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**Chapter ~~17.12~~ 17.11 GENERAL PROVISIONS FOR CLASS I, CLASS II, AND CLASS
III INDIVIDUAL AND GENERAL PERMITS AND PERMIT REVISIONS**

Article I. ~~General Provisions~~ 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 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.

~~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. ~~Individual Source Permits~~ General Provisions for Class I, Class II and Class III sources

~~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 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.

~~17.12.170~~ 17.11.070 Public records-Confidentiality.

- 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~~ Sections 17.12.040 or 17.13.020, available to the public. No permit shall be issued unless the information required by ~~§§ 17.12.180 or 17.12.185~~ Sections 17.12.040 or 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 shields.

- 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~~ 17.12.130, 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.

~~17.12.140~~ 17.11.090 Applicability-Classes of 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~~ 17.16 Article IX.
 - e. A person to make a modification subject to ~~Article IX of this Chapter~~ 17.16 Article IX 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 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. A requirement for the installation or certification of a monitoring device,
 - d. A requirement for the installation of air pollution control equipment,
 - e. A requirement for the operation of air pollution control equipment,
 - f. An opacity standard required by Section 111 (Standards of Performance for New Stationary Sources) 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~~ subsection (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).

~~17.12.330~~ 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, $H_g = 2.5H$.
3. For all other stacks, $H_g = H + 1.5L$, where:
 - H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;
 - H = height of nearby structure measured from the ground-level elevation at the base of the stack;
 - L = lesser dimension (height or projected width) of nearby structure;provided that the EPA, 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 modelling 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~~ Sections 17.12.190 and 17.13.200.

~~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 February 1, 2008, 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) 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 ~~47.12.520~~ 17.13.230.

- 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 ~~47.12.340~~ 17.13.200, 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 ~~47.12.340D~~ 17.13.200(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. B.~~ B. 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. C.~~ C. 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 data 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. D. 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~~ Sections 17.12.040, 17.13.020, 17.12.170 and 17.13.180.

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. E. 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:

$$E_Q = C_{ws} F_w \frac{20.9}{20.9(1 - B_{wd}) - \% O_{2ws}}$$

- 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:

$$E_Q = C_{ws}F \frac{20.9}{20.9(1 - B_{ws}) - \% O_{2ws}}$$

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.

$$\frac{20.9}{20.9(1 - B_{ws}) - \% O_{2ws}}$$

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:

$$E_p = CF_c \frac{100}{\% CO_2}$$

- 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.

%O₂, %CO₂ = 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), 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.

~~Article III. General Permits for Individual Sources~~

~~Article IV. — Activity Permits~~

~~17.12.090 Reserved.~~

Chapter 17.12 CLASS I SOURCES

Article 1. Application Processing and Procedures

~~17.12.160~~ 17.12.010 Permit application processing procedures 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~~ 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 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~~ 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. 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~~ 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. 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~~ Section 17.11.070 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~~ Sections 17.12.100 and 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 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(D)(2) and 17.16.630(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 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~~ Section 17.11.190, the Control Officer shall have complied with the requirement of ~~subsection C of § 17.12.190~~ Section 17.11.190(C) 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~~ 17.11.050 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~~ 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 E6 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~~ Sections 17.12.090 and 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 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.

17.12.110 17.12.020 Grant or denial of applications for Class I sources.

- 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, ~~Title 49, Chapter 3, Article 3,~~ A.R.S. § 49-471, 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 Appeals of permit actions for Class I sources.

- 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.

~~17.12.180~~ 17.12.040 Permit contents for Class I 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~~ 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 ~~17.12.220~~ Section 17.12.080.
 - b. 40 CFR 64 adopted February 1, 2008, 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 ~~17.12.220~~ Section 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 and Section 17.12.190~~ Sections 17.12.170 and 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 and 17.12.220.A.5~~ 17.12.010(H) and 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 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 ~~47.12.310~~ 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~~ 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)~~ 17.12.090(D) and (E) and for Class II sources, for logging that conforms to ~~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~~

~~e. Terms and conditions in any permit entered into voluntarily pursuant to Sections 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~~ 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 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.

~~17.12.195~~ 17.12.050 **Establishment of an emissions cap for Class I sources.**

- 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.~~ B. 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)~~ Section 17.12.040(A)(3),(4) and (5).

3. ~~For a Class I permit, include~~ Include all terms required under ~~17.12.180 (A) and 17.12.210~~ Sections 17.12.040(A) and 17.11.180.

~~D. C.~~ Class I sources 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. D.~~ 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.

~~17.12.200~~ **17.12.060** **Permit review by the EPA and affected states for Class I sources.**

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 ~~47.12.340~~ 17.12.190 except to the extent Section ~~47.12.255~~ 17.12.110 (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 ~~47.12.270~~ 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 Acid rain.

- A. 40 CFR 72, 74, 75, and 76, and all accompanying appendices, adopted as of February 1, 2008, 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 Compliance plan-Certification for Class I sources.

- 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)~~ 17.12.040(A)(3), (4) and (5).
 2. Requirements for certifications of compliance with terms and conditions contained in a Class I ~~or H~~ 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.
 - 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.

Article II. Permit Revisions, Renewals and Transfers for Class I Sources

~~17.12.230~~ 17.12.090 Facility changes allowed without permit revisions for Class I sources.

- 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 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 Administrative permit amendments for Class I sources.

- 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 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 Minor permit revisions for Class I sources.

- 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~~
 - ~~e. 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~~ 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 shall follow the following timetable for action on an application for a minor permit revision:

1. ~~For Class I permits, the~~ 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.~~ 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~~ Section, the 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~~ Section 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 shall make available to the public monthly summaries of all applications for minor revisions.

~~17.12.260~~ 17.12.120 **Significant permit revisions for Class I sources.**

A. ~~For Class I sources, a~~ 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 (A)(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 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 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~~ Section 17.12.220 shall not be included in this requirement.

17.12.270 17.12.130 Permit reopenings-Revocation and reissuance-Termination for Class I sources.

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 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~~ subsection (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 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~~ 17.12.140 Permit renewal and expiration for Class I sources.

- 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(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~~ 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 Permit transfers for Class I sources.

- 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. §

49-109, or a statement that this information has been filed in compliance with A.R.S. § 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.

Article III. Emissions for Class I Sources

17.12.320 17.12.160 Annual emissions inventory questionnaire for Class I sources.

- 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 90 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 90 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) 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) 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) 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) 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).
- 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. § 49-476.01.

~~17.12.040~~ 17.12.170 Reporting requirements.

- 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).

~~17.12.035~~ 17.12.180 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. 4. Included in a permit to meet the requirements of ~~section 17.12.590 (A)(5)~~ Section 17.16.590.

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 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 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.

Article IV. Public Participation and Notification Requirements

17.12.340 17.12.190 Public participation for Class I sources.

- 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~~ 17.11.070;
 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 §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 § 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 17.12.200 Public notification for Class I sources.

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."

Article V. Fees for Class I sources

17.12.500 17.12.210 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~~ 17.12.220 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: 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 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~~ 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 ;
 - iii. Emissions from insignificant activities listed in the permit application for the source under Section ~~17.12.160~~ 17.12.010;
 - 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~~ 17.11.090 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.

~~17.12.620~~ 17.12.230 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.

Chapter 17.13 CLASS II AND CLASS III SOURCES

Article 1. Application Processing and Procedures

17.12.165 17.13.010 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~~ Section 17.11.190.
- 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 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~~ 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. 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~~ Section 17.13.120, 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~~ Sections 17.13.110 and 17.13.120, 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 shall have complied with the requirement of ~~subsection C of section 17.12.190~~ Section 17.11.190(C) 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~~ Section 17.13.200 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~~ Sections 17.13.100 and 17.13.120, 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.

~~17.12.185~~ 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. 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~~ 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~~ Sections 17.13.180 and 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, 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 ~~47.12.310~~ 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, 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)~~ Section 17.13.100(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~~ 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~~ Section 17.11.080.

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~~ Section 17.13.140 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 17.13.150 for permit renewal and shall reset the five year permit term.

17.13.030 Grant or denial of applications for Class II and Class III sources.

- 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.

17.13.040 Appeals of permit actions for Class II and Class III sources.

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 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 Section 17.13.140 in order to incorporate changes reflected in logs or notices filed under § 17.12.240 Section 17.13.100. 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 Section 17.13.100; 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 sources.

Except for a Class I permit, a Class II or Class III 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.

17.13.070 Establishment of an emissions cap for Class II and Class III sources.

- 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.
- 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 Section 17.04.340;

3. The applicable major source threshold for the pollutant; or
 4. A source wide emission limitation for the pollutant voluntarily agreed to by the source under Section ~~17.12.190~~ 17.11.190.
- 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 Section ~~17.12.180(A)(3),(4), and (5)~~ 17.13.020(A)(3), (4), and (5).
- D. Class II and Class III sources shall comply with Section ~~17.12.240(B)(5)~~ 17.13.100(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.

17.13.080 Compliance plan-Certification for Class II and Class III sources.

A. Requirements for certifications of compliance with terms and conditions contained in a Class II or III 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 47.12.180 (A) (3) Section 17.13.020(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.
 - 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 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.

Article II. Permit Revisions, Renewals and Transfers for Class II and Class III Sources

17.12.235 17.13.090 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)~~ 17.13.020(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~~ 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~~ Section 17.13.100(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 17.13.110.

**~~17.12.240~~ 17.13.100 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~~ Section 17.13.090, 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) 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~~ 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 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 ~~47.12.255~~ Section 17.13.120 and complying with ~~47.12.255 (D)(2) and (G)~~ Section 17.13.120(D)(2) and (G).
- F. The permit shield described in ~~47.12.340~~ 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 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 ~~47.12.235(A)~~ Section 17.13.090(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 ~~47.12.235(B)~~ Section 17.13.090(B), the source shall comply with ~~47.12.235(B)~~ Section 17.13.090(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 ~~47.12.240 (B)~~ Section 17.13.100(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 17.13.100(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.

17.13.110 Administrative permit amendments for Class II and Class III sources.

- 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 17.13.160 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 17.13.160, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

17.13.120 Minor permit revisions for Class II and Class III sources.

A. 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 ~~47.12.180(A)(3),(4), or (5)~~ Section 17.13.020(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.
- 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.
 - 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 any source that is making the change immediately after it files the application, the sources 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;
 - D. The Control Officer shall follow the following timetable for action on an application for a minor permit revision:
 1. 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 17.13.130; or
 - d. Revise and issue the proposed permit revision.
 - E. 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.

F. The permit shield under Section 17.11.080 shall not extend to minor permit revisions.

G. Notwithstanding any other part of this section, the Control Officer may require a permit to be revised under Section 17.13.130 for any change that, when considered together with any other changes submitted by the same source under this Section 17.13.100 or over the life of the permit, do not satisfy subsection (B) for Class II or Class III sources.

H. The Control Officer shall make available to the public monthly summaries of all applications for minor revisions.

17.13.130 Significant permit revisions for Class II and Class III sources.

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 Section 17.13.200:

1. Establishing or revising a voluntarily accepted emission limitation or standard as described by Sections 17.11.190 or 17.13.070, except a decrease in the limitation authorized by Section 17.13.120;

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 Section 17.13.100(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.

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.

C. 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.

D. Notwithstanding Section 17.13.010(D), 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 Section 17.12.010(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 17.12.060 and 17.12.190.

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 17.13.230 shall not be included in this requirement.

17.13.140 Permit reopenings-Revocation and reissuance-Termination for Class II and Class III sources.

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 17.13.150. Any permit reopening required pursuant to this paragraph shall comply with provisions in Section 17.13.150 for permit renewal and shall reset the five-year permit term.
 - b. 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.
 - 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 subsection (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 17.11.080.

B. 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.

17.13.150 Permit renewal and expiration for Class II and Class III sources.

- 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 17.11.050(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 17.13.010. 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.

17.13.160 Permit transfers for Class II and Class III sources.

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~~ 17.13 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. § 49-109, or a statement that this information has been filed in compliance with A.R.S. § 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.

Article III. Emissions for Class II and Class III sources

17.13.170 Annual emissions inventory questionnaire for Class II and III sources.

- A. 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 90 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) is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to Section 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) 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) 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) 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).
- 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. 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. § 49-476.01.

17.13.180 Reporting requirements.

- 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).

17.13.190 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. Included in a permit to meet the requirements of Section 17.16.590.

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 17.13.180 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 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 17.13.180 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 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 17.13.180, 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

Sources

17.13.200 Public participation for Class II and Class III sources.

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 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 17.11.070;
 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 subsection (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 II permit. For a source required to obtain a permit pursuant to Section 17.11.090(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 17.11.090(B)(3)(b) or 17.11.090(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.

17.13.210 Public notification for Class II and Class III sources.

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."

Article V. Fees

17.13.220 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.

~~17.12.520~~ 17.13.230 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)~~ 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 ~~47.12.140~~ 17.11.090 or significant permit revisions under Section ~~47.12.260~~ 17.13.130, 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 ~~47.12.255~~ 17.13.120, 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 ~~47.12.340~~ 17.13.200, or EPA and affected state review as required under Section ~~47.12.200~~ 17.12.060 or Section ~~47.12.255~~ 17.13.120.
- 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.

17.13.240 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.

Chapter 17.14 GENERAL PERMITS

Article I. Application procedures

~~17.12.370~~ 17.14.100 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~~ 17.14.110 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~~ 17.13.200.
- 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.

Article II. Fees

17.14.120 General provisions for general permits.

- 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.

~~17.12.400~~ 17.14.130 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

17.14.140 Refund of permit fees for general permits.

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.

17.12.410 Reserved.

17.12.420 Reserved.

17.12.430 Reserved.

17.12.440 Reserved.

17.12.450 Reserved.

17.12.460 Reserved.

Chapter 17.15 ACTIVITY PERMITS

Article I. General Provisions

17.12.465 17.15.100 Definitions.

- A. 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.

Article II. Fugitive Dust

~~17.12.470~~ 17.15.110 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~~ 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~~ 17.15.120 Fugitive dust Activity activity permit fees.

A. Refer to Table ~~17.12.540~~, Activity Permit Fee Schedules. Any person that applies for a fugitive dust activity permit shall pay to the control officer the fee from the table below.

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		\$100.00
		≥1-2 acres	\$500.00
		>2-10 acres	\$1,500.00
		>10-40 acres	\$3,000.00
		>40+ acres	
B	Trenching		\$75.00
		300-500 feet	\$200.00
		501-1,500 feet	\$400.00
		1,501-5,000 feet	\$800.00
		5,001+ feet	

€	Road construction		\$50.00
		50-1,000 feet	\$250.00
		1,001-3,000 feet	\$500.00
		3,001-6,000 feet	\$1,000.00
		6,001+ feet	
Ð	Blasting		\$25.00
£	Multiple Activity Permit		\$ 625.00
		≥1-10 acres	\$2,000.00
		>10-40 acres	\$4,000.00
		>40+ acres	
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 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. NESHAP Permits

17.12.475 17.15.130 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.

17.15.140 NESHAP activity permit fees.

- A. Any person that applies for a NESHAP activity permit shall pay to the control officer the fee from the table below.

<u>NESHAP Activity Permit</u>	
<u>Demolition of NESHAP Facility</u>	<u>\$420.00</u>
<u>Renovation of NESHAP Facility</u>	<u>\$420.00</u>

~~Article V.~~ Article IV. Open Burning

17.12.480 17.15.150 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)~~ 17.15.150.
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

~~17.12.525 Reserved.~~

17.12.530 17.15.160 Open burning permit fees.

Refer to Table 17.12.530, ~~Open Burning Permit Fee Schedules.~~

A. Any person that applies for an open burning permit shall pay to the control officer the fee from the table below.

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 ¹ The term of a residential burning permit shall not exceed three (3) consecutive or non-consecutive days within a thirty-day period. ³ ² The term of a commercial/agricultural burning permit shall not exceed ninety days.			

~~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.~~

~~17.12.630 Reserved.~~

~~17.12.640 Reserved.~~

~~17.12.650 Reserved.~~

~~Table 17.12.480 Repealed (Ord. 2005 43 § 2 (part), 2005; Ord. 1993 128 § 3 (part), 1993)~~

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