potential to emit state HAPs for evaluation of chronic exposure; or~~

~~ii. The source's hourly total potential to emit state HAPs for evaluation of acute exposure.~~

~~4. The RMA for modified source shall apply to:~~

~~i. The source's annual total potential to emit state HAPs, after the modification, for evaluation of chronic exposure; or~~

~~ii. The source's hourly total potential to emit state HAPs, after the modification, for evaluation of acute exposure.~~

~~5. An applicant shall conduct an RMA for each state HAP emitted by the source in greater than de minimis amounts.~~

~~B. The applicant may use any of the following methods for conducting an RMA:~~

~~1. Tier 1: Equation.~~

~~a. For emissions of a HAPs included in a listed group of hazardous compounds, other than those HAPs identified in Table 3 as selected compounds, the applicant shall determine a health-based ambient air concentration, under subsection (C)(3).~~

~~b. The applicant shall determine the potential maximum hourly exposure resulting from emissions of the HAP by applying the following equation:~~

~~MHE = PPH * 17.68, where:~~

~~i. MHE = maximum hourly exposure in milligrams per cubic meter, and~~

~~ii. PPH = hourly potential to emit the HAP in pounds per hour.~~

~~c. The applicant shall determine the potential maximum annual exposure resulting from emissions of the HAP by applying the following equation:~~

~~MAE = PPY * 1/MOH * 1.41, where:~~

~~i. MAE = maximum annual exposure in milligrams per cubic meter,~~

~~ii. PPY = annual potential to emit the HAP in pounds per year, and~~

~~iii. MOH = maximum operating hours for the source, taking into account any enforceable operational limitations.~~

~~d. The Control Officer shall not require compliance with HAPRACT for the HAP, under Section 17.16.675, or AZMACT, under Section 17.16.680, if both of the following are true:~~

~~i. The maximum hourly concentration determined under subsection (B)(1)(b) is less than the AAAC determined under subsection (C)(3); and~~

~~ii. The maximum annual concentration determined under subsection (B)(1)(c) is less than the CAAC determined under subsection (C)(3).~~

~~e. If either the maximum hourly concentration determined under subsection (B)(1)(b), or the maximum annual concentration determined under subsection (B)(1)(c) is greater than or equal to the relevant AAC:~~

~~i. The Control Officer shall require compliance with HAPRACT under Section 17.16.675 or AZMACT under Section 17.16.680; or~~

~~ii. The applicant may use the Tier 2, Tier 3 or Tier 4 method for conducting an RMA under subsection (B)(2).~~

~~2. Tier 2: SCREEN Model. The applicant shall use the SCREEN Model, performed in a manner consistent with the Guideline specified in Section 17.16.590(A)(6)(a). The applicant shall compare the maximum concentration that is predicted in the ambient air with the relevant ambient air concentration determined under subsection (C).~~

~~a. If the predicted maximum concentration is less than the relevant ambient air concentration, the Control Officer shall not require compliance with HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680;~~

~~b. If the predicted maximum concentration is greater than or equal to the relevant ambient air concentration:~~

~~i. The Control Officer shall require compliance with HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680; or~~

~~ii. The applicant may use the Tier 3 or Tier 4 method for determining maximum public exposure to state HAPs, under subsection (B)(3).~~

~~3. Tier 3: Modified SCREEN Model. The applicant shall use the SCREEN Model, performed in a manner consistent with the Guideline specified in Section 17.16.590(A)(6)(a).~~

~~a. For evaluation of acute exposure, the applicant shall assume exposure in the ambient air.~~

~~b. For evaluation of chronic exposure:~~

~~i. The applicant may use exposure assumptions consistent with institutional or engineering controls that are permanent and enforceable outside the permit.~~

~~ii. The applicant shall notify the Control Officer of these controls. If the Control Officer does not approve of the proposed controls, or if the controls are not permanent and enforceable outside of the permit, the applicant shall not use the method specified in subsection (B)(3)(b) to determine maximum public exposure to the state HAP.~~

~~c. If the predicted maximum concentration is less than the relevant ambient air concentration, the Control Officer shall not require compliance with HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680.~~

~~d. If the predicted maximum concentration is greater than or equal to the relevant ambient air concentration:~~

~~i. The Control Officer shall require compliance with HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680; or~~

~~ii. The applicant may use the Tier 4 method for determining maximum public exposure to state HAPs, under subsection (B)(4).~~

~~4. Tier 4: Modified SCREEN or refined air quality model. The applicant shall employ either the SCREEN or a refined air quality model, performed in a manner consistent with the Guideline specified in Section 17.16.590(A)(6)(a).~~

~~a. For evaluation of acute exposure, the applicant shall assume exposure in the ambient air.~~

~~b. For evaluation of chronic exposure:~~

~~i. The applicant may use exposure assumptions consistent with institutional or engineering controls that are permanent and enforceable outside the permit.~~

~~ii. The applicant shall notify the Control Officer of these controls. If the Control Officer does not approve of the proposed controls, or if the controls are not permanent and enforceable outside of the permit, the applicant shall assume chronic exposure in the ambient air.~~

~~c. The applicant may include in the Tier 4 RMA documentation of the following factors:~~

~~i. The estimated actual exposure to the HAP of persons living in the airshed of the source;~~

~~ii. Available epidemiological or other health studies;~~

~~iii. Risks presented by background concentrations of hazardous air pollutants;~~

~~iv. Uncertainties in risk assessment methodology or other health assessment techniques;~~

~~v. Health or environmental consequences from efforts to reduce the risk; or~~

~~vi. The technological and commercial availability of control methods beyond those otherwise required for the source and the cost of such methods.~~

~~d. The applicant shall submit a written protocol for conducting an RMA, consistent with the requirements of this Section, to the Control Officer for the Control Officer's approval. If the Control Officer does not approve the written protocol, the applicant may;~~

~~i. Submit a revised protocol to the Control Officer;~~

~~ii. Propose HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680; or~~

~~iii. Refuse to submit a revised protocol, in which case the Control Officer shall deny the application.~~

~~e. If the predicted maximum concentration is less than the relevant ambient air concentration, or if warranted under the factors listed in subsection (B)(4)(c), the Control Officer shall not require compliance with HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680.~~

~~f. Except as provided in subsection (B)(4)(e), if the predicted maximum concentration is greater than or equal to the relevant ambient air concentration, the Control Officer shall require compliance with HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680.~~

~~C. Health-based Ambient Air Concentrations of State HAPs.~~

~~1. For state HAPs for which the Control Officer has already determined an AAC, the applicant shall use the acute and chronic values listed in Table 3.~~

~~**Table 3**~~
~~**Acute and Chronic Ambient Air Concentrations**~~

| ~~Chemical~~ | ~~Acute AAC (mg/m$^3$)~~ | ~~Chronic AAC (mg/m$^3$)~~ |
|---|---|---|
| ~~1,1,1-Trichloroethane (Methyl Chloroform)~~ | ~~2.075~~ | ~~2.30E+00~~ |
| ~~1,1,2,2-Tetrachloroethane~~ | ~~18~~ | ~~3.27E-05~~ |
| ~~1,3-Butadiene~~ | ~~7,514~~ | ~~6.32E-05~~ |
| ~~1,4-Dichlorobenzene~~ | ~~300~~ | ~~3.06E-04~~ |

| | | |
|---|---|---|
| ~~2,2,4-Trimethylpentane~~ | ~~900~~ | ~~N/A~~ |
| ~~2,4-Dinitrotoluene~~ | ~~5.0~~ | ~~2.13E-05~~ |
| ~~2-Chloroacetophenone~~ | ~~N/A~~ | ~~3.13E-05~~ |
| ~~Acetaldehyde~~ | ~~306~~ | ~~8.62E-04~~ |
| ~~Acetophenone~~ | ~~25~~ | ~~3.65E-01~~ |
| ~~Acrolein~~ | ~~0.23~~ | ~~2.09E-05~~ |
| ~~Acrylonitrile~~ | ~~38~~ | ~~2.79E-05~~ |
| ~~Antimony Compounds (Selected compound: Antimony)~~ | ~~13~~ | ~~1.46E-03~~ |
| ~~Arsenic Compounds (Selected compound: Arsenic)~~ | ~~2.5~~ | ~~4.41E-07~~ |
| ~~Benzene~~ | ~~1.276~~ | ~~2.43E-04~~ |
| ~~Benzyl Chloride~~ | ~~26~~ | ~~3.96E-05~~ |
| ~~Beryllium Compounds (Selected compound: Beryllium)~~ | ~~0.013~~ | ~~7.90E-07~~ |
| ~~Biphenyl~~ | ~~38~~ | ~~1.83E-01~~ |
| ~~Bis(2-Ethylhexyl) Phthalate~~ | ~~13~~ | ~~4.80E-04~~ |
| ~~Bromoform~~ | ~~7.5~~ | ~~1.72E-03~~ |
| ~~Cadmium Compounds (Selected compound: Cadmium)~~ | ~~0.25~~ | ~~1.05E-06~~ |
| ~~Carbon Disulfide~~ | ~~311~~ | ~~7.30E-01~~ |
| ~~Carbon Tetrachloride~~ | ~~201~~ | ~~1.26E-04~~ |
| ~~Carbonyl Sulfide~~ | ~~30~~ | ~~N/A~~ |
| ~~Chlorobenzene~~ | ~~1,000~~ | ~~1.04E+00~~ |
| ~~Chloroform~~ | ~~195~~ | ~~3.58E-04~~ |
| ~~Chromium Compounds (Selected compound: Hexavalent Chromium)~~ | ~~0.10~~ | ~~1.58E-07~~ |
| ~~Cobalt Compounds (Selected compound: Cobalt)~~ | ~~10~~ | ~~6.86E-07~~ |
| ~~Cumene~~ | ~~935~~ | ~~4.17E-01~~ |
| ~~Cyanide Compounds (Selected compound: Hydrogen Cyanide)~~ | ~~3.9~~ | ~~3.13E-03~~ |
| ~~Dibenzofurans~~ | ~~25~~ | ~~7.30E-03~~ |
| ~~Dichloromethane (Methylene Chloride)~~ | ~~347~~ | ~~4.03E-03~~ |
| ~~Dimethyl formamide~~ | ~~164~~ | ~~3.13E-02~~ |
| ~~Dimethyl Sulfate~~ | ~~0.31~~ | ~~N/A~~ |
| ~~Ethyl Benzene~~ | ~~250~~ | ~~1.04E+00~~ |

| | | |
|---|---|---|
| ~~Ethyl Chloride (Chloroethane)~~ | ~~1,250~~ | ~~1.04E+01~~ |
| ~~Ethylene Dibromide (Dibromoethane)~~ | ~~100~~ | ~~3.16E-06~~ |
| ~~Ethylene Dichloride (1,2-Dichloroethane)~~ | ~~405~~ | ~~7.29E-05~~ |
| ~~Ethylene glycol~~ | ~~50~~ | ~~4.17E-01~~ |
| ~~Ethylidene Dichloride (1,1-Dichloroethane)~~ | ~~6,250~~ | ~~5.21E-01~~ |
| ~~Formaldehyde~~ | ~~17~~ | ~~1.46E-04~~ |
| ~~Glycol Ethers (Selected compound: Diethylene glycol, monoethyl ether)~~ | ~~250~~ | ~~3.14E-03~~ |
| ~~Hexachlorobenzene~~ | ~~0.50~~ | ~~4.12E-06~~ |
| ~~Hexane~~ | ~~11,649~~ | ~~2.21E+00~~ |
| ~~Hydrochloric Acid~~ | ~~16~~ | ~~2.09E-02~~ |
| ~~Hydrogen Fluoride (Hydrofluoric Acid)~~ | ~~9.8~~ | ~~1.46E-02~~ |
| ~~Isophorone~~ | ~~13~~ | ~~2.09E+00~~ |
| ~~Manganese Compounds (Selected compound: Manganese)~~ | ~~2.5~~ | ~~5.21E-05~~ |
| ~~Mercury Compounds (Selected compound: Elemental Mercury)~~ | ~~1.0~~ | ~~3.13E-04~~ |
| ~~Methanol~~ | ~~943~~ | ~~4.17E+00~~ |
| ~~Methyl Bromide~~ | ~~261~~ | ~~5.21E-03~~ |
| ~~Methyl Chloride~~ | ~~1,180~~ | ~~9.39E-02~~ |
| ~~Methyl Hydrazine~~ | ~~0.43~~ | ~~3.96E-07~~ |
| ~~Methyl Isobutyl Ketone (Hexone)~~ | ~~500~~ | ~~3.13E+00~~ |
| ~~Methyl Methacrylate~~ | ~~311~~ | ~~7.30E-01~~ |
| ~~Methyl Tert-Butyl Ether~~ | ~~1,444~~ | ~~7.40E-03~~ |
| ~~N,N-Dimethylaniline~~ | ~~25~~ | ~~7.30E-03~~ |
| ~~Naphthalene~~ | ~~75~~ | ~~5.58E-05~~ |
| ~~Nickel Compounds (Selected compound: Nickel Refinery Dust)~~ | ~~5.0~~ | ~~7.90E-06~~ |
| ~~Phenol~~ | ~~58~~ | ~~2.09E-01~~ |
| ~~Polychlorinated Biphenyls (Selected Compound: Aroclor 1254)~~ | ~~2.5~~ | ~~1.90E-05~~ |
| ~~Polycyclic Organic Matter (Selected compound: Benzo(a)pyrene)~~ | ~~5.0~~ | ~~2.02E-06~~ |
| ~~Propionaldehyde~~ | ~~403~~ | ~~8.62E-04~~ |
| ~~Propylene Dichloride~~ | ~~250~~ | ~~4.17E-03~~ |
| ~~Selenium Compounds (Selected compound: Selenium)~~ | ~~0.50~~ | ~~1.83E-02~~ |

| | | |
|---|---|---|
| ~~Styrene~~ | ~~554~~ | ~~1.04E+00~~ |
| ~~Tetrachloroethylene (Perchlorethylene)~~ | ~~814~~ | ~~3.20E-04~~ |
| ~~Toluene~~ | ~~1,923~~ | ~~5.21E+00~~ |
| ~~Trichloroethylene~~ | ~~1,450~~ | ~~1.68E-05~~ |
| ~~Vinyl Acetate~~ | ~~387~~ | ~~2.09E-01~~ |
| ~~Vinyl Chloride~~ | ~~2,099~~ | ~~2.15E-04~~ |
| ~~Vinylidene Chloride (1,2-Dichloroethylene)~~ | ~~38~~ | ~~2.09E-01~~ |
| ~~Xylene (Mixed Isomers)~~ | ~~1,736~~ | ~~1.04E-01~~ |

~~2. For state HAPs for which an AAC has not already been determined, the applicant shall determine the acute and chronic AACs according to the process in Appendix 12 of the Arizona Administrative Code Title 18, Chapter 2.~~

~~3. For specific compounds included in state HAPS listed as a group (e.g. arsenic compounds), the applicant may use an AAC developed according to the process in Appendix 12 of the Arizona Administrative Code Title 18, Chapter 2.~~

~~D. As part of the risk management analysis, an applicant may voluntarily propose emissions limitations under Section 17.12.190 in order to avoid being subject to HAPRACT under Section 17.16.675, or AZMACT under Section 17.16.680.~~

~~E. Documentation of Risk Management Analysis. The applicant shall document each RMA performed for each state HAP and shall include the following information:~~

~~1. The potential maximum public exposure of the state HAP;~~

~~2. The method used to determine the potential maximum public exposure:~~

~~a. For Tier 1, the calculation demonstrating that the emissions of the state HAP are less than the health-based ambient air concentration, determined under subsection (C)(3).~~

~~b. For Tier 2, the input files to, and the results of the SCREEN Modeling.~~

~~c. For Tier 3:~~

~~i. The input files to, and the results of the SCREEN Modeling; and~~

~~ii. The permanent and enforceable institutional or engineering controls approved by the Control Officer under subsection (B)(3)(b).~~

~~d. For Tier 4:~~

~~i. The model the applicant used;~~

~~ii. The input files to, and the results of the modeling;~~

~~iii. The modeling protocol approved by the Control Officer under subsection (B)(4)(b); and~~

~~iv. The permanent and enforceable institutional or engineering controls approved by the Control Officer under subsection (B)(4)(d);~~

~~3. The health-based ambient air concentrations determined under subsection (C); and~~

~~4. Any voluntary emissions limitations that the applicant proposes under subsection (D) and Section 17.12.190.~~

~~F. An applicant may conduct an RMA for any alternative operating scenario requested in the application consistent with the requirements of this Section. The alternative operating scenario may allow a range of operating conditions if the Control Officer concludes that the RMA demonstrates no adverse effects to human health or adverse environmental effects from operations within that range. Modifications to a source consistent with the alternative operating scenario are not subject to this Article.~~

**~~17.16.690 - Reserved.~~**

**~~17.16.700 - Reserved.~~**

**Article ~~X.~~ IX. - Ozone Depleting Substances**

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**Chapter 17.28 - VIOLATIONS AND CONDITIONAL ORDERS**

**Sections:**

**Article I. - Violations**

. . .

**~~17.28.065 - Reserved.~~**

. . .

**Article II. - Conditional Orders**

**17.28.100 - Conditional orders.**

A. The control officer may grant to any person a conditional order for each air pollution source which allows such person to vary from any provision of A.R.S. Title 49, Chapter 3, Article 3, this title, or any nonfederally enforceable requirement of a permit issued pursuant to this title if the control officer makes each of the following findings:

1. Issuance of the conditional order will not endanger public health or the environment, impede attainment or maintenance of the national ambient air quality standards, or constitute a violation of the Clean Air Act, and

2. Either of the following is true:

a. There has been a breakdown of equipment or upset of operations beyond the control of the petitioner which causes the source to be out of compliance with the requirements of this title, the source was in compliance with the requirements of this Title before the breakdown or upset, and the breakdown or upset may be corrected within a reasonable time.

b. There is no reasonable relationship between the economic and social cost of, and benefits to be obtained from, achieving compliance.

B. The control officer may not issue a conditional order which allows a source to vary from the requirement to obtain a permit issued pursuant to ~~Chapter 17.12, Articles II or III~~Section 17.11.090.

C. The following procedures shall apply to a person seeking a conditional order:

1. The person shall file a petition for a conditional order with the control officer. The petition shall contain at a minimum:

a. A description of the breakdown or upset.

b. A description of corrective action being undertaken to bring the source back into compliance.

c. An estimate of emissions related to the breakdown or upset.

d. A compliance schedule with a date of final compliance and interim dates as appropriate.

e. A detailed analysis of the economic and social costs and benefits of achieving compliance with the requirement for which the variance is sought, if the petition is based on subsection A2b of this section.

2. If the issuance of the conditional order requires a public hearing pursuant to Sections ~~17.12.340E~~17.12.190(E) and 17.13.210(E), the control officer shall set the hearing date within thirty days after the filing of the petition and the hearing shall be held within sixty days after the filing of the petition.

3. Notice of the filing of a petition for a conditional order and of the hearing date on said petition shall be published in the manner provided in A.R.S. § 49-498 and ~~Section 17.12.340C and D~~Sections 17.12.190(C) and (D) and Sections 17.13.210(C) and (D).

4. At the time the control officer publishes the first notice, the applicant shall post a notice containing the information required in ~~Section 17.12.340D~~Sections 17.12.190(D) and 17.13.210(D) 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. The applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.

5. The control officer shall provide at least thirty days from the date of its first notice for public comment. 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, the record and copies of the control officer's responses shall be made available to the applicant and all commenters.

D. Decisions on petitions for a conditional order shall be made as follows:

1. For any conditional order that requires a revision to the SIP, the control officer shall comply with the requirements contained in 40 CFR 51, Subpart F.

2. For any other conditional order, the control officer shall grant or deny the petition on such terms and conditions as the control officer deems appropriate within thirty days after the conclusion of any required hearing, or, if no hearing is held, within sixty days after the filing of the petition.

E. A fee to cover the costs of processing conditional orders may be charged by the control officer prior to issuance of the conditional order according to Section ~~17.12.510I or J~~17.12.220(I) or (J) and shall be deposited in the Air Quality Revenue Fund.

F. The terms of a conditional order or its renewal shall conform to the following:

1. A conditional order issued by the control officer shall be valid for such period as the control officer prescribes but in no event for more than one year in the case of a source that is required to obtain a permit pursuant to this title and Title V of the Act (Permits), and three years in the case of any other source that is required to obtain a permit pursuant to this title.

2. The terms and conditions which are imposed as a condition to the granting or the continued existence of a conditional order shall include:

a. A detailed plan for completion of corrective steps needed to conform to the provisions of A.R.S. Title 49, Chapter 3, Article 3, this title and the requirements of any permit issued pursuant to this title.

b. A requirement that necessary construction shall begin as specified in the compliance schedule.

c. Written reports, at least quarterly, of the status of the source and construction progress.

d. The right of the control officer to make periodic inspection of the facilities for which the conditional order is granted.

e. Such additional terms and conditions as the control officer finds necessary to meet the requirements of this section and A.R.S. § 49-437.

3. A holder of a conditional order may petition the control officer to renew the order. The total term of the initial period and all renewals shall not exceed three years from the date of initial issuance of the order. Petitions for renewal may be filed at any time not more than sixty days nor less than thirty days prior to the expiration of the order. The control officer, within thirty days of receipt of a petition, shall renew the conditional order for one year if the petitioner is in compliance and conforming with the terms and conditions imposed. The ~~Control Officer~~control officer may refuse to renew the conditional order if, after a public hearing held within thirty days of receipt of a petition, the control officer finds that the petitioner is not in compliance and conforming with the terms and conditions of the conditional order. If, after a period of three years from the date of original issuance the petitioner is not in compliance and conforming with the terms and conditions, the control officer may renew a conditional order for a total term of two additional years only if the control officer finds that failure to comply and conform is due to conditions beyond the control of such petitioner.

4. If the control officer amends or adopts any rule imposing conditions on the operation of an air pollution source which have become effective as to the source by reason of the action of the control officer or otherwise, and which require the implementation of control strategies necessitating the installation of additional or different air pollution control equipment, the control officer may renew a conditional order for an additional term. The term of the renewal shall be governed by the preceding subsections of this section, except that the total term of the renewal shall not exceed two years.

5. A conditional order issued by the control officer shall be effective when issued unless:

a. The conditional order varies from the requirements of the applicable implementation plan, in which case the conditional order shall be submitted to the administrator as a revision to the applicable implementation plan pursuant to Section 110(L) of the Act (Implementation Plans), and shall become effective upon approval by the administrator.

b. The conditional order varies from the requirements of a permit issued for a facility that is required to obtain a permit pursuant to Title V of the Act (Permits), in which case the conditional order shall be submitted to the administrator if required by Section 505 of the Act (Notification to administrator and Contiguous States), and shall be effective at the end of the review period specified in such section, unless objected to within such period by the administrator.

G. If the terms and conditions of the conditional order are being violated, the control officer may seek to revoke or suspend the conditional order. In such event, the control officer shall serve notice of such violation on the holder of the conditional order in the manner provided in A.R.S. § 49-498. The notice shall specify the nature of such violation and the date on which a hearing will be held to determine if a violation has occurred and whether the conditional order should be suspended or revoked. The date of the hearing shall be within thirty days from the date the notice is served upon the holder of the conditional order.

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## NOTICE OF RULEMAKING DOCKET OPENING

[M17-83]

## PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY

**1. Title and its heading:** Pima County Code Title 17 – Air Quality Control

**Rules and headings:** Chapter 17.04 – General Provisions - Article IX. – Definitions and Meanings, Section 17.04.340 - Words, phrases, and terms.

Chapter 17.04 – General Provisions - Article X. - Procedures for Amending, Section 17.04.400 - General procedures.

Chapter 17.08 – Ambient Air Quality Standards – Article IV. - Attainment/Nonattainment Area Designations., Section 17.08.150 - Limitation of pollutants in classified attainment areas

Chapter 17.11 – General Provisions for Permits – Article I. - Scope and Authority., Sections - 17.11.010 - Statutory authority., 17.11.020 - Planning, constructing, or operating without a permit., 17.11.030 - Notice by building permit agencies., 17.11.040 - Assistance to small business.

Chapter 17.11 – General Provisions for Permits – Article II. - General Provisions for Stationary Source Permits., Sections 17.11.050 - Transition from installation and operating permit program to unitary permit program., 17.11.060 - Permit display or posting., 17.11.070 - Public records-Confidentiality., 17.11.080 - Permit shield., 17.11.090 - Applicability-Classes of permits., 17.11.100 - Permits for state delegated emission sources., 17.11.110 - Portable sources., 17.11.120 - Material permit condition., 17.11.130 - Permits containing the terms and conditions of federal delayed compliance17.11.140 - Sampling, testing, and analysis requirements., 17.11.150 - Stack height limitation., 17.11.160 - Test methods and procedures., 17.11.170 - Quality assurance., 17.11.180 - Emission standards and limitations., 17.11.190 - Permits containing synthetic emission limitations and standards., 17.11.200 - Existing source emission monitoring., 17.11.210 - Performance tests., 17.11.220 - Refund of overpayment of permit fees.

Chapter 17.12 – Individual and General Permits and Permit Revisions for Class I Permits – Article I. - Application Processing and Procedures., Sections 17.12.010 - Permit application processing procedures for Class I permits., 17.12.020 - Grant or denial of applications for Class I permits., 17.12.030 - Appeals of permit actions for Class I permits., 17.12.035 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown., 17.12.040 - Permit contents for Class I permits., 17.12.045 - Test methods and procedures., 17.12.050 - Establishment of an emissions cap for Class I permits., 17.12.060 - Review by the EPA and affected states for Class I

permits., 17.12.070 - Acid Rain., 17.12.080 - Compliance plan-Certification for Class I permits., 17.12.085 - Notice by building permit agencies., Chapter 17.16 – Emission Limiting Standards – Article III – Emissions from Existing and New Nonpoint Sources – Section 17.16.120 – Mineral tailings., Chapter 17.16 – Emission Limiting Standards – Article VI – New Source Performance Standards – Section 17.16.490 – Standards of performance for new stationary sources (NSPS).

Chapter 17.12 – Individual and General Permits and Permit Revisions for Class I Permits – Article II. - Permit Revisions, Renewals and Transfers for Class I Permits., Sections 17.12.090 - Facility changes allowed without permit revisions for Class I permits., 17.12.100 - Administrative permit amendments for Class I permits., 17.12.110 - Minor permit revisions for Class I permits., 17.12.120 - Significant permit revisions for Class I permits., 17.12.130 - Reopening, revocation, reissuance, or termination for Class I permits., 17.12.140 - Permit renewal and expiration for Class I permits., 17.12.150 - Transfers for Class I permits.

Chapter 17.12 – Individual and General Permits and Permit Revisions for Class I Permits – Article III. - Emissions for Class I Sources., Sections 17.12.160 - Annual emissions inventory questionnaire for Class I permits., 17.12.170 - Excess Emissions reporting requirements for Class I permits., 17.12.180 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.

Chapter 17.12 – Individual and General Permits and Permit Revisions for Class I Permits – Article IV. - Public Participation and Notification Requirements., Sections 17.12.190 - Public participation for Class I permits., 17.12.200 - Public notification for Class I permits.

Chapter 17.12 – Individual and General Permits and Permit Revisions for Class I Permits – Article V. - Fees for Class I Permits., Sections 17.12.210 - General provisions., 17.12.220 - Fees related to Class I permits.

Chapter 17.13 – Individual and General Permits and Permit Revisions for Class II and Class III Permits – Article I. – General Provisions., Sections 17.13.010 – Application processing procedures for Class II and Class III permits., 17.13.020 - Permit contents for Class II and Class III permits., 17.13.030 - Grant or denial of applications for Class II and Class III permits., 17.13.040 - Appeals of permit actions for Class II and Class III permits., 17.13.050 - Annual summary of amendments for Class II or Class III permits., 17.13.060 - Voluntary termination of a permit for Class II and Class III permits., 17.13.070 - Establishment of an emissions cap for Class II and Class III permits., 17.13.080 - Application for coverage under general permit.

17.13.090 - General permit enforcement.

Chapter 17.13 – Individual and General Permits and Permit Revisions for Class II and Class III Permits – Article II. - Permit Revisions, Renewals and Transfers for Class II and Class III Permits., Sections 17.13.100 - Facility changes that require a permit revision for Class II or Class III permits., 17.13.110 - Procedures for certain changes that do not require a permit revision for Class II or Class III permits., 17.13.120 - Administrative permit amendments for Class II or Class III permits., 17.13.130 - Minor permit revisions for Class II or Class III permits., 17.13.140 - Significant permit revisions for Class II or Class III permits., 17.13.150 - Reopenings, revocation, reissuance, or termination for Class II or Class III permits., 17.13.160 - Renewal and expiration for Class II or Class III permits., 17.13.170 - Transfers for Class II or Class III permits.

Chapter 17.13 – Individual and General Permits and Permit Revisions for Class II and Class III Permits – Article III. - Emissions for Class II and Class III Sources., Sections 17.13.180 - Annual emissions inventory questionnaire for Class II or Class III permits., 17.13.190 - Excess Emissions reporting requirements for Class II or Class III permits., 17.13.200 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.

Chapter 17.13 – Individual and General Permits and Permit Revisions for Class II and Class III Permits – Article IV. - Public Participation and Notification Requirements for Class II and Class III Permits., Sections 17.13.210 - Public participation for Class II and Class III permits., 17.13.220 - Public notification for Class II and Class III permits.

Chapter 17.13 – Individual and General Permits and Permit Revisions for Class II and Class III Permits – Article V. - Fees for Class II, Class III, and General Permits., Sections 17.13.230 - General provisions., 17.13.240 - Fees related to Class II and Class III permits., 17.13.250 - Fees related to general permits.

Chapter 17.14 – Activity Permits – Article I. - General Provisions., Sections 17.14.010 - Definitions., 17.14.020- General provisions., 17.14.030 - Refund of overpayment of permit fees.

Chapter 17.14 – Activity Permits – Article II. - Fugitive Dust., Sections 17.14.040 - Fugitive dust activity permits., 17.14.050 - Fugitive dust activity permit fees.

Chapter 17.14 – Activity Permits – Article III. - Asbestos NESHAP., Sections 17.14.060 - Asbestos NESHAP activity permits., 17.14.070 - Asbestos NESHAP activity permit fees.

Chapter 17.14 – Activity Permits – Article IV. - Open Burning., Sections 17.14.080 - Open burning permits., 17.14.090 - Open burning permit fees.

Chapter 17.16 – Emission Limiting Standards – Article II. - Visible Emission Standards., Sections 17.16.050 - Visibility limiting standard.

Chapter 17.16 – Emission Limiting Standards – Article IV. - New and Existing Stationary Source Performance Standards., Sections 17.16.130 - Applicability., 17.16.160 - Standards of performance for fossil-fuel fired steam generators and general fuel burning equipment., 17.16.165 - Standards of performance for fossil-fuel fired industrial and commercial equipment., 17.16.180 - Standards of Performance for Existing Hospital/Medical/ Infectious Waste

Incinerators., 17.16.190 - Standards of performance for nitric acid plants., 17.16.200 - Standards of performance for sulfuric acid plants.

Chapter 17.16 – Emission Limiting Standards – Article VIII. - New Major Sources and Major Modifications to Existing Major Sources., Sections 17.16.550 - General., 17.16.580 - Special rule for sources of VOC or oxides of nitrogen in ozone nonattainment areas classified as serious or severe., 17.16.590 - Permit requirements for sources located in attainment and unclassifiable areas., 17.16.610 - Innovative control technology., 17.16.620 - Air quality models., 17.16.630 - Visibility protection., 17.16.640 - Special rule for non-operating sources of sulfur dioxide in sulfur dioxide nonattainment areas.

Chapter 17.16 – Emission Limiting Standards – Article IX. - Emissions of Hazardous Air Pollutants (HAPS)., Sections 17.16.645 - Reserved. , 17.16.650 - Definitions., 17.16.655 - Applicability., 17.16.660 - State list of hazardous air pollutants., 17.16.665 - Notice of types and amounts of HAPS., 17.16.670 - Modifications; Permits; Permit Revisions., 17.16.675 - Case-by-case HAPRACT determinations., 17.16.680 - Case-by-case AZMACT Determination., 17.16.685 - Risk Management Analyses., 17.16.690 - Reserved., 17.16.700 - Reserved.

Chapter 17.16 – Emission Limiting Standards – Article X. - Ozone Depleting Substances.

Chapter 17.28 – Violations and Conditional Orders – Article II. - Conditional Orders., Section 17.28.100 - Conditional orders.

**2. The subject matter of the proposed rule:**

The Pima County Board of Supervisors (BOS) as the governing body for the Pima County Air Quality Control District adopts ordinances which are codified in the Pima County Code (PCC). The Pima County Air Quality Control District operates within the Pima County Department of Environmental Quality (PDEQ). PDEQ periodically proposes updates to PCC through the BOS. The intention of this rulemaking is to organize Title 17 in a more coherent manner by separating Class I (major source) rules and Class II, Class III, and General Permit (minor source) rules. This proposal is in response to PDEQ's necessity for future updates to the State Implementation Plan and Title V (Part 70) Program. These updates include reorganizing current sections found within Chapter 12 of the code to new or existing sections of Title 17. New Chapters are Chapters 11, 13, and 14, and New Sections are: PCC 17.11.010, PCC 17.11.020, PCC 17.11.030, PCC 17.11.040, PCC 17.11.050, PCC 17.11.060, PCC 17.11.070, PCC 17.11.080, PCC 17.11.090, PCC 17.11.100, PCC 17.11.110, PCC 17.11.120, PCC 17.11.130, PCC 17.11.140, PCC 17.11.150, PCC 17.11.160, PCC 17.11.170, PCC 17.11.180, PCC 17.11.190, PCC 17.11.200, PCC 17.11.210, PCC 17.11.220, PCC 17.13.010, PCC 17.13.020, PCC 17.13.030, PCC 17.13.040, PCC 17.13.050, PCC 17.13.060, PCC 17.13.070, PCC 17.13.080, PCC 17.13.090, PCC 17.13.100, PCC 17.13.110, PCC 17.13.120, PCC 17.13.130, PCC 17.13.140, PCC 17.13.150, PCC 17.13.160, PCC 17.13.170, PCC 17.13.180, PCC 17.13.190, PCC 17.13.200, PCC 17.13.210, PCC 17.13.220, PCC 17.13.230, PCC 17.13.240, PCC 17.13.250, PCC 17.14.010, PCC 17.14.020, PCC 17.14.030, PCC 17.14.040, PCC 17.14.050, PCC 17.14.060, PCC 17.14.070, PCC 17.14.080, and PCC 17.14.090.

Renumbered sections include: PCC 17.12.010, PCC 17.12.020, PCC 17.12.030, PCC 17.12.035, PCC 17.12.040, PCC 17.12.045, PCC 17.12.050, PCC 17.12.060, PCC 17.12.070, PCC 17.12.080, PCC 17.12.085, PCC 17.12.090, PCC 17.12.100, PCC 17.12.110, PCC 17.12.120, PCC 17.12.130, PCC 17.12.140, PCC 17.12.150, PCC 17.12.160, PCC 17.12.165, PCC 17.12.170, PCC 17.12.180, PCC 17.12.185, PCC 17.12.190, PCC 17.12.195, PCC 17.12.200, PCC 17.12.210, PCC 17.12.220, PCC 17.12.230, PCC 17.12.235, PCC 17.12.240, PCC 17.12.245, PCC 17.12.250, PCC 17.12.255, PCC 17.12.260, PCC 17.12.270, PCC 17.12.275, PCC 17.12.280, PCC 17.12.290, PCC 17.12.300, PCC 17.12.310, PCC 17.12.320, PCC 17.12.330, PCC 17.12.340, PCC 17.12.345, PCC 17.12.350, PCC 17.12.360, PCC 17.12.365, PCC 17.12.370, PCC 17.12.390, PCC 17.12.400, PCC 17.12.465, PCC 17.12.470, PCC 17.12.475, PCC 17.12.480, PCC 17.12.500, PCC 17.12.510, PCC 17.12.530, PCC 17.12.540, and PCC 17.12.620. Amended sections include: PCC 17.04.340, PCC 17.04.400. PCC 17.08.150, PCC 17.11.010, PCC 17.11.060, PCC 17.11.070, PCC 17.11.080, PCC 17.11.090, PCC 17.11.110, PCC 17.11.120, PCC 17.11.150, PCC 17.11.170, PCC 17.11.190, PCC 17.11.200, PCC 17.11.220, PCC 17.12.010, PCC 17.12.020, PCC 17.12.030, PCC 17.12.040, PCC 17.12.050, PCC 17.12.060, PCC 17.12.070, PCC 17.12.080, PCC 17.12.090, PCC 17.12.100, PCC 17.12.110, PCC 17.12.120, PCC 17.12.130, PCC 17.12.140, PCC 17.12.150, PCC 17.12.160, PCC 17.12.170, PCC 17.12.180, PCC 17.12.190, PCC 17.12.200, PCC 17.12.210, PCC 17.12.220, PCC 17.16.050, PCC 17.16.130, PCC 17.16.160, PCC 17.16.165, PCC 17.16.180, PCC 17.16.190, PCC 17.16.200, PCC 17.16.220, PCC 17.16.280, PCC 17.16.290, PCC 17.16.300, PCC 17.16.330, PCC 17.16.440, PCC 17.16.540, PCC 17.16.550, PCC 17.16.580, PCC 17.16.590, PCC 17.16.610, PCC 17.16.620, PCC 17.16.630, PCC 17.16.640, PCC 17.16.645, PCC 17.16.685, PCC 17.16.690, PCC 17.16.700, PCC 17.28.065, and PCC 17.28.100. These updates also include amendments to PCC Title 17 to update all PCC Title 17, Chapter 12 references within sections, update addresses and other minor grammatical changes. PDEQ is also proposing repealing Article IX of Chapter 17.16: Emissions of Hazardous Air Pollutants. This includes repealing the following sections: PCC 17.16.650, PCC 17.16.655, PCC 17.16.660, PCC 17.16.665, PCC 17.16.670, PCC 17.16.675, and PCC 17.16.680. Finally, PDEQ is proposing repealing sections within the code that had previously been reserved including sections: PCC 17.12.380, PCC 17.12.410, PCC 17.12.420, PCC 17.12.430, PCC 17.12.440, PCC 17.12.450, PCC 17.12.460, PCC 17.12.525, PCC 17.12.545, PCC 17.12.550, PCC 17.12.560, PCC 17.12.570, PCC 17.12.580, PCC 17.12.590, PCC 17.12.600, PCC 17.12.610, PCC 17.12.630, PCC 17.12.640, PCC 17.12.650, PCC 17.16.685, PCC 17.16.690, PCC 17.16.700, and PCC 17.28.065.

**3. A citation to all published notices relating to this proceeding:**

None published

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


| | |
|---|---|
| Name: | Sarah Reitmeyer |
| Address: | Pima County DEQ<br>33 N. Stone Avenue, Suite 700<br>Tucson, AZ 85701 |
| Telephone: | (520) 724-7437 |
| Fax: | (520) 838-7432 |
| E-mail: | sarah.reitmeyer@pima.gov |

**5. The time during which the department will accept written comments and the time and place where oral comments may be made:**

See Notice of Proposed Rulemaking in this issue.

**6. A timetable for department decisions or other action on the proceeding, if known:**

See Notice of Proposed Rulemaking in this issue.

# REGISTER INDEXES

The *Register* is published by volume in a calendar year (See "General Information" in the front of each issue for more information).

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
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PER = Proposed Expedited repealed Section
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E# = Emergency renumbered Section
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# RULES 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.

| January | | February | | March | | April | | May | | June | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date |
| 1/1 | 3/2 | 2/1 | 4/2 | 3/1 | 4/30 | 4/1 | 5/31 | 5/1 | 6/30 | 6/1 | 7/31 |
| 1/2 | 3/3 | 2/2 | 4/3 | 3/2 | 5/1 | 4/2 | 6/1 | 5/2 | 7/1 | 6/2 | 8/1 |
| 1/3 | 3/4 | 2/3 | 4/4 | 3/3 | 5/2 | 4/3 | 6/2 | 5/3 | 7/2 | 6/3 | 8/2 |
| 1/4 | 3/5 | 2/4 | 4/5 | 3/4 | 5/3 | 4/4 | 6/3 | 5/4 | 7/3 | 6/4 | 8/3 |
| 1/5 | 3/6 | 2/5 | 4/6 | 3/5 | 5/4 | 4/5 | 6/4 | 5/5 | 7/4 | 6/5 | 8/4 |
| 1/6 | 3/7 | 2/6 | 4/7 | 3/6 | 5/5 | 4/6 | 6/5 | 5/6 | 7/5 | 6/6 | 8/5 |
| 1/7 | 3/8 | 2/7 | 4/8 | 3/7 | 5/6 | 4/7 | 6/6 | 5/7 | 7/6 | 6/7 | 8/6 |
| 1/8 | 3/9 | 2/8 | 4/9 | 3/8 | 5/7 | 4/8 | 6/7 | 5/8 | 7/7 | 6/8 | 8/7 |
| 1/9 | 3/10 | 2/9 | 4/10 | 3/9 | 5/8 | 4/9 | 6/8 | 5/9 | 7/8 | 6/9 | 8/8 |
| 1/10 | 3/11 | 2/10 | 4/11 | 3/10 | 5/9 | 4/10 | 6/9 | 5/10 | 7/9 | 6/10 | 8/9 |
| 1/11 | 3/12 | 2/11 | 4/12 | 3/11 | 5/10 | 4/11 | 6/10 | 5/11 | 7/10 | 6/11 | 8/10 |
| 1/12 | 3/13 | 2/12 | 4/13 | 3/12 | 5/11 | 4/12 | 6/11 | 5/12 | 7/11 | 6/12 | 8/11 |
| 1/13 | 3/14 | 2/13 | 4/14 | 3/13 | 5/12 | 4/13 | 6/12 | 5/13 | 7/12 | 6/13 | 8/12 |
| 1/14 | 3/15 | 2/14 | 4/15 | 3/14 | 5/13 | 4/14 | 6/13 | 5/14 | 7/13 | 6/14 | 8/13 |
| 1/15 | 3/16 | 2/15 | 4/16 | 3/15 | 5/14 | 4/15 | 6/14 | 5/15 | 7/14 | 6/15 | 8/14 |
| 1/16 | 3/17 | 2/16 | 4/17 | 3/16 | 5/15 | 4/16 | 6/15 | 5/16 | 7/15 | 6/16 | 8/15 |
| 1/17 | 3/18 | 2/17 | 4/18 | 3/17 | 5/16 | 4/17 | 6/16 | 5/17 | 7/16 | 6/17 | 8/16 |
| 1/18 | 3/19 | 2/18 | 4/19 | 3/18 | 5/17 | 4/18 | 6/17 | 5/18 | 7/17 | 6/18 | 8/17 |
| 1/19 | 3/20 | 2/19 | 4/20 | 3/19 | 5/18 | 4/19 | 6/18 | 5/19 | 7/18 | 6/19 | 8/18 |
| 1/20 | 3/21 | 2/20 | 4/21 | 3/20 | 5/19 | 4/20 | 6/19 | 5/20 | 7/19 | 6/20 | 8/19 |
| 1/21 | 3/22 | 2/21 | 4/22 | 3/21 | 5/20 | 4/21 | 6/20 | 5/21 | 7/20 | 6/21 | 8/20 |
| 1/22 | 3/23 | 2/22 | 4/23 | 3/22 | 5/21 | 4/22 | 6/21 | 5/22 | 7/21 | 6/22 | 8/21 |
| 1/23 | 3/24 | 2/23 | 4/24 | 3/23 | 5/22 | 4/23 | 6/22 | 5/23 | 7/22 | 6/23 | 8/22 |
| 1/24 | 3/25 | 2/24 | 4/25 | 3/24 | 5/23 | 4/24 | 6/23 | 5/24 | 7/23 | 6/24 | 8/23 |
| 1/25 | 3/26 | 2/25 | 4/26 | 3/25 | 5/24 | 4/25 | 6/24 | 5/25 | 7/24 | 6/25 | 8/24 |
| 1/26 | 3/27 | 2/26 | 4/27 | 3/26 | 5/25 | 4/26 | 6/25 | 5/26 | 7/25 | 6/26 | 8/25 |
| 1/27 | 3/28 | 2/27 | 4/28 | 3/27 | 5/26 | 4/27 | 6/26 | 5/27 | 7/26 | 6/27 | 8/26 |
| 1/28 | 3/29 | 2/28 | 4/29 | 3/28 | 5/27 | 4/28 | 6/27 | 5/28 | 7/27 | 6/28 | 8/27 |
| 1/29 | 3/30 | | | 3/29 | 5/28 | 4/29 | 6/28 | 5/29 | 7/28 | 6/29 | 8/28 |
| 1/30 | 3/31 | | | 3/30 | 5/29 | 4/30 | 6/29 | 5/30 | 7/29 | 6/30 | 8/29 |
| 1/31 | 4/1 | | | 3/31 | 5/30 | | | 5/31 | 7/30 | | |

| July | | August | | September | | October | | November | | December | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | 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.

| Deadline Date (paper only) Friday, 5:00 p.m. | *Register* Publication Date | Oral Proceeding may be scheduled on or after |
|---|---|---|
| March 3, 2017 | March 24, 2017 | April 24, 2017 |
| March 10, 2017 | March 31, 2017 | May 1, 2017 |
| March 17, 2017 | April 7, 2017 | May 8, 2017 |
| March 24, 2017 | April 14, 2017 | May 15, 2017 |
| March 31, 2017 | April 21, 2017 | May 22, 2017 |
| April 7, 2017 | April 28, 2017 | May 30, 2017 |
| April 14, 2017 | May 5, 2017 | June 5, 2017 |
| April 21, 2017 | May 12, 2017 | June 12, 2017 |
| April 28, 2017 | May 19, 2017 | June 19, 2017 |
| May 5, 2017 | May 26, 2017 | June 26, 2017 |
| May 12, 2017 | June 2, 2017 | July 3, 2017 |
| May 19, 2017 | June 9, 2017 | July 10, 2017 |
| May 26, 2017 | June 16, 2017 | July 17, 2017 |
| June 2, 2017 | June 23, 2017 | July, 24, 2017 |
| June 9, 2017 | June 30, 2017 | July 31, 2017 |
| June 16, 2017 | July 7, 2017 | August 7, 2017 |
| June 23, 2017 | July 14, 2014 | August 14, 2017 |
| June 30, 2017 | July 21, 2017 | August 21, 2017 |
| July 7, 2017 | July 28, 2017 | August 28 2017 |
| July 14, 2014 | August 4, 2017 | September 5, 2017 |
| July 21, 2017 | August 11, 2017 | September 11, 2017 |
| July 28, 2017 | August 18, 2017 | September 18, 2017 |
| August 4, 2017 | August 25, 2017 | September 25, 2017 |
| August 11, 2017 | September 1, 2017 | October 2, 2017 |
| August 18, 2017 | September 8, 2017 | October 10, 2017 |
| August 25, 2017 | September 15, 2017 | October 16, 2017 |
| September 1, 2017 | September 22, 2017 | October 23, 2017 |
| September 8, 2017 | September 29, 2017 | October 30, 2017 |
| September 15, 2017 | October 6, 2017 | November 6, 2017 |
| September 22, 2017 | October 13, 2017 | November 13, 2017 |

# 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 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.

## GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES FOR 2017

[M16-300]

| DEADLINE FOR PLACEMENT ON AGENDA | FINAL MATERIALS SUBMITTED TO COUNCIL | DATE OF COUNCIL STUDY SESSION | DATE OF COUNCIL MEETING |
|---|---|---|---|
| Tuesday November 22, 2016 | Tuesday December 20, 2016 | Wednesday December 28, 2016 | Wednesday January 4, 2017 |
| Tuesday December 27, 2016 | Tuesday January 24, 2017 | Tuesday January 31, 2017 | Tuesday February 7, 2017 |
| Tuesday January 24, 2017 | Tuesday February 21, 2017 | Tuesday February 28, 2017 | Tuesday March 7, 2017 |
| Tuesday February 21, 2017 | Tuesday March 21, 2017 | Tuesday March 28, 2017 | Tuesday April 4, 2017 |
| Tuesday March 21, 2017 | Tuesday April 18, 2017 | Tuesday April 25, 2017 | Tuesday May 2, 2017 |
| Tuesday April 25, 2017 | Tuesday May 23, 2017 | Wednesday May 31, 2017 | Tuesday June 6, 2017 |
| Tuesday May 23, 2017 | Tuesday June 20, 2017 | Tuesday June 27, 2017 | Thursday July 6, 2017 |
| Tuesday June 20, 2017 | Tuesday July 18, 2017 | Tuesday July 25, 2017 | Tuesday August 1, 2017 |
| Tuesday July 25, 2017 | Tuesday August 22, 2017 | Tuesday August 29, 2017 | Wednesday September 6, 2017 |
| Tuesday August 22, 2017 | Tuesday September 19, 2017 | Tuesday September 26, 2017 | Tuesday October 3, 2017 |
| Tuesday September 26, 2017 | Tuesday October 24, 2017 | Tuesday October 31, 2017 | Tuesday November 7, 2017 |
| Tuesday October 24, 2017 | Tuesday November 21, 2017 | Tuesday November 28, 2017 | Tuesday December 5, 2017 |
| Tuesday November 21, 2017 | Tuesday December 19, 2017 | Wednesday December 27, 2017 | Wednesday January 3, 2018 |

*Materials must be submitted by **5 P.M.** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.