

This document contains the Arizona Department of Environmental Quality’s (ADEQ) responses to all significant public comments received on ADEQ’s proposed rule language for its Voluntary Air Permits Requirements rulemaking (see <https://www.azdeq.gov/voluntaryaprulmaking>) that was made available on December 1, 2023.

Commenter	Summary of Comment	ADEQ response
Salt River Project (SRP)	Removal of the requirement to conduct an ambient air quality assessment to demonstrate compliance with the National Ambient Air Quality Standards (NAAQS) when accepting a voluntary limit;	ADEQ agrees and has removed R18-2-306.03(B)(3) from the draft rule language.
SRP	Clarifying the effective date of A.A.C. R18-2-306.03	ADEQ appreciates SRP’s comment regarding the effective date. Under A.R.S. § 41-1032(A), a rulemaking becomes effective date of the rule will 60 days the Notice of Final Rulemaking is filed with the Arizona Secretary of State.
SRP	Replacement of “enforce” from the proposed language in A.A.C. R18-2-306.02.	ADEQ appreciates SRP’s suggestion regarding replacement of “enforce” in R18-2-306.02(A) with “meet.” At this time, ADEQ declines to make any additional changes to R18-2-306.02(A). While ADEQ acknowledges there are areas in which this rule can be improved, the purpose of restoring it at this time is to have identical rule language in this rule prior to its expiration in 2016. Once this rulemaking is complete, ADEQ intends to continue conversations with interested stakeholder.
Tucson Electric Power (TEP)	TEP appreciates ADEQ’s proposal to add two more scenarios for voluntarily accepted permit limits. Those provisions, however, are only designed for the source to achieve certain air emission levels that, one way or another, tie to the federal/state/local regulations and don’t contemplate the scenario where the voluntarily accepted limit stems purely from good will with no strings attached.	ADEQ thanks TEP for their comment. However, at this time, ADEQ declines to expand the scope of additional scenarios for voluntarily accepted permit limits. The purpose of this rulemaking is to enable SIP planning to operate with greater efficiency.
TEP	TEP commented regarding concerns the A.A.C. shakedown provision R18-2-101.88.g paired with definition of “replacement unit” under R18-2-401.24. TEP provided examples regarding approved SIPs in other states. TEP states it understand that the replacement unit/shakedown conundrum may be outside the scope of this docket opening. But it is important for the industrial stakeholders that ADEQ addresses this issue in the future, if not through this docket.	ADEQ appreciates TEP’s comment. ADEQ agrees that this issue is currently outside of the scope of this docket. However, ADEQ is examining these issues and intends to hold additional conversations with TEP and other stakeholders to further evaluate this issue.

TEP	In regard to the SCR control applied for Tier 4 engines as presumptive RACT, TEP welcomes the addition at first glance, and will review the draft language more thoroughly and provide necessary comments, if any, during the next phase of the rulemaking.	ADEQ thanks TEP for their comment.
Arizona Mining Association (AMA)	Regarding R18-2-101, AMA commented: AMA believes the cross references regarding in proposed R18-2-306.03 are unnecessary as AMA commented that the R18-2-306.03 could be incorporated in to the existing R18-2-306.01. AMA had no objections to adding in PTE definition.	Recommendations regarding cross references will be discussed below in comments on R18-2-306.03
AMA	Regarding R18-2-301, AMA commented: Agrees with adding in definition of AOS but recommends changing language to refer to Class I/Class II permits as necessary instead of Part 70.	ADEQ agrees and has made the appropriate changes to R18-2-301.
AMA	Regarding R18-2-302(E), AMA: 1) recommended alternative language; 2) and asked ADEQ to confirm that it intended to remove the word "registration" from R18-2-302(E).	1) ADEQ appreciates the suggested language that AMA provided. ADEQ believes AMA's suggested language does not help resolve the confusion in the language. 2) ADEQ confirms that the removal of the "registration" from 302(E) was intentional. ADEQ agrees that it should be obvious that elective limits in a registration cannot be used to avoid the requirement to obtain a registration and believes that the decision to include the reference to R18-2-302(B)(1)(a) will clarify this rule.
AMA	Regarding R18-2-302.01(F)(5), AMA commented that: 1) ADEQ should replace the term Tier 4 engines with "compression ignition engines" and delete "that are powered by diesel fueled reciprocating internal combustion engines) 2) it recommended expanding the scope of SCR to meet any 40 CFR Part 1039 emissions standard through any control technology 3) ADEQ define the SCR acronym after first use.	1) ADEQ disagrees with AMA's suggestion to replace Tier 4 engines with compression ignition engines. While Part 1039 does use the term compression ignition engines, it is also used Tiers 1 -3 for. ADEQ believes Tier 4 is necessary to indicate the specific requirements that the engines are required to meet. ADEQ is concerned that using the term "compression ignition engines" will added confusion regarding which Tiers are eligible. 2) The scope of this part of the rulemaking was to address a TEP comment for a 5 YRR in 2019. It is beyond the scope of this rulemaking. However, ADEQ is interested in future conversations regarding this topic. 3) ADEQ agrees and has made the appropriate change.
AMA	R18-2-302.01(F)(5)(a): 1) Draft language inaccurately requires the registration to comply rather than requiring the registration to require the owner or operator to comply with requirements under 40 CFR 1039. 2) Contemplated limitations under 40 CFR Part	1) ADEQ agrees with this comment and has made the appropriate changes. 2) ADEQ agrees with this comment and has made the appropriate changes.

	1039 that an owner/operator would be required to comply with under a registration should be specifically identified.	
AMA	R18-2-302.01(F)(5)(b): 1) It is unclear whether operating/maintaining SCR in accordance with manufacturer's recommendations would be viewed by EPA as sufficiently demonstrating compliance 2) Unclear what "substantial" compliance means with regards to manufacturer's recommendations	1) That is true. We can have discussions with EPA about compliance demonstration approaches for this rule. 2) ADEQ appreciates AMA's comments about the vagueness of the term "substantial compliance." ADEQ has revised this language.
AMA	AMA commented regarding R18-2-302.01(F)(c) that: 1) there is no inspection requirements in (b); and 2) there are no maintenance activity requirements in (c)-- should be corrected to (b)	ADEQ agrees with AMA's comments and: 1) removed the reference to inspection requirements in (b) and corrected the cross reference.
AMA	R18-2-304: AMA believes the cross references regarding in proposed R18-2-306.03 are unnecessary as AMA commented that the R18-2-306.03 could be incorporated in to the existing R18-2-306.01.	Recommendation regarding cross references will be discussed below in comments on R18-2-306.03
AMA	R18-2-306: AMA believes the cross references regarding in proposed R18-2-306.03 are unnecessary as AMA commented that the R18-2-306.03 could be incorporated in to the existing R18-2-306.01.	Recommendation regarding cross references will be discussed below in comments on R18-2-306.03
AMA	R18-2-306.02: Generally supportive. However, in comments to 5 YRR, ADEQ previously viewed provisions as useful but difficult to practically difficult to develop. AMA requests further discussion of these difficulties.	ADEQ appreciates AMA's comment. In order to correct the SIP gap for this rule, ADEQ intends to restore R18-2-306.02 as it existed prior to its expiration. However, ADEQ anticipates holding additional conversations with interested stakeholders to potentially identify improvements to this, and other NSR rules that are outside of the scope of this current rulemaking.
AMA	Regarding R18-2-306.03, AMA commented: 1) AMA believed it would be better to consolidate R18-2-306.03 with R18-2-306.1. AMA believed it was unclear why it was being added as a separate rule. 2) AMA expressed concerned about the characterization of interfering with attainment or maintenance as a voluntary condition. 3) AMA commented that the "Other purpose of the Act" language appears to overlap with purposes in 306.01. 4)The AMA disagrees with the proposed A.A.C. R18-2-306.03.A characterization of avoiding	1) ADEQ appreciates AMA's comment. ADEQ believes that it will improve the usability of the proposed rule to facilitate SIP planning to have R18-2-306.03 as a separate rule. As a result of keeping the rules separate, ADEQ will retain the proposed cross references to 306.03. 2) ADEQ appreciates AMA's comment. ADEQ believes this language is necessary as there may be sources, through the application of all applicable requirements, would be unable to demonstrate attainment/non-interference with maintenance with the relevant NAAQS. Under the proposed language, a source would be able to adopt additional limitations beyond the applicable requirements to satisfy this requirement. Without this

	<p>“complying with any other [sic] of the Act” as a purpose for voluntarily establishing enforceable permit conditions. Such conditions would be voluntarily established to avoid applicability of such requirements, not compliance with those requirements</p> <p>5) AMA does not believe the stated purposes are necessary.</p> <p>6) Comment about repeating language from 306.01. Additionally, comment about the air quality assessment is already required to require air quality assessments. AMA requested that this additional language is removed.</p>	<p>option, it would be unlikely that the source could be permitted.</p> <p>3) ADEQ appreciates AMA’s comment regarding potential overlap between R18-2-306.01 and the proposed R18-2-306.03. ADEQ agrees there are some instances where “comply with any other requirement of the Act” might overlap. There are limited circumstances where a voluntary permit may be adopted under R18-2-306.01 (e.g. to avoid classification as a Class I source or an applicable requirement). However, these two options are not always sufficient to allow a permitted source to accept limits that. Conversely, a source may accept a voluntary limit under R18-2-306.01 that is not for the purpose of avoiding</p> <p>4) ADEQ thanks AMA for its comment. At this time, ADEQ intends to retain the stated purposes in the rule. ADEQ believes that the stated purposes in the rule will fulfill one of objectives of this rulemaking, namely to enable the adoption of voluntary limits to assist with the SIP planning process. ADEQ is open to additional conversations about future improvements to its NSR rules in a separate rulemaking.</p> <p>5) ADEQ appreciates AMA’s comment regarding the scope. However, at this time ADEQ chooses to retain the state purposes in the rule to facilitate SIP planning needs.</p> <p>6) ADEQ agrees with this comment and has removed R18-2-306.03(B)(3) from the proposed rule.</p>
AMA	<p>AMA proposed language:</p> <p>1) Update language in R18-2-306.01(A) by removing the stated purposes</p> <p>2) Update language in R18-2-306.01(A) by making the stated purposes as illustrative only</p> <p>3) Alternatively, AMA proposed language in R18-2-306.03(A) to remove the stated purposes.</p>	<p>ADEQ appreciates AMA’s inclusion of suggested language. At this time, ADEQ intends to retain the stated purposes in the rule. See the prior discussion regarding the retention of the stated purposes in the rule.</p>
AMA	<p>The AMA understands that the proposed changes to A.A.C. R18-2-307.A.4 are intended to incorporate language from EPA’s rules for state operating permit programs under 40 C.F.R. § 70.8(a)(1) and therefore has no objection. However, the proposed language should either remove the parenthesis before “which” or remove the comma before that parenthesis and add another parenthesis after “public” at the end of the sentence.</p>	<p>ADEQ agrees with AMA’s comment and has implemented the appropriate changes.</p>
AMA	<p>AMA commented regarding R18-2-309: AMA was supportive of electronic compliance certifications</p>	<p>ADEQ appreciates AMA’s comments in support of this change.</p>

AMA	Regarding R18-2-310.01(A)(1), AMA commented: Supportive, but wants ADEQ to expressly clarify that excess emissions report within 72 hours of initial notification can also be electronically submitted.	ADEQ agree with AMA's comment and has made the appropriate changes.
AMA	Regarding R18-2-317.01(A)(8), AMA commented: AMA believes the cross references regarding in proposed R18-2-306.03 are unnecessary as AMA commented that the R18-2-306.03 could be incorporated in to the existing R18-2-306.01.	See discussion of cross references in response to comments of R18-2-306.03
AMA	Regarding R18-2-320(B)(1), AMA commented: AMA believes the cross references regarding in proposed R18-2-306.03 are unnecessary as AMA commented that the R18-2-306.03 could be incorporated in to the existing R18-2-306.01.	See discussion of cross references in response to comments of R18-2-306.03
AMA	R18-2-324(C) and (E): AMA recommends ADEQ replace "subject to title V of the act with" "required to obtain a class I permit under R18-2-302(B)(1)"	ADEQ agrees with AMA's suggestion.
AMA	R18-2-501(B): AMA believes the cross references regarding in proposed R18-2-306.03 are unnecessary as AMA commented that the R18-2-306.03 could be incorporated in to the existing R18-2-306.01.	See discussion of cross references in response to comments of R18-2-306.03
AMA	The AMA understands that the proposed changes at A.A.C. R18-2-513.F and G are intended to incorporate requirements for temporary sources under EPA's rules for state operating permit programs at 40 C.F.R. § 70.6(e) and therefore has no objection. However, because ADEQ's rules do not include provisions for determining whether a source is "subject to Title V of the Act," the AMA recommends that ADEQ replace references to "subject to Title V of the Act" in A.A.C. R18-2-513.F (and possibly in other provisions such as A.C.C R18-2-503.B) with "required to obtain a Class I permit under R18-2-302.B.1" consistent with ADEQ's permitting rules intended to comply with EPA's rules for state operating permit programs that were developed to implement Title V of the Clean Air Act.	ADEQ agrees with AMA's suggestion. However, additional changes to Article 5 (R18-2-503) are beyond the scope of this rulemaking. There are other A.A.C. Title 18, Chapter 2 rules that have similar language (R18-2-302(C)(2), R18-2-306(A)(6)(d), and R18-2-328(E), for example). However, ADEQ is interested in additional conversations to improve the usability of its rule language.
ASARCO/Arizona Electric Power	The commenter described several concepts (emissions caps, installation/modification limits, voluntary limits including: avoidance	ADEQ appreciate these comments and looks forward to additional conversations with stakeholders about

Cooperative (AEPCO)	limits, exit limits, equivalent/alternative limits, streamlined limits, and parameter limits.	potential future rulemakings to continue to improve the ADEQ's permitting rules.
ASARCO/AEPCO	The commenter provided comments regarding the definition of enforceable as a practical matter. The comment encouraged ADEQ to consider the definition utilized by EPA in the Tribal Minor NSR Rule (40 CFR § 49.152)	ADEQ agrees with this comment and has made the appropriate changes to the rule language.
ASARCO/AEPCO	Proposed Revisions to R18-2-302(E): Commenter stated "the proposed change to (E) is inconsistent with CAA § 112 as interpreted by <i>National Manufacturer's Association (NMA) v. EPA</i> , 59 F.3d 1351 (D.C. Cir. 1995). <i>NMA</i> , according to the commenter, held that "Congress did not intend to limit 'controls' used in determining applicability to just those that were 'federally enforceable' but meant to include state and local controls that were similarly effective." ADEQ should revise the proposed language to allow effective limits to be considered in determining potential to emit, at least for HAPs.	The proposed revisions do not change the substance of R18-2-302(E). The existing language provides that elective limits "shall not be considered in determining whether a source requires a Class I permit." The commenter's suggestion that elective limits should be considered "in determining potential to emit, at least for HAPs" would therefore represent a change from the existing rule going beyond the scope of the exemption memo.
ASARCO/AEPCO	Proposed R18-2-306.02: <ol style="list-style-type: none"> 1) Averaging times should not be limited to those "necessary to enforce any applicable requirement" 2) Requirements for an Emission Cap at Class II Sources (R18-2-306.02(B)) 3) Conditions for an Emission Cap (R18-2-306.02(C)) 4) Trading under permit (R18-2-306.02(D)) 5) Limitation of inclusion of emissions (R18-2-306.02(E)) 	ADEQ appreciates this comment. In order to correct the SIP gap for this rule, ADEQ intends to restore R18-2-306.02 as it existed prior to its expiration. ADEQ anticipates holding additional conversations with interested stakeholders to potentially identify improvements to this, and other NSR rules that are outside of the scope of this current rulemaking.
ASARCO/AEPCO	Regarding R18-2-306.03, the comment: <ol style="list-style-type: none"> 1) states that ADEQ should provide broad authority to permit applicants to specify limitations upon initial construction/modification. The comment also urged ADEQ to implement changes in R18-2-334. 2) urges ADEQ to focus on changes to existing sources <ol style="list-style-type: none"> a. Regarding Condition A is overly limiting by providing the specified 	<ol style="list-style-type: none"> 1) ADEQ appreciates this comment. Currently changes to R18-2-334 are outside of the scope of this rulemaking. However, ADEQ looks forward to additional conversations on this topic to develop it further. 2) The commenter suggested that ADEQ should focus on changes to existing sources, rather than for new sources. <ol style="list-style-type: none"> a. ADEQ appreciates this comment. However, at this time ADEQ intends to retain the purpose for this rule. ADEQ is open to additional conversations on this subject. b. ADEQ agrees and has made the appropriate change.

	<ul style="list-style-type: none"> b. Requested the removal the definition of enforceable as a practical matter. c. States that Subsection B should address requirement for an avoidance limit to avoid potentially applicable requirement or to exit an already applicable requirement. d. Recommended the addition of a new subsection to address alternative requirements that could only apply to existing sources (and not new) e. Suggests that alternative limits for SIPs, NSPS and NESHAPs might be too complex to be handled in a rule of general applicability and might be better addresses as one-offs under the appropriate program. 	<ul style="list-style-type: none"> c. ADEQ appreciates this comment. However, these suggested changes are currently beyond the scope of this rulemaking. ADEQ intends to continue conversations with stakeholders about continuing to improve these rules after the completion of this rulemaking. d. ADEQ appreciates this comment. However, these suggested changes are currently beyond the scope of this rulemaking. ADEQ intends to continue conversations with stakeholders about continuing to improve these rules after the completion of this rulemaking. e. ADEQ appreciates this comment. ADEQ is not currently aware of sufficient legal authority to permit future adoption of one-off limits under the appropriate program. Based on feedback from EPA, ADEQ believes that it is necessary to create a rule to enable the adoption voluntary limits.
ASARCO/AEPCO	Emissions trading within a permit: The commenters expressed support for the concept of emissions trading within a permit. The commenter recommending addressing these issues in a separate action.	ADEQ appreciates the comment and is willing to engage in additional discussions on this subject matter.