

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/voluntaryaprulemaking>) that was made available on May 28, 2024.

Rule	Comment	Response
R18-2-302(E)	<p>As revised, proposed R18-2-302, subdivision E creates a conflict with the definition of “major source” that is likely unintended. The “elective controls” are routinely used to keep sources from being classified as a major source so long as a permit is obtained or the elective controls are required by rule. The revised formulation in subdivision E could be read to repudiate this practice. Accordingly, the proposed E should be revised to read as follows (addition shown in <u>bold underline</u>):</p> <p>Elective limits or controls adopted <u>solely</u> under R18-2-302.01(F) shall not be considered in determining whether a source <u>is a major source requiring a Class I permit under subsection (B)(1)(a).</u> <u>Elective limits or controls adopted under R18-2-302.01(F)</u> shall be considered in determining any of the following:</p> <ol style="list-style-type: none"> 1. Whether the registration is subject to the public participation requirements of R18-2-330, as provided in R18-2-302.01(B)(3). 2. Whether review for possible interference with attainment or 	<p>ADEQ agrees that it there is the possibility that the language proposed for R18-2-302(E) could cause confusion. However, ADEQ is concerned that adding “solely” could add some confusion if a source sought to rely on multiple sections to adopt an elective control. To resolve this, ADEQ will propose the following language:</p> <p>Elective limits or controls adopted <u>pursuant to</u> R18-2-302.01(F) shall not be considered in determining whether a source <u>is a major source requiring a Class I permit under subsection (B)(1)(a).</u> <u>Elective limits or controls adopted <u>pursuant to</u> R18-2-302.01(F)</u> shall be considered in determining any of the following:</p>

	<p>maintenance of ambient standards is required under R18-2-302.01(C).</p> <p>3. Whether the source requires a Class II permit, as provided in subsections (B)(2)(a) or (b).</p> <p>By adding “solely,” the rule properly recognizes that what appears to be an elective control (because listed in R18-2-302.01(F)) is not an elective control if it is contained in an applicable permit or is required by an applicable rule. It is only an elective control if there is no other legal authority for the provision other than R18-2-302.01(F). The proposed change preserves existing permitting practice. Elimination of the use of hours of operation and material throughput limitations or baghouses, expanding the universe of major sources, is beyond the scope of the Department’s exemption memorandum.</p> <p>We also need to be careful that this language does not prohibit acceptance of permit conditions to stay below "major source" thresholds. That is routinely allowed and I don't think it is what you are trying to address but the language is ambiguous. Call me if this isn't clear.</p>	
R18-2-302.01(F)(5)	It is not clear why (F)(5) is limited to “Tier 4 engines used for electrical generation”	This part of the rulemaking is in response to a commitment made to a five-year rule review report that specifically requested the agency for electrical

		generation.
R18-2-301.01(A)	We support use of a defined term “enforceable as a practical matter” in lieu of a definition in this section.	ADEQ appreciates the comment.
R18-2-306.02	<p>Proposed requirement B.1 is not clear whether the applicable requirement applies to the source as a whole or to an individual piece of equipment at the source. It should be revised as follows:</p> <ol style="list-style-type: none"> 1. <u>Any applicable requirement for the pollutant for the source as a whole expressed in tons per year.</u> <p>We recommend revising B.2 to provide an allowance for HAPs of 2.5 tons, as follows:</p> <ol style="list-style-type: none"> 2. <u>The source’s actual emissions plus, for non-hazardous air pollutants, the applicable significance level for the pollutant established in R18-2-101(131), and for hazardous air pollutants, 2.5 tons for any single hazardous air pollutant and 10 tons for any combination of hazardous air pollutants.</u> <p>Hazardous air pollutants are not subject to the new source review restrictions applicable to the other pollutants and thus do not need to carry a limitation holding them below the “significant amount.”</p> <p>In proposed C.2, there is no reason to repeat the “enforceable as a</p>	<p>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 New Source Review (NSR) rules that are outside of the scope of this current rulemaking.</p>

	<p>practical matter” as that is now defined. C.2.a and b should be stricken. C.2.c the agency should allow a limit that is enforced by a CEMS, COMS, or CPMS in addition to the methods specified. It is not clear why C.2.e is needed. C.2.f is effectively addressed by the definition of enforceable as a practical matter.</p>	
<p>R18-2-306.03</p>	<p>The proposed condition is redundant of R18-2-306.01. It offers no greater coverage than R18-2-306.01. If ADEQ desires to add “avoid interfering with attainment or maintenance of a NAAQS, to avoiding impairing visibility, or to comply with any other requirement of the Act” it could simply add that to the first sentence of R18-2-306.01.</p> <p>The provision could be made more useful by making it one to generate an emissions reduction credit. The current provisions do not make that easy to do because generation of an emissions reduction to generate a credit does not meet the test in R18-2-306.01.</p>	<p>ADEQ appreciates the comment. ADEQ believes that it will improve the usability of the proposed rule to facilitate State Implementation Planning (SIP) planning to have R18-2-306.03 as a separate rule.</p> <p>In the second paragraph you may have meant to cite to R18-2-306.03. We agree that as proposed does not expressly provide for the facilities to take on voluntary limits to generate emissions reductions credits (ERCs). ADEQ agrees that the rule should allow for the generation of ERCs. Therefore, to address the comment ADEQ has made the following changes:</p>

		<p>Such language might be:</p> <p>A. A source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls, or other requirements in order to avoid interfering with attainment or maintenance of a NAAQS, to avoid impairing visibility, or to comply with any other requirement of the Act, <u>or to generate emissions reduction credits pursuant to Arizona Administrative Code Title 18, Chapter 2, Article 12.</u></p>
R18-2-309(2)(e)	Should R18-2-306.02 be added?	ADEQ agrees with this comment and has made the appropriate changes.
R18-2-513(G)	<p>The requirement that the “operation must be temporary” is not required under federal law. What is required is that the source move during the permit term. If the concern is that the source may not be modeled, then G should be revised as follows:</p> <p>G. The operation must involve at least once change of location during the term of the permit and, if the portable source will remain in one location for more than 24 consecutive months and the source exceeds the permitting exemption thresholds, the source must submit</p>	<p>ADEQ disagrees with the statement that “operation must be temporary” is not required by federal law. Specifically, 40 CFR 70.6(e) provides:</p> <p><i>“Temporary sources.</i> The permitting authority may issue a single permit authorizing emissions from similar operations by the same source owner or operator at</p>

	<p>a demonstration that it will not cause an exceedance of the NAAQS for the pollutant(s) exceeding the permitting exemption threshold.</p>	<p>multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:” (emphasis added).</p>
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