



SIP Revision: New Source Review—Significant Emission Rate for Ammonia in PM_{2.5} Nonattainment Areas

*Air Quality Division
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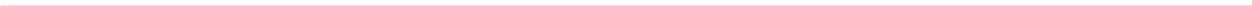


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COMPLETENESS CRITERIA

(40 C.F.R. PART 51, APPENDIX V, § 2.0)

Appendix V § 2.1 - Administrative Materials

(a) A formal signed, stamped, and dated letter of submittal from the Governor or his designee, requesting EPA approval of the plan or revision thereof (hereafter “the plan”). If electing to submit a paper submission with a copy in electronic version, the submittal letter must verify that the electronic copy provided is an exact duplicate of the paper submission.

See the cover letter for this State Implementation Plan (SIP) submission and attached delegation of authority from Misael Cabrera, Director of ADEQ, to Daniel Czecholinski, Director of the ADEQ Air Quality Division, authorizing Mr. Czecholinski to perform any act the ADEQ Director is authorized to perform under the state air quality statutes, including the submission of SIPs to EPA.

(b) Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter “document”) in final form. That evidence shall include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date.

As described in greater detail in Chapter 1, *infra*, this SIP submission consists of a revision to ADEQ’s Nonattainment New Source Review (NNSR) program for major sources designed to cure the single, remaining deficiency from EPA’s 2016 limited disapproval of the NNSR provisions in ADEQ’s 2012 SIP revision. This SIP revision establishes a significant emission rate for ammonia, as a PM_{2.5} precursor, for the Nogales and West Central Pinal PM_{2.5} nonattainment areas.

The Notice of Final Rulemaking (NFRM), attached as Appendix A, for this NNSR revision has been submitted to the Governor’s Regulatory Review Committee (GRRC) for approval pursuant to Arizona Revised Statutes (A.R.S.) § 41-1052. This is the last step in the state’s administrative process before the final rule is submitted to the Secretary of State for publication and is unlikely to result in any substantive changes to the rule language. As indicated in the cover letter, ADEQ is requesting that this SIP revision be reviewed under parallel processing (40 CFR Part 51, Appendix V, § 2.3.1). Therefore, ADEQ will supplement this SIP revision with a Notice of Final Rulemaking when the final rule has been published by the Secretary of State and public process documentation consistent with A.R.S. § 49-444 and Clean Air Act § 110(l).

ADEQ anticipates, contingent upon approval by GRRC (A.R.S. Title 41, Chapter 6, Article 5), the NFRM will be published in January 2020 with a March 2020 effective date.

(c) Evidence that the State has the necessary legal authority under State law to adopt and implement the plan.

ADEQ is authorized to adopt and administer NSR rules and to submit the rules for approval in the SIP under A.R.S. §§ 49-104, 49-106, 49-404, 49-406, 49-425, and 49-426, which are included in Appendix B.

(d) A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (such as redline/strikethrough) to the existing approved plan, where applicable. The submission shall include a copy of the official State regulation/document, signed, stamped, and dated by the appropriate State official indicating that it is fully enforceable by the State. The effective date of any regulation/document contained in the submission shall, whenever possible, be indicated in the regulation/document itself; otherwise the State should include a letter signed, stamped, and dated by the appropriate State official indicating the effective date. If the regulation/document provided by the State for approval and incorporation by reference into the plan is a copy of an existing publication, the State submission should, whenever possible, include a copy of the publication cover page and table of contents.

The NFRM contains the proposed amendment to order to cure the remaining NNSR deficiency identified by the EPA's 2016 limited disapproval. See Appendix A. Table 2-1 below shows the proposed rule that will be amended by this SIP Revision.

(e) Evidence that the State followed all of the procedural requirements of the State's laws and constitution in conducting and completing the adoption/issuance of the plan.

Not applicable. 40 CFR Part 51, Appendix V § 2.3.1(d) ("The requirements of paragraphs 2.1(e)-2.1(h) shall not apply to plans submitted for parallel processing").

(f) Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice.

Not applicable. 40 CFR Part 51, Appendix V § 2.3.1(d).

(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.

Not applicable. 40 CFR Part 51, Appendix V § 2.3.1(d).

(h) Compilation of public comments and the State's response thereto.

Not applicable. 40 CFR Part 51, Appendix V § 2.3.1(d).

Appendix V § 2.1 - Technical Support

(a) Identification of all regulated pollutants affected by the plan.

This SIP revision addresses ammonia as a precursor to PM_{2.5}.

(b) Identification of the locations of affected sources including the EPA attainment/nonattainment designation of the locations and the status of the attainment plan for the affected areas(s).

There are no affected sources, because there are currently no major sources of ammonia in Arizona's two PM_{2.5} nonattainment areas. This proposed rule amendment will have an effect if a major source of ammonia subject to NSR is constructed in one of those areas (before it is redesignated to attainment)

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and is subsequently subject to a physical or operational change that results in both an increase and a net increase in ammonia emissions.

(c) Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.

Not applicable.

(d) The State's demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented. For all requests to redesignate an area to attainment for a national primary ambient air quality standard, under section 107 of the Act, a revision must be submitted to provide for the maintenance of the national primary ambient air quality standards for at least 10 years as required by section 175A of the Act.

Not applicable.

(e) Modeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.

Not applicable.

(f) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.

Not applicable.

(g) Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels.

Not applicable.

(h) Compliance/enforcement strategies, including how compliance will be determined in practice.

Not applicable.

(i) Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.

Not applicable.

1 INTRODUCTION

Chapter 1 provides an overview of Arizona’s Nonattainment New Source Review (NNSR) SIP revisions. Chapter 2 examines the proposed rule, submitted for parallel processing, that establishes an ammonia significant emission rate (SER) of forty (40) tons per year (tpy). Chapter 3 requests that the United States Environmental Protection Agency (EPA) approve this State Implementation Plan (SIP) revision into Arizona’s SIP.

Section 1.1 examines the requirements under the Clean Air Act (CAA) for fine particulate matter (PM_{2.5}) precursors and the procedural history of Arizona’s recent NSR SIP revisions. Section 1.2 describes Arizona’s two PM_{2.5} nonattainment areas.

1.1 Statement of Introduction and Purpose

Section 189(e) of the CAA requires that control requirements for sources of PM₁₀ in PM₁₀ nonattainment areas also apply “to major stationary sources of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels which exceed the standard in the area.” Additionally, PM_{2.5} nonattainment areas are required to comply with CAA § 189(e).¹

On April 28, 2012, ADEQ submitted a significant SIP revision designed to update to the Arizona SIP for New Source Review (NSR) to satisfy current federal NSR requirements.

EPA published a limited approval and disapproval of the 2012 revision in the Federal Register on November 2, 2015.² The limited approval/limited disapproval found that the new and amended rules submitted by ADEQ contained some deficiencies but met most of the applicable CAA requirements for NSR programs and overall improved and strengthened the existing SIP.³ The limited approval/limited disapproval deferred making a determination as to whether the 2012 submittal fully addressed section 189(e) of the CAA, as it relates to NNSR permitting requirements for major stationary sources of PM_{2.5} precursors in PM_{2.5} nonattainment areas.

On June 22, 2016, EPA published a limited disapproval of the NNSR provisions in ADEQ’s 2012 SIP revision as they pertain to the Nogales and West Central Pinal PM_{2.5} nonattainment areas.⁴ EPA determined that the 2012 submittal did not satisfy CAA § 189(e) for these areas, because it neither contained rules regulating Volatile Organic Compounds (VOCs) or ammonia as PM_{2.5} precursors nor included a demonstration showing that the regulation of VOCs or ammonia was not necessary.⁵

On April 28, 2017, ADEQ submitted a SIP revision to correct the deficiencies identified in the November 2015 limited approval/limited disapproval. The revision also corrected most of the deficiencies identified in the June 2016 limited disapproval with regard to PM_{2.5} precursors. The revision did not, however, include a significant rate for ammonia or a demonstration that the regulation of ammonia as a precursor was not necessary, as required by 40 CFR §§ 51.165(a)(1)(x)(F) and 51.165(a)(13).

¹ See *generally* Nat. Resources Def. Council v. EPA, 706 F.3d 428 (D.C. Cir. 2013).

² 80 FR 67319 (Nov. 2, 2015).

³ *Id.*

⁴ 81 FR 40525 (June 22, 2016).

⁵ *Id.* at 40526.

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In a letter dated December 6, 2017, ADEQ committed to meet the requirements of section 189(e) either by revising R18-2-101(131) to add a significant rate for ammonia or by making a demonstration consistent with 40 CFR §§ 51.165(a)(1)(x)(F) and 51.165(a)(13) that the regulation of ammonia as a PM_{2.5} precursor is not necessary. ADEQ stated that it would submit a SIP revision satisfying these conditions by the earlier of March 31, 2019 or one year from the date EPA takes final action on the April 2017 SIP revision and requested conditional approval of the April 2017 SIP revision based on this commitment.

On May 4, 2018, EPA published a notice of conditional approval of the April 2017 SIP revision as it relates to ammonia as a PM_{2.5} precursor.⁶ The notice concluded that “ADEQ’s December 6, 2017 commitment letter provides adequate assurance that the one deficiency concerning ammonia as a PM_{2.5} precursor will be addressed in a timely manner, consistent with CAA section 110(k)(4).”

On March 29, 2019, ADEQ submitted a SIP revision, pursuant to 40 CFR § 51.165(a)(13), demonstrating that ammonia does not significantly contribute to PM_{2.5} nonattainment in Arizona. Based on subsequent conversations between EPA and ADEQ staff, EPA staff believes that this submission is not approvable.

ADEQ disagrees with EPA staff’s assessment. However, in order to assure that the requirements of Title I, Part D of the CAA are met and the terms of the 2018 conditional approval are satisfied, ADEQ adopts and submits a SER for ammonia, as a PM_{2.5} precursor in PM_{2.5} nonattainment areas, at a rate of 40 tpy.⁷

On April 26, 2019, ADEQ published a Notice of Proposed Rulemaking (NPRM) proposed amending the definition of “significant” in R18-2-101(131) to include an emission rate for ammonia, as a precursor to PM_{2.5}, in PM_{2.5} nonattainment areas within the State of Arizona.

ADEQ received public comments in response to its Notice of Proposed Rulemaking (25 A.A.R. 993). One of the public comments received was submitted by EPA regarding other New Source Review (NSR) rules in Title 18, Chapter 2, Articles 3 and 4.

On September 13, 2019, ADEQ published a Notice of Supplement Proposed Rulemaking (NSPRM) that addressed EPA’s comments. ADEQ received no comments in response to the NSPRM. ADEQ submitted a Notice of Final Rulemaking (NFRM) to the Governor’s Regulatory Review Council (GRRC) for approval under A.R.S. § 41-1052.⁸

1.2 Nonattainment Area Description

Arizona has two PM_{2.5} nonattainment areas for the 2006 PM_{2.5} National Ambient Air Quality Standards (NAAQS): Nogales, located in Santa Cruz County around the border city of Nogales, and West Central Pinal (WCP), located in western Pinal County.⁹ Figure 1-1 displays the PM_{2.5} nonattainment areas in Arizona. Both nonattainment areas have clean data findings for the 2006 PM_{2.5} NAAQS.¹⁰

The Nogales nonattainment area in southern Arizona is within Santa Cruz County on the international border with Mexico and includes the City of Nogales, the community of Rio Rico, and unincorporated portions of the County. Nogales is characterized by a semi-arid climate. The average daily maximum

⁶ 83 FR 1212 (Jan. 10, 2018); 83 FR 19631 (May 4, 2018).

⁷ See Appendix A.

⁸ *Id.*

⁹ 40 CFR § 81.303.

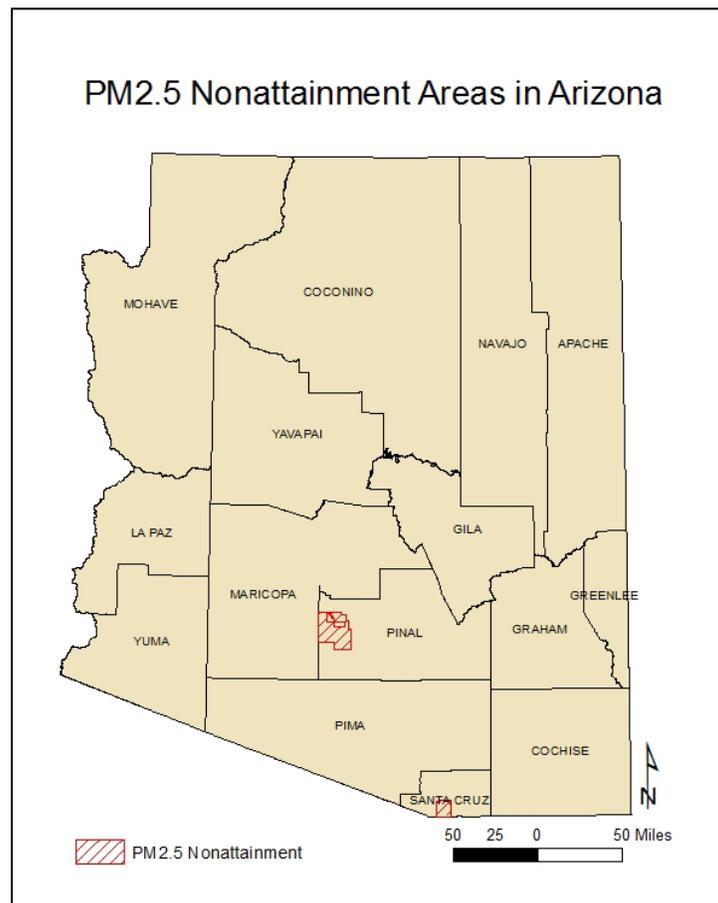
¹⁰ See 78 FR 54394 (Sep. 4, 2013); See also 78 FR 887 (Jan. 7, 2013).

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temperature is 79.7°F, based on a 62-year average of meteorological data. The highest monthly daily maximum average temperature of 94°F occurs in July, and the lowest monthly daily minimum average temperature of 64.3°F occurs in January. Annual precipitation for Nogales is about 16 inches; the monsoon season runs from July to August bringing in about 8-9 inches of precipitation.¹¹ The Nogales nonattainment area contains major ports of entry into the country from Mexico for commercial vehicles, passenger vehicles, and aircraft.

WCP nonattainment area is located in Central Arizona, lying within a basin between the Phoenix and Tucson metropolitan areas. Western Pinal County is characterized by a low desert arid climate with annual average temperature of 71°F, which is higher than the Arizona annual average temperature of 65.97°F, and is much higher than the annual national average temperature of 54.45°F. The mean maximum temperature reaches to 105°F in July and the mean minimum temperature drops to 38.5 °F in December.¹² WCP receives annual precipitation of around 10 inches, which mostly falls in the summer monsoon season. WCP is primarily an agricultural area, cotton and dairy farms, with moderate residential development.

Figure 1-1. PM_{2.5} Nonattainment Areas in Arizona



¹¹ Western Regional Climate Center, *Nogales, Arizona*, <http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?az5924> (last visited Apr. 18, 2019).

¹² USA.com, *Pinal County Weather*, <http://www.usa.com/pinal-county-az-weather.htm#HistoricalPrecipitation>, (last visited Apr. 18, 2019).

2 AMENDED A.A.C. R18-2-101(131)(e) CORRECTS NNSR DEFICIENCY

Chapter 2 discusses the proposed rule revisions to Arizona’s SIP. Section 2.1 examines the rules to be added to and removed from the SIP. Section 2.2 identifies the remaining deficiency from EPA’s 2016 limited disapproval and illustrates how the NFRM, attached as Appendix A, corrects the deficiency. Section 2.3 reviews other nonattainment areas with similar rules, either approved by (or proposed to be approved) by the EPA. This section concludes that the amending Arizona’s definition of “significant” to include ammonia at a rate of 40 tpy meets NNSR requirements. Section 2.4 reviews the other technical rule corrections ADEQ proposes for adoption in Arizona’s SIP.

2.1 SIP approved rules to be amended.

Currently, A.A.C. 18-2-101(131) is deficient because it does not define a SER for ammonia in PM_{2.5} nonattainment areas.¹³ On April 26, 2019, ADEQ proposed amending this rule to address the remaining deficiency identified in EPA’s 2016 limited disapproval.¹⁴ On September 13, 2019, ADEQ supplemented its proposed rule change to address several public comments received, including those by the U.S. EPA. After publication of the Notice of Final Rulemaking, ADEQ will submit it to EPA as a supplement to this SIP revision.

Table 2-1 identifies the rule that ADEQ is requesting be approved into the SIP and, where appropriate, the existing SIP rules that they are replacing. ADEQ requests that EPA remove the replaced subparagraph A.A.C. R18-2-101(131)(e) from the Arizona SIP. As currently approved in Arizona’s SIP, subsection (131)(e) only specifies a SER for VOCs, as a PM_{2.5} precursor, in PM_{2.5} nonattainment areas. Therefore, ADEQ is proposing to add a SER for ammonia to this definition of significant. Additional rule changes to improve clarity, consistency and update incorporations by reference are described in detail in the NFRM.¹⁵

Table 2-1. Rules to Be Added to and Removed from the SIP

Rule to be added to the Arizona SIP	Title	Existing SIP Rule Requested to be removed from SIP
A.A.C. R18-2-101(131)(e - g) ¹⁶	Definitions	A.A.C. R18-2-101(131)(e - f) ¹⁷
A.A.C. R18-2-301(21)	Definitions	A.A.C. R18-2-301(21)
A.A.C. R18-2-302.01(B)(4), (C)(1)	Source Registration Requirements	A.A.C. R18-2-302.01(B)(4), (C)(1)

¹³ A.A.C. R18-2-101(131)(e) (“In PM_{2.5} nonattainment areas, 40 tons per year of VOC as a precursor of PM_{2.5}.”) (as amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1)); *see also* 83 FR 19631 (May 8, 2018).

¹⁴ *See* 25 A.A.R. 993 (Apr. 26, 2019).

¹⁵ Appendix A.

¹⁶ *Id.*

¹⁷ *See supra* note 13.

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Rule to be added to the Arizona SIP	Title	Existing SIP Rule Requested to be removed from SIP
A.A.C. R18-2-304(F)(1, 6, and 8), (J)(2)(a)	Permit Application Processing Procedures	A.A.C. R18-2-304(F)(1, 6, and 8), (J)(2)(a)
A.A.C. R18-2-334(C)(2), (G-H)	Minor New Source Review	A.A.C. R18-2-334(C)(2), (G-H)
A.A.C. R18-2-406(A)(6)(a)	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	A.A.C. R18-2-406(A)(6)(a)

2.2 Correction of Limited Disapproval Deficiency Related to NNSR.

Table 2-2 lists the remaining deficiency with ADEQ's NNSR program identified in EPA's 2016 limited disapproval and the amended rules designed to correct those deficiencies. The amended rule corrects this deficiency by defining significant as 40 tpy of ammonia in PM_{2.5} nonattainment areas. Therefore by adopting an ammonia SER, this SIP revision meets the requirements to regulate PM_{2.5} precursors in PM_{2.5} nonattainment areas. 40 CFR §§ 51.165(a)(1)(x)(F), (a)(13).

Table 2-2. Correction of NNSR Deficiency

Federal Requirement	Deficiency Identified in Limited Disapproval	Amended Rules Correcting Deficiency
40 CFR §§ 51.165(a)(1)(x)(F), (a)(13)	EPA found that ADEQ's NNSR program did not fully address ammonia as a PM _{2.5} precursor. ¹⁸	R18-2-101(131)(e) [amends definition of significant for purposes of NNSR]. ¹⁹

2.3 Other EPA approved Ammonia SERs.

This section examines a non-exhaustive list of SIPs that incorporate or likely will incorporate an identical ammonia SER. At least two California air quality management districts recently amended their NSR rules to include an ammonia SER: South Coast Air Quality Management District (SCAQMD) and Imperial County Air Pollution Control District (ICAPCD). Additionally, Knox County, TN adopted the same significance threshold for ammonia. As EPA has approved, or proposed approval, of several SIP revisions adding a 40 tpy of ammonia SER in PM_{2.5} nonattainment areas, this standard satisfies the requirements of CAA § 189(e). Therefore, approval of this SIP revision is consistent with EPA's other similar actions.

¹⁸ 81 FR 40525, 40526 (June 22, 2016).

¹⁹ See Appendix A.

2.3.1 South Coast ammonia regulation.

This SIP revision proposes an ammonia SER identical to SCAQMD's Rule 1325.²⁰ In its final report, SCAQMD justified a 40 tpy of ammonia SER in PM_{2.5} nonattainment areas by stating:

Because [Proposed Amended Rule] 1325 identifies VOC and ammonia as precursors, new significant modification thresholds are proposed for those pollutants. The thresholds are based on the existing Rule 1325 values for PM_{2.5} precursors nitrogen oxides and sulfur dioxide, of 40 tons per year. U.S. EPA's regulation requires the threshold for VOCs to be 40 tons per year but allows states to propose thresholds for ammonia. SCAQMD staff proposes the same 40 tons per year threshold for ammonia. This is a conservative approach as since on a regional basis, NOx emissions have a greater influence in the formation of secondary ambient PM_{2.5} than ammonia emissions.²¹

SCAQMD based its ammonia significance threshold on EPA's threshold for VOCs. On August 8, 2018, EPA proposed conditional approval of SCAQMD's Rule 1325, which established a 40 tpy of ammonia SER.²² EPA identified Rule 1325 as deficient:

The definition of Regulated NSR Pollutant was not revised to include VOC and ammonia as PM_{2.5} precursors. Because the definition for the term Major Modification relies on the definition of Regulated NSR Pollutant, Rule 1325 does not satisfy the requirement to include VOC and ammonia as PM_{2.5} precursors when evaluating if a project will result in a major modification, and it is therefore deficient.²³

On November 30, 2018, EPA finalized its conditional approval of SCAQMD's ammonia SER.²⁴ This conditional approval is based on California's commitment that it will submit a SIP revision to correct the identified deficiencies by December 30, 2019.²⁵

Approving this SIP revision would be consistent with EPA's administrative actions for SCAQMD's rulemaking. Like SCAQMD, ADEQ is proposing an ammonia SER at a rate of 40 tpy.²⁶ Unlike SCAQMD, ADEQ's rules already define regulated NSR pollutant to include VOCs and ammonia as PM_{2.5} precursors.²⁷

²⁰ Regulations.gov, Docket Number EPA-R09-OAR-2018-0413, A.3 SCAQMD Rule 1325 clean, *available at* <https://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2018-0413-0002&attachmentNumber=3&contentType=pdf> (last visited May 7, 2019); *see also* SCAQMD Rule 1325 (last amended Jan. 4, 2019) *available at* <https://www.arb.ca.gov/drdb/sc/curhtml/r1325.pdf> (last visited May 7, 2019).

²¹ SCAQMD, Final Staff Report (Nov. 2016), p. 7, *available at* <https://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2018-0413-0002&attachmentNumber=5&contentType=pdf> (last accessed May 8, 2019) (editorial markups removed for clarity)

²² 83 FR 39012, 39013 (Aug. 8, 2018) ("Section (b)—Definitions have been revised to update: . . . (4) the definition of "Significant" to include VOC and ammonia and specify a 40 tpy threshold. EPA finds these revisions approvable, as they are consistent with current applicable requirements for a serious PM_{2.5} nonattainment area.").

²³ *Id.*

²⁴ 83 FR 61551 (Nov. 30, 2018).

²⁵ 40 CFR § 52.248(f).

²⁶ *See* Appendix A.

²⁷ A.A.C. R18-2-101(124)(a)(iv) (defining "Regulated NSR pollutant" to include VOCs and ammonia, as PM_{2.5} precursors, in PM_{2.5} nonattainment areas.) (as amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1)); *see also* 83 FR 19631 (May 8, 2018).

2.3.2 Imperial Valley ammonia regulation.

Like SCAQMD, ICAPCD proposed an identical significance threshold for its NNSR program. ICAPCD selected its 40 tpy of ammonia SER by following SCAQMD's example:

Because Rule 207 identifies VOC and ammonia as precursors of PM_{2.5}, new thresholds for significant modification are proposed for these pollutants. The thresholds are based on the existing Rule 207 values for PM_{2.5} precursor's nitrogen oxides and sulfur dioxide of 40-tpy. US EPA's regulation requires the thresholds for VOCs to be 40-tpy but allows states to propose thresholds for ammonia. The District proposes a similar 40-tpy threshold for ammonia. This is a conservative approach which is expected to be acceptable to US EPA since the same threshold has been proposed and deemed acceptable for South Coast AQMD' [sic] NSR rule.²⁸

On March 22, 2019, EPA proposed approval of this revision to ICAPCD's portion of California's SIP. ICAPCD proposed adding an amended version of its Rule 207.²⁹ "ICAPCD added new language to establish a threshold of significance of 40-tpy for VOC and ammonia. This action is appropriate since ammonia and VOCs are precursor pollutants for PM_{2.5} formation."³⁰ While the EPA's action in this matter is not yet final, the comment period for this proposed rule closed on April 22, 2019.³¹ EPA has not received any negative comments regarding approval of this rule, and therefore ADEQ believes it is likely that EPA will publish a final rule approving ICAPCD's Rule 207.³²

2.3.3 Knox County, TN ammonia regulation.

As part of its NSR program, Knox County, TN adopted a 40 tpy of ammonia SER. Knox County adopted its ammonia SER based on the definition of "significant" for other PM_{2.5} precursors (nitrogen oxide, sulfur dioxide, and volatile organic compounds).³³ Federal regulations for PM_{2.5} precursors, other than ammonia, require a SER of 40 tpy.³⁴ In June 2018, the EPA proposed approval of Knox County's SIP revision, stating:

Knox County opted to set the emission threshold [for ammonia] at that of other PM_{2.5} precursors (NO_x, SO₂, and VOC) set forth in federal requirements, and therefore set it at 40 tons per year. According to Knox County, this is a conservative approach since the area currently has

²⁸ Regulations.gov, Docket Number EPA-R09-OAR-2019-0056, ICAPCD Draft Staff Report (Sep. 11, 2018), available at <https://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2019-0056-0002&attachmentNumber=4&contentType=pdf> (last accessed May 7, 2019).

²⁹ 84 FR 10753 (Mar. 22, 2019).

³⁰ EPA, Region IX, Technical Support Document for Notice of Proposed Rulemaking, p. 6, available at <https://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2019-0056-0004&attachmentNumber=1&contentType=pdf> (Docket No. EPA-R09-OAR-2019-0056) (last visited Apr. 26, 2019).

³¹ *Id.*

³² Regulations.gov, Docket Number EPA-R09-OAR-2019-0056, available at <https://www.regulations.gov/docketBrowser?rpp=50&so=DESC&sb=postedDate&po=0&dct=PS&D=EPA-R09-OAR-2019-0056> (last visited Apr. 23, 2019).

³³ Knox County Air Pollution Control Board, Technical justification for the definition of "significant" for ammonia (Jan. 18, 2017), available at <https://www.regulations.gov/document?D=EPA-R04-OAR-2017-0542-0032> (last visited Apr. 29, 2019).

³⁴ 40 CFR § 51.165(a)(1)(x)(A) ("PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of Sulfur dioxide emissions, 40 tpy of Nitrogen oxide emissions, or 40 tpy of VOC emissions, to the extent that any such pollutant is defined as a precursor for PM_{2.5} in paragraph (a)(1)(xxxvii) of this section.")

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no major stationary sources of ammonia. EPA agrees with this determination and believes that the 40 ton per year threshold will be sufficient to determine a significant emissions increase.³⁵

In September 2018, EPA finalized its approval of the revision to the Knox County portion of the Tennessee SIP revision.³⁶

2.3.4 40 tpy of ammonia SER satisfies NNSR requirements.

Based on the EPA's final and proposed actions in California and Tennessee, ADEQ believes that the adoption of a 40 tpy of ammonia SER in Arizona's PM_{2.5} nonattainment areas satisfies the requirements of CAA § 189(e) and 40 CFR § 51.165(a)(13). Like Knox County, the Nogales and WCP PM_{2.5} nonattainment areas do not contain major sources of ammonia. Therefore, the conservative approach of adopting a SER that is identical to the federally required rate for other PM_{2.5} precursors meets the CAA requirements for NNSR.

³⁵ 83 FR 28568, 28575 (June 20, 2018).

³⁶ 83 FR 46880 (Sep. 17, 2018).

3 CONCLUSION

As mentioned in this SIP revision's cover letter and pursuant to 40 C.F.R. Part 51, Appendix V, § 2.3, ADEQ is requesting that the EPA propose approval of the enclosed SIP revision by parallel processing to expedite review and approval. Parallel processing allows States to submit a plan to the EPA prior to actual adoption by a State and provides an opportunity for the State to consider EPA's comments prior to submittal of the final plan for final review and action.

ADEQ will supplement this SIP revision with: 1) a Notice of Final Rulemaking published by the Arizona Secretary of State; and 2) the required public process documentation, once public notice and comment is complete for this SIP revision.



Appendix A

Notice of Final Rulemaking Submitted to Governor's Regulatory Review Council

Air Quality Division

November 14, 2019 Proposed Version

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NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

PREAMBLE

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

R18-2-101	Amend
R18-2-301	Amend
R18-2-302.01	Amend
R18-2-304	Amend
R18-2-334	Amend
R18-2-406	Amend

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

Authorizing statute: A.R.S. §§ 49-104(A)(1) and (A)(10), 49-404(A).

Implementing statute: A.R.S. §§ 49-425(A) and 49-426.

3. The effective date of the rule:

February 1, 2020.

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

Not applicable.

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

Not applicable.

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the

record of the proposed rule:

Notice of Rulemaking Docket Opening: 25 A.A.R. 1113, April 26, 2019

Notice of Proposed Rulemaking: 25 A.A.R. 993, April 26, 2019.

Notice of Supplement Proposed Rulemaking: 25 A.A.R. 2352, September 13, 2019.

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

Name: Zachary Dorn

Address: Arizona Department of Environmental Quality
Air Quality Division, AQIP Section
1110 W. Washington St.
Phoenix, AZ 85007

Telephone: (602) 771-4585 (This number may be reached in-state by dialing 1-800-234-5677 and entering the seven digit number.)

Fax: (602) 771-2299

E-mail: dorn.zachary@azdeq.gov

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

Summary.

The purpose of this rulemaking is to remedy a deficiency identified by the United State Environmental Protection Agency (EPA) in Arizona's Nonattainment New Source Review (NNSR) rules. The Arizona Department of Environmental Quality (ADEQ) must adopt rules defining a significant emission rate (SER) for ammonia, as a precursor to fine particulate matter ("PM_{2.5}"), under the NNSR program to comply with federal requirements. This rulemaking action is required to secure full approval of Arizona's NSR rules into the state implementation plan (SIP) and avoid sanctions under the federal Clean Air Act (CAA). Therefore, ADEQ amends the definition of "significant" in R18-2-101(131) to include an emission rate for ammonia in PM_{2.5} nonattainment areas within the State of Arizona.

On April 26, 2019, a Notice of Proposed Rulemaking (25 A.A.R. 993) was published in the Arizona Administrative Register proposing a significant emission rate for ammonia, as a precursor to PM_{2.5}, in PM_{2.5} nonattainment areas.

In response to its NPRM (25 A.A.R. 993), ADEQ received public comments. One of the public comments received was submitted by EPA regarding other New Source Review (NSR) rules in Title 18, Chapter 2, Articles 3 and 4.

On September 13, 2019, a Notice of Supplemental Proposed Rulemaking (NSPRM) (25 A.A.R. 2352) was published to address EPA's public comment to the NPRM. ADEQ did not receive any public comments in response to the NSPRM.

The section-by-section explanation of the amended rules in Section 6 and Section 10 of this preamble discuss these changes in greater detail.

Legal Background.

Under section 110(a)(1) of the CAA, each state is obligated to submit a "plan which provides for implementation, maintenance and enforcement of" the national ambient air quality standards (NAAQS). The CAA goes on to require that SIPs:

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

42 U.S.C. § 7410(a)(2)(C). State and federal regulations adopted under this section are commonly referred to as "new source review" programs because they apply to newly constructed and modified, as opposed to existing, sources. The CAA divides NSR requirements into those that apply to attainment areas (Part C requirements) and those that apply to nonattainment areas (Part D requirements). This rulemaking focuses on Part D of Title I of the CAA.

Part D of Title I of the CAA establishes a NSR program for major sources and modifications in nonattainment areas. This program is known as "Nonattainment New Source Review" (NNSR). Under Subpart 1 of Part D, a major source is defined as any source that emits, or has the potential to emit, 100 tons per year or more of a pollutant for which the area has been designated nonattainment. Subpart 4 of Part D establishes specific requirements for NNSR in PM₁₀ and PM_{2.5} nonattainment areas.

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

CAA Sanctions.

Under the CAA and federal regulations, if EPA disapproves any element of a plan submitted under Title I, Part D of the CAA relating to nonattainment areas, and the plan deficiencies are not corrected within 18 months after the effective date of the disapproval, major sources subject to NNSR will have to offset emissions increases at a ratio of 2 to 1. 42 U.S.C. § 7509(a), (b)(2); 40 CFR § 52.31(d)(1). If the deficiencies remain uncorrected for an additional six months, the state loses most federal highway funds in the affected area. 42 USC § 7509(a), (b)(1); 40 CFR § 52.31(d)(1). If imposed, the sanctions will apply to nonattainment areas under ADEQ's jurisdiction and the pollutants covered by the plan and will remain in effect until EPA finds that a revised plan corrects the deficiencies. 40 CFR § 52.31(b)(3),(d)(2), (5).

Additionally, EPA is required to adopt a federal implementation plan (FIP) within twenty-four months following the disapproval of *any* SIP if the deficiencies are not corrected and approved. 42 U.S.C. § 7410(c). ADEQ therefore must correct *all* deficiencies identified in the 2016 limited disapproval and the 2018 conditional approval, described below, in order to avoid sanctions and a FIP.

Arizona's Previous NSR Rulemaking, SIP Revision, and EPA's Decisions.

Below is a timeline of events relevant to this rulemaking:

On June 6, 2012, ADEQ adopted comprehensive amendments to the state's air permit program designed, among other things, to bring the program into compliance with federal nonattainment new source review (NNSR) regulations. ADEQ submitted these amendments to EPA as a SIP revision on October 29, 2012 (the "2012 NSR SIP").

On June 22, 2016, EPA published a limited disapproval of the 2012 NSR SIP for failure to regulate VOCs and ammonia as PM_{2.5} precursors in the West Central Pinal (WCP) and Nogales PM_{2.5} nonattainment areas. This limited disapproval established a deadline of January 22, 2018 (18 months after the disapproval) for ADEQ to cure the deficiency or face the imposition of offset sanctions in those nonattainment areas. If an additional six months passed after that deadline before ADEQ failed to cure the deficiency, highway sanctions would be imposed.

On February 2, 2017, ADEQ adopted amendments to its rules designed, among other things, to cure the deficiencies relating to PM_{2.5} precursors identified in EPA's June 22, 2016 limited disapproval. On April 28, 2017, ADEQ submitted these amendments as a SIP revision (the "2017 NSR SIP").

On June 6, 2017, EPA proposed limited approval and limited disapproval of the 2017 NSR SIP. The limited disapproval noted that the 2017 NSR SIP addressed all requirements for PM_{2.5} precursors, except for

establishing a significant level for ammonia. A significant level is the threshold for emissions increases at major sources that are subject to NNSR. EPA rules establish significant levels for all pollutants subject to NNSR, except ammonia. Under section 189(e) of the Clean Air Act and 40 CFR 51.165(a)(1)(x)(F), states containing PM_{2.5} nonattainment areas are obligated either to adopt a significant level for ammonia or to demonstrate that ammonia does not contribute to the failure to attain the PM_{2.5} NAAQS.

On December 6, 2017, ADEQ sent EPA a letter committing to correct the deficiency with regard to ammonia by March 31, 2019 by submitting either (1) a demonstration that ammonia does not contribute to nonattainment in the WCP and Nogales PM_{2.5} nonattainment areas or (2) a rule establishing a significant level for ammonia (the “December 2017 commitment”). Based on this commitment, EPA proposed conditional approval of the 2017 NSR SIP with regard to PM_{2.5} precursors on January 10, 2018. This proposal had the effect of deferring sanctions. EPA published a final conditional approval on May 4, 2018.

On March 29, 2019, ADEQ submitted a SIP revision to EPA, pursuant to 40 CFR § 51.165(a)(13), demonstrating that ammonia does not significantly contribute to PM_{2.5} nonattainment in Arizona. ADEQ’s March 29, 2019 SIP Revision: Demonstration of a Significant Emission Rate for Ammonia is available at: <http://azdeq.gov/node/5742>. Based on subsequent conversations between EPA and ADEQ staff, EPA staff believes the March 29, 2019 submission is not approvable. In order to assure that the requirements of Title I, Part D of the CAA are met and the terms of the 2018 conditional approval are satisfied, ADEQ amend its rules to include a SER for ammonia, as a PM_{2.5} precursor, in PM_{2.5} nonattainment areas.

Amendment is Necessary to Address NSR Deficiency

Pursuant to ADEQ’s December 2017 commitment and the EPA’s conditional approval (83 Fed. Reg. 19631 (May 4, 2018)), this rulemaking establishes a significant level for ammonia as a precursor of PM_{2.5} in PM_{2.5} nonattainment areas in Arizona.

As described above, the purpose of this rulemaking is to correct the single, remaining deficiency identified in the 2016 limited disapproval, and the 2018 conditional approval. This rulemaking will ensure Arizona’s NSR program conforms to federal requirements and qualifies for full approval by EPA. In order to address the remaining deficiency identified by the EPA regarding ammonia as a PM_{2.5} precursor, ADEQ committed to adopt rule revisions to satisfy the requirements of CAA § 189(e) and related NNSR regulations. Therefore, ADEQ amends the definition of significant, as it relates to PM_{2.5} nonattainment areas (R18-2-101(131)(e)), to add an emission rate of ammonia in the amount of 40 tons per year.

The SER of 40 tons per year of ammonia was selected by examining other, similarly situated PM_{2.5} nonattainment areas within EPA Region IX. Recently, EPA approved a California SIP revision that implemented a SER for ammonia for the South Coast Air Quality Management District. 83 FR 39012 (Aug. 8, 2018) (proposed rule); 83 FR 61551 (Nov. 30, 2018) (final rule). In order to meet its NNSR obligations under the CAA, the South Coast Air Quality Management District selected a SER of 40 tons per year of ammonia. Additionally, EPA proposed approval of the Imperial Valley Air Pollution Control District's SIP revision establishing a SER of 40 tons per year of ammonia. 84 FR 10573 (Mar. 22, 2019).

Additionally, this SER for ammonia is consistent with the SER of 40 tons per year that EPA has established for sulfur dioxide, oxides of nitrogen, and volatile organic compounds (VOCs) as precursors to PM_{2.5}. 73 FR 28321, 28333 (May 16, 2008); *see also* 40 CFR § 51.165(a)(1)(x)(A).

Subsections not amended listed as “No change”: ADEQ has made use of the option in the Secretary of State rule A.A.C. R1-1-502(B)(18)(f) to list some sections not amended as “No change” rather than showing sometimes long sections of text that are not being changed. Certain other subsections' unchanged text are shown to provide context for nearby rule changes. “No change” does not mean comments on rule text listed as “No change” will not be considered. However, the exception to the rules moratorium granted by the Governor to ADEQ to do this rulemaking may limit what ADEQ can actually implement.

Section by Section explanation of rule changes:

- R18-2-101 Amend the definition of “significant” used in the major NSR programs and related permit rules to add significant emission rate for ammonia and to clarify language related to volatile organic compound significant emission rate.
- R18-2-301 Amend incorporation by reference of 40 CFR 51, Appendix W.
- R18-2-302.01 Amend language regarding affected areas to improve clarity and consistency and correct typographical error in citation to 40 CFR 51, Subpart I.
- R18-2-304 Amend internal cross references to improve clarity.
- R18-2-334 Amend incorporations by reference of 40 CFR 51, Appendix W; amend language regarding affected areas to improve clarity and consistency.
- R18-2-406 Amend incorporation by reference of 40 CFR 51, Appendix W.

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

Not applicable.

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

Not applicable.

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

The following discussion addresses each of the elements required for an Economic, Small Business, and Consumer Impact Statement (EIS) under A.R.S. § 41-1055.

An identification of the rulemaking.

The rulemaking addressed by this EIS is the adoption of amendments designed to bring ADEQ's new source review (NSR) rules into conformance with federal requirements. This rulemaking will remedy the remaining deficiency identified by EPA in its 2016 limited disapproval and 2018 conditional approval to bring Arizona's NSR program into conformity with federal requirements. All other deficiencies were remedied in previous rulemakings. The changes are described in greater detail in section 5 of this notice of final rulemaking.

This change is procedural or technical in nature and should have at most a trivial economic impact on the agency, businesses or consumers.

An identification of the persons who will be directly affected by, bear the cost of or directly benefit from the rule making.

In order for the ammonia SER in this rulemaking to have any regulatory impact, an existing source with the potential to emit 100 tons per year for ammonia located in one of the two PM_{2.5} nonattainment areas would have to undergo a physical or operational change that results in a net increase of at least 40 tons per year of ammonia emissions. There are currently no such sources located anywhere in the Nogales or West Central Pinal nonattainment areas, and it is extraordinarily improbable that any will be constructed in the future. Thus, this rulemaking is highly unlikely to impose any economic costs on the regulated community or to result in any environmental benefits. Additionally, if a new source of ammonia with a maximum capacity to emit, with elective limits, equal to or greater than 40 tons of ammonia per year seeks to be constructed or commence operation in a PM_{2.5} nonattainment, that source will be required to obtain a Class II Permit. A.A.C. R18-2-302(B)(2). Finally, if there is a physical or operational change at source, that would cause the source to emit or have the maximum capacity to emit with any elective limits equal to or greater than 40 tons of ammonia, it would be required to obtain a Class II permit. *Id.*

On the other hand, avoiding the potential federal highway funds sanctions will benefit the State and residents of Arizona.

A cost benefit analysis of the following:

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

ADEQ's increased cost of implementing the NSR program resulting from the procedural and technical changes contained in this rule change will likely be minimal. This rulemaking consists of adjustments to existing programs to conform to EPA's conditional approval and federal and state requirements.

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

The costs to political subdivisions subject to permitting under ADEQ's rules from these rule amendments should be minimal. In general, the types of sources operated by political subdivisions are very unlikely to be subject to major NSR, and as noted above it is highly unlikely that any source will be subject to NNSR as a result of this rulemaking. ADEQ considers any impacts to sources in counties with their own pollution control programs to be indirect.

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

As discussed above, the amendment to R18-2-101 rules is necessary to comply with federal requirements for the program. If ADEQ fails to adopt this amendment, the same or similar standard would ultimately apply to sources in Arizona through the adoption of a federal implementation plan (FIP) or the application of 40 CFR Part 51, Appendix S. In addition, Title I, Part D of the CAA imposes a limited time for ADEQ to adopt the NSR amendments. Failure to meet the statutory timeframe will result in sanctions by the federal government, as described above.

The changes to R18-2-301, R18-2-302.01, R18-2-304, R18-2-334, and R18-2-406 are technical corrections for clarity and have no economic impact.

Thus, failure to adopt these amendments would not in the long run result in the avoidance of any costs of compliance for the reasons given above, but would result in a substantial negative impact on the state's economy.

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

ADEQ does not believe that any additional costs will be imposed on businesses as a result of the amended NSR requirements for the reasons described above. Accordingly, there should be no impact on private employment or on the employment of any political subdivision subject to NSR.

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

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

Under A.R.S. § 41-1001(21) “Small business” means a concern, including its affiliates, which is [1] independently owned and operated, which is [2] not dominant in its field and which [3] employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.

As previously mentioned, there are no existing or proposed major sources of ammonia within ADEQ’s jurisdiction and therefore no small businesses would be subject to this rulemaking.

(b) The administrative and other costs required for compliance with the rule making.

Not Applicable.

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

Not Applicable.

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

Not Applicable.

A statement of the probable effect on state revenues.

Since any costs associated with the rulemaking will be recoverable through air quality permit fees, there will be no net effect on state revenues.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rule making.

ADEQ was not able to identify any less intrusive or costly alternative methods for achieving the purpose of the rulemaking—compliance with the federal NSR requirements for ammonia as PM_{2.5} precursor.

A description of any data on which a rule is based with a detailed explanation of how the data was

obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.

Data on which this final rulemaking is based on can be located by referring to the Federal Register notices referenced in part 5 of this Notice of Final Rulemaking (NFRM). Copies of the Federal Register are available at either <https://www.federalregister.gov/> or <https://www.govinfo.gov/app/collection/fr/>. A copy of ADEQ's SIP Revision: Demonstration of a Significant Emission Rate for Ammonia is available at: <http://azdeq.gov/node/6450>.

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

In response to the NPRM (25 A.A.R. 993), ADEQ received a public comment from EPA stating that other rules related to the NSR program require amendment. ADEQ agrees that these changes need to be made but believes that some of them are substantially different from the rule proposed in the NPRM. Therefore, the public is entitled to comment on them through a Notice of Supplement Proposed Rulemaking before they are adopted. A.R.S. § 41-1025.

EPA commented that incorporations by reference of 40 C.F.R. Part 51, Appendix W (Appendix W) in R18-2-301 and R18-2-406, as of July 1, 2015, were out of date. On June 30, 2017, EPA substantially amended Appendix W. R18-2-406 is part of ADEQ's prevention of significant deterioration (PSD) program. PSD is a required element of an infrastructure SIP (I-SIP) and these out of date references could interfere with future I-SIP approvals. CAA § 110(a)(2). Therefore, to ensure consistency and prevent I-SIP approval issues, ADEQ is amending all references to Appendix W, except for the reference in A.A.C. Title 18, Chapter 2, Appendix 2, which is already up to date.

Additionally, EPA's comment pointed out inconsistent language between A.A.C. R18-2-334(C)(2) and R18-2-302.01(C)(1) related to ambient air quality assessments. In order to improve clarity, ADEQ amended the language to make these two rules consistent.

EPA's comment identified several internal cross-references in A.A.C. R18-2-304(F) and (J), and R18-2-334(G) that contained minor typographical errors. ADEQ is making these corrections to improve the clarity of its NSR rules. ADEQ does not believe that these changes are substantial.

ADEQ received comments from other stakeholders. ADEQ will respond to these comments in the Notice of Final Rulemaking.

Finally, ADEQ's amended language for the definition of significant that differs from the NPRM's proposed language. A.R.S. § 41-1025. The NPRM's proposed language would have affected Class II permitting requirements. Such an affect would have been beyond NNSR's requirements for ammonia, as a precursor to PM_{2.5}, in PM_{2.5} nonattainment areas. A.R.S. § 49-104(A)(16). Therefore, the amended language assures the SER for ammonia only applies to NNSR. Second, ADEQ is amending the definition of significant for VOCs to make the language consistent with other subsections.

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

Comment 1 (EPA): In response to the NPRM, ADEQ received a public comment from EPA that generally expressed support for the proposed significant emission rate of 40 tons per year of ammonia, as a PM_{2.5} precursor, in PM_{2.5} nonattainment areas.

ADEQ's Response to Comment 1: ADEQ appreciates the EPA's comment in support of the proposed significant emission rate of 40 tons per year of ammonia, as a PM_{2.5} precursor, in PM_{2.5} nonattainment areas.

Comment 2 (EPA): EPA commented regarding potential typographical errors in following rules: A.A.C. R18-2-304(F)(1, 6, and 8), R18-2-304(J)(2), and R18-2-304(B).

ADEQ's Response to Comment 2: ADEQ amended the typographical errors in the R18-2-304(F)(1, 6, and 8), R18-2-304(J)(2), and R18-2-304(B).

Comment 3 (EPA): EPA commented regarding a typographical error in A.A.C. R18-2-334(G).

ADEQ's Response to Comment 3: ADEQ corrected the typographical error in A.A.C. R18-2-334(G).

Comment 3 (EPA): EPA commented regarding various references to 40 CFR Part 51, Appendix W (Appendix W) in ADEQ's rules in A.A.C. R18-2-301(21), R18-2-334(H), R18-2-406(A)(6), and Appendix 2 to Title 18, Chapter 2. EPA commented that these references to Appendix W do not consistently refer to the same incorporation by reference date.

ADEQ's Response to Comment 3: ADEQ updated the incorporations by reference to 40 CFR Part 51, Appendix W (Appendix W) in ADEQ's rules in A.A.C. R18-2-301(21), R18-2-334(H), R18-2-406(A)(6).

Comment 4 (EPA): EPA commented regarding inconsistent language related to ambient air quality assessment between R18-2-334(C)(2) which refers to "Arizona or any affected state" and R18-2-302.01(C)(1) which refers to "Arizona or any affected state or Indian reservation." EPA suggested that the reference to "or Indian reservation" appears to have been inadvertently not added to R18-2-334(C)(2).

ADEQ's Response to Comment 4: ADEQ has made the suggestion EPA suggested.

Comment 5 (Jane Magee): In response to the NPRM, ADEQ received one public comment that expressed support for the proposed rule.

ADEQ's Response to Comment 5: ADEQ appreciates this commenter's support for this rulemaking.

Comment 6 (Daniel Blackson): In response to the NPRM, ADEQ received a public comment that supported the proposed rule change. Additionally, the comment expressed a desire the ADEQ re-evaluate Section 8 of its preamble in the Notice of Proposed Rulemaking (NPRM). The commenter expressed their desire that ADEQ regulate air pollution emissions from animal feeding operations. The commenter specifically discussed the Hickman's Family Farms property located 12710 N. Murphy Road, Maricopa County, Pinal County, Arizona.

ADEQ's Response to Comment 6: ADEQ appreciates this commenter's support for its proposed rule. Regarding the commenter's interpretation of the Clean Air Act's requirement, ADEQ agrees that there can be circumstances where agricultural feeding operations can be subject to the Title V of the Clean Air Act, as a major stationary source. However, as stated in Section 8 of the NPRM's preamble, ADEQ is not aware of any major sources of ammonia located in either the Nogales or WCP PM_{2.5} nonattainment areas. The boundaries of the PM_{2.5} nonattainment areas are defined at 40 C.F.R § 81.303.

Regarding this commenter's point about a specific stationary source, specific permitting decisions are beyond the scope of this rulemaking. Additionally, this comment focused on ammonia emissions from the Hickman's Family Farm's property located at 12710 N. Murphy Road, Maricopa County, Pinal County, Arizona. This facility is located on the Ak-Chin Indian Community of the Maricopa Indian Reservation, a federally recognized tribe, and is therefore outside of ADEQ's jurisdiction. Further, this particular agricultural property is not located within either the Nogales or the WCP PM_{2.5} nonattainment area. *See* 40 C.F.R. § 81.303.

Comment 7 (Arizona Electric Power Cooperative): In response to the NPRM, AEPCO commented that it believed ADEQ did not consider whether the regulated community would be significantly impacted if PM_{2.5} NAAQS is changed. AEPCO's comment focused on EPA's current review and collaboration with the Clean Air Scientific Advisory Committee (CASAC) regarding the current particulate matter NAAQS. AEPCO's comment expressed concern that about the possibility of redesignation of different parts of the Arizona if a new PM_{2.5} NAAQS is adopted by EPA and CASAC. AEPCO's comment expressed concern because the Apache Generating Station utilizes a technology to reduce oxides of nitrogen (NO_x) that can emit ammonia into the ambient air, if parts of Cochise County become designated as nonattainment, it could become subject to this requirement. In support of this concern, AEPCO pointed to a presentation by Anna Marie Wood, former Director for the Air Quality Policy Division at the EPA's Office of Air Quality Planning and Standards.

ADEQ's Response to Comment 7: ADEQ understands AEPCO's concern that a revised NAAQS could affect the regulated community and the anticipated costs of this rulemaking. However, ADEQ believes three factors weigh against AEPCO's concern.

First, while CASAC is reviewing the PM_{2.5} NAAQS at this time, ADEQ believes it is unlikely that the CASAC will update this standard upon completion of its review. In December 2018 and March 2019,

CASAC reviewed the EPA's October 2018 Draft Integrated Science Assessment for Particulate Matter (Draft ISA). CASAC's overall finding was that "the Draft ISA does not provide a sufficiently, comprehensive, systematic assessment of the available science relevant to understanding the health impacts of exposure to particulate matter." CASAC Letter to EPA Administrator Andrew Wheeler (April 11, 2019), available at [https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebReportsLastMonthCASAC/6CBCBBC3025E13B4852583D90047B352/\\$File/EPA-CASAC-19-002+.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebReportsLastMonthCASAC/6CBCBBC3025E13B4852583D90047B352/$File/EPA-CASAC-19-002+.pdf) (last accessed June 10, 2019). CASAC went on to recommend that a second draft of the ISA be prepared for CASAC review to address the limitations that CASAC identified in the first draft. *Id.* Based on the current status of CASAC's review, ADEQ believes that it is highly unlikely that CASAC and EPA will revise the current PM_{2.5} NAAQS at this time.

Additionally, Director Woods' presentation cited by AEPCO provides a timeline for the NAAQS review process. However, there is no information in the presentation to indicate that EPA is likely to alter this NAAQS. This presentation merely provided stakeholders a timeline for the statutorily required CASAC review process. *See generally* CAA § 109 (42 U.S.C. § 7409).

Second, Cochise County (where the Apache Generating Station is located) is currently designated as unclassifiable/attainment for the PM_{2.5} NAAQS. *See* 40 C.F.R. § 81.303. ADEQ believes that is unlikely that Cochise County will be redesignated as a PM_{2.5} nonattainment area as ambient air concentrations of PM_{2.5} are approximately 43% of the current NAAQS. ADEQ's 2017 Annual Ambient Air Assessment Report details PM_{2.5} ambient air concentrations in greater detail. *Available at* http://static.azdeq.gov/aqd/air_report2017.pdf. ADEQ's report and current monitoring data support ADEQ's position that, based on current and historic PM_{2.5} levels, it is highly unlikely that any portions of Cochise County will be redesignated as nonattainment if the PM_{2.5} NAAQS is lowered. Therefore, AEPCO's concerns are speculative and ADEQ is unable to quantify AEPCO's conjecture about cost. ADEQ is mindful of AEPCO's concerns, but is limited to analyzing the probable impacts of its rulemaking.

Third, ADEQ disagrees with AEPCO's assertion that it views this rulemaking as merely procedural and failed to consider the costs. A.R.S. § 41-1055 requires ADEQ's EIS to be limited to the *probable* costs and benefits of any particular rulemaking. AEPCO's comment regarding the potential costs is too speculative for ADEQ to predict at this time. AEPCO is requesting ADEQ speculate on unpredictable variables, including: 1) whether CASAC will set a new PM_{2.5} NAAQS; 2) what standard CASAC might establish; 3) what portions of Arizona might be redesignated under this hypothetical NAAQS revision; and 4) whether the Apache Generating Station will engage in a major modification that would increase its ammonia emissions by an additional 40 tons per year. These concerns are too speculative for ADEQ to predict and are outside of the scope of the analysis required by A.R.S. § 41-1055. As required by A.R.S. § 41-1056, ADEQ will periodically reassess the economic impact of this rule. A.R.S. § 41-1056(a)(6) requires that ADEQ review its rules every five years, including a comparison of the estimated economic, small business, and consumer impact of these rules compared to the EIS in this rulemaking.

Comment 8 (AEPCO): AEPCO's second comment analyzed the history of how the EPA established the 40 tpy SER for SO₂, NO_x, and VOCs in 1980. AEPCO's comment takes the position that these SERs established with very conservative modeling approaches and is therefore too low. AEPCO suggested that if this analysis was conducted today using AERMOD, EPA would reach a different result.

ADEQ Response to Comment 8 (AEPCO): ADEQ appreciates AEPCO's comment regarding the EPA's 1980 analysis for various criteria pollutants. However, reassessing the EPA's analysis is beyond the scope of this rulemaking. Unlike ADEQ, EPA has the legal authority to address this commenter's concerns about its historical modeling. While EPA's approach to this modeling was conservative, it does not conflict with the CAA's requirements. Additionally, reassessing EPA's modeling from 1980 is beyond the scope of this rulemaking.

Comment 9 (AEPCO): AEPCO commented that technical support for California's selection of the NNSR ammonia SER of 40 tpy was not provided beyond a simple adoption of the other pollutants' SER. This comment discussed the San Joaquin Valley Air Pollution Control District's approach (SJVAPCD) that reducing NO_x emissions is the most effective way to reduce PM_{2.5} and that ammonia plays an inconsequential role in particulate formation in the San Joaquin Valley. Additionally, AEPCO commented that in 2018, the California Air Resources Board (CARB) drafted a report that concluded that PM_{2.5} levels in the San Joaquin Valley are not sensitive to ammonia reductions.

ADEQ Response to Comment 9 (AEPCO): ADEQ agrees that the South Coast Air Quality Management District's (SCAQMD) ammonia SER was selected by adopting the SER for other pollutants. ADEQ agrees the Imperial Valley Air Pollution Control District's (IVAPCD) ammonia SER and EPA's proposed approval utilize this same conservative approach. ADEQ agrees that this approach is a conservative one. However, this approach is consistent with the CAA and satisfies EPA's requirements.

In order to have fully approved NSR SIP revision, Arizona's plan must meet the requirements of CAA § 189(e) and 40 C.F.R. Part 51. Under 40 C.F.R. §§ 51.165(a)(13) and 51.1006, a state may choose to pursue a precursor demonstration by conducting a concentration-based contribution analysis. 40 C.F.R. § 51.1006(a)(i). If the concentration-based contribution analysis does not demonstrate a finding of insignificant contribution, the state may submit a sensitivity-based contribution analysis. 40 C.F.R. § 51.1006(a)(ii). However, this precursor demonstration is optional and within the discretion of the State to elect to undertake. 40 C.F.R. § 51.1006(a) ("A state **may elect** to submit to the EPA one or more precursor demonstrations for a specific nonattainment areas.") (emphasis added). This permissive option does not require ADEQ to conduct this precursor demonstration.

On March 29, 2019, ADEQ submitted a precursor demonstration, pursuant to 40 CFR § 51.165(a)(13), demonstrating that ammonia does not significantly contribute to PM_{2.5} nonattainment in Arizona. This demonstration cited the study by Watson, J., Chow, J., Lurmann F., Musarra S., 1994, "Ammonium Nitrate,

Nitric Acid and Ammonia Equilibrium in Wintertime Phoenix Arizona, ” in support of its position that there is excess ammonia in Arizona.

In addition to the study cited by the commenter, ADEQ’s analysis also showed: 1) from 2010 to 2014, emissions in the Nogales NAA of NO_x and SO_x decreased by 319.8 tons and 31.2 tons respectively while ammonia emissions increased slightly by 3.9 tons; showing the area was shifting even further toward being SO_x/NO_x limited; 2) Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring data from the Nogales Post office shows that sulfates and nitrates are a small contributor (12%) to PM_{2.5} concentrations in the Nogales area; 3) a 2010 ADEQ study (based on the 2003 – 2005 data) in the WCP NAA shows that secondary particulate formation is a minor contributor (7%) to fine particulate matter concentrations; 4) a 2013 ADEQ study (based on 2009 – 2010 data) showing that ammonia species account for less than 10% of total PM_{2.5} concentration; and 5) a review of data collected by Clean Air Status and Trends Network (CASTNET) and the National Atmospheric Deposition Program (NADP) ammonia monitoring network (AMoN) in the western United States showed the monitors recorded excess ammonia in the atmosphere when compared to concentrations of NO_x and SO_x.

ADEQ took the position regulation of ammonia in Arizona’s PM_{2.5} nonattainment areas is not necessary. Based on subsequent conversations between EPA and ADEQ staff, EPA staff believes that this submission is needs to be supplemented with an ammonia SER in order to be approvable. ADEQ disagrees with EPA staff’s assessment. However, in order to assure that the requirements of Title I, Part D of the CAA are met and the terms of the 2018 conditional approval are satisfied, ADEQ adopts and submits a SER for ammonia, as a PM_{2.5} precursor in PM_{2.5} nonattainment areas, at a rate of 40 tpy.

If a State elects not to undertake the optional precursor demonstration or if a State’s demonstration is not approved, the State must comply with 40 C.F.R. § 51.165(x)(F). Specifically the regulation states, in relevant part that “the plan shall also define ‘significant for Ammonia for that area, subject to approval by the Administrator.’” 40 C.F.R. § 51.165(x)(F). The SCAQMD and ICAQMD SIP revisions do not provide technical demonstrations, instead relying on EPA’s established SERs for other precursors. 40 C.F.R. 51.165(x)(F). For SCAQMD, the EPA Administrator determined that the 40 tpy SER for ammonia satisfied the requirements of CAA § 189(e). For IVAPCD, this approach is also likely approvable. While this may represent a conservative approach, meets CAA requirements and is very likely approvable by the EPA Administrator under CAA § 110. As the 40 tpy SER for ammonia has met the Administrator’s approval, ADEQ will adopt that 40 tpy SER for ammonia to obtain full approval of its NSR SIP revision.

Arizona’s demonstration is similar to the San Joaquin Valley Air Pollution Control District (SJVAPCD)’s demonstration, in that both take the position that ammonia does not significantly contribute to particulate formation in the relevant PM_{2.5} nonattainment areas. It is important to note that EPA has not acted on the SJVAPCD’s precursor demonstration. While ADEQ expresses no opinion regarding the potential approvability of SJVAPCD’s plan, ADEQ notes that EPA has not proposed approval of this plan either.

Comment 10 (AEPCO): AEPCO commented that a 70 tpy SER for ammonia has been demonstrated by Utah for nonattainment areas (NAAs) and is more applicable than 40 tpy, though still likely conservative, for Arizona. This comment analyzed the Utah Department of Environmental Quality’s modeling in support of their proposed ammonia SER of 70 tpy. AEPCO stated, “Being in a warmer climate than Utah, if Arizona were to perform its own NNSR demonstration, it would likely result in a higher ammonia SER because, as noted by Watson et al., ammonium nitrate dominates over ammonium sulfate in Arizona and less particulate matter is formed at higher temperatures for the same precursor emissions.”

ADEQ Response to Comment 10: As discussed above in ADEQ’s response to Comment 9, on March 29, 2019, ADEQ submitted a precursor demonstration, pursuant to 40 CFR § 51.165(a)(13), demonstrating that ammonia does not significantly contribute to PM_{2.5} nonattainment in Arizona. Given EPA’s position regarding the approvability of that demonstration, ADEQ has chosen to adopt and submit an ammonia SER as a PM_{2.5} precursor in PM_{2.5} nonattainment areas. A 40 tpy ammonia SER will assure that the requirements of Title I, Part D of the CAA are met and the terms of the 2018 conditional approval are satisfied.

ADEQ declines to conduct a second demonstration to attempt establishing a higher SER for ammonia. While a 70 tpy SER for ammonia might be as effective as the proposed 40 tpy SER in controlling PM_{2.5} pollution, EPA will likely only approve such a SER if ADEQ submits modeling in support of this SER. *See* 40 C.F.R. § 51.1006. As discussed above, this precursor demonstration is optional. Given the EPA’s position on the March 29, 2019 precursor demonstration, ADEQ’s December 2017 commitment letter, and the imminent risk of sanctions ADEQ utilizes its discretion to not submit a second precursor demonstration.

Finally, EPA, which ultimately must approve this rule into Arizona’s SIP, has provided its support for the 40 tpy SER (*See* Comment 1, *supra*). Therefore, ADEQ will adopt the proposed rule language for the 40 tpy SER for ammonia, as a PM_{2.5} precursor in PM_{2.5} nonattainment areas.

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

There are no matters prescribed by statute applicable specifically to ADEQ or this specific rulemaking.

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

These rules do not require any permits as it is to comply with CAA NSR regulations for any applicable new construction or major modification of a stationary source that falls under ADEQ’s jurisdiction.

Federal law does allow for the enforcement of major NSR requirements through the issuance of permits,

because major NSR requires case-by-case, facility specific determinations.

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

These rules help Arizona comply with the federal Clean Air Act, Title I, Parts C and D. These rules are no more stringent than required by federal law.

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

No person(s) submitted an analysis to ADEQ.

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

Incorporation

Locations in Rule

40 CFR 51, Appendix W

R18-2-301(21), R18-2-334(H), and R18-2-406(A)(6)

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(see http://catalog.gpo.gov/fdlpdir/FDLPdir.jsp?st_12=AZ&flag=searchp). It is also available online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

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

Not applicable.

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY – AIR POLLUTION CONTROL

ARTICLE 1. GENERAL

R18-2-101. Definitions

ARTICLE 1. GENERAL

R18-2-101. Definitions

The following definitions apply to this Chapter. Where the same term is defined in this Section and in the definitions Section for an Article of this Chapter, the Article-specific definition shall apply.

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131. “Significant” means, in reference to a significant emissions increase, a net emissions increase, a stationary source’s potential to emit or a stationary source’s maximum capacity to emit with any elective limits as defined in R18-2-301(13):

- a. A rate of emissions of conventional pollutants that would equal or exceed any of the following:

Pollutant	Emissions Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy

PM ₁₀	15 tpy
PM _{2.5}	10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions.
Ozone	40 tpy of VOC or nitrogen oxides
Lead	0.6 tpy

- b. For purposes of determining the applicability of R18-2-302(B)(2) or R18-2-406, in addition to the rates specified in subsection (131)(a), a rate of emissions of non-conventional pollutants that would equal or exceed any of the following:

Pollutant	Emissions Rate
Particulate matter	25 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-	3.5 x 10 ⁻⁶ tpy

dioxins and
dibenzofurans)

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

Any regulated NSR pollutant not specifically listed in this subsection (or) subsection (131)(a), except for ammonia. Any emission rate

- c. In ozone nonattainment areas classified as serious or severe, the emission rate for nitrogen oxides or VOC determined under R18-2-405.
- d. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
- e. In PM_{2.5} nonattainment areas, an emission rate that would equal or exceed 40 tons per year of VOC as a precursor of PM_{2.5}.
- f. In PM_{2.5} nonattainment areas, for purposes of determining the applicability of R18-2-403 or R18-2-404, an emission rate that would equal or exceed 40 tons per year of ammonia, as a precursor to

PM_{2.5}. This subsection shall take effect on the effective date of the Administrator's action approving it as part of the state implementation plan.

gf. Notwithstanding the emission rates listed in subsection (131)(a) or (b), for purposes of determining the applicability of R18-2-406, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than 1 $\mu\text{g}/\text{m}^3$ (24-hour average).

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TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 2. Department of Environmental Quality – Air Pollution Control

ARTICLE 3. PERMITS AND PERMIT REVISIONS

- R18-2-301. Definitions
- R18-2-302.01. Source Registration Requirements
- R18-2-304. Permit Application Processing Procedures
- R18-2-334. Minor New Source Review

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-301. Definitions

The following definitions apply to this Article:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - iii. No change
 - iv. No change
 - v. No change
7. No change
8. No change
9. No change
10. No change
11. No change

- 12. No change
- 13. No change
- 14. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - viii.No change
 - (1) No change
 - (2) No change
 - ix. No change
 - x. No change
 - xi. No change
 - (1) No change
 - (2) No change
 - xii. No change
 - xiii.No change
 - e. No change
 - i. No change
 - ii. No change
 - iii. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change

20. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
21. “Screening model” means air dispersion modeling performed with screening techniques in accordance with 40 CFR 51, Appendix W as of June 30, 2017 (and no future amendments or additions).
22. No change
23. No change
24. No change

R18-2-302.01. Source Registration Requirements

- A. No change
 1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
- B. No change
 1. No change
 2. No change
 3. No change
 4. The Department shall also send a copy of the notice required by subsection (B)(3) to the administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the registration will be located. The notice shall also be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, Subpart I.
 5. No change
- C. Review for National Ambient Air Quality Standards Compliance; Requirement to Obtain a Permit.

1. The Director shall review each application for registration of a source with the maximum capacity to emit with any elective limits any regulated minor NSR pollutant in an amount equal to or greater than the permitting exemption threshold. The purpose of the review shall be to determine whether the new or modified source may interfere with attainment or maintenance of a national ambient air quality standard in ~~any area Arizona or affected state or Indian reservation~~. In making the determination required by this subsection, the Director shall take into account the following factors
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
2. No change
3. No change
4. No change
- D.** No change
 1. No change
 2. No change
 3. No change
- E.** No change
 1. No change
 2. No change
 3. No change
 4. No change
- F.** No change
 1. No change
 - a. No change
 - b. No change
 2. No change
 - a. No change
 - b. No change
 3. No change
 - a. No change
 - b. No change
 - c. No change

- d. No change
- e. No change

4. No change

- a. No change
- b. No change
- c. No change

G. No change

1. No change

- a. No change
 - i. No change
 - ii. No change
- b. No change
- c. No change

2. No change

H. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change

I. No change

R18-2-304. Permit Application Processing Procedures

A. No change

B. No change

- 1. No change
- 2. No change
- 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change

4. No change

- a. No change
- b. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - d. No change
 - e. No change
- 9. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - b. No change
 - c. No change
 - d. No change

10. No change

C. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change

D. No change

1. No change
2. No change
3. No change

E. No change

F. A complete application shall comply with all of the following:

1. To be complete, an application shall provide all information required by subsection (B) (standard application form section). An application for permit revision only need supply information related to the proposed change, unless the source's proposed permit revision will change the permit from a Class II permit to a Class I permit. A responsible official shall certify the submitted information consistent with subsection (~~H~~) (Certification of Truth, Accuracy, and Completeness).
2. No change
3. No change
4. No change
5. No change
6. If, while processing an application that has been determined or deemed to be complete, the Director determines that additional information is necessary to evaluate or take final action on that application, the Director may request such information in writing and set a reasonable deadline for a response. Except for minor permit revisions as set forth in R18-2-319, a source's ability to continue operating without a permit, as set forth in subsection (~~J~~), 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 Director.
7. No change
8. Activities which are insignificant pursuant to the definition of insignificant activities in R18-2-101 shall be listed in the application. Except as necessary to complete the assessment required by subsection (~~E~~)(2) or (3), the application need not provide emissions data regarding insignificant activities. If the Director determines that an activity listed as insignificant does not meet the requirements of the definition of insignificant activities in R18-2-101 or that emissions data for the activity is required to complete the assessment required by subsection (~~E~~)(2) or (3), the Director shall notify the applicant in writing and specify additional information required.
9. No change
10. No change

G. No change

H. No change

I. No change

J. No change

1. No change
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 Director for a permit, permit revision, or permit renewal shall be complete according to subsection (~~EE~~).
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
3. No change
4. No change
5. No change

K. No change

R18-2-334. Minor New Source Review

A. No change

1. No change
 - a. No change
 - b. No change
2. No change
3. No change
4. No change

B. No change

C. No change

1. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
2. An ambient air quality assessment demonstrates that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of a national ambient air quality standard in any area~~Arizona or any affected state~~.
- a. No change

- b. No change
 - i. No change
 - ii. No change
- c. No change
- D.** No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- E.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
- F.** No change
- G.** A copy of the notice required by R18-2-330 for permits or significant permit revisions subject to this Section must also be sent to the Administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the permit or permit revision will be located. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, Subpart I.
- H.** All modeling required pursuant to this Section shall be conducted in accordance with 40 CFR 51, Appendix W as of June 30, 2017 (and no future amendments or additions).
- I.** No change
- J.** No change

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. Department of Environmental Quality – Air Pollution Control

**ARTICLE 4. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR
MODIFICATIONS TO EXISTING MAJOR SOURCES**

ARTICLE 4. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES

R18-2-406. Permit Requirements for Sources Located in Attainment and Unclassifiable Areas

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - 6. Air quality models:
 - a. All estimates of ambient concentrations required under this Section shall be based on the applicable air quality models, databases, and other requirements specified in 40 CFR 51, Appendix W, “Guideline On Air Quality Models,” as of June 30, 2017 (and no future amendments or additions)~~July 1, 2015 (and no future amendments or editions)~~, which shall be referred to hereinafter as “Guideline” and is adopted by reference and is on file with the Department.
 - b. No change
- B. No change
- C. No change
- D. No change
- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
 - 1. No change

2. No change

K. No change

1. No change

2. No change

L. No change

1. No change

2. No change

M. No change

N. No change



Appendix B

Authorizing Statutes:

A.R.S. § 49-104
A.R.S. § 49-106
A.R.S. § 49-404
A.R.S. § 49-406
A.R.S. § 49-425
A.R.S. § 49-426

Air Quality Division



A.R.S. § 49-104. *Powers and duties of the department and director*

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to assure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Assist the department of health services in recruiting and training state, local and district health department personnel.
15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.



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

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.
4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.
5. Contract with other agencies, including laboratories, in furthering any department program.
6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.
7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.
8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.
9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.
10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.
11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:
 - (a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.
 - (b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the



standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. After July 20, 2011, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rule making process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.



16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

- (a) The direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.
- (b) The availability of other funds for the duties performed.
- (c) The impact of the fees on the parties subject to the fees.
- (d) The fees charged for similar duties performed by the department, other agencies and the private sector.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.
2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.
2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

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Authorizing Statute

A.R.S. § 49-106

A.R.S. § 49-106. *Statewide application of rules*

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law.



A.R.S. § 49-404. State implementation plan

A. The director shall maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act.

B. The director may adopt rules that describe procedures for adoption of revisions to the state implementation plan.

C. The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective.

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A.R.S. § 49-406. *Nonattainment area plan*

A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.

D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.

E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.

F. At a minimum, the memorandum of agreement shall contain:

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.
6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.



11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:

- (a) Demographics.
- (b) Transportation.
- (c) Emissions inventories.
- (d) Assumptions used in developing the model.
- (e) Results of modeling done in support of the plan.
- (f) Monitoring data.

G. Each agency that commits to implement any emission limitation or other control measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:

- 1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
- 2. A program for the enforcement of the limitation or measure.
- 3. The level of personnel and funding allocated to the implementation of the measure.

H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of section 174 of the clean air act and that is recommended by the city



Authorizing Statute

A.R.S. § 49-406

that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.



Authorizing Statute

A.R.S. § 49-406

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49-425. Rules; hearing

A. The director shall adopt such rules as he determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify, and amend reasonable standards for the quality of, and emissions into, the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions, and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act.

B. No rule may be enacted or amended except after the director first holds a public hearing after twenty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.

C. The department shall enforce the rules adopted by the director.

D. All rules enacted pursuant to this section shall be made available to the public at a reasonable charge upon request.



Authorizing Statute

A.R.S. § 49-425

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49-426. Permits; duties of director; exceptions; applications; objections; fees

A. A permit shall:

1. Be issued by the director in compliance with the terms of this section.
2. Be required for any person seeking a compliance extension pursuant to section 49-426.03, subsection B, paragraph 3 and section 112(a)(5) of the clean air act and for any person beginning actual construction of or operating any source, except as prescribed in subsection B of this section or section 49-426.01.

B. The provisions of this section shall not apply to motor vehicles, to agricultural vehicles or agricultural equipment used in normal farm operations, or to fuel burning equipment which, at a location or property other than a one or two family residence, is rated at less than one million British thermal units per hour. The director may establish by rule additional sources or classifications of sources for which a permit is not required and pollutant-emitting activities and emissions units at permitted sources that are not required to be included in the permit. The director shall not adopt such rules unless the director makes a written finding with supporting facts that the exempted source, class of sources, pollutant-emitting activities or emissions units will have an insignificant adverse impact on air quality. In adopting these rules, the director may consider any rule that is adopted by the administrator pursuant to section 502 of the clean air act and that exempts one or more source categories from the requirement to obtain a permit under title V of the clean air act.

C. Every application for a permit shall be filed in the manner and form prescribed by the director, and shall contain all the information necessary to enable the director to make the determination to grant or deny such application. The director shall establish by rule requirements for permit applications, including the standard application form for title V sources. The director shall establish by rule requirements for applications for general permits. An application for a permit issued pursuant to title V of the clean air act shall include a compliance plan that describes how the applicant will comply with all of the applicable requirements of this chapter and the clean air act, including a schedule of compliance and a schedule under which progress reports will be submitted to the director at least every six months. The director may require that such application include all sources that are used or to be used by the applicant in a certain process or a single facility or location. Before acting on an application for a permit, the director may require the applicant to furnish further information or further plans or specifications. The director shall act, within a reasonable time, on such application and shall notify the applicant in writing of the proposed approval or denial of such application, except that the director may have a reasonable period of time in which to gather information, inspect premises, and issue such permits. The director shall adopt rules that establish procedures for determining when applications are complete, for processing applications and for reviewing permit actions. The director shall also establish by rule criteria for determining reasonable times for processing permit applications. Rules adopted pursuant to this subsection for permits issued pursuant to title V of the clean air act shall conform to the requirements of section 505(a) of the clean air act.

D. The director shall give notice of a proposed permit for a source required to obtain a permit pursuant to title V of the clean air act once each week for two consecutive weeks in two newspapers of general circulation in the county in which the source is or will be located. The notice shall describe the proposed permit and air contaminants to be emitted and shall state that any person may submit comments on the proposed permit and may request a public hearing. The director shall require the applicant at the time of the first notice to post the site where the source is or may be located. If permitted by federal, state and local law, the posting shall be prominently placed at a site that is under the applicant's legal control and that is adjacent to the nearest public roadway. The posting shall be visible to the public using the public



roadway and shall contain the information in the notice that is published by the director. If a public hearing is requested, the director shall require the applicant to place an additional posting that provides notice of the public hearing. A posting shall be maintained until the public comment period on the proposed permit is closed. The director shall make available to the public notices of proposed permits. Each public notice that is issued under this chapter shall be mailed to the permit applicant, to the affected federal, state and local agencies and to those persons who have requested in writing copies of proposed permit action notices. During the public comment period, any person may submit a request to the department to conduct a public hearing for the purpose of receiving oral or written comments on the proposed permit. A written comment shall state the name and mailing address of the person, shall be signed by the person, his agent or his attorney and shall clearly set forth reasons why the permit should or should not be issued. Grounds for comment are limited to whether the proposed permit meets the criteria for issuance prescribed in this section or in section 49-427. The department shall consider and prepare written responses to all comments received during the public comment period including comments made at a public hearing conducted by the department. At the time a final permit decision is made, copies of the department's responses shall be made available to the applicant and any person who commented on the proposed permit.

E. Permits or revisions issued pursuant to this section or section 49-426.01 may be issued subject to such terms and conditions as are consistent with the requirements of this article, article 1 of this chapter and the clean air act and are found by the director to be necessary, following public notice and an opportunity for a public hearing as provided in subsection D or H of this section or in section 49-426.01, and subject to payment of a reasonable fee to be determined as follows:

1. For a source that is required to obtain a permit pursuant to title V of the clean air act, the director shall establish by rule a system of fees that is consistent with and equivalent to that prescribed by section 502 of the clean air act. These rules shall prescribe procedures for increasing the fee each year by the percentage if any by which the consumer price index for the immediately preceding calendar year exceeds the consumer price index for calendar year 1989.
2. For a facility that is required to obtain a permit pursuant to this chapter but that is not required to obtain a permit pursuant to title V of the clean air act, the director shall determine a fee based on the total actual cost of processing the permit application, but not exceeding twenty-five thousand dollars.

The director shall establish an annual inspection fee, not to exceed the average cost of inspection. The director shall adopt, by rule, criteria for determining fees and for public hearings.

F. Permits issued pursuant to this section shall be issued for a period of five years.

G. Except as provided in subsection H of this section, any person burning used oil, used oil fuel, hazardous waste or hazardous waste fuel in any machine, incinerator or device shall first obtain a permit from the director. Any permit issued by the director under this subsection shall contain, at a minimum, conditions governing:

1. Limitations on the types, amounts and feed rates of used oil, used oil fuel, hazardous waste or hazardous waste fuel which may be burned.
2. The frequency and types of fuel testing to be conducted by the person.
3. The frequency and type of emissions testing or monitoring to be conducted by the person.
4. Requirements for record keeping and reporting.
5. Numeric emission limitations expressed in pounds per hour and tons per year for air contaminants to be emitted from the facility burning off-specification used oil fuel, hazardous waste or hazardous waste fuel.



H. The director may issue a general permit for a defined class of facilities if the class contains a large number of facilities that are substantially similar in nature and that have substantially similar emissions and if the following conditions are met:

1. A general permit shall comply with all of the requirements for permits prescribed by this section except for the requirements of subsection D of this section and shall be consistent with the clean air act.
2. The director shall give notice of the proposed general permit once each week for two consecutive weeks in a newspaper of general circulation in each county. The notice shall describe the proposed general permit, the general class of sources that would be subject to the proposed permit and the air contaminants to be emitted. The notice shall also state that any person may submit comments on the proposed general permit and may request a public hearing. A written comment shall state the name of the person and the person's agent or attorney and shall clearly set forth reasons why the general permit should or should not be issued. Grounds for comment are limited to whether the proposed general permit meets the criteria for issuance prescribed in this section or section 49-427.
3. On issuance of a general permit any person seeking to permit a source under this subsection shall submit an application pursuant to subsection C of this section.
4. If the director approves an application to be permitted under a general permit, the director shall provide notice of the approval in a newspaper of general circulation in the county in which the source is or will be located.
5. If a person violates a general permit, the director may require the source to obtain a permit pursuant to subsection A of this section.
6. A general permit may be revoked or revised at any time by the director if necessary to comply with this chapter. If the director revokes or revises a general permit, the director shall notify all persons whose sources are affected by the revocation or revision and shall include notice of procedures to obtain a permit pursuant to subsection A of this section or notice of procedures for compliance with the revisions.
7. The director by rule shall adopt procedures for the issuance of general permits.
8. The director may adopt conditions in a general permit applicable to sources located in a specified geographic area either independently of or upon petition by a county air pollution control officer.

I. Permits issued pursuant to this section for a source required to obtain a permit under title V of the clean air act shall contain all of the following:

1. Conditions reflecting all applicable requirements of this article and rules adopted pursuant to this article.
2. Enforceable emission limitations and standards.
3. A schedule for compliance, if applicable.
4. The requirement to submit at least every six months the results of any required monitoring.
5. Any other conditions that are necessary to assure compliance with this article and the clean air act, including the applicable implementation plan.

J. The director may refuse to issue any permit to any source subject to the requirements of title V of the clean air act if the administrator objects to its issuance in a timely manner as prescribed under title V of the act.

K. If an applicant has submitted a timely and complete application for a permit required under this section, but final action has not been taken on that application, failure to obtain a permit shall not be a violation of this chapter unless the delay in final action is due to the failure of the applicant to submit information



required or requested to process the application. This subsection does not apply to any person required to obtain a permit before commencing construction of a source as required under this section or any person seeking a permit revision as provided under section 49-426.01.

L. The director may issue a single permit authorizing emissions from similar operations at multiple temporary locations, if the permit includes conditions that will assure compliance with all applicable requirements of this chapter and the clean air act at all locations. Any permit issued pursuant to this subsection shall require the applicant to notify the director in advance of each change in location. In issuing a single permit, the director may require a separate permit fee for operations at each location.

M. In the case of a permit with a term of three or more years issued pursuant to the requirements of title V of the clean air act to a major source, the director shall require revisions to the permit to incorporate applicable standards and regulations adopted by the administrator pursuant to the clean air act after the issuance of the permit. The director shall require any revisions as expeditiously as practicable, but not later than eighteen months after the promulgation of such standards and regulations. No permit revision shall be required if the effective date of standards and regulations is after the expiration of the permit. Any permit revision required pursuant to this subsection shall be treated as a permit renewal.

N. Any permit issued pursuant to the requirements of this article and title V of the clean air act to a unit subject to the provisions of title IV of the clean air act shall include conditions prohibiting all of the following:

1. 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 by the designated representative of the owners or operators.
2. Amounts in excess of applicable emission rates.
3. The use of any allowance prior to the year for which it was allocated.
4. Contravention of any other provision of the permit.

O. The director shall adopt a rule specifying the notice, public participation requirements and other permit issuance procedures for permits that are not issued pursuant to title V of the clean air act.

P. In determining whether a permitting threshold established pursuant to this section applies to an existing source, the director shall exclude particulate matter that is not subject to a national ambient air quality standard under the clean air act.