Pima County Code Title 17

Proposed Reorganization and Minor Revisions

Title 17 - AIR QUALITY CONTROL

Chapters:

Chapter 17.04 - GENERAL PROVISIONS

Sections:

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Article VI. - Hearing Board

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17.04.250 - Decisions of hearing board; subpoenas; effective date.

A. All decisions of the hearing board, including the majority of opinion and all concurring and dissenting opinions, shall be in writing and shall be of public record.

B. A majority of the total membership of the hearing board shall concur in a decision for it to have effect.

C. The chairman or, in their absence, the vice chairman may issue subpoenas to compel attendance of any person at a hearing and require the production of books, records and other documents material to a hearing. Obedience to subpoenas may be enforced pursuant to A.R.S. § 12-2212.

D. Decisions of the hearing board shall become effective not less than thirty days after they are issued unless:

1. A rehearing is granted which shall have the effect of staying the decision.

2. It is determined that an emergency exists which justifies an earlier effective date.

E. The hearing board may revoke or modify an order of abatement or a permit or permit revision only after first holding a hearing within thirty days from the giving of notice of such hearing as provided in this title.

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Article IX. - Definitions and Meanings

17.04.340 - Words, phrases, and terms.

Words, phrases, and terms used in this title shall have the following meanings except where any narrative portion specifically indicates otherwise:

A. Definitions.

1. "Acid mist" means sulfuric acid mist as measured in the Arizona Testing Manual and 40 CFR 60, Appendix A.

2. "Act" or "Clean Air Act" means the Clean Air Act of 1963 (P.L. 88206; 42 United States Code sections 7401 through 7671) as amended by the Clean Air Act Amendments of 1990 (P.L. 101549).

3. "Activity" or "activities" means any land stripping, earthmoving, trenching, road construction, blasting (except blasting associated with an individual source permit issued for mining), and demolition or renovation of manmade facilities.

4. "Actual emissions" means the actual rate of emissions of an air pollutant from an emissions unit, as determined in accordance with paragraphs a through c.

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period that precedes the particular date and which is representative of normal source operation. The control officer may allow the use of a different time period upon a demonstration that it is more representative of normal source operation. Actual emissions shall be

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calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.

b. If there is inadequate information to determine actual historic emissions (e.g., the source has only been operating for six months), the control officer may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit at a Class I source, other than an electric utility steam generating unit in subsection (e), that has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.

d. For any emissions unit at a Class II source that has not begun normal operations on the particular date, actual emissions shall be based on applicable control requirements and projected conditions of operation.

e. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit. If the source owner or operator maintains and submits to the Control Officer, on an annual basis for a period of 5 years from the date the unit resumes regular operations, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the Control Officer if the Control Officer determines the longer period to be more representative of normal source post-change operations.

5. "ADEQ" means the Arizona Department of Environmental Quality.

6. "ADHS" means the Arizona Department of Health Services.

7. "Administrator" means the administrator of the United States Environmental Protection Agency.

8. "Adverse effects to human health" means those effects that result in or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, including adverse effects that are known to be or may reasonably be anticipated to be caused by substances that are acutely toxic, chronically toxic, carcinogenic, mutagenic, teratogenic, neurotoxic or causative of reproductive dysfunction.

9. "Adverse environmental effect" means any significant and widespread adverse effect which may reasonably be anticipated on wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

10. "Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of a Class I area, as determined according to Section 17.16.630.

11. "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

12. "Affected source" means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act (Acid Deposition Control).

13. "Affected state" means any state whose air quality may be affected by a source applying for a permit, permit revision or permit renewal, and that is contiguous to Arizona; or that is within fifty miles of the permitted source.

14. "Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the Act (Acid Deposition Control).

15. "Afterburner" means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion.

16. "Air contaminant" means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, windborne

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matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.

17. "Air curtain destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.

18. "Air pollution" or "air pollutant" means the presence in the outdoor atmosphere of one or more air contaminants or combination thereof in sufficient quantities, which either alone or in connection with other substances, by reason of their concentration and duration are or tend to be injurious to human, plant, or animal life; or causes damage to property; or unreasonably interferes with the enjoyment of life or property of a substantial part of a community, or obscures visibility; or which in any way degrades the quality of the ambient air below the standards established by the board of supervisors.

19. "Air pollution control equipment" means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.

20. "Air quality control region (AQCR)" means an area so designated by the administrator pursuant to Section 107 of the Act (Air Quality Control Regions) and includes the following regions in Arizona:

    a. Maricopa Intrastate Air Quality Control Region which is comprised of the county of Maricopa.

    b. Pima Intrastate Air Quality Control Region which is comprised of the county of Pima.

    c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo and Yavapai.

    d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave and Yuma.

    e. Central Arizona Intrastate Air Quality Control Region which encompasses the counties of Gila and Pinal.

    f. Southeast Arizona Intrastate Air Quality Control Region which encompasses the counties of Cochise, Graham, Greenlee and Santa Cruz.

21. "Allowable emissions" means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:

    a. The applicable new source performance standards or national emission standards for hazardous air pollutants, as contained in Chapter 17.16, Articles VI or VII and in 40 CFR 60 and 61;

    b. The applicable existing source performance standard, as approved for the SIP and contained in Chapter 17.16, Article IV; or

    c. The emissions rate specified in any federally promulgated rule or federally enforceable permit conditions applicable to the state of Arizona.

22. "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but which has been demonstrated to produce results adequate for the control officer's determination of compliance in accordance with Section 17.11.160(D).

23. "Ambient air" means that portion of the atmosphere external to buildings to which the general public has access.

24. "Annual fee" means a fee paid yearly based on the average cost of service including all reasonable direct and indirect costs required to administer the program covering administrative and inspection activities.

25. "Applicable implementation plan" means those provisions of the state implementation plan approved by the administrator or a federal implementation plan promulgated in accordance with Title I of the Act (Air Pollution Prevention and Control).

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26. "Applicable requirement" means any of the following:
    a. Any federal applicable requirement.
    b. Any other requirement established pursuant to this title or A.R.S. Title 49, Chapter 3.
27. "Approved" means approved "by the control officer". Any word implying acceptance, reasoning, or judgment means "by the control officer".
28. "AQCD" means the Pima County Air Quality Control District, operating within the Pima County Department of Environmental Quality (PDEQ).
29. "Architectural coating" means a coating used commercially or industrially for residential, commercial or industrial buildings and their appurtenances; structural steel; and other fabrications such as storage tanks, bridges, beams and girders.
30. "Area source" means those sources that emit less than 10 tons annually of a single hazardous air pollutant or less than 25 tons annually of a combination of hazardous air pollutants.
31. "A.R.S." means Arizona Revised Statutes, with standard references in this title by title and section, so that A.R.S. § 49-101 means Section 101 of Title 49 of the Arizona Revised Statutes.
32. "Arizona Testing Manual (ATM)" means the Arizona Testing Manual for Air Pollutant Emissions.
33. "Asphalt concrete plant" means any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements. This is limited to facilities, including drum dryer plants that introduce asphalt into the dryer, which employ two or more of the following processes:
    a. A dryer.
    b. Systems for screening, handling, storing, and weighing hot aggregate.
    c. Systems for loading, transferring, and storing mineral filler.
    d. Systems for mixing asphalt concrete.
    e. The loading, transferring, and storage systems associated with emission control systems.
34. "ASTM" means the American Society for Testing and Materials.
35. "Attainment area" means an area so designated by the administrator acting pursuant to Section 107 of the Act (Air Quality Control Regions) as having ambient air pollutant concentration equal to or less than national primary or secondary ambient air quality standards for a particular pollutant or pollutants.
36. "Begin actual construction" means, in general, initiation of physical onsite construction activities on an emissions unit which are of a permanent nature. Such activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.
37. "Best available control technology (BACT)" means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated air pollutant which would be emitted from any proposed major stationary source or major modification which the control officer on a case-by-case basis, taking into account energy, environmental and economic impact and other costs, determines to be achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the control officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be

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prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

38. "Billable permit action" means the issuance or denial of a new permit, permit revision, permit transfer, costs associated with public participation under Section 17.12.190 or Section 17.13.210 or the renewal of a permit.

39. "Black liquor" means waste liquor from the brown stock washer and spent cooking liquor that have been concentrated in the multiple-effect evaporator system.

40. "BTU" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

41. "Building", "structure", "facility" or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group which has the same two-digit code, as described in the Standard Industrial Classification Manual, 1972, as amended by the 1987 supplement.

42. "Calcine" means the solid materials produced by a lime plant.

43. "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

44. "Categorical sources" means the following classes of sources:

    a. Coal cleaning plants with thermal dryers;

    b. Kraft pulp mills;

    c. Portland cement plants;

    d. Primary zinc smelters;

    e. Iron and steel mills;

    f. Primary aluminum ore reduction plants;

    g. Primary copper smelters;

    h. Municipal incinerators capable of charging more than fifty tons of refuse per day;

    i. Hydrofluoric, sulfuric, or nitric acid plants;

    j. Petroleum refineries;

    k. Lime plants;

    l. Phosphate rock processing plants;

    m. Coke oven batteries;

    n. Sulfur recovery plants;

    o. Carbon black plants using the furnace process;

    p. Primary lead smelters;

    q. Fuel conversion plants;

    r. Sintering plants;

    s. Secondary metal production plants;

    t. Chemical process plants;

    u. Fossil-fuel boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

    v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;

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w. Taconite preprocessing plants;

x. Glass fiber processing plants;

y. Charcoal production plants;

z. Fossil fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million BTU per hour heat input.

45. "Cause" or "permit" (used as verbs) means to effect by action or participation, or by command, authority, or force; or allow, make possible, or consent to.

46. "CEM" means a continuous emissions monitoring system or continuous monitoring system that is the total equipment required under the emission monitoring provisions in this Title, used to sample and, if applicable, to condition, to analyze, and to provide, on a continuous basis, a permanent record of emission or process parameters.

47. "CFR" means the Code of Federal Regulations, with standard references in this title by title and part, so that "40 CFR 51" means "Title 40 of the Code of Federal Regulations, Part 51."

48. "Charge" means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel.

49. "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D38891, (Classification of Coals by Rank).

    a. "Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, that was not in widespread use as of November 15, 1990.

    b. "Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations from the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

    c. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for 5 years or less, and that complies with the SIP and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

50. "Combustion" means the burning of matter.

51. "Commence" means, as applied to construction of a source, or a major modification as defined in this section, that the owner or operator has all necessary preconstruction approvals or permits required and either has:

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

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

52. "Complete" means, in reference to an application for a permit or permit revision, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the control officer from requesting or accepting any additional information.

53. "Concentrate" means enriched copper ore recovered from the froth flotation process.

54. "Concentrate dryer" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than five percent of the sulfur contained in the charge is eliminated in the facility.

55. "Concentrate roaster" means any facility in which a copper sulfide ore concentrate is heated in the presence of air to eliminate five percent or more of the sulfur contained in the charge.

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56. "Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, total reduced sulfur compounds from condensate streams of various processes within a kraft pulp mill.

57. "Construction" means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in actual emissions.

58. "Continuous monitoring system" or "continuous emissions monitoring (CEM) system" means the total equipment, required under the emission monitoring provisions in this title, used to sample and, if applicable, to condition, to analyze, and to provide a permanent record of emission or process parameters.

59. "Control" means air pollution control or control of air pollution emissions.

60. "Control device" means the air pollution control equipment used to remove air contaminants generated by a process source from the effluent gas stream.

61. "Control officer" means the director of Pima County department of environmental quality who shall serve as the executive head of the Pima County air quality control district, or one of his authorized agents.

62. "Controlled atmosphere incinerator" means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.

63. "Conventional" or "criteria" air pollutant means any pollutant for which the administrator has promulgated a primary or secondary national ambient air quality standard.

64. "Converter" means any vessel to which copper matte is charged and oxidized to copper.

65. "County" means Pima County, Arizona.

66. "Delivery vessels" means any vehicular mounted container(s) such as railroad tank cars, tanker trucks, tank trailers or any other mobile container used to transport gasoline, petroleum or petroleum distillates.

67. "Designated representative" shall have the meaning given to it in section 402(26) of the Act (Definitions) and the regulations promulgated thereunder.

68. "Director" means the director of the Arizona Department of Environmental Quality (ADEQ).

69. "Discharge" means the release or escape of an effluent from a source into the atmosphere.

70. "Dispersion technique" means any technique that attempts to affect the concentration of a pollutant in the ambient air by any of the following:

    a. Using that portion of a stack that exceeds good engineering practice stack height;

    b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

    c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This shall not include any of the following:

        i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

        ii. The merging of exhaust gas streams under any of the following conditions:

            (1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

            (2) The merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or

        iii. Smoke management in agricultural or silvicultural prescribed burning programs;

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iv. Episodic restrictions on residential wood burning and open burning;

v. Techniques that increase final exhaust gas plume rise if the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

71. "Dust" or "dust emissions" means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or storage of materials in the solid state.

72. "Dust suppressant" means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.

73. "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than 1/3 of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

74. "Effluent" means any air contaminant that is emitted and subsequently escapes into the atmosphere.

75. "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

76. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.

77. "Emissions allowable under the permit" means a permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

78. "Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated air pollutant.

79. "Emission standard" or "emission limitation" means a requirement established by the state, a local government, or the administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

80. "Enforceable" means all limitations and conditions that are enforceable by the administrator.

81. "Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency as established by 40 CFR 1.1, et seq.

82. "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated pursuant to Section 17.11.160 (Test Methods and Procedures) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

83. "Excess emissions" or "emissions in excess of an emission limitation" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.

84. "Existing source" means either:

a. A source in operation prior to the effective date of this title, or a source on which the construction or modification has commenced and for which the control officer has granted a permit prior to the effective date of this title; or

b. For NSPS purposes, "existing source" may also mean any source which does not have an applicable new source performance standard under Chapter 17.16, Article VI.

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85. "Federal applicable requirement" means any of the following as they apply to emissions units covered by a Class I or Class II permit (including requirements that have been promulgated or approved by EPA through rule making at the time of issuance but have future-effective compliance dates):

    a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rule making under Title I of the Act (Air Pollution Prevention and Control) that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52;

    b. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rule making under Title I, including parts C or D, of the Act (Prevention of Significant Deterioration of Air Quality and Plan Requirements for Nonattainment Areas);

    c. Any standard or other requirement under section 111 of the Act (Standards of Performance for New Stationary Sources), including Section 111(d);

    d. Any standard or other requirement under Section 112 of the Act (Hazardous Air Pollutants), including any requirement concerning accident prevention under Section 112(r)(7) of the Act;

    e. Any standard or other requirement of the acid rain program under Title IV of the Act (Acid Deposition Control) or the regulations promulgated thereunder and incorporated pursuant to Section 17.12.070;

    f. Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Act (Inspections, Monitoring and Entry);

    g. Any standard or other requirement governing solid waste incineration, under Section 129 of the Act (Solid Waste Combustion);

    h. Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act (Federal Ozone Measures);

    i. Any standard or other requirement for tank vessels, under Section 183(f) of the Act (Federal Ozone Measures);

    j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the Act (Air Pollution from Outer Continental Shelf Activities);

    k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act (Stratospheric Ozone Production), unless the administrator has determined that such requirements need not be contained in a Title V permit; and

    l. Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act (Prevention of Significant Deterioration of Air Quality), but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act (Permit Requirements and Conditions).

86. "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

87. "Federally enforceable" means:

    a. The requirements of the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants contained in Articles VI and VII of Chapter 17.16.

    b. The requirements of such other state or county rules or regulations approved by the administrator, including the requirements of approved state and county operating and new source review permit programs that have been approved by the administrator.

    c. The requirements of any applicable implementation plan.

    d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping and reporting requirements, which are entered into voluntarily by a source pursuant to Section 17.11.190.

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88. "Federally listed hazardous air pollutant" means any air pollutant listed pursuant to Section 112(b) of the Act (Hazardous Air Pollutants) and adopted pursuant to A.R.S. § 49-426.03, subsection A and not deleted pursuant to that subsection.

89. "Final permit" means the version of a permit issued by the control officer after completion of all review required by this title.

90. "Fixed capital cost" means the capital needed to provide all the depreciable components.

91. "Floating roof" means a storage-vessel cover consisting of a pontoon, single-deck, double-deck, or internal floating solid material which rests upon the surface of and is supported by the liquid contents, and is equipped with a seal to close the space between the edge of the solid material and tank wall.

92. "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

93. "Fuel" means any material that is burned for the purpose of producing energy.

94. "Fuel burning equipment" means any machine, equipment, incinerator, device or other article, except stationary rotating machinery, in which combustion takes place.

95. "Fuel oil" means Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90a (Specification for Diesel Fuel Oils).

96. "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

97. "Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.

98. "Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.

99. "General permit" means a permit issued by ADEQ pursuant to A.A.C. Title 18, Chapter 2, Article 5 and administered, inspected and enforced by the department pursuant to this title.

100. "Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in Section 17.11.150.

101. "Haul road" means a road constructed for the principle purpose of hauling construction materials, or to provide access to one or more construction sites, mining activities, or industrial operations.

102. "Hazardous air pollutant (HAP)" means any federally listed hazardous air pollutant and any air pollutant that the director has designated as a hazardous air pollutant pursuant to A.R.S. § 49-426.04, subsection A and has not deleted pursuant to A.R.S. § 49-426.04, subsection C.

103. "Hazardous air pollutant reasonably available control technology (HAPRACT)" means an emissions standard for hazardous air pollutants which the director, acting pursuant to A.R.S. § 49-426.06, subsection C, or the control officer, acting pursuant to A.R.S. § 49-480.04, subsection C, determines is reasonably available for a source. In making the foregoing determination the director or control officer shall take into consideration the estimated actual air quality impact of the standard, the cost of complying with the standard, the demonstrated reliability and widespread use of the technology required to meet the standard, and any non-air quality health and environmental impacts and energy requirements. For purposes of this definition, an emissions standard may be expressed as a numeric emissions limitation or as a design, equipment, work practice or operational standard.

104. "Hazardous waste" means a hazardous waste as defined in 40 CFR 261, or a waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may either:

    a. Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating reversible illness; or

b. Pose a serious present or potential hazard to human health or the environment if improperly disposed.

105. "Hazardous waste fuel" means hazardous wastes that are burned for energy recovery in an industrial furnace or boiler that is not regulated as a hazardous waste incinerator. Hazardous waste fuel includes fuel produced from hazardous waste by processing, blending, or other treatment.

106. "Heat input" means the quantity of heat in terms of BTUs generated by fuels fed into the fuel burning equipment under conditions of complete combustion.

107. "Herein" when used anywhere in this title, refers to the complete set of rules and regulations contained in this title.

108. "High sulfur oil" means fuel oil containing 0.90 percent or more by weight of sulfur.

109. "High terrain" means any area having an elevation of nine hundred feet or more above the base of the stack of a source.

110. "Incinerator" means any equipment, machine, device, contrivance or other article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material other than those used for pollution control.

111. "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

112. "Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

113. "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

114. "Insignificant activity" means an activity in an emissions unit that is not otherwise subject to any applicable requirement and which belongs to one of the following categories:

a. Landscaping, building maintenance, or janitorial activities.

b. Gasoline storage tanks with capacity of ten thousand gallons or less.

c. Diesel and fuel oil storage tanks with capacity of forty thousand gallons or less.

d. Batch mixers with rated capacity of five cubic feet or less.

e. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is two hundred tons/ hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units which are used to crush or grind any nonmetallic minerals.

f. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass or wood.

g. Powder coating operations.

h. Internal combustion (IC) engine-driven compressors, IC engine-driven electrical generator sets, and IC engine-driven water pumps used only for emergency replacement or standby service.

i. Lab equipment used exclusively for chemical and physical analyses.

j. Any other activity which the control officer determines is not necessary, because of its emissions due to size or production rate, to be included in an application in order to determine all applicable requirements and to calculate any fee under this title.

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115. "Itemized bill" means a breakdown of the permit processing time into the categories of pre-application activities (teleconferences, accelerated processing meetings, permit regulatory discussions, etc.), completeness review, substantive review, and public involvement activities, and within each category, a further breakdown by employee name.

116. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

117. "Land stripping" or "land stripping activity" means removal of all or any portion of existing vegetation from parcels of land with equipment, which plows or scrapes the ground surface.

118. "Lead" means elemental lead or alloys in which the predominant component is lead.

119. "Lime hydrator" means a unit used to produce hydrated lime product.

120. "Lime kiln" means a unit used to calcinate lime rock or kraft pulp mill lime mud that consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

121. "Lime plant" includes any plant, which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.

122. "Lime product" means any product produced by the calcination of limestone.

123. "Loading facility" means any operation or facility (such as petroleum storage tank farms, pipeline terminals, bulk plants or loading docks) where petroleum or petroleum distillates are transferred or loaded into delivery vessels or other storage facilities for further distribution.

124. "Low sulfur oil" means fuel oil containing less than 0.90 percent by weight of sulfur.

125. "Low terrain" means any area other than high terrain.

126. "Lowest achievable emission rate (LAER)" means, for any source, the more stringent rate of emissions based on one of the following:

    a. The most stringent emissions limitation that is contained in the SIP of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable; or

    b. The most stringent emissions limitation that is achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable standards of performance in Chapter 17.16, Articles VI and VII.

127. "Major modification" means any physical change or change in the method of operation of a major source that would result in a significant net emissions increase of any regulated air pollutant.

    a. Any net emissions increase that is significant for volatile organic compounds is considered significant for ozone.

    b. Any net emissions increase that is significant for oxides of nitrogen is considered significant for ozone for ozone nonattainment areas classified as marginal, moderate, serious or severe.

    c. For the purposes of this definition the following are not a physical change or change in the method of operation:

        i. Routine maintenance, repair and replacement;

        ii. Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. Section 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. Sections 792—825r;

        iii. Use of an alternative fuel by reason of an order or rule under Section 125 of the Act (Measures to Prevent Economic Disruption or Unemployment);

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iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

v. Use of an alternative fuel or raw material by a stationary source that either:

(1) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under the permitting provisions of this Title; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21, or under the permitting provisions of this title;

vi. An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under the permitting provisions of this title;

vii. Any change in ownership at a stationary source;

viii. The addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the Director determines that the addition, replacement, or use renders the unit less environmentally beneficial, or except:

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

(2) The Director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation;

ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:

(1) The SIP and

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

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

xi. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.

128. "Major source" means:

a. A major source as defined in AAC R18-2-401, as amended on September 22, 1999 (and no future amendments) and which is on file with the office of the secretary of state.

b. A major source under section 112 of the Act:

i. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emissions, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Article 11 of AAC Chapter 2. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

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ii. For radionuclides, "major source" shall have the meaning specified by the administrator by rule.

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

i. Coal cleaning plants (with thermal dryers);

ii. Kraft pulp mills;

iii. Portland cement plants;

iv. Primary zinc smelters;

v. Iron and steel mills;

vi. Primary aluminum ore reduction plants;

vii. Primary copper smelters;

viii. Municipal incinerators capable of charging more than 50 tons of refuse per day;

ix. Hydrofluoric, sulfuric, or nitric acid plants;

x. Petroleum refineries;

xi. Lime plants;

xii. Phosphate rock processing plants;

xiii. Coke oven batteries;

xiv. Sulfur recovery plants;

xv. Carbon black plants (furnace process);

xvi. Primary lead smelters;

xvii. Fuel conversion plants;

xviii. Sintering plants;

xix. Secondary metal production plants;

xx. Chemical process plants;

xxi. Fossil-fuel boilers or combinations thereof totaling more than 250 million British thermal units per hour heat input;

xxii. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;

xxiii. Taconite ore processing plants;

xxiv. Glass fiber processing plants;

xxv. Charcoal production plants;

xxvi. Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

xxvii. Any other stationary source category which as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

129. "Major source threshold" means the lowest applicable emissions rate for a pollutant that would cause the source to be a major source at the particular time and location, under Section 17.04.340(A)(128).

130. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal manner, but does not include failures

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that are caused by poor maintenance, careless operations or any other upset condition or equipment breakdown that could have been prevented by the exercise of reasonable care.

131. "Material permit condition" shall mean a condition that satisfies all of the following:

    a. The condition is in a permit or permit revision issued by the control officer after the effective date of this section.

    b. The condition is identified within the permit as a material permit condition.

    c. The condition is one of the following:

        i. An enforceable emission standard imposed to avoid classification as a major modification or major source or to avoid triggering any other applicable requirement.

        ii. A requirement to install, operate or maintain a maximum achievable control technology or hazardous air pollutant reasonably available control technology required pursuant to the requirements of A.R.S. § 49-426.06.

        iii. A requirement for the installation or certification of a monitoring device.

        iv. A requirement for the installation of air pollution control equipment.

        v. A requirement for the operation of air pollution control equipment.

        vi. Any opacity standard required by Section 111 (Standards of Performance for New Stationary Sources) or Title I, Part C or D (Air Pollution Prevention and Control) of the Act.

    d. Violation of the condition is not covered by subsections A through F, or H through J of A.R.S. § 49-464 or subsections A through F, or H through J of A.R.S. § 49-514.

132. "Matte" means a metallic sulfide made by smelting copper sulfide ore concentrate or the roasted product of copper sulfide ores.

133. "Maximum achievable control technology (MACT)" means an emission standard that requires the maximum degree of reduction in emissions of the hazardous air pollutants subject to this title, including a prohibition on such emissions where achievable, that the control officer, after considering the cost of achieving such emission reduction and any nonair quality health and environmental impacts and energy requirements, determines to be achievable by a source to which such standard applies, through application of measures, processes, methods, systems or techniques including measures which:

    a. reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

    b. enclose systems or processes to eliminate emissions;

    c. collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

    d. are design, equipment, work practice, or operational standards, including requirements for operator training or certification; or

    e. are a combination of the above.

134. "Minor source" means any stationary or portable source that is not a major source.

135. "Minor source baseline area" means the air quality control region in which the source is located.

136. "Miscellaneous metal parts and products" for purposes of industrial coating include all of the following:

    a. Large farm machinery, such as harvesting, fertilizing and planting machines, tractors, and combines.

    b. Small farm machinery, such as lawn and garden tractors, lawn mowers, and rototillers.

    c. Small appliances, such as fans, mixers, blenders, crock pots, dehumidifiers, and vacuum cleaners.

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d. Commercial machinery, such as office equipment, computers and auxiliary equipment, typewriters, calculators, and vending machines.

e. Industrial machinery, such as pumps, compressors, conveyor components, fans, blowers, and transformers.

f. Fabricated metal products, such as metal covered doors and frames.

g. Any other industrial category which coats metal parts or products under the code in the "Standard Industrial Classification Manual, 1987" of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (nonelectric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries), except all of the following:

i. Automobiles and light duty trucks.

ii. Metal cans.

iii. Flat metal sheets and strips in the form of rolls or coils.

iv. Magnet wire for use in electrical machinery.

v. Metal furniture.

vi. Large appliances.

vii. Exterior of airplanes.

viii. Automobile refinishing.

ix. Customized top coating of automobiles and trucks, if production is less than 35 vehicles per day.

x. Exterior of marine vessels.

137. "Mobile source" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest.

138. "Modification" or "modify" means a physical change in or change in the method of operation of a source which increases the actual emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or which results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount.

139. "Monitoring device" means the total equipment, required under the applicable provisions of this title, used to measure and record, if applicable, process parameters.

140. "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on public highways.

141. "Multiple chamber incinerator" means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.

142. "Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser and hotwell used to concentrate the spent cooking liquid that is separated from the pulp.

143. "NAAQS" means national ambient air quality standards.

144. "National ambient air quality standard" means the ambient air pollutant concentration limits established by the administrator pursuant to 42 United States Code Section 7409.

145. "NAICS" means the 5 or 6-digit North American Industry Classification System-United States, 1997, number for industries used by the U.S Department of Commerce.

146. "Necessary preconstruction approvals or permits" means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.

147. "NESHAP" means the National Emission Standard for Hazardous Air Pollutants, according to 40 CFR 61.

148. "Net emissions increase" means:

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a. The amount by which the sum of subparagraphs i and ii exceeds zero:

   i. Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

   ii. Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

   i. The date five years before construction on the particular change commences; and

   ii. The date that the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if the control officer has not relied on it in issuing an permit, which is in effect when the increase in actual emissions from the particular change occurs. In addition, in nonattainment areas, a decrease in actual emissions shall be considered in determining net emissions increase due to modifications only if the county has not relied on it in demonstrating attainment or reasonable further progress.

d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, or particulate matter that occurs before the applicable baseline date, as described in Section 17.08.150, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

f. A decrease in actual emissions is creditable only to the extent that:

   i. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

   ii. It is federally enforceable at and after the time that actual construction on the particular change begins;

   iii. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

   iv. The emissions unit was actually operated and emitted the specific pollutant.

g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

149. "Neutral sulfite semi-chemical pulping" means any operation in which pulp is produced from wood by cooking or digesting wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating or grinding.

150. "New source" means any source that is not an existing source.

151. "Nitric acid plant" means any facility producing nitric acid thirty to seventy percent in strength by either the pressure or atmospheric pressure process.

152. "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the appendices to 40 CFR 60.

153. "Nonattainment area" means an area so designated by the administrator acting pursuant to Section 107 of the Act (Air Quality Control Regions) as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.

154. "Nonattainment area plan" means an air pollution control plan developed in accordance with 42 United States Code Sections 7501 through 7515.

155. "Nonpoint source" means a source of air contaminants that lacks an identifiable plume or emission point.

156. "NSPS" means new source performance standards.

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157. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

158. "Open outdoor fire" or "open burning" means combustion in the outdoors of any material, during which the products of combustion are not directed through a flue, chimney, duct, vent, stack, or other restrictive device designed or installed for the principle purpose of discharging the effluent to the atmosphere.

159. "Operation" means any physical or chemical action resulting in the change in location, form, physical properties or chemical character of a material.

160. "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

161. "Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than one hundred micrometers.

162. "Particulate matter emissions" means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in Section 17.11.160 (Test Methods and Procedures)

163. "PDEQ" or "department" means the Pima County department of environmental quality.

164. "Permitting authority" means the department or a county department or agency that is charged with enforcing a permit program adopted pursuant to A.R.S. § 49-480, subsection A.

165. "Permit processing time" means all time spent by PDEQ staff or consultants on tasks specifically related to the processing of an application for the issuance or renewal of a particular permit or permit revision, including time spent processing an application that is denied.

166. "Person" includes any public or private corporation, company, partnership, firm, trust, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.

167. "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90 (Specification for Diesel Fuel Oils).

168. "Planning agency" means the organization designated by the Governor pursuant to 42 United States Code Section 7504 as having the authority and responsibility of preparing nonattainment area plans.

169. "Plume" means visible effluent.

170. "$PM_{2.5}$" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated in accordance with 40 CFR 53.

171. "PM_{10}" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.

172. "PM_{10} emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air as measured by applicable test methods and procedures described in Section 17.11.160.

173. "Pollution control project" means any activity or project undertaken at an existing electric utility steam-generating unit to reduce emissions from the unit. The activities or project are limited to:

The installation of conventional or innovative pollution control technology, including advance flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls, and electrostatic precipitators;

a. An activity or project to accommodate switching to a fuel less polluting than the fuel used before the activity or project, including natural gas or coal re-burning, or the co-firing of natural gas and other fuels for the purpose of controlling emissions;

b. A permanent clean coal technology demonstration project conducted under Title 11, section 101 (d) of the Further Continuing Appropriations Act of 1985 (42 U.S.C. 5903 (d)), or subsequent appropriations, up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or

c. A permanent clean coal technology demonstration project that constitutes a re-powering project.

174. "Portable source" means any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49-426 that emits or may emit any air pollutant and is capable of being operated at more than one location.

175. "Potential to emit" or "potential emission rate" means the maximum capacity of a stationary source to emit pollutant, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

176. "Primary ambient air quality standards" means the ambient air quality standards that define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Chapter 17.08, Article I.

177. "Primary standard attainment date" means the date defined within a nonattainment area plan in accordance with 42 United States Code Sections 7401 through 7515 and after which date primary national ambient air quality standards may not be violated.

178. "Private driveway" means a road constructed for the sole purpose of gaining access to a one or two-family residence.

179. "Private residence" means a one or two-family dwelling unit.

180. "Process" means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.

181. "Process source" means the last operation or process that produces an air contaminant resulting from either:

a. The separation of the air contaminants from the process material; or

b. The conversion of constituents of the process materials into air contaminants which is not an air pollution abatement operation.

182. "Process weight" means the total weight of all materials introduced into a source, including fuels, where these contribute to pollution generated by the process.

183. "Process weight rate" means a rate established pursuant to Section 17.16.130(F).

184. "Proposed permit" means the version of a permit for which the control officer offers public participation or affected state review under the provisions of Section 17.12.190 or Section 17.13.210.

185. "Proposed final permit" means the version of a Class I permit that the department proposes to issue and forwards to the Administrator for review in compliance with subsection A of Section 17.12.060.

186. "Quantifiable" means, with respect to emissions, or the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.

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187. "RACT (reasonably available control technology)" means, for facilities subject to an existing source performance standard, the emissions limitation of the existing source performance standard.

188. "Reactivation of very clean coal-fired electric utility steam generating unit:" means any physical change or change in the method of operation associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation if the unit:

    a. Has not been in operation for the 2-year period before enactment of the Clean Air Act Amendments of 1990, and the emissions from the unit continue to be carried in the Control Officer's emissions inventory at the time of enactment;

    b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%

    c. Is equipped with low-NOx burners before commencement of operations following reactivation; and

    d. Is otherwise in compliance with the Act.

189. "Reasonable further progress" means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.

190. "Reclaiming machinery" means any machine, equipment device or other article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.

191. "Reconstruction" of sources located in nonattainment areas shall be presumed to have taken place where the fixed capital cost of the new components exceeds fifty percent of the fixed capital cost of a comparable entirely new stationary source, as determined in accordance with the provisions of 40 CFR 60.15(f)(1)—(3).

192. "Recovery furnace" means the unit, including the direct contact evaporator for a conventional furnace, used for burning black liquor to recover chemicals consisting primarily of sodium carbonate and sodium sulfide.

193. "Reference method" means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C.

194. "Regulated air pollutant" means any of the following:

    a. Any conventional air pollutant as defined in A.R.S. § 49-401.01.

    b. Nitrogen oxides and volatile organic compounds.

    c. Any air contaminant that is subject to a standard contained in Chapter 17.16, Article VI.

    d. Any Class I or II substance listed in Section 602 of the Act (Listing of Class I and Class II Substances).

195. "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D-323-90 (Test Method for Vapor Pressure of Petroleum Products) (Reid Method).

196. "Replicable" means, with respect to methods or procedures, sufficiently unambiguous such that the same or equivalent results would be obtained by the application of the method or procedure by different users.

197. "Re-powering" means:

    a. Replacing an existing coal-fired boiler with one of the following clean coal technologies:

        i. Atmospheric or pressurized fluidized bed combustion;

        ii. Integrated gasification combined cycle;

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iii. Magnetohydrodynamics;

iv. Direct and indirect coal-fired turbines;

v. Integrated gasification fuel cells; or

vi. As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above technologies; and

vii. Any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

b. Repowering also includes any oil, gas, or oil and gas-fired unit that has been awarded clean cost technology demonstration funding as of January 1, 1991, by the United States Department of Energy.

c. The Control Officer shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under Section 409 of the Act.

198. "Representative actual annual emissions" means the average rate, in tons per year, at which a source is projected to emit a pollutant for the 2-year period after a physical change or change in the method of operation of a unit, (or a different consecutive 2-year period within 10 years after that change, if the Director determines that the different period is more representative of source operations), considering the effect the change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the Director shall:

a. Consider all relevant information, including historical operational data, the company's representations, filings with Arizona or federal regulatory authorities, and compliance plans under Title IV of the Act; and

b. Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

199. "Resource recovery project" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Only energy conversion facilities that utilize solid waste that provides more than fifty percent of the heat input shall be considered a resource recovery project under this article.

200. "Responsible official" means one of the following:

a. For a corporation: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

ii. The delegation of authority to such representatives is approved in advance by the permitting authority;

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

c. For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this article, a principal executive officer of a federal agency includes the chief executive officer having responsibility for

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the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

d. For affected sources:

i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act (Acid Deposition Control) or the regulations promulgated thereunder are concerned; and

ii. The designated representative for any other purposes under 40 CFR Part 70.

201. "Reverberatory smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided primarily by combustion of a fossil fuel.

202. "Road" means a path, trail, driveway, freeway, street, or access way which is constructed for principle use by vehicular traffic.

203. "Road construction" means the construction of a new roadway or the conversion of an existing unpaved road to a paved road.

204. "Rotary lime kiln" means a unit with an included rotary drum which is used to produce a lime product from limestone by calcination.

205. "Rules and regulations" means the complete set of Pima County air quality control district rules and regulations contained in this title, including any future revisions, additions, or amendments, specifically referring to this title and future amendments as distinguished from any former rules and regulations.

206. "Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.

207. "Secondary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as specified in Chapter 17.08, Article I.

208. "Secondary emissions" means emissions that are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility that would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

209. "Service road" means a road constructed for the principle purpose of providing maintenance or service of/to pipelines, power lines, farmland, public utilities, right-of-way, or refuse collection.

210. "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

211. "Significance levels" means the following ambient concentrations for the enumerated pollutants:

	Averaging Time				
Pollutant	Annual	24 Hour	8 Hour	3 Hour	1 Hour
SO_2	1 μg/m^3	5 μg/m^3		25 μg/m^3	
NO_2	1 μg/m^3				
CO			0.5 mg/m^3		2 mg/m^3

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PM_{10}	1 μg/m^3	5 μg/m^3			

Except for the annual pollutant concentrations, exceedance of significance levels shall be deemed to occur when the ambient concentrations of the above pollutants is exceeded more than once per year at any one location. If the concentrations occur at a specific location and at a time when Arizona ambient air quality standards for the pollutant are not violated, then the significance level does not apply.

212. "Significant" means:

a. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emissions Rate (tons per year)
Carbon monoxide	100 tpy
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy
PM_{10}	15 tpy
VOC	40 tpy
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5×10^{-6} tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tpy

b. In ozone nonattainment areas classified as serious or severe, significant emissions of VOC shall be determined under Section 17.16.580.

c. In reference to a regulated air pollutant that is not listed in subparagraph (a), and is not a Class I or II substance listed in Section 602 of the Act, any emission rate.

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d. Notwithstanding the emission amount listed in paragraph a, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within ten kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than one $\mu g/m^3$ (twenty-four hour average).

213. "Slag" means the fused and vitrified matter separated during the reduction of a metal from its ore.

214. "Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the kraft mill recovery furnace.

215. "Smelter feed" means all materials utilized in the operation of a copper smelter including metals or concentrates, fuels and chemical reagents, calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous byproducts are emitted to the atmosphere.

216. "Smelting" means processing techniques for the smelting of a copper sulfide ore concentrate or calcine charge leading to the formation of separate layers of molten slag, molten copper, or copper matte.

217. "Smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided by an electric current, rapid oxidation of a portion of the sulfur contained in the concentrate as it passes through an oxidizing atmosphere, or the combustion of a fossil fuel.

218. "Smoke" means particulate matter resulting from incomplete combustion.

219. "Solvent degreasing" means the removal of loosely held uncured adhesives, uncured ink, uncured coatings and contaminants which include dirt, soil and grease from parts, products, tools, machinery, equipment, and general work areas using a solvent that contains two percent by weight or more of a regulated air pollutant.

220. "Solvent degreasing unit" means any single container with a capacity of two gallons or more used for solvent degreasing.

221. "Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution.

222. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

223. "Stack in existence" means that the owner or operator had either:

a. Begun, or caused to begin, a continuous program of physical onsite construction of the stack; or

b. Entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

224. "Standard conditions" means a temperature of 293°K (68°F or 20°C) and a pressure of 101.3 kilopascals (29.92 inches Hg or 1013.25 mb).

225. "Startup" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

226. "State" means the state of Arizona unless the context indicates otherwise.

227. "State implementation plan (SIP)" means the plan adopted by the state of Arizona which provides for implementation, maintenance, and enforcement of such primary and secondary ambient air quality standards as are adopted by the administrator, pursuant to the Act.

228. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.

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229. "Stationary source" means any building, structure, facility or installation subject to regulation that emits or may emit any air pollutant.

230. "Submerged fill pipe" means a fill pipe or nozzle which extends below the surface of liquid in the receiving vessel for at least ninety-five percent of the volume filled, or a similar device which extends to within six inches of the bottom of the receiving vessel.

231. "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.

232. "Supplementary control system (SCS)" means a system by which sulfur dioxide emissions are curtailed during periods when meteorological conditions conducive to ground-level concentrations in excess of ambient air quality standards for sulfur dioxide either exist or are anticipated.

233. "Synthetic minor" means a source with a permit that contains voluntarily accepted emissions limitations, controls, or other requirements (for example, a cap on production rates or house of operation, or limits on the type of fuel) under Section 17.11.190 to reduce the potential to emit to a level below the major source threshold.

234. "Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01 and which is not an affected source.

235. "Total reduced sulfur (TRS)" means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during the kraft pulping operation and other operations and measured by Method 16 in 40 CFR 60, Appendix A.

236. "Total suspended particulate (TSP)" means all particulate matter as measured by the reference method described in 40 CFR 50, Appendix B, plus any particulate matter from fugitive emissions quantified by methods approved by the control officer.

237. "Trivial activities" means activities and emissions units, such as the following, that may be omitted from a Class I or Class II permit application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:

    a. Combustion emissions from propulsion of mobile sources;

    b. Air-conditioning units used for human comfort that do not have applicable requirements under title VI of the Act;

    c. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;

    d. Non-commercial food preparation;

    e. Janitorial services and consumer use of janitorial products;

    f. Internal combustion engines used for landscaping purposes;

    g. Laundry activities, except for dry-cleaning and steam boilers;

    h. Bathroom and toilet vent emissions;

    i. Emergency or backup electrical generators at residential locations;

    j. Tobacco smoking rooms and areas;

    k. Blacksmith forges;

    l. Plant maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots, if these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and do not otherwise trigger a permit revision. Cleaning and painting activities qualify as trivial activities if they are not subject to VOC or hazardous air pollutant (HAP) control requirements;

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m. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision;

n. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capable of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device;

o. Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic;

p. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are insignificant activities based on size or production level thresholds. Brazing, soldering, and welding equipment, and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this definition;

q. Air compressors and pneumatically operated equipment, including hand tools;

r. Batteries and battery charging stations, except at battery manufacturing plants;

s. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP;

t. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;

u. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;

v. Drop hammers or hydraulic presses for forging or metalworking;

w. Equipment used exclusively to slaughter animals, not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

x. Vents from continuous emissions monitors and other analyzers;

y. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;

z. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation;

aa. Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOC or HAP;

bb. CO(2) lasers used only on metals and other materials that do not emit HAP in the process;

cc. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;

dd. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;

ee. Laser trimmers using dust collection to prevent fugitive emissions;

ff. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents;

gg. Routine calibration and maintenance of laboratory equipment or other analytical instruments;

hh. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;

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ii. Hydraulic and hydrostatic testing equipment;

jj. Environmental chambers not using HAP gases;

kk. Shock chambers;

ll. Humidity chambers;

mm. Solar simulators;

nn. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability purposes under 17.04.340(A)(128)(c) and any required fugitive dust control plan or its equivalent is submitted with the application;

oo. Process water filtration systems and demineralizers;

pp. Demineralized water tanks and demineralizer vents;

qq. Oxygen scavenging or de-aeration of water;

rr. Ozone generators;

ss. Fire suppression systems;

tt. Emergency road flares;

uu. Steam vents and safety relief valves;

ww. Steam leaks; and

xx. Steam cleaning operations and steam sterilizers.

238. "Unclassified area" means an area which the administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this title, is treated as an attainment area.

239. "Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds.

240. "Unpaved road" means a road which is not covered with dust-suppressing materials and maintained in such a manner that visible emissions of dust from the road surface are permanently prevented other than during times of normal cleaning and/or after flooding.

241. "Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.

242. "Used oil" means oil that has been refined from crude oil and that has been contaminated by physical or chemical impurities as a result of use.

243. "Used oil fuel" means used oil that is to be burned for energy recovery, including fuel which is produced from used oil by processing, blending or other treatment.

244. "Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.

245. "Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state.

246. "Vapor pressure" means the pressure exerted by the gaseous form of a substance in equilibrium with its liquid or solid form.

247. "Vapor recovery/disposal system" means a system that consists of one of the following:

a. A system that processes the displaced vapors and either recovers or disposes of the vapors being processed so as to prevent an emission rate greater than 0.29 pounds per one thousand gallons (thirty-five grams per one thousand liters) into the atmosphere.

b. A vapor handling system that directs at least ninety-five percent by weight of the displaced vapors to a vapor capture and/or recovery system.

c. Other equipment of an efficiency equal to or greater than paragraph a or b of this subdivision and approved by the control officer.

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248. "Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, and coloration) from that which would have existed under natural conditions.

249. "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.

250. "Volatile organic compounds (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

    a. Methane;
    b. Ethane;
    c. Methylene chloride (dichloromethane);
    d. 1,1,1-trichloroethane (methyl chloroform);
    e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
    f. Trichlorofluoromethane (CFC-11);
    g. Dichlorodifluoromethane (CFC-12);
    h. Chlorodifluoromethane (HCFC-22);
    i. Trifluoromethane (HFC-23);
    j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
    k. Chloropentafluoroethane (CFC-115);
    l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
    m. 1,1,1,2-tetrafluoroethane (HFC-134a);
    n. 1,1-dichloro 1-fluoroethane (HCFC-141b);
    o. 1-chloro 1,1-difluoroethane (HCFC-142b);
    p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
    q. Pentafluoroethane (HFC-125);
    r. 1,1,2,2-tetrafluoroethane (HFC-134);
    s. 1,1,1-trifluoroethane (HFC-143a);
    t. 1,1-difluoroethane (HFC-152a);
    u. Parachlorobenzotrifluoride (PCBTF);
    v. Cyclic, branched, or linear completely methylated siloxanes;
    w. Acetone;
    x. Perchloroethylene (tetrachloroethylene);
    y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
    z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
    aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
    bb. Difluoromethane (HFC-32);
    cc. Ethylfluoride (HFC-161);
    dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
    ee. 1,1,2,2,3-pentafluoropropane (HFC-245ca);
    ff. 1,1,2,3,3-pentafluoropropane (HFC-245ea);
    gg. 1,1,1,2,3-pentafluoropropane (HFC-245eb);

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hh. 1,1,1,3,3-pentafluoropropane (HFC-245fa);

ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);

jj. 1,1,1,3,3-pentafluorobutane (HFC-365mfc);

kk. Chlorofluoromethane (HCFC-31);

ll. 1 chloro-1-fluoroethane (HCFC-151a);

mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);

nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$ or HFE-7100);

oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$);

pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE-7200);

qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$);

rr. Methyl acetate;

ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$, HFE-7000);

tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);

uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC-227ea);

vv. Methyl formate ($HCOOCH_3$);

ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300); and

xx. propylene carbonate

yy. dimethyl-carbonate

zz. 2,3,3,3-tetrafluoropropene (HFO-1234yf)

aaa. Perfluorocarbon compounds that fall into these classes:

i. Cyclic, branched, or linear, completely fluorinated alkanes,

ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations,

iii. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and

iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine;

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

251. "Wood waste burner" means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a byproduct.

. . .

Article X. - Procedures for Amending

. . .

17.04.400 - General procedures.

A. An amendment to this title shall be made in full accord with the following requirements:

1. No rule or regulation shall be enacted or amended except after the board of supervisors holds a public hearing on the proposed amendment. Members of the public shall be allowed to speak at the hearing.

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2. The board of supervisors' public hearing on any set of proposed amendments shall be preceded by a public announcement of the hearing to include the date, time, and place of such hearing. The announcement shall be published at least twice in a newspaper of general circulation in the county, and shall be posted in at least three conspicuous places in the county.

3. At least one copy of the proposed amendment shall be made available for the general public's examination in the Air Quality Control District's general offices located at 33 N Stone Avenue, Suite 700, Tucson, Arizona 85701 at the time of notice of such hearing.

4. Copies of the notice of the board of supervisors' public hearing shall be mailed to the control officer of the Pinal County air quality control district, the director of the Maricopa County bureau of air pollution control; the Director of the Arizona Department of Environmental Quality; the regional administrator, Region IX, Environmental Protection Agency; the mayor of the city of Tucson; the mayor of the city of South Tucson, the mayor of the town of Marana; the mayor of the town of Oro Valley; and the executive director of the Pima Association of Governments.

5. A record of each public hearing shall be prepared and made available to any person upon request. The official records shall include the name of each commentator and a written summary of his comments.

6. Any revision to this title may be forwarded to the Arizona Department of Environmental Quality, along with a certification of the public notice actions, record of hearings, and other requirements of the Title. The control officer may include a request to the Director of the Arizona Department of Environmental Quality that such revision be submitted by the governor of the state to the Regional Administrator, Region IX, Environmental Protection Agency, as an official revision to Arizona's State Implementation Plan (SIP) for air quality control.

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Chapter 17.08 - AMBIENT AIR QUALITY STANDARDS

Sections:

. . .

Article IV. - Attainment/Nonattainment Area Designations

. . .

17.08.150 - Limitation of pollutants in classified attainment areas.

A. Areas designated as Class I, II, or III shall be limited to the increases in air pollutant concentrations shown in Table 17.08.150 occurring over the baseline concentration, provided that for any period other than an annual period, the applicable maximum allowable increase may be exceeded once per year at any one location.

B. The baseline concentration shall be that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

1. The major source baseline date is:

   a. January 6, 1975 for sulfur dioxide and particulate matter; and

   b. February 8, 1988 for nitrogen dioxide.

2. The minor source baseline date shall be the earliest date after August 7, 1977 for sulfur dioxide and particulate matter, and February 8, 1988 for nitrogen dioxide, that either:

   a. A major source as defined in Chapter 17.04, Article IX, or a major modification submits a complete permit application to the administrator under 40 CFR 52.21; or

   b. A major source as defined in Chapter 17.04, Article IX, or a major modification submits a complete permit application to the control officer under Section 17.12.010(F) or Section 17.13.010(E).

3. A baseline concentration shall be determined for each pollutant for which there is a minor source baseline date and shall include both:

   a. The actual emissions representative of sources in existence on the minor source baseline date, except as provided in paragraph 4 of this subsection; and

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b. The allowable emissions of major sources as defined in Chapter 17.04, Article IX, which commenced construction before the major source base-

4. The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:

a. Actual emissions from any major source as defined in Chapter 17.04, Article IX, on which construction commenced after the major source baseline date; and

b. Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

C. The baseline date shall be established for each pollutant for which maximum allowable increases or other equivalent measures have been established if both:

1. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application under either subsection (B)(2)(a) or (b); and

2. In the case of a major source as defined in Chapter 17.04, Article IX, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

D. The baseline area shall be any area, within any intrastate area designated as attainment or unclassifiable, in which the major source as defined in Chapter 17.04, Article IX, or a major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the minor source baseline date is established. Area redesignations under Section 17.08.100 cannot intersect or be smaller than the area of impact of any new major source as defined in Chapter 17.04, Article IX, or a major modification which either:

1. Establishes a minor source baseline date; or

2. Is subject to either 40 CFR 52.21 or Chapter 17.16, Article VIII, and would be constructed in Arizona.

E. The maximum allowable concentration of any air pollutant in any area to which subsection (A) of this section applies shall not exceed a concentration for each pollutant equal to the concentration permitted under the ambient air quality standards contained in Article I of this Chapter.

F. For purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:

1. Concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of a natural gas curtailment order which is in effect under the provisions of Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, over the emissions from such sources before the effective date of such order;

2. The concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from using gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, 16 U.S.C. 792—825r, over the emissions from such sources before the effective date of the natural gas curtailment plan;

3. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary activities of a new or altered source;

4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides or particulate matter from major sources as defined in Chapter 17.04, Article IX, when the following conditions are met:

a. The permit issued to such sources specifies the time period during which the temporary emissions increase of sulfur dioxide, nitrogen oxides or particulate matter would occur. Such

time period shall not be renewable and shall not exceed two years unless a longer period is specifically approved by the control officer.

b. No emissions increase shall be approved which would either:

i. Impact any portion of any Class I area or any portion of any other area where an applicable incremental ambient standard is known to be violated in that portion; or

ii. Cause or contribute to the violation of a state ambient air quality standard.

c. The permit issued to such sources specifies that at the end of the time period described in paragraph a of this subdivision, the emissions levels from the sources would not exceed the levels occurring before the temporary emissions increase was approved.

6. The exception granted with respect to increment consumption under subdivisions 1 and 2 of subsection F shall not apply more than five years after the effective date of the order or natural gas curtailment plan on which the exception is based.

G. If the control officer or the administrator determines that the SIP is substantially inadequate to prevent significant deterioration or that an applicable maximum allowable increase as specified in subsection (A) of this section is being violated, the SIP shall be revised to correct the inadequacy or the violation. The SIP shall be revised within 60 days of such a finding by the control officer or within 60 days following notification by the administrator, or by such later date as prescribed by the administrator after consultation with the control officer.

H. The control officer shall review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable maximum allowable increase is being violated.

Table 17.08.150
Air Pollutant Concentration Increase Limits

Class I Areas

Pollutant	Applicable Standard	Maximum Allowable Increase (μg/m^3)
PM_{10}	Annual arithmetic mean	4
PM_{10}	24-hour maximum	8
SO_2	Annual arithmetic mean	2
SO_2	24-hour maximum	5
SO_2	3-hour maximum	25
NO_2	Annual arithmetic mean	2.5

Class II Areas

Pollutant	Applicable Standard	Maximum Allowable Increase (μg/m^3)
PM_{10}	Annual arithmetic mean	17
PM_{10}	24-hour maximum	30
SO_2	Annual arithmetic mean	20
SO_2	24-hour maximum	91

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SO_2	3-hour maximum	512
NO_2	Annual arithmetic mean	25

Class III Areas

Pollutant	Applicable Standard	Maximum Allowable Increase (μg/m^3)
PM_{10}	Annual arithmetic mean	34
PM_{10}	24-hour maximum	60
SO_2	Annual arithmetic mean	40
SO_2	24-hour maximum	182
SO_2	3-hour maximum	700
NO_2	Annual arithmetic mean	50

Chapter 17.11 - GENERAL PROVISIONS FOR PERMITS AND PERMIT REVISIONS

Article I. - Scope and Authority

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.

17.11.020 - 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.

17.11.030 - 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.

17.11.040 - Assistance to small business.

The control officer shall appoint one or more representatives to provide small business stationary source technical and compliance assistance, consistent with the requirements of the Act and the State Implementation Plan. Assistance may include, but is not limited to, advice regarding the permit application process, emissions inventory requirements, and compliance and control technology standards.

Article II. - General Provisions for Stationary Source Permits

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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."

17.11.060 - Permit display or posting.

A. Any person who has been granted an individual or general permit by PDEQ or a general permit by ADEQ shall maintain a complete copy of the permit onsite. If it is not feasible to maintain a copy of the permit onsite, the permittee may request, in writing, to maintain a copy of the permit at an alternate location. Upon written approval by the Control Officer, the permittee must maintain a complete copy of the permit at the approved alternative location.

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 Section 17.12.040 or Section 17.13.020, available to the public. No permit shall be issued unless the information required by Section 17.12.040 or Section 17.13.020 is present in the permit.

B. Any records, reports or information obtained from any person under this title, including records, reports or information obtained or prepared by the control officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:

   1. A showing, satisfactory to the control officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person. A request for confidentiality shall:

      a. Precisely identify the information in the documents submitted which is considered confidential.

      b. Contain sufficient supporting information to allow the control officer to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.

   2. A determination by the county attorney that disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this chapter in superior court.

C. Notwithstanding subsection B of this section, the following information shall be available to the public:

   1. The name and address of any permit applicant or permittee;

   2. The chemical constituents, concentrations and amounts of any emission of any air contaminant;

   3. The existence or level of a concentration of an air pollutant in the environment.

17.11.080 - Permit shield.

A. Each permit issued under this chapter shall specifically identify all federal, state, and local air pollution control requirements that apply to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed in compliance with any applicable requirement identified in the permit as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Control Officer 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;

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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 17.12.130 or Section 17.13.150, 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.

17.11.090 - 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.

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.

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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.

17.11.100 - 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.

17.11.110 - 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.

17.11.120 - 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 for the installation or certification of a monitoring device,

c. A requirement for the installation of air pollution control equipment,

d. A requirement for the operation of air pollution control equipment,

e. An opacity standard required by Section 111 (Standards of Performance for New Stationary Sources) or Title I, part C or D (Air Pollution Prevention and Control) of the Act.

4. Violation of the condition is not covered by A.R.S. § 49-464 (A) through (F), or (H) through (J) or A.R.S. § 49-514 (A) through (F), or (H) through (J).

B. For the purposes of paragraphs (A)(3)(b), (c) and (d) of this section, a permit condition shall not be material where the failure to comply resulted from circumstances that were outside the control of the source. As used in this section, "circumstances outside the control of the source" shall mean circumstances where the violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a start up or shut down or resulted from upset of operations.

C. For purposes of this section, the term "emission standard" shall have the meaning specified in A.R.S. §§ 49-514-(T) and 49-464-(U).

17.11.130 - 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.

17.11.140 - 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.

17.11.150 - Stack height limitation.

A. The limitations set forth herein shall not apply to stacks or dispersion techniques used by the owner or operator prior to December 31, 1970, for which the owner or operator had:

1. Begun, or caused to begin, a continuous program of physical on-site construction of the stack;

2. Entered into building agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time; or

3. Coal fired steam electric generating units, subject to the provisions of Section 118 of the Act (Control of Pollution from Federal Facilities) which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.

B. GEP stack height is calculated as the greater of the following four numbers in subdivisions 1 through 4:

1. 213.25 feet (65 meters).

2. For stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 CFR parts 51 and 52 and Section 17.16.560, Hg = 2.5H.

3. For all other stacks, Hg = H + 1.5L, where:

   Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

   H = height of nearby structure measured from the ground-level elevation at the base of the stack;

   L = lesser dimension (height or projected width) of nearby structure;

   provided that the EPA, state, or local control agency may require the use of a field study or fluid model to verify GEP stack height for the source; or

4. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain obstacles.

5. For a specific structure or terrain feature, "nearby" shall be:

   a. For purposes of applying the formulae in subdivisions 2 and 3 of this subsection, that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile);

   b. For conducting demonstrations under subdivision 4 of this subsection, means not greater than 0.8 km (one-half mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height (H+) of the feature, not to exceed two miles if such feature achieved a height (H+) 0.8 km from the stack. The height shall be at least forty percent of the GEP stack height determined by the formula provided in subdivision 3, or eighty-five feet (twenty-six meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.

6. "Excessive concentrations" means, for the purpose of determining good engineering practice stack height under subdivision 4 of this subsection:

   a. For sources seeking credit for stack height exceeding that established under subdivisions 2 and 3 of this subsection, a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the requirements for permits or permit revisions under this chapter, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and greater than the applicable maximum allowable increase contained in Section 17.08.150. The allowable emission rate to be used in making demonstrations under subdivision 4 of this subsection shall be prescribed by the new source performance standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the control officer, an alternative emission rate shall be established in consultation with the source owner or operator;

   b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivisions 2 and 3 of this subsection, either.

      i. A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in paragraph a of this subdivision, except that emission rate specified by any applicable SIP shall be used, or

      ii. The actual presence of a local nuisance caused by the existing stack, as determined by the control officer; and

   c. For sources seeking credit after January 12, 1979, for a stack height determined under subdivisions 2 and 3 of this subsection, where the control officer requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources

seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the equations in subdivisions 2 and 3 of this subsection, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

C. The degree of emission limitation required of any source after the respective date given in subsection A of this section for control of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique.

D. The good engineering practice (GEP) stack height for any source seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards or applicable maximum allowable increases under Section 17.08.150 can be adjusted by determining the stack height necessary to predict the same maximum air pollutant concentration on any elevated terrain feature as the maximum concentration associated with the emission limit which results from modeling the source using the GEP stack height as determined herein and assuming the elevated terrain features to be equal in elevation to the GEP stack height. If this adjusted GEP stack height is greater than stack height the source proposes to use, the source's emission limitation and air quality impact shall be determined using the proposed stack height and the actual terrain heights.

E. Before the control officer issues a permit or permit revision under this article to a source based on a good engineering practice stack height that exceeds the height allowed by subsection B of this section, ADEQ shall notify the public of the availability of the demonstration study and provide opportunity for public hearing in accordance with the requirements of Section 17.12.190 and Section 17.13.210.

17.11.160 - Test methods and procedures.

A. The following test methods and protocols are approved for use as directed by the department under this chapter. These standards adopted as of July 1, 2015, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the department and are also available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.

1. 40 CFR 50;
2. 40 CFR 50, Appendices A through N;
3. 40 CFR 51, Appendix M, Section IV of Appendix S, and Appendix W;
4. 40 CFR 52, Appendices D and E;
5. 40 CFR 53;
6. 40 CFR 58;
7. 40 CFR 58, all appendices;
8. 40 CFR 60, all appendices;
9. 40 CFR 61, all appendices;
10. 40 CFR 63, all appendices;
11. 40 CFR 75, all appendices.

B. Except as otherwise provided in this subsection the opacity of visible emissions shall be determined by Reference Method 9 of the Arizona Testing Manual or Appendix A in 40 CFR 60. A permit may specify a method, other than Method 9, for determining the opacity of emissions from a particular emissions unit, if the method has been promulgated by the administrator in 40 CFR 60, Appendix A.

C. Except as otherwise specified in this chapter, the heat content of solid fuel shall be determined according to ASTM Method D-3176-89, (Practice for Ultimate Analysis of Coal and Coke) and ASTM Method D-2015-91, (Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter).

D. Except for ambient air monitoring and emissions testing required under Chapter 17.16, Articles VI and VII, alternative and equivalent test methods in any test plan submitted to the control officer may be approved by the control officer for the duration of that plan provided that the following three criteria are met:

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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.

17.11.170 - 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 17.11.160(D)(3) within twelve months of the effective date of this section. Facilities subject to the requirements of Section 17.11.200 shall submit a quality assurance plan as specified in the permit.

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.

17.11.190 - Permits containing synthetic emission limitations and standards.

A. A source may voluntarily propose in its application emission limitations, controls or other requirements that are permanent, quantifiable and otherwise enforceable as a practical matter that incorporate pollution prevention programs that provide source operational flexibility and achieve regulatory compliance. A new or existing source requesting a permit with conditions for operation flexibility under this subsection shall pay to the control officer all applicable fees pursuant to Section 17.13.240.

B. A source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to avoid classification as a source that requires a Class I permit or to avoid one or more other federal applicable requirements. For the purposes of this section, "enforceable as a practical matter" means that specific means to assess compliance with a limit or trade provision are provided for in the permit in a manner that allows compliance with the limit or trade provision to be readily determined by an inspection of records and reports.

C. In order for a source to obtain a permit containing voluntarily accepted emissions limitations, controls or other requirements, the source shall demonstrate all of the following in its permit application:

    1. The emissions limitations, controls or other requirements to be imposed for the purpose of avoiding an applicable requirement are at least as stringent as the emissions limitations, controls or other requirements that would otherwise be applicable to that source, including those that originate in an applicable implementation plan; and the permit does not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to an applicable implementation plan, or that are otherwise federally enforceable.
    2. All voluntarily accepted emissions limitations, controls or other requirements will be permanent, quantifiable and otherwise enforceable as a practical matter.

D. At the same time as notice of proposed issuance is first published pursuant to Section 17.12.190 or Section 17.13.210, the control officer shall send a copy of any Class II permit proposed to be issued pursuant to this section to the administrator for review during the comment period described in the notice pursuant to Section 17.12.190(D) or Section 17.13.210(D).

E. The control officer shall send a copy of each final permit issued pursuant to this section to the administrator.

17.11.200 - 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.

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a. Fossil-fuel fired steam generators as specified in subsection (C)(1) of this section, shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.

b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection (C)(4) of this section, shall be monitored for opacity.

c. Sulfuric acid plants, as specified in subsection (C)(3) of this section, shall be monitored for sulfur dioxide emissions.

d. Nitric acid plants, as specified in subsection (C)(2) of this section, shall be monitored for nitrogen oxides emissions.

2. Emission monitoring shall not be required when the source of emissions is not operating.

3. Variations.

a. Unless otherwise prohibited by the Act, the control officer may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the control officer on a case-by-case basis and shall include as a minimum, annual manual stack tests for the pollutants identified for each type of source in this section. Extreme economic reasons shall mean that the requirements of this section would cause the source to be unable to continue in business.

b. Alternative monitoring requirements may be prescribed when installation of a continuous monitoring system or monitoring device specified by this section would not provide accurate determinations of emissions (e.g., condensed, uncombined water vapor may prevent an accurate determination of opacity using commercially available continuous monitoring systems).

c. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated (e.g., some affected facilities may operate less than one month per year).

4. Monitoring System Malfunction. A temporary exemption from the monitoring and reporting requirements of this section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and is being repaired expeditiously.

B. Installation and performance testing required under this section shall be completed and monitoring and recording shall commence within eighteen months of the effective date of this section.

C. Minimum Monitoring Requirements.

1. Fossil-fuel Fired Steam Generators. Each fossil-fuel fired steam generator, except as provided in the following paragraphs, with an annual average capacity factor of greater than thirty percent, as reported to the Federal Power Commission for calendar year 1976, or as otherwise demonstrated to the Department by the owner or operator, shall conform with the following monitoring requirements when such facility is subject to an emission standard for the pollutant in question.

a. A continuous monitoring system for the measurement of opacity which meets the performance specifications of this section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this section by the owner or operator of any such steam generator of greater than two hundred fifty million BTU per hour heat input except where:

i. Gaseous fuel is the only fuel burned; or

ii. Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity rules without utilization of particulate matter collection equipment, and where the source has never been found to be in violation through any administrative or judicial proceedings, or accepted responsibility for any violation of any visible emission standard.

b. A continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this section shall be installed, calibrated, using sulfur dioxide

calibration gas mixtures or other gas mixtures approved by the control officer, maintained and operated on any fossil-fuel fired steam generator of greater than two hundred fifty million BTU per hour heat input which has installed sulfur dioxide pollutant control equipment.

c. A continuous monitoring system for the measurement of nitrogen oxides which meets the performance specification of this section shall be installed, calibrated, using nitric oxide calibration gas mixtures or other gas mixtures approved by the control officer, maintained and operated on fossil-fuel fired steam generators of greater than one thousand million BTU per hour heat input when such facility is located in an air quality control region where the control officer has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in Section 17.08.060, unless the source owner or operator demonstrates during source compliance tests as required by the department that such a source emits nitrogen oxides at levels thirty percent or more below the emission standard within this title.

d. A continuous monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this section shall be installed, calibrated, operated, and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this title.

2. Nitric Acid Plants. Each nitric acid plant of greater than three hundred tons per day production capacity, the production capacity being expressed as one hundred percent acid located in an air quality control region where the control officer has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in Chapter 17.08, Article I, shall install, calibrate, using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this section for each nitric acid producing facility within such plant.

3. Sulfuric Acid Plants. Each sulfuric acid plant as defined in Section 17.04.340, of greater than three hundred tons per day production capacity, the production being expressed as one hundred percent acid, shall install, calibrate, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the control officer, maintain and operate a continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this section for each sulfuric acid producing facility within such a plant.

4. Fluid Bed Catalytic Cracking Unit Catalyst Regenerators at Petroleum Refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than twenty thousand barrels per day fresh feed capacity shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of opacity which meets the performance specifications of this section for each regenerator within such refinery.

D. Minimum Specifications. Owners or operators of monitoring equipment installed to comply with this section shall demonstrate compliance with the following performance specifications:

1. The performance specifications set forth in Appendix B of 40 CFR 60 are incorporated herein by reference, and shall be used by the control officer to determine acceptability of monitoring equipment installed pursuant to this section. However where reference is made to the administrator in Appendix B of 40 CFR 60, the control officer may allow the use of either the state approved reference method or the federally approved reference method as published in 40 CFR 60. The performance specifications to be used with each type of monitoring system are listed below.

a. Continuous monitoring systems for measuring opacity shall comply with performance specification 1.

b. Continuous monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.

c. Continuous monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.

d. Continuous monitoring systems for measuring oxygen shall comply with performance specification 3.

e. Continuous monitoring systems for measuring carbon dioxide shall comply with performance specification 3.

2. Calibration Gases. Span and zero gases should be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A, Part 60, (Chapter 1, Title 40, CFR as amended. For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference Method 7; and for carbon dioxide or oxygen, use Reference Method 3). The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.

3. Cycling Time. Time includes the total time required to sample, analyze and record an emission measurement.

   a. Continuous monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing for each successive six-minute period.

   b. Continuous monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and date recording) for each successive fifteen-minute period.

4. Monitor Location. All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameter (i.e., oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous monitoring systems to obtain representative samples is contained in the applicable performance specifications of Appendix B of 40 CFR 60.

5. Combined Effluents. When the effluents from two or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one point, separate monitors shall be installed.

6. Zero and Drift. Owners or operators of all continuous monitoring systems installed in accordance with the requirements of this section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in subsection C of this section as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero span whenever the twenty-four-hour zero drift or twenty-four-hour calibration drift limits of the applicable performance specifications in Appendix B of Part 60, Chapter 1, Title 40 CFR are exceeded.

7. Span. Instrument span should be approximately 200 percent of the expected instrument data display output corresponding to the emission standard for the source.

E. Minimum Data Requirement. The following paragraphs set forth the minimum data reporting requirements for sources employing continuous monitoring equipment as specified in this section. These periodic reports do not relieve the source operator from the reporting requirements of Section 17.12.170 and Section 17.12.040.

1. The owners or operators of facilities required to install continuous monitoring systems shall submit to the control officer a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.

2. For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of all six-minute opacity averages greater than any applicable standards for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. Any time periods exempted shall be deleted before determining any averages in excess of opacity standards.

3. For gaseous measurements the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.

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4. The date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of system repair or adjustment shall be reported. The control officer may require proof of continuous monitoring system performance whenever system repairs or adjustments have been made.

5. When no excess emissions have occurred and the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.

6. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two years from the date of collection of such data or submission of such summaries.

F. Data Reduction. Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.

1. For fossil-fuel fired steam generators the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million BTU) where necessary.

a. When the owner or operator of a fossil-fuel fired steam generator elects under (C)(1)(d) of this section to measure oxygen in the flue gases, the measurements of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).

i. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise added to stack gases, the following conversion procedure shall be used:

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

ii. When measurements are on a wet basis and the water vapor content of the stack gas is determined at least once every fifteen minutes the following conversion procedure shall be used:

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

Note: Use of this equation is contingent upon demonstrating the ability to accurately determine B(ws) such that any absolute error in B(ws) will not cause an error of more than ±1.5 percent in the term.

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

iii. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E_Q = CF \frac{20.9}{20.9 - \% O_{2ws}}$$

b. When the owner or operator elects under (C)(1)(d) of this section to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used:

$$E_Q = CF_C \frac{100}{\% CO_2}$$

c. The values used in the equations under (F)(1) of this section are derived as follows:

EQ = pollutant emission, g/million cal (lb/million BTU)

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16 × 10[-5] M g/dscm per ppm (2.64 × 10[-9] M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole), M = 64 for sulfur dioxide and 46 for oxides of nitrogen.

C_{WS} = pollutant concentrations at stack conditions, g/wscm (lb/wscf), determined by multiplying the average concentration (ppm) for each one-hour period by 4.15 × 10[-5] M lb/wscm per ppm) (2.59 × 10[-5] M lb/wscf per ppm) where M = pollutant molecular weight, g/g mole (lb/lb mole). M = 64 for sulfur dioxide and 46 for nitrogen oxides.

$\%O_2$, $\%CO_2$ = oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under (D)(1)(d) of this section.

F, F_C = a factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted (F_C), respectively. Values of F and F_c are given in § 60.45(f) of Part 60, Chapter 1, Title 40 CFR.

F_W = a factor representing a ratio of the volume of wet flue gases generated to the caloric value of the fuel combusted. Values of F_W are given in Reference Method 19 of the Arizona Testing Manual and in Appendix A-7, Method 19 of 40 CFR 60.

B_{WA} = proportion by volume of water vapor in the ambient air. Approval may be given for determination of B_{WA} by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within ±0.7 percent water vapor. Estimation methods for B_{wa} are given in Reference Method 19 of the Arizona Testing Manual and in Appendix A-7, Method 19 of 40 CFR 60.

B_{WS} = proportion by volume of water vapor in the stack gas.

2. For sulfuric acid plants as defined in Section 17.04.340, the owner or operator shall:
   a. Establish a conversion factor three times daily according to the procedures of § 60.84(b) of Chapter 1, Title 40 CFR;
   b. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton); and
   c. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.
3. For nitric acid plants the owner or operator shall:
   a. Establish a conversion factor according to the procedures of § 60.73(b) of Chapter 1, Title 40 CFR;
   b. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard;
   c. Report the average nitrogen oxides emission for each averaging period in excess of applicable emission standard in the quarterly summary.
4. The control officer may allow data reporting or reduction procedures varying from those set forth in this section if the owner or operator of a source shows to the satisfaction of the control officer that their 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.

17.11.210 - Performance tests.

A. Sources required to conduct performance tests pursuant to this title shall do so within sixty days after the source has achieved the capability to operate at its maximum production rate on a sustained basis but no later than one hundred eighty days after initial startup of such source and at such other times

as may be required by the control officer, the owner or operator of such source shall conduct performance tests and furnish the control officer a written report of the results of the tests.

B. Performance tests shall be conducted and data reduced in accordance with the test method and procedures contained in the Arizona Testing Manual, 40 CFR 52; Appendices D and E, 40 CFR 60; Appendices A through F; and 40 CFR 61, Appendices B and C, unless the control officer:

1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
2. Approves the use of an equivalent method;
3. Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or
4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the control officer's satisfaction that the source is in compliance with the standard.
5. Nothing in this section shall be construed to abrogate the control officer's authority to require testing.

C. Performance tests shall be conducted under such conditions as the control officer shall specify to the plant operator based on representative performance of the source. The owner or operator shall make available to the control officer such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.

D. The owner or operator of a permitted source shall provide the control officer two weeks' prior notice of the performance test to afford the control officer the opportunity to have an observer present.

E. The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:

1. Sampling ports adequate for test methods applicable to such facility;
2. Safe sampling platform(s);
3. Safe access to sampling platform(s);
4. Utilities for sampling and testing equipment.

F. Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs is required to be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the control officer's approval, be determined using the arithmetic means of the results of the two other runs. If the control officer, or the control officer's designee, is present, tests may only be stopped with the control officer's, or such designee's, approval. If the control officer, or the control officer's designee, is not present, tests may only be stopped for good cause, which includes forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the operator's control. Termination of testing without good cause after the first run is commenced shall constitute a failure of the test.

G. Except as provided in subsection H of this section, compliance with the emission limits established in this title or as prescribed in permits issued pursuant to this title shall be determined by the performance tests specified in this section or in the permit.

H. In addition to performance tests specified in this section, compliance with specific emission limits may be determined by:

1. Opacity tests;
2. Emission limit compliance tests specifically designated as such in the regulation establishing the emission limit to be complied with;

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3. Continuous emission monitoring, where applicable quality assurance procedures are followed and where it is designated in the permit or in an applicable requirement to show compliance.

I. Nothing in this section shall be so construed as to prevent the utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.

17.11.220 - Refund of overpayment of permit fees.

No fees shall be refunded except those paid in excess of the amount required. An excess payment shall be refunded upon the written request of the permittee within one year of overpayment.

Chapter 17.12 - INDIVIDUAL PERMITS AND PERMIT REVISIONS FOR CLASS I PERMITS

Sections:

Article I. - Application Processing and Procedures

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 17.11.190.

D. Unless otherwise required by 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 17.12.070, 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. 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.

4. If a source wishes to voluntarily enter into an emissions limitation, control or other requirement pursuant to Section 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.

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 certified mail and set a reasonable deadline for a response. Except for minor permit revisions as set forth in 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.

6. The completeness determination shall not apply to revisions processed through the minor permit revision process.

7. Activities which are insignificant shall be listed in the application. The application need not provide emissions data regarding insignificant activities. If the Control Officer determines that an activity listed as insignificant is not insignificant, the Control Officer shall notify the applicant in writing and specify additional information required.

8. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.

9. 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 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 Section 17.12.100 and Section 17.12.110, all of the requirements for public notice and participation under Section 17.12.190 shall have been met.

c. The Control Officer shall have complied with the requirements of 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 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 Section 17.11.190, the Control Officer shall have complied with the requirement of subsection C of Section 17.11.190 to provide the Administrator with a copy of the proposed permit.

3. The control officer may issue a notice of termination of a permit issued pursuant to this chapter if:

a. The control officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

b. The person applying for the permit failed to disclose a material fact required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.

c. The terms and conditions of the permit have been or are being violated.

4. If the control officer issues a notice of denial or termination of a permit under this section, the notice shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial or revocation and a statement that the permit applicant or permittee is entitled to a hearing.

5. The control officer shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions. The control officer shall send this statement to any person who requests it, and for Class I permits, to the administrator.

6. Except as provided in 40 CFR 70.4(b)(11), Section 17.11.050 and Section 17.16.550, regulations promulgated under Title IV or V of the Act (Acid Deposition Control or Permits), or the permitting of affected sources under the acid rain program pursuant to Section 17.12.070, 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 17.12.190 and any public hearing shall be scheduled as expeditiously as possible.

K. Requirement for a Permit. Except as noted under the provisions in Section 17.12.090 and Section 17.12.110, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a properly issued permit. However, if an existing source submits a timely and complete application for permit issuance, revision or renewal, the source's failure to have

a permit is not a violation of this article until the Control Officer 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.

L. Application for coverage under Class I general permit

1. Once the director has issued a general permit, any source which is a member of the class of facilities covered by the general permit may apply to the control officer for authority to operate under the general permit. Applicants shall complete the specific application form for general permits, or if none has been adopted, the standard application form contained in Title 18, Chapter 2, Appendix 1, of the A.A.C.

2. For sources required to obtain a permit under Title V of the Act (Permits), the control officer shall provide the administrator with a permit application summary form and any relevant portion of the permit application and compliance plan. To the extent possible, this information shall be provided in computer readable format compatible with the administrator's national database management system.

3. The Control Officer shall give notice of the general permit application pursuant to Section 17.12.190.

4. The control officer shall act on the application for coverage under the general permit as expeditiously as possible, but a final decision shall be reached within one hundred eighty days. The source may operate under the terms of its application during that time. If the application for coverage is denied, the control officer shall notify the source that it shall apply for an individual permit within one hundred eighty days of receipt of notice. The control officer may defer acting on an application under this subsection if the control officer has provided notice of intent to renew or not renew the permit.

5. Sources operating under a general permit shall apply to the director for the permit revisions pursuant to A.A.C. Title 18, Chapter 2, Article 5.

M. Class I general permit enforcement

The control officer shall administer, inspect and enforce all standards and applicable requirements contained in general permits issued by the director to sources operating in the county.

17.12.020 - Grant or denial of applications for Class I permits.

A. The control officer shall deny a permit or revision if the applicant does not show that every such source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of this title, Title 49, Chapter 3, Article 3, A.R.S., and the rules adopted by the director.

B. Prior to acting on an application for a permit, the control officer may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the source described in the application. In the event of such a requirement, the control officer shall notify the applicant in writing of the type and characteristics of such facilities.

C. In acting upon an application for a permit renewal, if the control officer finds that such source has been constructed not in accordance with any prior permit or revision issued pursuant to A.R.S. § 49-480.01, he shall require the person to obtain a permit revision or deny the application for such permit. The control officer shall not accept any further application for a permit for such source so constructed until he finds that such source has been reconstructed in accordance with the prior permit or a revision, or a revision to the permit has been obtained.

D. After a decision on a permit or revision, the control officer shall notify the applicant and any person who filed a comment on the permit pursuant to A.R.S. § 49-480 or the revision pursuant to A.R.S. § 49-480.01 in writing of the decision, and if the permit is denied, the reasons for such denial. Service of this notification may be made in person or by first class mail. The control officer shall not accept a further application unless the applicant has corrected the reasons for the objections specified by the control officer as reasons for such denial.

E. The control officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.

17.12.030 - Appeals of permit actions for Class I permits.

A. Within thirty days after the control officer gives notice of approval, denial or revocation of a permit, the applicant or any person who submitted comments pursuant to A.R.S. § 49-480, may request an appeal as provided under A.R.S. § 49-482. The decision after that hearing constitutes the final permit action from which judicial review may be taken pursuant to Chapter 17.28.

B. Any person who has an interest that is or may be adversely affected may commence a civil action in superior court against the control officer alleging that the control officer has failed to act in a timely manner consistent with the requirements of A.R.S. § 49-480. No action may be commenced before sixty days after the plaintiff has given notice to the control officer of the plaintiff's intent to file. The court has jurisdiction to require the control officer to act without additional delay.

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 17.11.190.

   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 17.12.010(D) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

   d. The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in Section 17.04.340.

3. Each permit shall contain the following requirements with respect to monitoring:

   a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:

      i. Monitoring and analysis procedures or test methods under 40 CFR 64;

      ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and

      iii. Monitoring and analysis procedures or test methods required under Section 17.12.080.

   b. 40 CFR 64 adopted July 1, 2015 and no future editions or amendments, is incorporated by reference as applicable requirements and on file with the department and shall be applied by the department. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;

   c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported under subsection (A)(4). The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required under Section 17.12.080. Recordkeeping provisions may be sufficient to meet the requirements of this subsection; and

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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 17.12.080, 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 17.12.170 and Section 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 Section~~s~~ 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.

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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 V of this chapter.

10. A provision stating that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

11. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the control officer. Such terms and conditions shall:

    a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

    b. Extend the permit shield described in Section 17.11.080 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

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such terms and conditions are included, the state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.

14. Upon request of a permit applicant, the control officer shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The control officer shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this paragraph shall not include modifications under any provision of Title I of the Act and may not exceed emissions allowable under the permit. The terms and conditions shall provide for Class I Sources, for notice that conforms to Sections 17.12.090(D) and (E). In addition, the notices for Class I 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 and conditions in any permit entered into voluntarily pursuant to 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 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 17.12.080.

D. Each permit shall include the applicable permit shield provisions set forth in Section 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 17.12.130 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 17.12.140 for permit renewal and shall reset the five-year permit term.

17.12.050 - Establishment of an emissions cap for Class I permits.

A. An applicant may, in its application for a new permit, renewal of an existing permit, or as a significant permit revision, request an emissions cap for a particular pollutant expressed in tons per year as determined on a 12-month rolling average, or any shorter averaging time necessary to enforce any applicable requirement, for any emissions unit, combination of emissions units, or an entire source to allow operating flexibility including emissions trading for the purpose of complying with the cap. This Section shall not apply to sources that hold an authority to operate under a general permit pursuant to Section 17.13.080.

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 Sections 17.12.040(A)(3), (A)(4), and (A)(5).

3. For a Class I permit, include all terms required under Section 17.12.040(A) and Section 17.11.180.

C. Class I sources shall log an increase or decrease in actual emissions authorized as a trade under an emissions cap unless an applicable requirement requires notice to the Control Officer. 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.

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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.

17.12.060 - Review by the EPA and affected states for Class I permits.

A. Except as provided in Section 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 17.12.010(E) at the time of submittal of the application to the control officer.

2. The control officer shall provide the proposed final permit after public and affected state review.

3. The control officer shall provide the final permit at the time of issuance.

B. The control officer shall keep all records associated with all permits for a minimum of five years from issuance.

C. No permit for which an application is required to be submitted to the administrator under subsection A of this section shall be issued if the administrator properly objects to its issuance in writing within forty-five days of receipt of the proposed permit from the department and all necessary supporting information.

D. Review by Affected States.

1. For each Class I permit, the control officer shall provide notice of each proposed permit to any affected state on or before the time that the control officer provides this notice to the public as required under Section 17.12.190 except to the extent Section 17.12.110 (Minor–Revisions for Class I permits) requires the timing of the notice to be different.

2. If the control officer refuses to accept a recommendation of any affected state submitted during the public or affected state review period, the control officer shall notify the administrator and the affected state in writing. The notification shall include the control officer's reasons for not accepting any such recommendation, and shall be provided to the administrator as part of the submittal of the proposed final permit. The control officer shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.

E. Any person who petitions the administrator pursuant to 40 CFR 70.8(d) shall notify the control officer by certified mail of such petition as soon as possible, but in no case more than ten days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. If the administrator objects to the permit as a result of a petition filed under this subsection, the control officer shall not issue the permit until the EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the forty-five-day administrative review period and prior to the administrator's objection.

F. If the control officer has issued a permit prior to receipt of the administrator's objection under subsection E of this section, and the administrator indicates that it should be revised, terminated, or revoked and reissued, the control officer shall respond consistent with Section 17.12.130 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.

17.12.070 - Acid Rain.

A. 40 CFR 72, 74, 75, and 76, and all accompanying appendices, adopted as of July 1, 2015, and no future editions or amendments are incorporated by reference as applicable requirements. These standards are on file with the department and shall be applied by the department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.

B. When used in 40 CFR 72, 74, 75, and 76 "Permitting Authority" means the Pima County department of environmental quality and "Administrator" means the administrator of the United States Environmental Protection Agency.

C. If the provisions or requirements of the regulations incorporated in this section conflict with any of the remaining portions of this title, the regulations incorporated in this section shall apply and take precedence.

17.12.080 - Compliance plan-Certification for Class I permits.

A. All Class I permits shall contain the following elements with respect to compliance:

1. The elements required by Sections 17.12.040(A)(3), (A)(4), and (A)(5).

2. Requirements for certifications of compliance with terms and conditions contained in a Class I ~~or II~~ permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:

a. The frequency of submissions of compliance certifications, which shall not be less than annually.

b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices.

c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):

i. The identification of each term or condition of the permit that is the basis of the certification;

ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and other means shall include, at a minimum, the methods, and means required under 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 17.11.190.

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;

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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 17.12.070 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 Permits

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17.12.090 - Facility changes allowed without permit revisions for Class I permits.

A. A facility with a Class I permit may make changes without a permit revision if all of the following apply:

1. The changes are not modifications under any provision of Title I of the Act (Air Pollution Prevention and Control) or under A.R.S. § 49-401.01(24);
2. The changes do not exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;
3. The changes do not violate any applicable requirements or trigger any additional applicable requirements;
4. The changes satisfy all requirements for a minor permit revision under Section 17.12.110; 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 17.12.040(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 17.11.080 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 17.12.040(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.

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17.12.100 - Administrative permit amendments for Class I permits.

A. Except for provisions pursuant to Title IV of the Act (Acid Deposition Control), an administrative permit amendment is a permit revision that does any of the following:

1. Corrects typographical errors;
2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
3. Requires more frequent monitoring or reporting by the permittee; and
4. Allows for a change in ownership or operational control of a source as approved under Section 17.12.150 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 17.12.150, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

17.12.110 - Minor permit revisions for Class I permits.

A. Minor permit revision procedures may be used only for those changes at a Class I source that satisfy all of the following:

1. Do not violate any applicable requirement;
2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source specific determination of ambient impacts, or a visibility or increment analysis;
4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
   a. A federally enforceable emissions cap that the source would assume to avoid classification as a modification under any provision of Title I of the Act (Air Pollution Prevention and Control),
   b. An alternative emissions limit approved under regulations promulgated under the Section 112(i)(5) of the Act (Hazardous Air Pollutants);
5. Are not modifications under any provision of Title I of the Act (Air Pollution Prevention and Control);
6. Are not changes in fuels not represented in the permit application or provided for in the permit;
7. The increase in the source's potential to emit any regulated air pollutant is not significant as defined in Section 17.04.340; and
8. Are not required to be processed as a significant revision under Section 17.12.120.

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

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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 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;

D. EPA and Affected State Notification. For Class I permits, within five working days of receipt of an application for a minor permit revision, the control officer shall notify the administrator and affected states of the requested permit revision in accordance with Section 17.12.060.

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 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 17.12.120; or

d. Revise the proposed permit revision and transmit to the administrator the new proposed permit revision as required in Section 17.12.060.

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 (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.

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

H. Notwithstanding any other part of this section, the Control Officer may require a permit to be revised under Section 17.12.120 for any change that, when considered together with any other changes submitted by the same source under this section over the life of the permit, do not satisfy subsection (A) for Class I sources.

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

17.12.120 - Significant permit revisions for Class I permits.

A. For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in Section 17.12.110(A)(6) or (7) shall not be considered a significant permit revision under Part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or record keeping permit terms or conditions shall follow significant revision procedures.

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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 Chapter for applications, public participation, review by affected states, and review by the administrator that apply to permit issuance and renewal.

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 17.12.220 shall not be included in this requirement.

17.12.130 - Reopening, revocation, reissuance, or termination for Class I permits.

A. Reopening for Cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

   a. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than eighteen months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to Section 17.12.140(B). Any permit reopening required pursuant to this paragraph shall comply with provisions in Section 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 (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. 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;

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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.

17.12.140 - Permit Renewal and expiration for Class I permits.

A. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and administrator review, that would apply to that permit's initial issuance.

B. Except as provided in Section 17.11.050, permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. § 41-1064 has been submitted in accordance with Section 17.12.010. 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.

17.12.150 - Transfers for Class I permits.

A. Except as provided in A.R.S. § 49-483 and subsection B of this section, a permit may be transferred to another person if:

1. The person who holds the permit gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

   a. The permit number and expiration date;

   b. The name, address and telephone number of the current permit holder;

   c. The name, address and telephone number of the organization to receive the permit;

2. The new owner gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:

   a. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance;

   b. A description of the equipment to be transferred;

   c. A written agreement containing a specific date for transfer or permit responsibility, coverage, and liability between the current and new permittee;

   d. Provisions for the payment of any fees pursuant to Chapter 17.12, Article V that will be due and payable before the effective date of transfer;

   e. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Control Officer to make the decision in subsection B of this section including:

      i. The qualifications of each person principally responsible for the operation of the source,

      ii. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement,

      iii. A brief description of any action for the enforcement of any federal or state law, rule or regulation, or any county, city or local government ordinance relating to the protection of the environment, instituted against any person employed by the new permittee and principally responsible for operating the facility during the five years preceding the date of application. In lieu of this description, the new permittee may submit a copy of the

certificate of disclosure or 10K form required under A.R.S. Section 49-109, or a statement that this information has been filed in compliance with A.R.S. Section 49-109.

B. The control officer shall deny the transfer if the control officer determines that the organization receiving the permit is not capable of operating the source in compliance with Article 3, Chapter 3, Title 49, Arizona Revised Statutes, the provisions of this title or the provisions of the permit. Notice of the denial shall be sent to the original permit holder by certified mail stating the reason for the denial within ten working days of the control officer's receipt of the application. If the transfer is not denied within ten working days after receipt of the notice, it shall be deemed approved.

C. To appeal the transfer denial:

1. Both the transferor and transferee shall petition the hearing board in writing for a public hearing; and

2. The appeal process for a permit shall be followed.

D. The Control Officer shall make available to the public monthly summaries of all notices received under this section.

Article III. - Emissions for Class I Sources

17.12.160 - Annual emissions inventory questionnaire for Class I permits.

A. Every source with a Class I permit shall complete and submit to the control officer an annual emissions inventory questionnaire. The questionnaire is due by March 31st, or ninety days after the control officer makes the inventory form available, whichever occurs later, and shall include emission information for the previous calendar year. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.

B. The questionnaire shall be on a form provided by or approved by the control officer and shall include the following information:

1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.

2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.

3. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation or estimation determined pursuant to subsection C of this section of the following regulated air pollutants:

a. Any single regulated air pollutant in a quantity greater than one ton or the amount listed for the pollutant in the definition of "significant" in Section 17.04.340, whichever is less.

b. Any combination of regulated air pollutants in a quantity greater than 2.5 tons.

C. Actual quantities of emissions shall be determined using the following emission facts or data:

1. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.

2. When sufficient data pursuant to subsection (C)(1) of this section is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to Section 17.11.210 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.

3. When sufficient data pursuant to subsection (C)(1) or (C)(2) of this section is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC (and no future editions) which is incorporated by reference and is on file with the Department. AP-42 can be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, telephone (202) 783-3238.

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4. When sufficient data pursuant to subsections (C)(1) through (C)(3) of this section is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.

5. When sufficient data pursuant to subsections (C)(1) through (C)(4) of this section is not available, emissions estimates shall be calculated by equivalent methods approved by the control officer. The control officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in subsections (C)(1) through (C)(4) of this section.

D. Actual quantities of emissions calculated under subsection C of this section shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored or combusted.

E. An amendment to an annual emission inventory questionnaire, containing the documentation required by subsection (B)(3) of this section, shall be submitted to the control officer by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the control officer by a previous questionnaire. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the control officer shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was due to reasonable cause and not willful neglect.

F. The control officer may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S. § 49-476.01.

17.12.170 - Excess Emissions reporting requirements for Class I permits.

A. The owner or operator of any source shall report to the Control Officer any emissions in excess of the limits established by this Chapter or the applicable permit. The report shall be in 2 parts as specified below:

1. Notification by telephone or facsimile within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).

2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (1).

B. The excess emissions report shall contain the following information:

1. The identity of each stack or other emission point where the excess emissions occurred;

2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

3. The time and duration or expected duration of the excess emissions;

4. The identity of the equipment from which the excess emissions emanated;

5. The nature and cause of the emissions;

6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;

7. The steps that were or are being taken to limit the excess emissions; and

8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.

C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).

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.~~,~~ or,
4. Included in a permit to meet the requirements of Section 17.16.590(A)(5).

B. Affirmative Defense for Malfunctions

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of Section 17.12.170 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 I of Chapter 17.08 that could be attributed to the emitting source;
8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;
9. All emissions monitoring systems were kept in operation if at all practicable; and
10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of Section 17.12.170 and has demonstrated all of the following:

   a. The excess emissions could not have been prevented through careful and prudent planning and design;

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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 Chapter 17.08 that could be attributed to the emitting source;

g. All emissions monitoring systems were kept in operation if at all practicable; and

h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsection (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and Section 17.12.170, 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

17.12.190 - Public participation for Class I permits.

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.

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 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. 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;

9. The name, address, and telephone number of a person from PDEQ from whom additional information may be obtained;

10. Locations where copies of the permit or permit revision application, the proposed permit, and all other materials available to the control officer that are relevant to the permit decision may be reviewed, including the PDEQ office, and the times at which they shall be available for public inspection.

E. The control officer shall hold a public hearing to receive comments on petitions for conditional orders which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the control officer shall hold a public hearing only upon written request pursuant to the provisions of A.R.S. § 49-426. If a public hearing is requested, the control officer shall schedule the hearing and publish notice as described in A.R.S. § 49-444 and subsection D of this section. The control officer shall give notice of any public hearing at least 30 days in advance of the hearing.

F. At the time the control officer publishes the first notice according to subdivision (C)(1) of this section, the applicant shall post a notice containing the information required in subsection D of this section at the site where the source is or may be located. Consistent with federal, state, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.

G. The Control Officer shall provide at least thirty days from the date of its first notice for an opportunity for public comment for every Class I 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 Section 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.

17.12.200 - Public notification for Class I permits.

The Department shall utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

Article V. - Fees for Class I Permits

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.

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 Section 17.12.010(L). The fees are based on a source being classified in the following category: Class I sources are those required or that elect to have a permit under Section 17.11.090(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

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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 17.12.160.

   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 17.12.010(F)(8);

      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 17.12.010 or significant permit revisions under Section 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 17.12.110, 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 17.12.190, or EPA and affected state review as required under Section 17.12.060 or Section 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.

Chapter 17.13 - INDIVIDUAL AND GENERAL PERMITS AND PERMIT REVISIONS FOR CLASS II AND CLASS III SOURCES

Article I. – General Provisions

17.13.010 – 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 Section17.11.190.

C. Unless otherwise required by 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. If a source wishes to voluntarily enter into an emission limitation, control or other requirement pursuant to 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.

4. If while processing an application that has been determined or deemed to be complete, the control officer determines that additional information is necessary to evaluate or take final action on that application, the Control Officer 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 Section17.13.130, a source's ability to operate without a permit, as set forth in this Article, shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Control Officer. 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.

5. The completeness determination shall not apply to revisions processed through the minor permit revision process.

6. If a permit applicant request terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.

7. 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 Section 17.13.120 and Section 17.13.130, all of the requirements for public notice shall require compliance with all applicable requirements.

c. The conditions of the permit shall require compliance with all applicable requirements.

d. For Class II or Class III permits that contain voluntary emission limitations, controls, or other requirements established pursuant to Section 17.11.190, the Control Officer shall have complied with the requirement of subsection C of Section 17.11.190 to provide the Administrator with a copy of the proposed permit.

3. The control officer may issue a notice of termination of a permit issued pursuant to this Section if:

a. The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

b. The person applying for the permit failed to disclose a material fact required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.

c. The terms and conditions of the permit have been or are being violated.

4. If the Control Officer issues a notice of denial or termination of a permit under this Section, the notice shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial or revocation and a statement that the permit applicant or permittee is entitled to a hearing.

5. The Control Officer shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions.

6. The Control Officer shall take final action on each permit application (and request for revision or renewal) within eighteen months after receiving a complete application.

7. A proposed permit decision shall be published within nine months of receipt of a complete application and any additional information requested pursuant to subdivision (E)(6) of this Section to process the application. The Control Officer shall provide notice of the decision as provided in Section 17.13.210 and any public hearing shall be scheduled as expeditiously as possible.

J. Requirement for a Permit. Except as noted under the provisions in Section 17.13.110 and Section 17.13.130, no source may operate after the time that is required to submit a timely and complete application, except in compliance with a properly issued permit. However, if an existing source submits a timely and complete application for permit issuance, revision or renewal, the source's failure to have a permit is not a violation of this Article until the Control Officer 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.

17.13.020 - 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 17.11.190.

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 17.13.010(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 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 17.11.190, 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 17.13.190 and Section 17.11.190.

6. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.

7. Provisions stating the following:

a. The permittee shall comply with all conditions of the permit including all applicable requirements of A.R.S. Title 49, Chapter 3, and Pima County air quality rules. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.

b. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

c. The permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or

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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 V of this chapter.

9. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

10. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions shall:

    a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

    b. Extend the permit shield described in Section 17.11.080 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 Section 17.13.110(B)(5). In addition, the notices shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.

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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 17.11.190, 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. 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 (C)(3) are met.

3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An emergency occurred and that the permittee can identify the cause or causes of the emergency;

b. At the time of the emergency, the permitted facility was being properly operated;

c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and

d. The permittee submitted notice of the emergency to the Control Officer 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.

D. A permit issued to a source shall require that revisions be made under Section 17.13.150 to incorporate additional applicable requirements that become applicable to a source with a permit with a remaining permit term of three or more years. No reopening shall be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than eighteen months after the promulgation of such standards and regulations. Any permit revision required pursuant to this subsection shall comply with provisions in Section 17.13.160 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 permits.

A. The control officer shall deny a permit or revision if the applicant does not show that every such source is so designed, controlled, or equipped with such air pollution control equipment that it may be

expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of this title, Title 49, Chapter 3, Article 3, A.R.S., and the rules adopted by the director.

B. Prior to acting on an application for a permit, the control officer may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the source described in the application. In the event of such a requirement, the control officer shall notify the applicant in writing of the type and characteristics of such facilities.

C. In acting upon an application for a permit renewal, if the control officer finds that such source has been constructed not in accordance with any prior permit or revision issued pursuant to A.R.S. § 49-480.01, he shall require the person to obtain a permit revision or deny the application for such permit. The control officer shall not accept any further application for a permit for such source so constructed until he finds that such source has been reconstructed in accordance with the prior permit or a revision, or a revision to the permit has been obtained.

D. After a decision on a permit or revision, the control officer shall notify the applicant and any person who filed a comment on the permit pursuant to A.R.S. § 49-480 or the revision pursuant to A.R.S. § 49-480.01 in writing of the decision, and if the permit is denied, the reasons for such denial. Service of this notification may be made in person or by first class mail. The control officer shall not accept a further application unless the applicant has corrected the reasons for the objections specified by the control officer as reasons for such denial.

E. The control officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.

17.13.040 - Appeals of permit actions for Class II and Class III permits.

A. Within thirty days after the control officer gives notice of approval, denial or revocation of a permit, the applicant or any person who submitted comments pursuant to A.R.S. § 49-480, may request an appeal as provided under A.R.S. § 49-482. The decision after that hearing constitutes the final permit action from which judicial review may be taken pursuant to Chapter 17.28.

B. Any person who has an interest that is or may be adversely affected may commence a civil action in superior court against the control officer alleging that the control officer has failed to act in a timely manner consistent with the requirements of A.R.S. § 49-480. No action may be commenced before sixty days after the plaintiff has given notice to the control officer of the plaintiff's intent to file. The court has jurisdiction to require the control officer to act without additional delay.

17.13.050 - Annual summary of amendments for Class II or Class III permits.

The Control Officer may amend any Class II or Class III permit annually without following Section 17.13.150 in order to incorporate changes reflected in logs or notices filed under Section 17.13.110. 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 Section 17.13.110; and
2. Any amendments or revisions to the source's permit.

17.13.060 - Voluntary termination of a permit for Class II and Class III permits.

A permittee may voluntarily request that a permit issued under this Title be terminated.

A. The request for a permit termination shall be completed on a form provided by the Control Officer.
   1. A responsible official shall certify the truth and accuracy of the submitted form.
   2. The "Notice of Intent to Terminate the Permit" shall set forth the specific reason and timeline for the termination by the permittee.
   3. The submittal of the "Notice of Intent to Terminate the Permit" by a facility does not halt the applicability of any permit condition or any applicable requirement of this Title.

B. The Control Officer may approve a "Notice of Intent to Terminate the Permit," if the source has paid all applicable fees, and is in compliance with all applicable requirements of this Title.
   1. Termination of a permit does not relieve a source of any applicable fees.

2. The Control Officer will transmit the approval or denial of the "Notice of Intent to Terminate the Permit" by certified mail, with a return receipt requested.

C. Notices issued under this section may not be appealed under A.R.S. §§ 49-471.01 or 49-482.

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

A. An applicant may, in its application for a new permit, renewal of an existing permit, or as a significant permit revision, request an emissions cap for a particular pollutant expressed in tons per year as determined on a 12-month rolling average, or any shorter averaging time necessary to enforce any applicable requirement, for any emissions unit, combination of emissions units, or an entire source to allow operating flexibility including emissions trading for the purpose of complying with the cap. This Section shall not apply to sources that hold an authority to operate under a general permit pursuant to Section 17.13.080.

B. An emissions cap for a Class II or Class III source that limits the emissions of a particular pollutant for the entire source shall not exceed any of the following:

1. The applicable requirement for the pollutant if expressed in tons per year;
2. The source's actual emissions plus the applicable significance level for the pollutant established in Section 17.04.340(A)(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 Section 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 Sections 17.13.020(A)(3), (A)(4), and (A)(5).

D. Class II and Class III sources shall comply with Section 17.13.110(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 - 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. The Control Officer shall give notice of the general permit application pursuant to Section 17.13.210.

C. The control officer shall act on the application for coverage under the general permit as expeditiously as possible, but a final decision shall be reached within one hundred eighty days. The source may

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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.

D. Sources operating under a general permit shall apply to the director for the permit revisions pursuant to A.A.C. Title 18, Chapter 2, Article 5.

17.13.090 - General permit enforcement.

The control officer shall administer, inspect and enforce all standards and applicable requirements contained in general permits issued by the director to sources operating in the county.

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

17.13.100 - Facility changes that require a permit revision for Class II or Class III permits.

A. The following changes at a source with a Class II or Class III permit shall require a permit revision:

1. A change that triggers a new applicable requirement, violates an existing applicable requirement, or is a modification under A.R.S. § 49-401.01(24).
2. Establishment of, or change in, an emissions cap;
3. A change that will require a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;
4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under Sections 17.13.020(A)(3), (A)(4), or (A)(5). if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
5. A change that will authorize the burning of used oil, used oil fuel, hazardous waste, or hazardous waste fuel, or any other fuel not currently authorized by the permit;
6. A change that requires the source to obtain a Class I permit;
7. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;
8. Establishment or revision of a limit under 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 Sections 17.13.110(I)(1) and (I)(2) and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
    b. From a change in an applicable requirement.

B. A source with a Class II or Class III permit may make any physical change or change in the method of operation without revising the source's permit unless the change is specifically prohibited in the source's permit or is a change described in subsection (A). A change that does not require a permit revision may still be subject to requirements in Section 17.13.120.

17.13.110 - Procedures for certain changes that do not require a permit revision for Class II or Class III permits.

A. Except for a physical change or change in the method of operation at a Class II or Class III source requiring a permit revision under Section 17.13.100, or a change subject to logging or notice requirements in subsection (B) or (C), a change at a Class II or Class III source shall not be subject to revision, notice, or logging requirements under this Chapter.

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B. Except as otherwise provided in the conditions applicable to an emissions cap created under 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 Sections 17.04.340(A)(113)(a) through (i) but not listed in the permit;
4. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Control Officer 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 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 Section 17.13.130 and complying with Sections 17.13.130(D)(2) and (G).

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F. The permit shield described in 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 Section 17.13.100(A).

H. If a source change is described under both subsections (B) and (C), the source shall comply with subsection (C). If a source change is described under both subsections (C) and Section 17.13.100(B), the source shall comply with Section 17.13.100(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 Section 17.13.110(B) shall include at least the following information:

a. A description of the change, including:

i. A description of any process change.

ii. A description of any equipment change, including both old and new equipment descriptions, model numbers and serial numbers, or any other unique equipment number.

iii. A description of any process material change.

b. The date and time that the change occurred.

c. The provision of Section 17.13.110 that authorizes the change to be made with logging.

d. The date the entry was made and the first and last name of the person making the entry.

2. Logs shall be kept for five years from the date created. Logging shall be performed in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, approved by the Control Officer.

17.13.120 - Administrative amendments for Class II or Class III permits.

A. Except for provisions pursuant to Title IV of the Act (Acid Deposition Control), an administrative permit amendment is a permit revision that does any of the following:

1. Corrects typographical errors;

2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

3. Requires more frequent monitoring or reporting by the permittee; and

4. Allows for a change in ownership or operational control of a source as approved under Section 17.13.170 where the control officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility coverage, and liability between the current and new permittee has been submitted to the control officer.

B. Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the administrator under Title IV of the Act (Acid Deposition Control).

C. The Control Officer shall take no more than sixty days from receipt of a request for an administrative permit amendment to take final action on such request.

D. Except for administrative permit amendments involving a transfer under Section 17.13.170, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

17.13.130 - Minor revisions for Class II or Class III permits.

A. Minor permit revision procedures shall be used for the following changes at a Class II or Class III source:

1. A change that triggers a new applicable requirement if all of the following apply:
    a. For emissions units not subject to an emissions cap, the net emissions increase is less than the significant level defined in Section 17.04.340;
    b. A case-by-case determination of an emission limitation or other standard is not required; and
    c. The change does not require the source to obtain a Class I permit;
2. Increasing operating hours or rates of production above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;
3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;
4. A change that results in emissions subject to monitoring, recordkeeping, or reporting under Sections 17.13.020(A)(3), (A)(4), or (A)(5) and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
5. A decrease in the emissions permitted under an emissions cap unless the decrease requires a change in the conditions required to enforce the cap or to ensure that emissions trades conducted under the cap are quantifiable and enforceable; and
6. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.

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. 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 17.13.140; or
    d. Revise and issue the proposed permit revision.

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 (D), the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.

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

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H. Notwithstanding any other part of this section, the Control Officer may require a permit to be revised under Section 17.13.140 for any change that, when considered together with any other changes submitted by the same source under this section or 17.13.110 over the life of the permit, or subsection (A) of this section.

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

17.13.140 - Significant revisions for Class II or Class III permits.

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 17.13.210:

1. Establishing or revising a voluntarily accepted emission limitation or standard as described by Section 17.11.190 or Section 17.13.070, except a decrease in the limitation authorized by Section 17.13.130;

2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;

3. A change to or addition of an emissions unit not subject to an emissions cap that will result in a net emission increase of a pollutant greater than the significance level in Section 17.04.340(A)(211);

4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:

   a. Removing equipment that results in a permanent decrease in actual emissions, if the source keeps on-site records of the change in a log that satisfies Sections 17.13.110(I)(1) and (I)(2) and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

   b. A change in an applicable requirement.

5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;

6. A change that will require any of the following:

   a. A case-by-case determination of an emission limitation or other standard;

   b. A source-specific determination of ambient impacts, or a visibility or increment analysis; or

   c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.

7. A change that requires the source to obtain a Class I permit.

B. Significant permit revisions shall meet all requirements of this Chapter for applications, public participation, review by affected states, and review by the administrator that apply to permit issuance and renewal.

C. 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. 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 Section 17.12.060 and Section 17.13.210.

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 17.13.240(H) shall not be included in this requirement.

17.13.150 - Reopening, revocation, reissuance, or termination for Class II or Class III permits.

A. Reopening for Cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

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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 17.13.160. Any permit reopening required pursuant to this paragraph shall comply with provisions in Section 17.13.160 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 subdivision (A)(1) of this section shall not be initiated before a notice of such intent is provided to the source by the control officer at least thirty days in advance of the date that the permit is to be reopened, except that the control officer may provide a shorter time period in the case of an emergency.

4. When a permit is reopened and revised pursuant to this section, the control officer may make appropriate revisions to the permit shield established pursuant to Section 17.11.080.

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.

17.13.160 - Renewal and expiration for Class II or Class III permits.

A. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and administrator review, that would apply to that permit's initial issuance.

B. Except as provided in Section 17.11.050, permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. 41-1064 has been submitted in accordance with Section 17.13.010. 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.

17.13.170 - Transfers for Class II or Class III permits.

A. Except as provided in A.R.S. § 49-483 and subsection B of this section, a permit may be transferred to another person if:

1. The person who holds the permit gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:
    a. The permit number and expiration date;
    b. The name, address and telephone number of the current permit holder;
    c. The name, address and telephone number of the organization to receive the permit;
2. The new owner gives notice of the following to the control officer in writing at least thirty days before the proposed transfer:
    a. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance;
    b. A description of the equipment to be transferred;
    c. A written agreement containing a specific date for transfer or permit responsibility, coverage, and liability between the current and new permittee;
    d. Provisions for the payment of any fees pursuant to Article V of this Section that will be due and payable before the effective date of transfer;
    e. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Control Officer 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

17.13.180 - Annual emissions inventory questionnaire for Class II or Class III permits.

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 ninety days after the control officer makes a written request and shall include emission information for the previous calendar year.

B. The questionnaire shall be on a form provided by or approved by the control officer and shall include the following information:

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1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.

2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.

3. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation or estimation determined pursuant to subsection C of this section of the following regulated air pollutants:

   a. Any single regulated air pollutant in a quantity greater than one ton or the amount listed for the pollutant in the definition of "significant" in Section 17.04.340, whichever is less.

   b. Any combination of regulated air pollutants in a quantity greater than 2.5 tons.

C. Actual quantities of emissions shall be determined using the following emission facts or data:

1. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.

2. When sufficient data pursuant to subsection (C)(1) of this section is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to Section 17.11.210 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.

3. When sufficient data pursuant to subsection (C)(1) or (C)(2) of this section is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC (and no future editions) which is incorporated by reference and is on file with the Department. AP-42 can be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, telephone (202) 783-3238.

4. When sufficient data pursuant to subsections (C)(1) through (C)(3) of this section is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.

5. When sufficient data pursuant to subsections (C)(1) through (C)(4) of this section is not available, emissions estimates shall be calculated by equivalent methods approved by the control officer. The control officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in subsections (C)(1) through (C)(4) of this section.

D. Actual quantities of emissions calculated under subsection C of this section shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored or combusted.

E. An amendment to an annual emission inventory questionnaire, containing the documentation required by subsection (B)(3) of this section, shall be submitted to the control officer by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the control officer by a previous questionnaire. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the control officer shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was due to reasonable cause and not willful neglect.

F. The control officer may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S.§ 49-476.01.

17.13.190 - Excess Emissions reporting requirements for Class II or Class III permits.

A. The owner or operator of any source shall report to the Control Officer any emissions in excess of the limits established by this Chapter or the applicable permit. The report shall be in 2 parts as specified below:

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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).

17.13.200 - Affirmative defenses for excess emissions due to malfunctions, startup, and shutdown.

A. Applicability

This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:

1. Promulgated pursuant to Sections 111 or 112 of the Act,
2. Promulgated pursuant to Titles IV or VI of the Clean Air Act,
3. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A or,
4. Included in a permit to meet the requirements of Section 17.16.590(A)(5).

B. Affirmative Defense for Malfunctions

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of Section 17.13.190 and has demonstrated all of the following:

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;
2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to insure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;

4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article I of Chapter 17.08 that could be attributed to the emitting source;

8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;

9. All emissions monitoring systems were kept in operation if at all practicable; and

10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of Section 17.13.190 and has demonstrated all of the following:

   a. The excess emissions could not have been prevented through careful and prudent planning and design;

   b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;

   c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

   d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

   e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

   f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article I of Chapter 17.08 that could be attributed to the emitting source;

   g. All emissions monitoring systems were kept in operation if at all practicable; and

   h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsection (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and Section

17.13.190, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

Article IV. - Public Participation and Notification Requirements for Class II and Class III Permits

17.13.210 - Public participation for Class II and Class III permits.

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.

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. 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;
9. The name, address, and telephone number of a person from PDEQ from whom additional information may be obtained;
10. Locations where copies of the permit or permit revision application, the proposed permit, and all other materials available to the control officer that are relevant to the permit decision may be reviewed, including the PDEQ office, and the times at which they shall be available for public inspection.

E. The control officer shall hold a public hearing to receive comments on petitions for conditional orders which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the control officer shall hold a public hearing only upon written request pursuant to the provisions of A.R.S. § 49-426. If a public hearing is requested, the control officer shall schedule the hearing and publish notice as described in A.R.S. § 49-444 and subsection D of this section. The control officer shall give notice of any public hearing at least 30 days in advance of the hearing.

F. At the time the control officer publishes the first notice according to subdivision (C)(1) of this section, the applicant shall post a notice containing the information required in subsection D of this section at

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the site where the source is or may be located. Consistent with federal, state, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.

G. The Control Officer shall provide at least thirty days from the date of its first notice for an opportunity for public comment for every Class I and Class II permit. For a source required to obtain a permit pursuant to Section 17.11.090(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.

17.13.220 - Public notification for Class II and Class III permits.

The Department shall utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

Article V. - Fees for Class II, Class III, and General Permits

17.13.230 - General provisions.

A. Permits issued pursuant to a program adopted under this title are subject to payment of a reasonable fee to be determined as outlined in this chapter.

B. Funds received for permits issued pursuant to this chapter shall be deposited in a special public health fund and shall be used by the control officer to defray the costs of implementing provisions of this title.

17.13.240 - Fees related to Class II and Class III permits.

A. Source Categories. The owner or operator of a source required to have an air quality permit from the control officer shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article I. The fees are based on a source being classified in one of the following two categories:

1. Class II sources are those required to have a permit under Section 17.11.090(B)(2).
2. Class III sources are those required to have a permit under Section 17.11.090(B)(3).

B. Fees for Permit Actions. The owner or operator of a Class II or Class III source shall pay to the control officer $105.80 per hour, adjusted annually under subsection (G), for all permit processing time required for a billable permit action. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action is $25,000. The minimum fee for any billable permit action is one hour of the current hourly rate. Except as provided in subsection (F), the control officer shall not issue a permit or permit revision until the final bill is paid in full.

C. Class II Annual Fee. The owner or operator of a Class II source that has undergone initial startup by January 1 shall pay the annual fee from the table below, adjusted annually under subsection (G). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (E), whichever is later.

Class II Source Category	Annual Fee
Area Sources	$540
NSPS/NESHAP Boilers and Generators	$2,500
NSPS/NESHAP True Minor Sources	$6,040

NSPS/NESHAP Synthetic Minor Sources	$11,040

D. Class III Annual Fee. The owner or operator of a Class III source that has undergone initial startup by January 1 shall pay the annual fee from the table below, adjusted annually under subsection (G). The fee is due by February 1 or 60 days after the control officer mails the invoice under subsection (E), whichever is later.

Class III Source Category	Annual Fee
True Minor Sources	$1,960
Non-NSPS/NESHAP Boilers and Generators	$1,960
Synthetic Minor Sources	$3,920

E. The control officer shall mail the owner or operator of each source an invoice for all applicable fees due under subsections (C) or (D) by December 1.

F. Any person who receives a final itemized bill from the control officer under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:

1. The request shall be made in writing, and received by the control officer within 30 days of the date of the final bill. Unless the control officer and person agree otherwise, the informal review shall take place within 30 days after the control officer's receipt of the request. The control officer shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The control officer shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The control officer shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The control officer's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests in writing a hearing pursuant to A.R.S. § 49-482.

3. If the final itemized bill is paid under protest, the control officer shall take final action on the permit or permit revision.

G. The control officer shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, beginning on November 1, 2008, by multiplying $105.80 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The control officer shall adjust the annual fees listed in subsections (C) and (D) every November 1, to the nearest $10, beginning on November 1, 2008, by multiplying the fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

H. An applicant for a Class II or Class III permit or permit revision may request that the control officer provide accelerated processing of the application by providing the control officer written notice 60 days before filing the application. The request shall be accompanied by an initial fee of $15,000. The fee is non-refundable to the extent of the control officer's costs for accelerating the processing if the control officer undertakes the accelerated processing described below:

1. If an applicant requests accelerated permit processing, the control officer may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:

a. For applications for initial Class II and Class III permits under Section 17.13.010 or significant permit revisions under Section 17.13.140, the control officer shall issue or deny the proposed permit or permit revision within 120 days after the control officer determines that the application is complete.

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b. For minor permit revisions under Section 17.13.130, the control officer shall issue or deny the permit revision within 60 days after receiving a complete application.

2. At any time after an applicant requests accelerated permit processing, the control officer may require additional advance payments based on the most recent estimate of additional costs.

3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the control officer shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable action for a Class II and Class III source is $25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the control officer in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the control officer shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of Section 17.13.210, or EPA and affected state review as required under Section 17.12.060 or Section 17.13.130.

I. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the annual fee required under subsection (C) or (D). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the control officer by November 1 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.

J. Transition.

1. Subsections (A) through (I) of this Section are effective December 20, 2007. The first annual fees are due on February 1, 2008.

2. All fees incurred after December 20, 2007, are payable in accordance with the rates contained in this Section.

a. Permit processing fees incurred after December 20, 2007 for any new permit, permit revision, transfer, or renewal shall be billed in accordance with the rates in this Section.

b. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the control officer.

17.13.250 - Fees related to general permits.

A. Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the control officer $540 with the submittal of each application. This fee applies to the owner or operator of any source that intends to continue operating under the authority of a general permit that has been proposed for renewal.

B. Annual Fee. The owner or operator of a source with authority to operate under a general permit shall pay to the control officer an annual fee from the table below, by February 1 or 60 days after the control officer mails the invoice, whichever is late.

General Permit Source Category	Annual Fee
Class II Area Sources	$540
Other Class II General Permits	$3,250
Class III Gasoline Service Stations	$540
Class III Crematories	$1,085
Other Class III General Permits	$1,085

Chapter 17.14 - ACTIVITY PERMITS

Article I. - General Provisions

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17.14.010 - Definitions.

In addition to the definitions contained in Section 17.04.340, words, phrases and terms used in this Article shall have the following meanings:

A. "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or intentional burning of any facility.

B. "Earthmoving" means the movement of earthen material which causes or has the potential to cause fugitive dust.

C. "Fugitive Dust" means the particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human, animal, and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind.

D. "Project" means the specific plan, design or phase of the plan for which the person obtains a permit.

E. "Regulated asbestos containing material" or "RACM" means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by 40 CFR 61, Subpart M.

F. "Renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

G. "Trenching" means the construction of a narrow excavation, in relation to its length, made below the surface of the ground for purposes of facilitating the installation and repair of underground utilities.

17.14.020- General provisions.

A. Permits issued pursuant to a program adopted under this title are subject to payment of a reasonable fee to be determined as outlined in this chapter.

B. Funds received for permits issued pursuant to this chapter shall be deposited in a special public health fund and shall be used by the control officer to defray the costs of implementing provisions of this title.

C. An applicant for an activity or open burning permit shall pay a fee calculated according to the schedules listed at the end of this chapter and any other provisions established in subsequent sections.

17.14.030 - Refund of overpayment of permit fees.

No fees shall be refunded except those paid in excess of the amount required. An excess payment shall be refunded upon the written request of the permittee within one year of overpayment.

Article II. - Fugitive Dust

17.14.040 - Fugitive dust activity permits.

A. No person shall conduct, cause or allow land stripping, earthmoving, blasting, trenching or road construction without first obtaining an activity permit from the Control Officer.

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.

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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 17.13.060.

F. The following exemptions will apply to this Section:

1. Class I, II, or III air quality permit holders pursuant to Section 17.11.090 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.

17.14.050 - Fugitive dust activity permit fees.

A. Fugitive Dust Activity Permit Fee Schedule~~s~~ (effective July 5, 2007).

S.S.[1]	ACTIVITY	RATE COMPONENTS	
A	Land stripping and/or earthmoving	>1-2 acres >2-10 acres >10-40 acres >40+ acres	$100.00 $500.00 $1,500.00 $3,000.00
B	Trenching	300-500 feet 501-1,500 feet 1,501-5,000 feet 5,001+ feet	$75.00 $200.00 $400.00 $800.00
C	Road construction	50-1,000 feet 1,001-3,000 feet 3,001-6,000 feet 6,001+ feet	$50.00 $250.00 $500.00 $1,000.00
D	Blasting		$25.00
E	Multiple Activity Permit	>1-10 acres >10-40 acres >40+ acres	$625.00 $2,000.00 $4,000.00

1. Sub-schedule for identification only.

B. The control officer may waive the Fugitive Dust activity permit fee if all the following apply:

1. The permit is being obtained for cleanup of an illegal dump; and

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2. The illegal dump was caused by a party other than the property owner where the dump is located.

Article III. - Asbestos NESHAP

17.14.060 - Asbestos NESHAP activity permits.

A. No person shall allow or commence demolition or renovation of any NESHAP facility as defined in 40 CFR 61 Subpart M without first obtaining an asbestos NESHAP activity permit from the control officer.

B. An asbestos NESHAP activity permit shall be obtained by persons conducting the following activities:

1. Demolition of load supporting structural members.
2. Renovation of more than 260 linear feet of RACM on pipes.
3. Renovation of more than 160 square feet of RACM on other facility components.
4. Renovation of more than 35 cubic feet of RACM off facility components.

17.14.070 - Asbestos NESHAP activity permit fees.

A. Asbestos NESHAP Activity Permit Fee Schedule~~s~~ (effective July 5, 2007).

ACTIVITY	RATE COMPONENTS
Demolition or Renovation of NESHAP Facility	$420.00

B. The control officer may waive the Asbestos NESHAP activity permit fee if all the following apply:

1. The permit is being obtained for cleanup of an illegal dump; and
2. The illegal dump was caused by a party other than the property owner where the dump is located.

Article IV. - Open Burning

17.14.080 - 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.

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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).

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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 Section 17.14.080(A)(2).

2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an PDEQ-approved application form.

3. Open outdoor fire permits issued under this Section shall include:

   a. A list of the materials that the permittee may burn under the permit;

   b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;

   c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:

      i. Year-round: ignite fire no earlier than one hour after sunrise; and

      ii. Year-round: extinguish fire no later than two hours before sunset;

   d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:

      i. Prevent dispersion of smoke into populated areas;

      ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;

      iii. Do not create a public nuisance or adversely affect public safety;

      iv. Do not cause an adverse impact to visibility in a Class I area; and

      v. Do not cause uncontrollable spreading of the fire;

   e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions;

   f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:

      i. The date of each burn;

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ii. The type and quantity of fuel burned for each date open burning occurred;

iii. The fire type, such as pile or pit, for each date open burning occurred; and

iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;

g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;

h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;

i. A requirement that the permittee attend the fire at all times until it is completely extinguished;

j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;

k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;

l. A requirement that the permittee have a copy of the burn permit on-site during open burning;

m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;

n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared by ADEQ or PDEQ;

o. A statement that the control officer, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and

p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.

4. The control officer or a delegated authority shall not issue an open burning permit under this Section:

a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;

b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or

c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the control officer has not issued a variance under A.R.S. § 49-763.01.

E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the control officer has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The control officer shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.

F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the control officer or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:

1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or

2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.

G. The control officer shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.

H. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

I. The term of any open burning permit shall be as specified by the control officer, subject to the following limitations:

1. The term of a temporary open burning permit shall not exceed three consecutive or nonconsecutive days within a thirty-day period; and

2. The term of an extended open burning permit shall expire as specified on the original application, and shall in no case exceed ninety days.

17.14.090 - Open burning permit fees.

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	Construction/Agricultural Burning[3]	$26.50 base, plus $5.00 per day of burning	$31.50

1. Sub-schedule for identification only.

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

3. The term of a construction/agricultural burning permit shall not exceed ninety days.

Chapter 17.16 - EMISSION LIMITING STANDARDS

Sections:

Article I. - General Provisions

. . .

17.16.030 - Odor limiting standards.

No person shall emit gaseous or odorous materials from equipment, operations or premises under ~~his~~ their control in such quantities or concentrations as to cause air pollution.

Article II. - Visible Emission Standards

17.16.040 - Standards and applicability (includes NESHAP).

A. No person shall cause or permit the effluent from a single emission point, multiple emission point, or fugitive emissions source to have an average optical density equal to or greater than the opacity limiting standards specified in Table 17.16.040 at the end of this chapter, or as otherwise specified in this title, subject to the following provisions:

1. Opacities (optical densities), as measured in accordance with Method 9, of an effluent shall be measured by a certified visible emissions evaluator with their natural eyes, approximately following the procedures which were used during his certification, or by an approved and precisely calibrated in-stack monitoring instrument.

2. A violation of an opacity standard shall be determined by measuring and recording a set of consecutive, instantaneous opacities, and calculating the arithmetic average of the measurements within the set unless otherwise noted herein. The measurements shall be made at approximately fifteen-second intervals for a period of at least six minutes, and the number of

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required measurements shall be as specified in Table 17.16.040. Sets need not be consecutive in time, and in no case shall two sets overlap. If the average opacity of the set of instantaneous measurements exceeds the maximum allowed by any rule, this shall constitute a violation.

3. The use of air or other gaseous diluents solely for the purpose of achieving compliance with an opacity standard is prohibited.

B. When the presence of uncombined water is the only reason for failure of a source to otherwise meet the requirements of this article, this article shall not apply.

17.16.050 - Visibility limiting standard.

A. No person shall cause, suffer, allow or permit operations or activities likely to result in excessive amounts of airborne dust without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.

B. Except for sources located within the boundaries of the Tohono O'Odham, Pasqua Yaqui and San Xavier Indian Reservations, opacity of an emission from any nonpoint source, as measured in accordance with the Arizona Testing Manual, Reference Method 9, shall not exceed the following:

1. Twenty percent for such nonpoint sources in eastern Pima County, east of the eastern boundary of the Tohono O'Odham Reservation.

2. Forty percent for such nonpoint sources in all other areas of Pima County.

C. Open fires permitted according to Chapter 17.14 are exempt from the requirements of this section.

D. No person shall cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne, without taking reasonably necessary and feasible precautions to control generation of airborne particulate matter. Sources may be required to cease temporarily the activity or operation which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.

1. Sources required to obtain an air quality permit under ARS § 49-426, § 49-480 or Section 17.14.040 may request to have the actions constituting reasonably necessary and feasible precautions approved and included as permit conditions. Compliance with such permit conditions shall be considered compliance with this subsection.

2. This subsection shall not apply when wind speeds exceed twenty-five (25) miles per hour (using the Beaufort Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.

3. This subsection shall not apply to the generation of airborne particulate matter from undisturbed land.

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Article IV. - New and Existing Stationary Source Performance Standards

17.16.130 - Applicability.

A. This article shall apply only to a source that is all of the following:

1. An existing source, as defined in 17.04.340;

2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and

3. A stationary source, as defined in 17.04.340.

B. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (a), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:

1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the control officer as provided in subsection (D) and (E), after the effective date of this rule;

2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and

3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).

C. If the presence of uncombined water is the only reason for an exceedance of any visible emissions requirement in this article, the exceedance shall not constitute a violation of the applicable opacity limit.

D. A person owning or operating a source may petition the control officer for an alternative applicable opacity limit. The petition shall be submitted to PDEQ within three months after the effective date of this rule.

1. The petition shall contain:

a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:

i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;

ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and

iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.

b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.

c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:

a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.

b. Evidence that the source conducted the stack tests according to Section 17.11.210, and that they were witnessed by the control officer or the control officer's agent or representative.

c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.

3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:

a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and

b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.

E. If the control officer receives a petition under subsection (D) the control officer shall approve or deny the petition as provided below by October 15, 2004:

1. If the petition is approved under subsection (D)(1) or (D)(2), the control officer shall include an alternative opacity limit in a proposed significant permit revision for the source under Sections

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17.12.120, 17.13.140, 17.12.190, and 17.13.210 . The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.

2. If the petition is approved under subsection (D)(3), the control officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.

3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under Section 17.12.080(A)(5)(c)(iii) by April 23, 2006.

4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under Section 17.12.080(A)(5)(c).

F. The control officer, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:

1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.

2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

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17.16.160 - Standards of performance for fossil-fuel fired steam generators and general fuel burning equipment.

A. This section applies to the following:

1. Sources in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under Section 17.16.170.

2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to seventy-three megawatts capacity.

B. For purposes of this section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with Section 17.11.160. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.

C. No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:

1. For equipment having a heat input rate of four thousand two hundred million BTU per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

Q = the heat input in million BTU per hour.

2. For equipment having a heat input rate greater than four thousand two hundred million BTU per hour, the maximum allowable emissions shall be determined by the following equation:

$E = 17.0Q^{0.432}$

where "E" and "Q" have the same meaning as in paragraph 1 of this subsection.

D. When low sulfur oil is fired:

1. Existing fuel burning equipment or steam power generating installations which commenced construction or a major alteration prior to May 30, 1972 shall not emit more than 1.0 pound of sulfur dioxide maximum three hour average, per million BTU (four hundred thirty nanograms per joule) heat input.

2. Existing fuel burning equipment or steam power generating installations which commenced construction or a major alteration after May 30, 1972 shall not emit more than 0.80 pounds of sulfur dioxide maximum three hour average per million BTU (three hundred forty nanograms per joule) heat input.

E. When high sulfur oil is fired all existing steam power generating and general fuel burning installations which are subject to the provisions of this section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million BTU (nine hundred forty-six nanograms per joule) heat input.

F. When solid fuel is fired:

1. Existing general fuel burning equipment and steam power generating installations which commenced construction or a major alteration prior to May 30, 1972 shall not emit more than 1.0 pound of sulfur dioxide maximum three-hour average, per million BTU (four hundred thirty nanograms per joule) heat input.

2. Existing general fuel burning equipment and steam power generating installations which commenced construction or a major alteration after May 30, 1972 shall not emit more than 0.80 pounds, maximum three-hour average, per million BTU (three hundred forty nanograms per joule) heat input.

G. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee, unless the applicant demonstrates to the satisfaction of the control officer that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to insure that the sulfur dioxide ambient air quality standards set forth in Chapter 17.08, Article I will not be violated.

1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.

2. In cases where the permittee is authorized to use high sulfur oil it shall submit to the control officer monthly reports detailing its efforts to obtain low sulfur oil.

3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.

4. Nothing in this section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.

H. Existing steam power generating installations which commenced construction or a major alteration after May 30, 1972 shall not emit nitrogen oxides in excess of the following amounts:

1. 0.20 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million BTU heat input when gaseous fossil fuel is fired;

2. 0.30 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million BTU heat input when liquid fossil fuel is fired;

3. 0.70 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million BTU heat input when solid fossil fuel is fired.

I. Emission and fuel monitoring systems, where deemed necessary by the control officer for sources subject to the provisions of this section, shall conform to the requirements of Section 17.11.200.

J. The applicable reference methods given in the Appendices to 40 CFR 60 shall be used to determine compliance with the standards as prescribed in subsections C through G and I of this section. All tests shall be run at the heat input calculated under subsection B of this section.

17.16.165 - Standards of performance for fossil-fuel fired industrial and commercial equipment.

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A. This section applies to industrial and commercial installations which are less than seventy-three megawatts capacity (two hundred fifty million British thermal units per hour); but in the aggregate on any premises are rated at greater than five hundred thousand British thermal units per hour (0.146 megawatts); and in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

B. For purposes of this section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with Section 17.11.160. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter that may be emitted.

C. No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any fuel-burning operation in excess of the amounts calculated by one of the following equations:

1. For equipment having a heat input rate of four thousand two hundred million BTU per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

Q = the heat input in million BTU per hour.

2. For equipment having a heat input rate greater than four thousand two hundred million BTU per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

where "E" and "Q" have the same meanings as in subdivision 1 of this subsection.

D. The actual values shall be calculated from the applicable equations and rounded off to two decimal places.

E. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million BTU heat input when low sulfur oil is fired.

F. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 2.2 pounds of sulfur dioxide per million BTU heat input when high sulfur oil is fired.

G. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may be omitted from the permit if the applicant demonstrates to the satisfaction of the control officer both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to insure that the sulfur dioxide ambient air quality standards set forth in Section 17.08.020 will not be violated.

1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.

2. In cases where the permittee is authorized to use high sulfur oil it shall submit to the control officer monthly reports detailing its efforts to obtain low sulfur oil.

3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.

4. Nothing in this section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.

H. When coal is fired, fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pound of sulfur dioxide per million BTU heat input.

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I. The owner or operator subject to the provisions of this section shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device.

1. For the purpose of reports required under excess emissions reporting required by Sections 17.12.180, 17.13.200, 17.12.170, 17.13.190, and 17.12.040, the owner or operator shall report all six-minute periods in which the opacity of any plume or effluent exceeds 15 percent.

2. The format for the excess emissions report shall comply with the requirements of Sections 17.12.170(B) and 17.13.190(B).

J. The test methods and procedures required by this section are as follows:

1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standards as prescribed in this section.

a. Method 1 for selection of sampling site and sample traverses.

b. Method 3 for gas analysis to be used when applying Reference Methods 5 and 6.

c. Methods 4 and 5 for concentration of particulate matter and the associated moisture content.

d. Method 6 for concentration of SO^2.

2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the control officer. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than one hundred sixty degrees Celsius (three hundred twenty degrees Fahrenheit).

3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one meter (3.28 ft). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

4. For Method 6, the minimum sampling time shall be twenty minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately thirty-minute intervals.

5. Gross calorific value shall be determined in accordance with the applicable ASTM methods: D-2015-91 (Test for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter) for solid fuels, D-240-87 (Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter) for liquid fuels, and D-1826-88 (Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter) for gaseous fuels. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the fossil-fuel fired system.

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17.16.180 - Standards of Performance for Existing Hospital/Medical/ Infectious Waste Incinerators.

A. This Section applies to any hospital/medical/infectious waste incinerator (HMIWI) for which construction was commenced on or before June 20, 1996. All federal regulations cited within this Section are incorporated by reference in 17.16.490. An incinerator subject to this Section is not subject to 17.16.170. The following types of incinerators are not subject to this Section:

1. An incinerator during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, if the owner or operator of the incinerator does both of the following:

a. Notifies the Control Officer of an exemption claim.

b. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned.

2. Any co-fired incinerator if the owner or operator of the incinerator does all of the following:

a. Notifies the Control Officer of an exemption claim.

b. Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels or wastes to be burned.

c. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste burned, and the weight of all other fuels and wastes burned at the co-fired incinerator.

3. Any incinerator required to have a permit under Section 3005 of the Solid Waste Disposal Act.

4. Any incinerator subject to 40 CFR 60, Subparts Cb, Ea, or Eb (standards or guidelines for certain municipal waste incinerators).

5. Any pyrolysis unit, as defined in 40 CFR 60.51c.

6. Cement kilns firing hospital waste or medical/infectious waste.

B. A physical or operational change made to an existing HMIWI unit solely for the purpose of complying with emission limitations under this Section is not considered a modification and does not result in an existing HMIWI unit becoming subject to the provisions of 17.16.490 (16).

C. In addition to the definitions provided in 40 CFR 60.51c, the following definitions apply to this Section:

1. "Rural HMIWI" means any small HMIWI that is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and that burns less than 2,000 pounds per week of hospital waste and medical/infectious waste. The 2,000 pounds per week limitation does not apply during performance tests.

2. "Standard Metropolitan Statistical Area" or "SMSA" means any area listed in Office of Management and Budget (OMB) Bulletin 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993 which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. A copy of the bulletin is on file with the Office of the Secretary of State and the Department.

3. "State Plan" means the plan that 40 CFR 60 subpart Ce requires states to develop to regulate existing HMIWI built on or before June 20, 1996.

D. Beginning September 15, 2000, an HMIWI shall operate under a Class I permit.

E. An owner or operator of an HMIWI shall comply with the following emissions limitations:

1. The emissions limitations in Table 1 unless the HMIWI is a rural HMIWI.

2. The emissions limitations in Table 2, if the HMIWI is a rural HMIWI.

3. An owner or operator of an HMIWI shall not cause to be discharged into the atmosphere from the stack of that HMIWI any gases that exhibit greater than 10% opacity (6-minute block average).

4. An owner or operator of a large existing HMIWI shall comply with the opacity requirements in 40 CFR 60.52c (c), (d), and (e).

F. An owner or operator of an HMIWI shall comply with the operator training requirements found in 40 CFR 60.53c within one year following approval of the State Plan.

G. An owner or operator of an HMIWI shall comply with the waste management requirements found in 40 CFR 60.55c.

H. An owner or operator of a rural HMIWI shall comply with the following inspection requirements:

1. The owner or operator shall conduct or hire another party to conduct an initial equipment inspection within one year following approval of the State Plan.

2. At a minimum, an inspection shall include the following:

a. Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation. Clean pilot flame sensor, as necessary.

b. Inspect adjustment of primary and secondary chamber combustion air, and adjust as necessary.

c. Inspect hinges and door latches, and lubricate as necessary.

d. Inspect dampers, fans, and blowers for proper operation.

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e. Inspect HMIWI door and door gaskets for proper sealing.

f. Inspect motors for proper operation.

g. Inspect primary chamber refractory lining. Clean and repair or replace lining as necessary.

h. Inspect incinerator shell for corrosion and hot spots.

i. Inspect secondary/tertiary chamber and stack, clean as necessary.

j. Inspect mechanical loader, including limit switches, for proper operation, if applicable.

k. Visually inspect waste bed (grates), and repair or seal, as appropriate.

l. For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments.

m. Inspect each air pollution control device for proper operation, if applicable.

n. Inspect waste heat boiler systems to ensure proper operation, if applicable.

o. Inspect bypass stack components.

p. Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment.

q. Generally observe that the equipment is maintained in good operating condition.

3. Within 10 operating days following an equipment inspection, the owner or operator shall complete all necessary repairs unless the owner or operator obtains written approval from the Control Officer establishing a date by which all necessary repairs of the facility shall be completed.

4. The owner or operator of any rural HMIWI shall conduct or hire another party to conduct an equipment inspection annually (no more than 12 months following the previous annual equipment inspection), as outlined in subsections (2) and (3).

I. An owner or operator of an HMIWI shall comply with the following compliance, performance testing, and monitoring requirements:

1. Except as provided in subsection (2), an existing HMIWI shall meet the requirements for compliance and performance testing in 40 CFR 60.56c, excluding the fugitive emissions testing requirements under 40 CFR 60.56c(b)(12) and (c)(3).

2. A rural HMIWI shall meet the following compliance and performance testing requirements:

a. Conduct the performance testing requirements in 40 CFR 60.56c(a), (b)(1) through (b)(9), (b)(11) (Hg only), and (c)(1). The 2,000 lb/week limitation under 40 CFR 60.33e(b) does not apply during performance tests.

b. Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limitations.

c. Ensure that the facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times except during periods of startup, shutdown, and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature is a violation of the established operating parameter.

d. Except as provided in subsection (I)(2)(e), operating the facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously is a violation of the PM, CO, and dioxin/furan emission limitations.

e. The owner or operator may conduct a repeat performance test within 30 days after violation of any applicable operating parameter to demonstrate that the facility is not in violation of any applicable emission limit. Repeat performance tests conducted under this subsection shall be conducted using the identical operating parameters that indicated a violation under subsection (I)(2)(d).

3. The owner or operator shall comply with the monitoring requirements listed in 40 CFR 60.57c of subpart Ec, except as provided in subsection (I)(4).

4. A rural HMIWI shall meet the following monitoring requirements:

   a. Install, calibrate (to manufacturer's specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

   b. Install, calibrate (to manufacturer's specifications), maintain, and operate a device that automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

   c. Obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75% of the operating hours per day and for 90% of the operating hours per calendar quarter that the facility is incinerating hospital waste or medical/infectious waste.

J. An owner or operator of an HMIWI shall comply with the following reporting and recordkeeping requirements:

1. An owner or operator of each HMIWI shall comply with the requirements listed in 40 CFR 60.58c(b), (c), (d), (e), and (f), excluding 40 CFR 60.58c(b)(2)(ii) (fugitive emissions) and (b)(7) (siting).

2. An owner or operator of each rural HMIWI shall perform all the following:

   a. Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days after an inspection or the time-frame established by the Control Officer.

   b. Submit an annual report to PDEQ, Air Quality Division, 33 N. Stone Ave, Suite 700, Tucson, Arizona 85701. The report shall contain information recorded under subsection (2)(a) and be submitted no later than 60 days following the year in which data were collected. The owner or operator shall send subsequent reports no later than 12 calendar months following the previous report (after receiving a Class I permit, the owner or operator shall submit these reports semiannually). The facility's manager shall sign the report.

Table 1
Emission Limitations for Small, Medium, and Large HMIWI

Pollutant	Units (7% oxygen, dry basis)	Emission Limitation		
		Small HMIWI	Medium HMIWI	Large HMIWI
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot).	115 (0.05)	69 (0.03)	34 (0.015)
Carbon monoxide	Parts per million by volume	40	40	40
Dioxin/furans	Nanograms per dry standard cubic meter total dioxin/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter toxic equivalent quantity (grains per billion dry standard cubic feet)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)
Hydrogen chloride	Parts per million by volume or percent reduction	100 or 93%	100 or 93%	100 or 93%

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Sulfur dioxide	Parts per million by volume	55	55	55
Nitrogen oxides	Parts per million by volume	250	250	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%

Table 2
Emissions Limitations for Rural HMIWI

Pollutant	Units (7% oxygen, dry basis)	Emission Limitation
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	197 (0.086)
Carbon monoxide	Parts per million by volume	40
Dioxin/furans	Nanograms per dry standard cubic meter total dioxin/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter toxic equivalent quantity (grains per billion dry standard cubic feet)	800 (350) or 15 (6.6)
Hydrogen chloride	Parts per million by volume	3100 (1.0)
Sulfur dioxide	Parts per million by volume	55
Nitrogen oxides	Parts per million by volume	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	10 (4.4)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	4 (1.7)
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	7.5 (3.3)

17.16.190 - Standards of performance for nitric acid plants.

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A. No person shall cause, allow or permit discharge from any nitric acid plant producing weak nitric acid, which is either:

1. Thirty to seventy percent in strength by either the increased pressure or atmospheric pressure process; or

2. More than 1.5 kg of total oxides of nitrogen per metric ton (3.0 lbs/ton) of acid produced expressed as nitrogen dioxide.

B. The opacity of any plume subject to the provisions of this section shall not exceed ten percent.

C. A continuous monitoring system for the measurement of nitrogen oxides shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with Section 17.11.200.

D. The test methods and procedures required by this section are as follows:

1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standard prescribed in subsection A of this section as follows:

a. Method 7 for the concentration of NOx;

b. Method 1 for sample and velocity traverses;

c. Method 2 for velocity and volumetric flow rate;

d. Method 3 for gas analysis.

2. For Method 7, the sample site shall be selected according to Method 1 and the sampling point shall be the centroid of the stack or duct or at a point no closer to the walls than one meter (3.28 ft.). Each run shall consist of at least four grab samples taken at approximately fifteen-minute intervals. The arithmetic mean of the samples shall constitute the run value. A velocity traverse shall be performed once per run.

3. Acid production rate, expressed in metric tons per hour of one hundred percent nitric acid, shall be both:

a. Determined during each testing period by suitable methods; and

b. Confirmed by a material balance over the production system.

4. For each run, nitrogen oxides, expressed in g/metric ton of one hundred percent nitric acid, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation:

g/hr = Q;sub§\sub; × c

where:

Q;sub§\sub; = volumetric flow rate of the effluent in dscm/hr, as determined in accordance with paragraph (1)(c) of this subsection, and

c = NO_x concentration in g/dscm, as determined in accordance with paragraph (1)(a) of this subsection.

17.16.200 - Standards of performance for sulfuric acid plants.

A. Facilities that produce sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfide and mercaptans or acid sludge shall not discharge into the atmosphere:

1. Greater than two kg of sulfur dioxide per metric ton (four lbs/ton) of sulfuric acid produced (calculated as one hundred percent H_2SO_4); or

2. Greater than 0.075 kg of sulfuric acid mist per metric ton (0.15 lbs/ton) or sulfuric acid produced (calculated as one hundred percent H_2SO_4).

B. This section shall not apply to metallurgical plants or other facilities where conversion to sulfuric acid is utilized as a means of controlling emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

C. A continuous monitoring system for the measurement of sulfur dioxide shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with Section 17.11.200.

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D. The test methods and procedures required by this section are as follows:

1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with standards prescribed in subsection A of this section as follows:

   a. Method 8 for concentration of SO_2 and acid mist;

   b. Method 1 for sample and velocity traverses;

   c. Method 2 for velocity and volumetric flow rate;

   d. Method 3 for gas analysis.

2. The moisture content can be considered to be zero. For Method 8 the sampling time for each run shall be at least sixty minutes and the minimum sample volume shall be 1.15 dscm (40.6 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the control officer.

3. Acid production rate, expressed in metric tons per hour of one hundred percent H_2SO_4, shall be both:

   a. Determined during each testing period by suitable methods; and

   b. Confirmed by a material balance over the production system.

4. Acid mist and sulfur dioxide emissions, expressed in g/metric ton of one hundred percent H_2SO_4, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation, g/hr = Q;sub§ .....sub; × c, where Q;sub§

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Article V. - Emissions from New and Existing Portable Sources

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Article VII. - National Emission Standards for Hazardous Air Pollutants

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Article VIII. - New Major Sources and Major Modifications to Existing Major Sources

17.16.550 - General.

A. No person shall commence construction of a new major source or the major modification of a source without first obtaining a permit or a permit revision from the control officer. For purposes of this article, "major source" shall have the same meaning as defined in A.A.C. R18-2-401.

B. An application for a permit or permit revision under this article shall not be considered complete unless the application demonstrates that:

1. The requirements in subsection C of this section are met.

2. The more stringent of the applicable new source performance standards in Article VI or the existing source performance standards in Article IV are applied to the proposed new major source or major modification of a major source.

3. The visibility requirements contained in Section 17.16.630 are satisfied.

4. All applicable provisions of Chapters 17.11, 17.12, and 17.13 are met.

5. The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification.

   a. The degree of emission limitation required for control of any pollutant under this article shall not be affected in any manner by:

      i. Stack height in excess of GEP stack height except as provided in Section 17.11.150, or

      ii. Any other dispersion technique, unless implemented prior to December 31, 1970.

6. The new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in this title.

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7. The new major source or major modification will not exceed the limitations, if applicable, on emission from nonpoint sources contained in Article III of this chapter.

8. A stationary source that will emit five or more tons of lead per year will not violate the ambient air quality standards for lead as contained in Section 17.08.070.

9. The new major source or major modification will not have an adverse impact on visibility, as determined according to Section 17.16.630.

C. Except for assessing air quality impacts within Class I areas, the air impact analysis required to be conducted in connection with the filing for a permit shall initially consider only the geographical area located within a fifty kilometer radius from the point of greatest emissions for the new major source or major modification. The control officer (on their own initiative or upon receipt of written notice from any person) shall have the right at any time to request an enlargement of the geographical area for which an air quality impact analysis is to be performed by giving the person applying for the permit or permit revision written notice thereof, specifying the enlarged radius to be so considered. In performing an air impact analysis for any geographical area with a radius of more than fifty kilometers, the person applying for the permit or permit revision may use monitoring or modeling data obtained from major sources having comparable emissions or having emissions which are capable of being accurately used in such demonstration, and which are subjected to terrain and atmospheric stability conditions which are comparable or which may be extrapolated with reasonable accuracy for use in such demonstration.

D. Unless the requirements have been satisfied pursuant to Chapters 17.11, 17.12, and 17.13, the control officer shall comply with following requirements:

1. Within sixty days after receipt of an application for a permit or permit revision subject to this article, or any addition to such application, the control officer shall advise the applicant of any deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the control officer received all required information. The permit application shall not be deemed complete if the control officer fails to meet the requirements of this subdivision.

2. A copy of any notice required by Sections 17.12.190 and 17.13.210 shall be sent to the permit applicant, to the administrator, and to the following officials and agencies having cognizance over the location where the proposed major source or major modification would occur:

a. The air pollution control officer, if one exists, for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;

b. The county manager for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;

c. The city or town managers of the city or town which contains, and any city or town the boundaries of which are within five miles of, the location of the proposed or existing source that is the subject of the permit or permit revision;

d. Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and

e. Any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.

3. The control officer shall take final action on the application within one year of the proper filing of the completed application. The control officer shall notify the applicant in writing of their approval or denial.

4. The control officer shall cancel a permit or permit revision under this article if the proposed construction or major modification is not begun within eighteen months of issuance, or if during the construction or major modification, work is suspended for more than eighteen months.

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17.16.580 - Special rule for sources of VOC or oxides of nitrogen in ozone nonattainment areas classified as serious or severe.

A. Applicability. The provisions of this section only apply to stationary sources of VOC or oxides of nitrogen in ozone nonattainment areas classified as serious or severe. Unless otherwise provided in

this section, all requirements of Chapters 17.11, 17.12, and 17.13 and Articles III and IV of this chapter apply.

B. "Significant" means, for the purposes of a major modification of any stationary source of VOC or oxides of nitrogen, any physical changes or changes in the method of operations that results in net increases in emissions of either pollutant by more than twenty-five tons when aggregated with all other creditable increases in emissions from the source over the prior five consecutive calendar years, including the calendar year in which the increase is proposed. Emissions decreases shall only be creditable if they are simultaneous with the proposed modification.

C. For any stationary source that emits or has the potential to emit less than one hundred tons VOC or oxides of nitrogen per year, a significant increase in VOC or oxides of nitrogen from any discrete emitting unit, operation, or other pollutant emitting activity shall constitute a major modification unless the increase in emissions is offset from other units, operations or activities at the source at a ratio of 1.3 to one for the increase in VOC or oxides of nitrogen emissions from such unit, operation or activity within the facility only. If such a change qualifies as a major modification under this section, BACT shall be substituted for LAER. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in subsections E and F of this section.

D. For any stationary source that emits or has the potential to emit one hundred tons or more of VOC or oxides of nitrogen per year, any significant increase in VOC or oxides of nitrogen emissions from any discrete emitting unit, operation, or other pollutant emitting activity shall constitute a major modification. If the increase in emissions from such modification is offset from other units, operations or activities at the source at a ratio of 1.3 to one for the increase in VOC or oxides of nitrogen emissions from such unit, operation or activity, BACT shall be substituted for LAER. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in subsections E and F of this section.

E. For any new major source or major modification which is classified as such because of emissions or potential to emit VOC or oxides of nitrogen in an ozone nonattainment area classified as serious, the increase in emissions of these pollutants from such source or modification shall be offset at a ratio of 1.2 to one. Such offset shall be made in accordance with the provisions of Section 17.16.570.

F. For any new major source or major modification which is classified as such because of emissions or potential to emit VOC or oxides of nitrogen in an ozone nonattainment area classified as severe, the increase in emissions of these pollutants from such source or modification shall be offset at a ratio of 1.3 to one. If the SIP requires all existing major sources of these pollutants in the nonattainment area to apply BACT, then the offset ratio shall be 1.2 to one. All such offsets shall be made in accordance with the provisions of Section 17.16.570.

17.16.590 - Permit requirements for sources located in attainment and unclassifiable areas.

A. Except as provided in subsections B through G of this section and Section 17.16.610, Innovative control technology, no permit or permit revision under this article shall be issued to a person proposing to construct a new major source or make a major modification to a major source that would be constructed in an area designated as attainment or unclassifiable for any pollutant unless the source or modification meets the following conditions:

1. A new major source shall apply best available control technology (BACT) for each pollutant listed in Section 17.04340(A)(212)(a) for which the potential to emit is significant.

2. A major modification shall apply BACT for each pollutant listed in Section 17.04.340(A)(212)(a) for which the modification would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

3. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen months prior to commencement of construction of each independent phase of the project. At such time the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

4. BACT shall be determined on a case-by-case basis and may constitute application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or

innovative fuel combustion techniques, for control of such pollutant. In no event shall such application of BACT result in emissions of any pollutant, which would exceed the emissions allowed by any applicable new source performance standard or national emission standard for hazardous air pollutants under Article~~s~~ VI of this chapter. If the control officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

5. The person applying for the permit or permit revision under this article performs an air impact analysis and monitoring as specified in Section 17.16.600 and such analysis demonstrates that allowable emission increases from the proposed new major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions, for all pollutants listed in Table 17.08.150, and minor and mobile sources for oxides of nitrogen:

   a. Would not cause or contribute to an increase in concentrations of any pollutant by an amount in excess of any applicable baseline concentration in Table 17.08.150 for any attainment or unclassified area; or

   b. Would not contribute to an increase in ambient concentrations for a pollutant by an amount in excess of the significance level for such pollutant in any area in which Arizona primary or secondary ambient air quality standards for that pollutant are being violated. A new major source of volatile organic compounds or oxides of nitrogen, or a major modification to a major source of volatile organic compounds or oxides of nitrogen shall be presumed to contribute to violations of the Arizona ambient air quality standards for ozone if it will be located within fifty kilometers of a nonattainment area for ozone. The presumption may be rebutted for a new major source or major modification if it can be satisfactorily demonstrated to the control officer that emissions of volatile organic compounds or oxides of nitrogen from the new major source or major modification will not contribute to violations of the Arizona ambient air quality standards for ozone in adjacent nonattainment areas for ozone. Such a demonstration shall include a showing that topographical, meteorological or other physical factors in the vicinity of the new major source or major modification are such that transport of volatile organic compounds emitted from the source are not expected to contribute to violations of the ozone standards in the adjacent nonattainment areas.

6. Air Quality Models.

   a. All estimates of ambient concentrations required under this section shall be based on the applicable air quality models, data basis, and other requirements specified in 40 CFR 51, Appendix W, "Guideline On Air Quality Models," as of July 1, 2004 (and no future amendments or editions), which shall be referred to hereinafter as "Guideline", and is adopted by reference and is on file with PDEQ.

   b. Where an air quality impact model specified in the "Guideline" is inappropriate, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment. Written approval of the EPA administrator shall be obtained for any modification or substitution.

B. The requirements of this section shall not apply to a new major source or major modification to a source with respect to a particular pollutant if the person applying for the permit or permit revision under this article demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant.

C. The requirements of this section shall not apply to a new major source or major modification of a source if such source or modification would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source is not either among the Categorical Sources listed in Chapter 17.04, Article IX or belongs to the category of sources for which New Source Performance Standards under 40 CFR Part 60 or National Emission Standards for Hazardous Air Pollutants under 40 CFR Part 61 promulgated by the administrator prior to August 7, 1980.

D. The requirements of this section shall not apply to a new major source or major modification to a source when the owner of such source is a nonprofit health or educational institution.

E. The requirements of this section shall not apply to a portable source which would otherwise be a new major source or major modification to an existing source if such portable source is temporary, is under a permit or permit revision under this article, is in compliance with the conditions of that permit or permit revision under this article, the emissions from the source will not impact a Class I area nor an area where an applicable increment is known to be violated, and reasonable notice is given to the control officer prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the control officer not less than ten calendar days in advance of the proposed relocation unless a different time duration is previously approved by the control officer.

F. Special Rules Applicable to Federal Land Managers.

1. Notwithstanding any other provision of this section, a federal land manager may present to the control officer a demonstration that the emissions attributed to such new major source or major modification to a source will have significant adverse impact on visibility or other specifically defined air quality related values of any federal mandatory area designated in Section 17.08.100(B) regardless of the fact that the change in air quality resulting from emissions attributable to such new major source or major modification to a source in existence will not cause or contribute to concentrations which exceed the maximum allowable increases for a Class I area specified in Table 17.08.150. If the control officer concurs with such demonstrations, the permit or permit revision under this article shall be denied.

2. If the owner or operator of a proposed new major source or a source for which major modification is proposed demonstrates to the federal land manager that the emissions attributable to such major source or major modification will have no significant adverse impact on the visibility or other specifically defined air quality related values of such areas and the federal land manager so certifies to the control officer, the control officer may issue a permit or permit revision under this article notwithstanding the fact that the change in air quality resulting from emissions attributable to such new major source or major modification will cause or contribute to concentrations which exceed the maximum allowable increases for a Class I area. Such a permit or permit revision under this article shall require that such new major source or major modification comply with such emission limitations as may be necessary to assure that emissions will not cause increases in ambient concentrations greater than the following maximum allowable increases over baseline concentrations for such pollutants:

Sulfur Oxide Period of exposure	Maximum Allowable Increase (Micrograms per cubic meter)
Low terrain areas:	
24-hour maximum	36
3-hour maximum	130
High terrain areas:	
24-hour maximum	62
4-hour maximum	221

G. The issuance of a permit or permit revision under this article in accordance with this section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

H. At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

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17.16.610 - Innovative control technology.

A. Notwithstanding the provisions of Sections 17.16.590(A)(1), (2) and (3), the owner or operator of a proposed new major source or major modification may request that the control officer approve a system of innovative control technology rather than the best available control technology requirements otherwise applicable to the new source or modification.

B. The control officer shall approve the installation of a system of innovative control technology if the following conditions are met:

1. The owner or operator of the proposed source or modification satisfactorily demonstrates that the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 17.16.590(A)(2) by a date specified in the permit or permit revision for the source. Such date shall not be later than four years from the time of startup or seven years from permit or permit revision issuance;

3. The source or modification would meet requirements equivalent to those in Section 17.16.590(A) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified in the permit or permit revision under this article;

4. Before the date specified in the permit or permit revision under this article, the source or modification would not:

   a. Cause or contribute to any violation of an applicable state ambient air quality standard, or

   b. Impact any area where an applicable increment is known to be violated;

5. All other applicable requirements, including those for public participation contained in Sections 17.12.190 and 17.13.210, have been met;

6. The control officer receives the consent of the governors of other affected states;

7. The limits on pollutants contained in Section 17.08.150 for Class I areas will be met for all periods during the life of the source or modification.

C. The control officer shall withdraw any approval to employ a system of innovative control technology made under this section if:

1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3. The control officer decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

D. If the new source or major modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with subsection C of this section, the control officer may allow the owner or operator of the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

17.16.620 - Air quality models.

A. Where the control officer requires a person requesting a permit or permit revision under this article to perform air quality impact modeling to obtain such permit or permit revision under this article, the modeling shall be performed in a manner consistent with the "Guideline on Air Quality Models (Revised)".

B. Where the person requesting a permit or permit revision under this article can demonstrate that an air quality impact model specified in the "Guideline" is inappropriate, the model may be modified or another model substituted. However, before such modification or substitution can occur the control officer shall make a written finding that:

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1. No model in the Guideline is appropriate for a particular permit or permit revision under this article under consideration; or
2. The data base required for the appropriate model in the Guideline is not available; and
3. The model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline; and
4. The model proposed as a substitute or modification has been approved by the administrator.

C. Use of a modified or substituted model shall be subject to notice and opportunity for public comment pursuant to Sections 17.12.190 and 17.13.210.

17.16.630 - Visibility protection.

A. For any new major source or major modification subject to the provisions of this title, no permit or permit revision under this article shall be issued to a person proposing to construct or modify the source unless the applicant has provided:
   1. An analysis of the anticipated impacts of the proposed source on visibility in any Class I areas which may be affected by the emissions from that source; and
   2. Results of monitoring of visibility in any area near the proposed source for such purposes and by such means as the control officer determines are necessary and appropriate.

B. A determination of an adverse impact on visibility shall be made based on consideration of all of the following factors:
   1. The times of visitor use of the area;
   2. The frequency and timing of natural conditions in the area that reduce visibility;
   3. All of the following visibility impairment characteristics:
      a. Geographic extent,
      b. Intensity,
      c. Duration,
      d. Frequency,
      e. Time of day;
   4. The correlation between the characteristics listed in subdivision 3 of this subsection and the factors described in subdivisions 1 and 2 of this subsection.

C. The control officer shall not issue a permit or permit revision pursuant to this chapter or Chapters 17.11, 17.12, and 17.13 for any new major source or major modification subject to this title unless the following requirements have been met:
   1. The Control Officer shall notify the individuals identified in subdivision 2 of this subsection within thirty days of receipt of any advance notification of any such permit or permit revision application under this article.
   2. Within thirty days after receipt of the permit or permit revision application under this article for a source whose emissions may affect a Class I area, the control officer shall provide written notification of the application to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. The notice shall:
      a. Include a copy of all information relevant to the permit or permit revision application under this article,
      b. Include an analysis of the anticipated impacts of the proposed source on visibility in any area which may be affected by emissions from the source, and
      c. Provide for no less than a thirty-day period within which written comments may be submitted.
   3. The control officer shall consider any analysis provided by the federal land manager that is received within the comment period provided in subdivision 2 of this subsection.
      a. Where the control officer finds that the analysis provided by the federal land manager does not demonstrate to the satisfaction of the control officer that an adverse impact on visibility

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will result in the area, the control officer shall, within the public notice required under Sections 17.12.190 and 17.13.210, either explain the decision or specify where the explanation can be obtained.

b. When the control officer finds that the analysis provided by the federal land manager demonstrates to the satisfaction of the control officer that an adverse impact on visibility will result in the area, the control officer shall not issue a permit or permit revision under this article for the proposed major new source or major modification.

4. When the proposed permit decision is made, pursuant to Section 17.12.010(J)(8), and available for public review, the control officer shall provide the individuals identified in subdivision 2 of this subsection with a copy of the proposed permit decision and shall make available to them any materials used in making that determination.

17.16.640 - Special rule for non-operating sources of sulfur dioxide in sulfur dioxide nonattainment areas.

A. If an emissions unit that is a major source of sulfur dioxide located in a sulfur dioxide nonattainment area has not operated for more than twenty-four consecutive calendar months, it may only be restarted if the owner or operator of such source does all of the following:

1. Demonstrates, according to the air quality impact analysis requirements of Section 17.16.590 A5 and 6 that emissions from that unit, including fugitive emissions, will not cause or contribute to a violation of the ambient standard for sulfur dioxide in Section 17.08.020;

2. Demonstrates that startup of that unit will not require reconstruction; and

3. Submits a startup plan that includes a source testing plan.

B. The demonstration and plan shall be submitted at least one hundred eighty days prior to the expected day when the restarting of the non-operating unit will commence. The control officer may request additional information, as necessary to evaluate the submittals. The unit shall not be restarted unless the control officer approves the submittal.

C. If the control officer disapproves a demonstration or plan required in subsection A of this section, or such demonstration or plan, including additional information requested by the control officer, is not submitted in a timely manner, the source shall be required to obtain a permit pursuant to the requirements for a new major source or major modification as contained in this chapter.

D. The conduct of performance tests that comply with the requirements of Section 17.11.210 and demonstrate compliance with emission limits prescribed in a permit for that source or an applicable rule shall constitute operation of an emitting unit for the purposes of this section.

Article IX. - Ozone Depleting Substances

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Chapter 17.28 - VIOLATIONS AND CONDITIONAL ORDERS

Sections:

Article I. - Violations

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Article II. - Conditional Orders

17.28.100 - Conditional orders.

A. The control officer may grant to any person a conditional order for each air pollution source which allows such person to vary from any provision of A.R.S. Title 49, Chapter 3, Article 3, this title, or any nonfederally enforceable requirement of a permit issued pursuant to this title if the control officer makes each of the following findings:

1. Issuance of the conditional order will not endanger public health or the environment, impede attainment or maintenance of the national ambient air quality standards, or constitute a violation of the Clean Air Act, and

2. Either of the following is true:

a. There has been a breakdown of equipment or upset of operations beyond the control of the petitioner which causes the source to be out of compliance with the requirements of this title, the source was in compliance with the requirements of this Title before the breakdown or upset, and the breakdown or upset may be corrected within a reasonable time.

b. There is no reasonable relationship between the economic and social cost of, and benefits to be obtained from, achieving compliance.

B. The control officer may not issue a conditional order which allows a source to vary from the requirement to obtain a permit issued pursuant to Section 17.11.090.

C. The following procedures shall apply to a person seeking a conditional order:

1. The person shall file a petition for a conditional order with the control officer. The petition shall contain at a minimum:

a. A description of the breakdown or upset.

b. A description of corrective action being undertaken to bring the source back into compliance.

c. An estimate of emissions related to the breakdown or upset.

d. A compliance schedule with a date of final compliance and interim dates as appropriate.

e. A detailed analysis of the economic and social costs and benefits of achieving compliance with the requirement for which the variance is sought, if the petition is based on subsection A2b of this section.

2. If the issuance of the conditional order requires a public hearing pursuant to Sections 17.12.190(E) and 17.13.210(E), the control officer shall set the hearing date within thirty days after the filing of the petition and the hearing shall be held within sixty days after the filing of the petition.

3. Notice of the filing of a petition for a conditional order and of the hearing date on said petition shall be published in the manner provided in A.R.S. § 49-498 and Sections 17.12.190(C) and (D) and Sections 17.13.210(C) and (D).

4. At the time the control officer publishes the first notice, the applicant shall post a notice containing the information required in Sections 17.12.190(D) and 17.13.210(D) at the site where the source is or may be located. Consistent with federal, state, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. The applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.

5. The control officer shall provide at least thirty days from the date of its first notice for public comment. The control officer shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the control officer's responses shall be made available to the applicant and all commenters.

D. Decisions on petitions for a conditional order shall be made as follows:

1. For any conditional order that requires a revision to the SIP, the control officer shall comply with the requirements contained in 40 CFR 51, Subpart F.

2. For any other conditional order, the control officer shall grant or deny the petition on such terms and conditions as the control officer deems appropriate within thirty days after the conclusion of any required hearing, or, if no hearing is held, within sixty days after the filing of the petition.

E. A fee to cover the costs of processing conditional orders may be charged by the control officer prior to issuance of the conditional order according to Section 17.12.220(I) or (J) and shall be deposited in the Air Quality Revenue Fund.

F. The terms of a conditional order or its renewal shall conform to the following:

1. A conditional order issued by the control officer shall be valid for such period as the control officer prescribes but in no event for more than one year in the case of a source that is required to obtain a permit pursuant to this title and Title V of the Act (Permits), and three years in the case of any other source that is required to obtain a permit pursuant to this title.

2. The terms and conditions which are imposed as a condition to the granting or the continued existence of a conditional order shall include:

   a. A detailed plan for completion of corrective steps needed to conform to the provisions of A.R.S. Title 49, Chapter 3, Article 3, this title and the requirements of any permit issued pursuant to this title.

   b. A requirement that necessary construction shall begin as specified in the compliance schedule.

   c. Written reports, at least quarterly, of the status of the source and construction progress.

   d. The right of the control officer to make periodic inspection of the facilities for which the conditional order is granted.

   e. Such additional terms and conditions as the control officer finds necessary to meet the requirements of this section and A.R.S. § 49-437.

3. A holder of a conditional order may petition the control officer to renew the order. The total term of the initial period and all renewals shall not exceed three years from the date of initial issuance of the order. Petitions for renewal may be filed at any time not more than sixty days nor less than thirty days prior to the expiration of the order. The control officer, within thirty days of receipt of a petition, shall renew the conditional order for one year if the petitioner is in compliance and conforming with the terms and conditions imposed. The Control Officer may refuse to renew the conditional order if, after a public hearing held within thirty days of receipt of a petition, the control officer finds that the petitioner is not in compliance and conforming with the terms and conditions of the conditional order. If, after a period of three years from the date of original issuance the petitioner is not in compliance and conforming with the terms and conditions, the control officer may renew a conditional order for a total term of two additional years only if the control officer finds that failure to comply and conform is due to conditions beyond the control of such petitioner.

4. If the control officer amends or adopts any rule imposing conditions on the operation of an air pollution source which have become effective as to the source by reason of the action of the control officer or otherwise, and which require the implementation of control strategies necessitating the installation of additional or different air pollution control equipment, the control officer may renew a conditional order for an additional term. The term of the renewal shall be governed by the preceding subsections of this section, except that the total term of the renewal shall not exceed two years.

5. A conditional order issued by the control officer shall be effective when issued unless:

   a. The conditional order varies from the requirements of the applicable implementation plan, in which case the conditional order shall be submitted to the administrator as a revision to the applicable implementation plan pursuant to Section 110(L) of the Act (Implementation Plans), and shall become effective upon approval by the administrator.

   b. The conditional order varies from the requirements of a permit issued for a facility that is required to obtain a permit pursuant to Title V of the Act (Permits), in which case the conditional order shall be submitted to the administrator if required by Section 505 of the Act (Notification to administrator and Contiguous States), and shall be effective at the end of the review period specified in such section, unless objected to within such period by the administrator.

G. If the terms and conditions of the conditional order are being violated, the control officer may seek to revoke or suspend the conditional order. In such event, the control officer shall serve notice of such violation on the holder of the conditional order in the manner provided in A.R.S. § 49-498. The notice shall specify the nature of such violation and the date on which a hearing will be held to determine if a violation has occurred and whether the conditional order should be suspended or revoked. The date of the hearing shall be within thirty days from the date the notice is served upon the holder of the conditional order.

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