ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 W. Washington St.
Suite 160
Phoenix, AZ 85007
602-771-2300

KATIE HOBBS
GOVERNOR

KAREN PETERS
DIRECTOR

January 12, 2026

Submitted online via EPA's Central Data Exchange, State Plan Electronic Collection System (SPeCS)

Mike Martucci, Acting Regional Administrator
U.S. Environmental Protection Agency, Region IX
Mail Code ORA-1
75 Hawthorne Street
San Francisco, CA 94105

RE: Submittal of State Operating Permit Program and SIP Revision

Dear Mr. Martucci:

The Arizona Department of Environmental Quality (ADEQ) hereby adopts and submits to the U.S. Environmental Protection Agency (EPA) the enclosed *"SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements"* as a revision to the ADEQ's operating permit program pursuant to A.R.S. §§ 49-104, 49-106, and 49-402, 49-404, 49-406, 49-426 and 40 CFR § 70.4(i). The purpose of this State Operating Permit Program revision and State Implementation Plan (SIP) revision is to make the following four categories of changes to the ADEQ's Air Quality rules: 1) allow permitted facilities to adopt voluntary permit conditions to protect ambient air quality; 2) make technical corrections related to ADEQ's New Source Review (NSR) rules; 3) to fulfill ADEQ's five year rule review commitment to the Arizona Governor's Regulatory Review Council; and 4) correct gaps between ADEQ's rules and the U.S. Environmental Protection Agency (EPA) title V requirements.

ADEQ requests that the EPA review and approve this revision into ADEQ's existing State Operating Permit Program, pursuant to 40 CFR Part 70, and SIP. Thank you for your consideration of this important matter.
If you have any questions, please contact me at (602) 771-4684 or at czecholinski.daniel@azdeq.gov.

Sincerely,

Daniel Czecholinski, CHMM
Director, Air Quality Division

cc: Doris Lo, EPA Region IX (via email)
Anita Lee, EPA Region IX (via email)

ADEQ Memorandum

5/14/25

Arizona Department
of Environmental Quality

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Date: May 14, 2025
To: Daniel Czecholinski, Division Director, ADEQ Air Quality Division
From: Karen Peters, Director
Subject: Air Quality Division Delegation of Authority

Under A.R.S. §49-104 (D) (2), I authorize you, Daniel Czecholinski, Division Director, Air Quality Division, Arizona Department of Environmental Quality, to perform any act, including execution of any pertinent documents, which I, as Director of the Arizona Department of Environmental Quality, am authorized or required to do by law with respect to A.R.S Title 49, Chapters 1 and 3, and any other acts related to air quality, including personnel actions within your division.

This delegation is effective immediately and shall remain in effect until it is revoked or upon your separation from the Arizona Department of Environmental Quality. This delegation replaces any other delegations to the Air Quality Division Director that may be in effect. You may further delegate this authority in the best interest of the agency, however, those delegations must be in writing and you must forward a copy of any further delegations to me. I ratify all acts previously performed by you as Air Quality Division Director concerning the duties and functions in this delegation memorandum.

Karen Peters
Director

Date

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SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

Air Quality Division
January 12, 2026

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Table of Contents

List of Tables

List of Appendices

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 SIP submission and attached delegation of authority from Karen Peters, 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.

Evidence that the State has adopted the SIP revision and state operating permit program revision will be included in the letter of submittal for the final SIP revision. Evidence that the State has adopted the rules into the Arizona Administrative Code (A.A.C) is included in Appendices A and B.

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

The Arizona Department of Environmental Quality (ADEQ) is authorized to adopt and administer new source review (NSR) rules and to submit the rules for approval in the SIP and its state operating permit program under Arizona Revised Statutes (A.R.S.) §§ 49-104, 49-106, 49-404, 49-406, 49-425, and 49-426, which are included in Appendix C**.**

(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.

ADEQ is submitting rules for its NSR and title V program. A copy of the Notice of Final Rulemaking

(NFRM) is attached in Appendix A, after the public comment period, hearing, and approval by the Governor's Regulatory Review Council (GRRC). Appendix B contains evidence of adoption of the final rule.

(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.

Evidence that ADEQ complied with all requirements for the adoption of the rule revisions included in this SIP revision and state operating permit program revision as described in sections 2.1(b), 2.1(f), and 2.1(g) of this completeness criteria checklist.

(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.

Evidence that ADEQ gave notice and was a hearing on the SIP revision and state operating permit program revision in accordance with A.R.S. § 49-444 is be attached as Appendix D and E.

(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.

The certification of that the public hearing were held 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, public comments and other documents related to the public hearing is included in Appendices D and E.

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

The compilation of public comments is attached in Appendix E. The State's response thereto is attached included in the NFRM, included in Appendix A. The response to comments is in Section 12 of the NFRM, located 32 A.A.R. 55, 59 - 61 (Jan. 2., 2026).

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

Appendix V § 2.2 - Technical Support

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

The changes proposed in this SIP revision, state operating permit program revision, and NFRM could potentially affect any pollutant subject to the major nonattainment NSR or prevention of significant deterioration (PSD) program.

(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).

ADEQ's NSR rules are potentially applicable to all areas and sources under ADEQ's jurisdiction.

(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.

The rule changes will not result in any changes to allowable or actual emissions from existing sources. Changes to allowable or actual emissions of new and modified sources subject to the program will depend upon the case-by-case application of NSR control requirements to each source and cannot be quantified.

(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.

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

(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.

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

1 INTRODUCTION

The purpose of this state implementation plan (SIP) revision and state operating permit program revision is to make the following four categories of changes to the Arizona Department of Environmental Quality's (ADEQ) Air Quality rules: 1) allow permitted facilities to adopt voluntary permit conditions to protect ambient air quality; 2) make technical corrections related to ADEQ's New Source Review (NSR) rules; 3) to fulfill ADEQ's five year rule review (5YRR) commitment to the Governor's Regulatory Review Council; and 4) correct gaps between ADEQ's rules and the U.S. Environmental Protection Agency (EPA) title V requirements. The following sections provide the factual and legal background for each of these four changes and demonstrate that they are eligible for inclusion into the State of Arizona's SIP.

Section 1 provides the necessary factual and legal background for these revisions. Section 2 examines the ADEQ rule amendments. Section 3 demonstrates that these SIP revisions do not violate the anti backsliding requirements of the Clean Air Act (CAA). Section 4 describes the proposed changes to ADEQ's title V state operating permit program.

1.1 Background

The section provides the legal and factual background of this SIP revision. Section 1.1 provides an overview of the NSR program. Section 1.1.2 provides the relevant history of the ADEQ's title V state operating permit program.

1.1.1 NSR Program

Under CAA § 110(a)(1), 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].

CAA § 110(a)(2)(C). State and federal regulations adopted under this section are commonly referred to as "new source review" (NSR) 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 an 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.

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. Subpart 2 of Part D establishes specific offset requirements for ozone precursors in ozone nonattainment areas.

In addition to requiring compliance with the specific major NSR requirements of Parts C and D, CAA § 110(a)(2)(C), requires "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*." (Emphasis added.) EPA refers to § 110(a)(2)(C) programs that apply to non-major sources and minor modifications to major sources as "minor NSR."[1]

Under EPA regulations implementing CAA § 110(a)(2)(C), a state minor NSR program must include procedures to prevent the construction of a "facility, building, structure or installation," that will result in:

> (1) A violation of applicable portions of the control strategy; or
> (2) Interference with attainment or maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring State.[2]

The program must identify types and sizes of facilities, buildings, structures, or installations which will be subject to review. The minor NSR SIP must discuss the basis for determining which facilities will be subject to review.[3]

1.1.2 Overview Title V program

The Clean Air Act Amendments (CAAA) of 1990 required all States to develop operating permit programs that meet criteria established by EPA. When implementing the operating permit program, States must require certain sources of air pollution to obtain operating permits that contain all of their applicable requirements under the CAA. The focus of the operating permit program is to improve compliance and enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all applicable CAA requirements for a source into a single operating permit, a title V permit allows the source, the public, and permit issuing authority to more easily understand what CAA requirements apply and how compliance with those requirements is determined. Sources are required to obtain an operating permit under this program include "major" sources of air pollution, and other sources as specified in the CAA or in EPA regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits.

Examples of major sources include, but are not limited to, sources that have a potential to emit 100 tons per year or more of certain criteria pollutants; those that emit 10 tons of a single hazardous air pollutant (HAP) specifically listed under the CAA, or those that emit 25 tons per year or more of a combination of HAPs.[4] In areas not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the area's nonattainment classification.

Title V of the CAA directs States to develop and submit their own operating permit programs to the EPA by November 13, 1993. EPA is required to approve or disapprove (either in whole or in part), each program within one year after receiving the submittal. The EPA's program review occurs pursuant to CAA § 502 and 40 CFR Part 70. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant interim approval. If EPA does not fully approve a program by two years after the

[1] 76 FR 38748, 38752 (July 1, 2011).
[2] 40 CFR § 51.160(a)-(b). [3] 40 CFR § 51.160(e). [4] CAA § 501.

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

November 15, 1993 deadline, or before the expiration of an interim program approval, it is required to establish and implement a federal program.

On November 15, 1993, ADEQ submitted its original request for program approval.

On July 13, 1995, EPA proposed interim approval for the operating permit programs for ADEQ, Maricopa County Environmental Services Department (MCESD), and Pima County Department of Environmental Quality (PDEQ).[5]

On October 30, 1996, EPA finalized the interim approval of the operating permit programs for ADEQ, MCESD, and PDEQ, citing several deficiencies.[6]

ADEQ submitted revisions to its program submission on August 11, 1998, May, 9, 2001, and September 7, 2001, containing revised versions of A.A.C. R18-2-101(61), R18-2-304, R18-2-306, R18-2-320, and R18-2-331 to address the cited deficiencies.[7]

On December 5, 2001, EPA published its full approval of the operating permit programs for ADEQ, MCESD, and PDEQ.[8] This final rule was effective November 30, 2001.[9]

Since ADEQ's title V operating permit program was approved by EPA, ADEQ and EPA have made changes to their respective rules. The purpose of this program revision is to demonstrate that ADEQ's current rules meet EPA's current requirements.

On December 2, 2020, EPA issued a final report for its evaluation of ADEQ's operating permit program.[10] As part of its evaluation, EPA issued finding 2.5 which stated, "The Department has made revisions to its

title V program to implement a unitary permitting program."[11] This "unitary" program (which uses many of the same rules to meet title V and new source review (NSR) requirements) authorizes both construction and operation in a single permit. NSR requirements for new sources are enforced as part of the issuance of a single permit that ensures compliance with all other applicable requirements of state and federal air quality laws. For major sources, these permits are designed to comply with title V of the CAA, as well as Parts C and D of title I. Major modifications subject to major NSR now require a significant revision to the permit for an existing source, rather than a new installation permit. Other modifications that formerly required an installation permit may now proceed under either a significant or minor permit revision.

Additionally, EPA noted, at the time of the evaluation, that ADEQ's NSR program had a few outstanding deficiencies that ADEQ and EPA were working to address.[12] As ADEQ relies on some of the same rules for NSR and title V purposes and these rules have been revised since the 2001 approval of ADEQ's title V

[5] 60 FR 36083 (July 13, 1995).
[6] 61 FR 55910 (Oct. 30, 1996).
[7] 66 FR 50136 (Oct. 2, 2001).
[8] 66 FR 63175 (Dec. 5, 2001).
[9] *Id.*
[10] ENVIRONMENTAL PROTECTION AGENCY, ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY TITLE V OPERATING PERMIT PROGRAM EVALUATION (Dec. 2, 2020), *available at* https://www.epa.gov/sites/default/files/2020-12/documents/adeq_title_v_operating_permit_program_evaluation_report-2020-12-02.pdf. [11] *Id.* at 20. [12] *Id.* (citing 80 FR 67319 (Nov. 2, 2015) and 83 FR 19631 (May 4, 2018)).

program, EPA recommended that ADEQ submit a title V program revision to EPA for approval once the remaining NSR deficiencies have been addressed.[13]

These deficiencies have been addressed and fully approved by EPA, and therefore on August 9, 2023, ADEQ submitted a title V program revision pursuant to 40 CFR § 70.4(i).[14] As part of this 2023 title V program revision, ADEQ identified several gaps between ADEQ's rules and EPA's requirements. These identified gaps will be discussed below in Section 4. The Notice of Final Rulemaking (NFRM), attached as Appendix A, addresses these gaps, as will be discussed below.

[13] *Id.* at 21. [14] 86 FR 31927 (June 16, 2021).

2 CHANGES TO ADEQ'S RULES

Section 2.1 discusses the proposed revisions to Arizona's SIP. Section 2.2 examines the rules to be added to and removed from the SIP.

2.1 Proposed Changes

ADEQ is proposing to amending its SIP-approved rules for the following purposes: 1) to allow permitted facilities to adopt voluntary permit conditions to protect ambient air quality; 2) to make technical corrections related to ADEQ's NSR rules; and 3) to fulfill ADEQ's 5YRR commitment to the Governor's Regulatory Review Council (GRRC). ADEQ is also correcting the gaps between ADEQ's rules and the U.S. Environmental Protection Agency's (EPA) Title V requirements, as will be discussed in Section 4.

2.1.1 Voluntary Permits Conditions

First, this section provides background into the permit requirements, uses of voluntary permit conditions and ADEQ's new rules. Generally, when a source is required to obtain a permit under A.A.C. R18-2-302, the permit must contain all applicable requirements at the time of issuance and any voluntary permit conditions adopted under A.A.C. R18-2-306.01. A.A.C. R18-2-306(A)(2). A.A.C. R18-2-101(16) defines "applicable requirements" to mean either any "federal applicable requirement," as defined by A.A.C. R18-2-101(51), or requirements established under A.A.C. Title 18, or A.R.S. Title 49, Chapter 3.

ADEQ has identified three potential categories for the use of voluntary permit conditions: 1) to avoid an applicable requirement that would apply to a stationary source; 2) to prevent a stationary source's emissions from causing or contributing to ambient air quality exceeding an applicable standard; or 3) to assume limits that could be developed for air quality planning purposes.

The first category is for sources seeking to avoid an applicable requirement, most commonly by limiting emissions to a level below the threshold of an applicable requirement. For example, sources may seek voluntarily accepted limitations to avoid classification as a major source in order to avoid major NSR or Class I permitting requirements.

The second category would be for voluntary permit conditions that would be necessary to demonstrate that a source would not interfere with an ambient air quality standard. In order to obtain a permit under the prevention of significant deterioration (PSD) or minor NSR programs, the source seeking a permit is required to demonstrate that the source's emissions will not cause or contribute to a violation of the national ambient air quality standards (NAAQS). The PSD program requires a demonstration that maximum allowable increases for particulate matter (PM), nitrogen oxides (NO_x), or sulfur dioxide (SO_2) will not be exceeded. If a source satisfies applicable requirements, but will still cause or contribute to ambient air quality exceeding an applicable standard, the source will have to assume a voluntary limit that can be demonstrated to protect the NAAQS in order to obtain a permit.

The third category is for voluntary permit conditions that can be adopted to facilitate the SIP planning process or state plan process under CAA §§ 110 and 111(d), respectively. For nonattainment areas where emissions are predominately from a limited number of sources, a source may wish to adopt voluntary limits in their operating permit that will reduce emissions in order to bring the area back into attainment of the NAAQS. In developing the technically complex SIP revisions to bring an area back into attainment of the NAAQS, it is necessary to engage with sources to determine the mix of limitations that

are necessary to achieve the SIP planning process's ultimate goal of compliance with the NAAQS. This is especially true for nonattainment areas where the significant majority of emissions come from a single source.

A.A.C. R18-2-306.01 provides that a source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls, or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to avoid classification as a source that requires a Class I permit or to avoid one or more other applicable requirements.

Previously, ADEQ interpreted A.A.C. R18-2-306.01 to allow voluntary permit terms for all three of the categories described above. Recently, EPA notified ADEQ that its interpretation of A.A.C. R18-2-306.01, which allowed sources to take voluntary permit limitations for the second and third categories, would be objected to because those categories did not appear in the plain text of the rule. As a result, ADEQ is no longer able to issue permits that rely on this interpretation of A.A.C. R18-2-306.01. Additionally, permitted sources that previously relied on these conditions may not be able to have their permit renewal issued as EPA will object to the permit issuance.

Therefore, to expand flexibility for voluntary permit conditions to include the two other potential uses (the second and third categories described above) of voluntary permit conditions, ADEQ is adopting A.A.C. R18-2-306.03. The purpose of this new rule is to allow for permit conditions that would fit in the second and third categories: to allow voluntary permit conditions that are necessary to prevent a stationary source's emissions from causing or contributing to ambient air quality exceeding an applicable standard; and to assume limits that can be included in state air quality planning.

This new rule aligns with ADEQ's historic practices. It will maintain ADEQ's regulations to be as protective of human health and the environment as federal law requires. Without this change, EPA will object to permit applications and renewals that seek to implement voluntary conditions beyond those explicitly permitted in A.A.C. R18-2-306.01. The use of voluntary permit conditions will not increase allowable emissions from a facility. Instead, voluntary permit conditions allow measures that have the potential to reduce emissions or otherwise, and make the permit more protective of human health and the environment.

The CAA, and long-standing EPA practice, allows States to develop permitting programs for voluntary emissions limitations so long as there is a demonstration that the requirements will be federally enforceable. 54 FR 2724 (June 28, 1989); 40 CFR § 51.165(a)(1)(iii); *Northwest Envtl. De. Ctr. v. Cascade Kelly Holdings LLC*, 155 F. Supp. 3d 1100, 1102 (D. Or. 2015); EPA, Guidance on Enforceability Requirements for Limiting Potential to Emit Through SIP and Section 112 Rule and General Permits; 40 C.F.R. § 52.21. This practice encourages sources to voluntarily reduce emissions and will aid in state air planning by allowing sources to create enforceable conditions. In order to preserve this flexibility, ADEQ must create a new rule that will allow for voluntary conditions beyond the scope of A.A.C. R18-2-306.01.

Additionally, ADEQ is reinstating A.A.C. R18-2-306.02, which provided for the establishment of voluntary emissions caps. This rule was allowed to expire under A.R.S. § 41-1056(J) in 2016. Before its expiration, this rule allowed permitted sources to take voluntary permit caps for particular pollutants as a tons-per year limit. Subsequently, ADEQ learned that this rule is still necessary for some permits. In order to allow sources to take or keep these voluntary emissions caps in the permits, the rule needs to be reinstated as it existed prior to its expiration. Reinstating this rule will not increase the regulatory burden as A.A.C. R18-2-306.02 remains federally enforceable as part of Arizona's EPA approved SIP. Reinstating the rule under state law will simplify the requirements for ADEQ and its customers. ADEQ is amending any necessary cross references for A.A.C. R18-2-306.02 and R18-2-306.03.

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

2.1.2 NSR Changes

Second, ADEQ identified various technical or typographical errors in its NSR rules, such as (but not limited to) the changes to A.A.C. R18-2-302(E), R18-2-309, and R18-2-310.0(A)(1). Correcting these errors will not change the substantive requirements of the rules, but will help improve the clarity of the rules for the public.

2.1.3 Governor's Regulatory Review Council Commitment.

Third, ADEQ amends A.A.C. R18-2-302(F) to fulfill a commitment made to the Governor's Regulatory Review Council (GRRC) in a five-year rule review report to GRRC. Tucson Electric Power requested ADEQ add Selective Catalytic Reduction (SCR) to the elective limit/control list in A.A.C. R18-2-302.01(F) to reduce the time and costs associated with the public process. The addition of SCR to this list would be limited to electrical generating units of less than 10 megawatts that are typically powered by diesel fuel reciprocating internal combustion engines. These new types of engines must meet EPA's Tier 4 emission standards in 40 CFR Part 1039. That regulation requires new engines to be equipped with certain controls, including SCR for nitrogen oxide (NO_x) reduction.

Under A.A.C. R18-2-302.01(A)(6), a source applying for registration must include its maximum capacity to emit, both with and without elective limits if any are chosen. Paragraph (B)(5) provides that all

registrations are subject to public notice and participation (A.A.C. R18-2-330) except where the maximum capacity to emit (with elective limits) is less than the applicable permitting exemption threshold. The addition of SCR to the elective limit list in A.A.C. R18-2-302.01(F) would reduce the time and costs associated with the public process specified in A.A.C. R18-2-330 for source registration, while ensuring there are enforceable limits.

2.2 SIP approved rules to be added or amended.

This section details the rules that ADEQ is requesting to add to or remove from the SIP. The NFRM, attached as Appendix A, addresses the four issues describe above. Table 2-1 identifies the rules in Appendix A that ADEQ is requesting be approved into the SIP and, where appropriate, the existing SIP rules that they are replacing.

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

		Requested to be	
Article 1			
A.A.C. R18-2-101 (except 20)	Definitions	A.A.C. R18-2-101 (except 20)	89 FR 22963 (Apr. 3, 2024)
Article 3			

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

		Requested to be	
A.A.C. R18-2-301	Definitions	A.A.C. R18-2-301	86 FR 31927 (June 16, 2021)
A.A.C. R18-2-302	Applicability; Registration; Classes of Permits	A.A.C. R18-2-302	86 FR 31927 (June 16, 2021)
A.A.C. R18-2-302.01	Source Registration Requirements	A.A.C. R18-2-302.01	86 FR 31927 (June 16, 2021)
A.A.C. R18-2-304	Permit Application Processing Procedures	A.A.C. R18-2-304	86 FR 31927 (June 16, 2021)
A.A.C. R18-2-306	Permit Contents	A.A.C. R18-2-306	86 FR 31927 (June 16, 2021)

A.A.C. R18-2-306.01	Permits Containing Voluntarily Accepted Emission Limitations and Standards	A.A.C. R18-2-306.01	86 FR 31927 (June 16, 2021)
A.A.C. R18-2-306.02	Establishment of an Emissions Cap	A.A.C. R18-2-306.02	80 FR 67319 (Nov. 2, 2015).
A.A.C. R18-2-306.03	Voluntary Air Permit Requirements for Ambient Air Quality Protection and Planning	A.A.C. R18-2-306.03	N/A
A.A.C. R18-2-310.01	Reporting Requirements	A.A.C. R18-2-310.01	66 FR 48087 (Sept. 18, 2001)
A.A.C. R18-2-317.01	Facility Changes that Require a Permit Revision - Class II	A.A.C. R18-2-317.01	86 FR 31927 (June 16, 2021)

		Requested to be	
A.A.C. R18-2-320	Significant Permit Revisions	A.A.C. R18-2-320	86 FR 31927 (June 16, 2021)

3 CAA § 110(l) ANALYSIS

Section 3 provides the CAA § 110(l) anti-backsliding analysis, demonstrating that these changes to Arizona's SIP will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA § 171), or any applicable requirement of the CAA. Specifically, this section presents the anti-backsliding analysis required by CAA § 110(l) for the three topics covered by this SIP revision: 1) voluntary permits; 2) NSR changes; 3) GRRC commitment. Lastly, this section concludes that these changes will not contribute to any backsliding.

3.1 The voluntary permit conditions do not violate CAA § 110(l).

Regarding the changes to ADEQ's permit program to allow for voluntary permit conditions, these

changes do not violate CAA § 110(l)'s prohibition against interfering with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement under the CAA. The use of voluntary permit conditions will not increase allowable emissions from a facility. Rather, ADEQ anticipates that the voluntary permit conditions have the potential to reduce emissions or otherwise make the permit more protective of human health and the environment.

As described above, the CAA, and long-standing EPA practice, allows States to develop permitting programs for voluntary emissions limitations so long as there is a demonstration that the requirements will be federally enforceable. 54 FR 2724 (June 28, 1989); 40 CFR § 51.165(a)(1)(iii); *Northwest Envtl. De. Ctr. v. Cascade Kelly Holdings LLC*, 155 F. Supp. 3d 1100, 1102 (D. Or. 2015); EPA, Guidance on Enforceability Requirements for Limiting Potential to Emit Through SIP and Section 112 Rule and General Permits; 40 CFR § 52.21. This encourages sources to voluntarily reduce emissions and will aid state air planning by allowing sources to create enforceable conditions. In order to preserve this flexibility, ADEQ must create a new rule that will allow for voluntary conditions beyond the scope of A.A.C. R18-2-306.01.

This new rule will align with ADEQ's historic practices. It will maintain ADEQ's regulations to be as protective of human health and the environment as federal law requires. Without this change, EPA will object to permit applications and renewals that seek to implement voluntary conditions beyond those explicitly permitted in A.A.C. R18-2-306.01. The use of voluntary permit conditions will not increase allowable emissions from a facility. Instead, voluntary permit conditions allow measures that have the potential to reduce emissions or otherwise make the permit more protective of human health and the environment. As these permit conditions would be included in their state operating permits, they would be federally enforceable.

3.2 NSR changes do not violate CAA § 110(l).

As described above in Sections 2.1.2, the changes to ADEQ's NSR rules are to address technical or typographical errors in its NSR rules. These changes do not affect the substantive requirements and therefore will not contribute to backsliding.

3.3 GRRC Commitment

The addition of SCR to the elective limit/control list in A.A.C. R18-2-302.01(F) will not contribute to backsliding. Paragraph (B)(5) provides that all registrations are subject to public notice and participation

(A.A.C. R18-2-330) except where the maximum capacity to emit (with elective limits) is less than the applicable permitting exemption threshold. As electrical generating units of less than 10 megawatts that are typically powered by diesel fueled reciprocating internal combustion engines that meet EPA's Tier 4 emissions standards fall below the emission limit threshold, the addition of SCR to the elective limit list in A.A.C. R18-2-302.01(F) will reduce the time and costs associated with the public process specified in A.A.C. R18-2-330 for source registration, while ensuring there are enforceable limits that are protective of the NAAQS.

3.4 Conclusion

Based on the above, this SIP revision to ADEQ's NSR rules do not violate CAA § 110(l). The changes to implement the voluntary permit conditions, technical NSR changes, and the GRRC commitment will not interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement under the CAA. Therefore, this SIP revision meets the requirements of CAA § 110(l).

4 TITLE V STATE OPERATING PERMIT PROGRAM CHANGES

As described above in Section 1.1.2, ADEQ is also making several changes for ADEQ's state operating permit program.

In December 2020, EPA issued a final report detailing the results of its audit of ADEQ's title V operating permit program under 40 CFR Part 70. As part of this report, EPA recommended that ADEQ revise its state operating permit program because EPA's and ADEQ's permitting rules have been revised since the last approval of ADEQ's state operating permit program in 2001. ADEQ reviewed its program to determine if revisions were necessary and identified three gaps between the state rules and the corresponding federal requirements. Two of these gaps relate to portable title V sources (40 CFR §§ 70.6(e) and 70.6(e)(2)). To address these issues, ADEQ amends A.A.C. R18-2-324 and R18-2-513. The third gap, under 40 CFR § 70.8, requires ADEQ's rules to state that the Department will submit a written response to substantive comments on a permit to EPA as part of the permitting process. While ADEQ performs this as a routine matter, A.A.C. R18-2-307 was amended to conform to this requirement. Additionally, ADEQ removed the certified mailing requirement from paragraph (E) to not be more stringent than federal law. Finally, EPA identified a few definitions in A.A.C. R18-2-101 that could be amended to align more closely to the federal definitions in 40 CFR § 70.2.

Table 4-1 identifies the rules in Appendix A that ADEQ is requesting be approved into ADEQ's title V

state operating permit program and, where appropriate, the existing rules that they are replacing.

Table 4-1. Rules to Be Added to and Removed from the State Operating Permit Program

the Arizona State Operating Permit		Requested to be removed from State Operating Permit	Operating Permit
Article 1			
A.A.C. R18-2-101 (except 20)	Definitions	A.A.C. R18-2-101 (except 20)	66 FR 63175 (Dec. 5, 2001)
Article 3			
A.A.C. R18-2-301	Definitions	A.A.C. R18-2-301	61 FR 55910 (Oct. 30, 1996)
A.A.C. R18-2-302	Applicability; Registration; Classes of Permits	A.A.C. R18-2-302	61 FR 55910 (Oct. 30, 1996)

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

the Arizona State Operating Permit		Requested to be removed from State Operating Permit	Operating Permit
A.A.C. R18-2-304	Permit Application Processing Procedures	A.A.C. R18-2-304	66 FR 63175 (Dec. 5, 2001)
A.A.C. R18-2-306	Permit Contents	A.A.C. R18-2-306	66 FR 63175 (Dec. 5, 2001)
A.A.C. R18-2-306.01	Permits Containing Voluntarily Accepted Emission Limitations and Standards	N/A	N/A
A.A.C. R18-2-306.03	Voluntary Air Permit Requirements for Ambient Air Quality	N/A	N/A

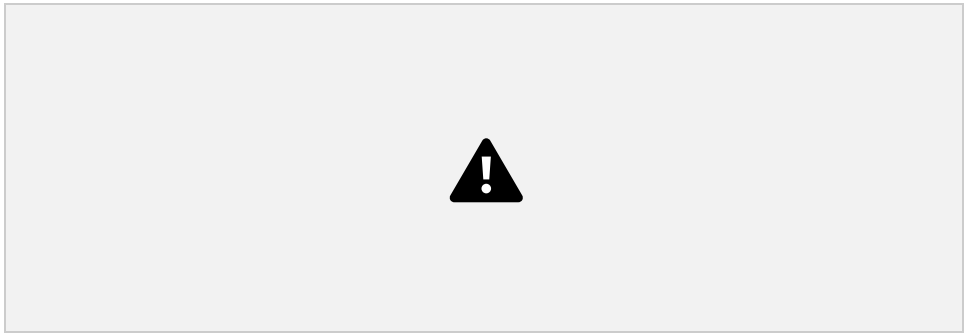
	Protection and Planning		
A.A.C. R18-2-307	Permit Review by the EPA and Affected States	A.A.C. R18-2-307	61 FR 55910 (Oct. 30, 1996)
A.A.C. R18-2-309	Compliance Plan; Certification	A.A.C. R18-2-309	61 FR 55910 (Oct. 30, 1996)
A.A.C. R18-2-310.01[15]	Reporting Requirements	N/A	N/A
A.A.C. R18-2-320	Significant Permit Revisions	A.A.C. R18-2-320	66 FR 63175 (Dec. 5, 2001)
A.A.C. R18-2-324	Portable Sources	A.A.C. R18-2-324	61 FR 55910 (Oct. 30, 1996)

[15] A.A.C. R18-2-310.01 is included, because it defines "prompt" reporting of emission limit violations in A.A.C. R18-2-306(A)(5)(b) and is therefore required by 40 CFR § 70.6(a)(3)(iii)(B). A.A.C. R18-2-310, which establishes an affirmative defense for excess emissions caused by startups, shutdowns, and malfunctions, is not included in the Title V program, has been withdrawn from the SIP, and is therefore unavailable as a defense to actions brought in federal court to enforce Arizona's SIP or Title V program.

SIP Revision and State Operating Permit Program Revision: Voluntary Air Permits Requirements

the Arizona State Operating Permit		Requested to be removed from State Operating Permit	Operating Permit
Article 5			
A.A.C. R18-2-501	Applicability	A.A.C. R18-2-501	61 FR 55910 (Oct. 30, 1996)
A.A.C. R18-2-513	Portable Sources Covered under a General Permit	N/A	N/A

The other rules identified in Table 4-1 were amended to make the other changes described above in Section 2. As described above in Section 1.1.2, ADEQ's unitary permitting program uses many of the same rules to meet title V and NSR requirements. Therefore, ADEQ is also submitting these rules for inclusion in the title V program to maintain consistency between the NSR and title V programs.



Appendix A
Notice of Final

A.A.R. 55 (Jan. 2, 2026)

Air Quality Division
January 12, 2026 Final Version

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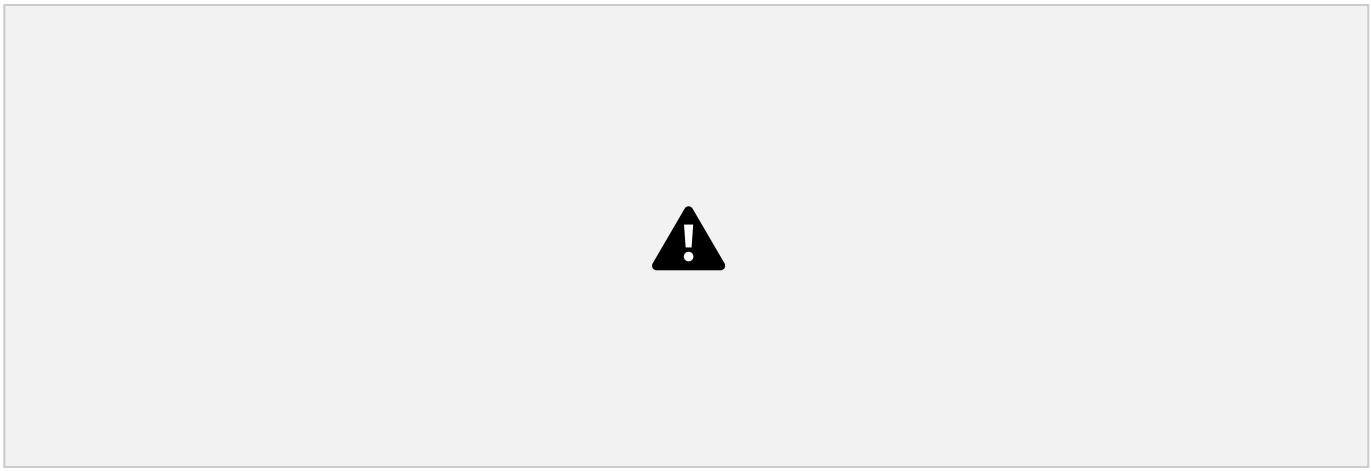
Arizona signed by Arizona



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Volume 32, Issue 1 ~ Administrative Register Contents ~ January 2, 2026

Information Arizona Administrative Register

ABOUT THIS PUBLICATION

The authenticated pdf of the *Administrative Register* (A.A.R.) posted on the Arizona Secretary of State's website is the official published version for rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains notices of rules terminated by the agency and rules that have expired.

ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rulemaking activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA, and other state statutes.

New rules in this publication (whether proposed or

made) are denoted with underlining; repealed text is stricken.

WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE *REGISTER*?

The *Arizona Administrative Code* (A.A.C) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The authenticated pdf of *Code* Chapters posted on the Arizona Secretary of State's website are the official published version of rules in the A.A.C. The *Code* is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this Chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking. Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a page.

January 2, 2026
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Scott Cancelosi

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PUBLICATION DEADLINES Publication dates are published in the back of the *Register.* These dates include file submittal dates with a three week turnaround from filing to published document.

CONTACT US

Administrative Rules Division
Office of the Secretary of State 1700 W. Washington Street, Fl. 2 Phoenix, AZ 85007
(602) 364-3223

The Office of the Secretary of State is an equal opportunity employer.

Arizona Regular Rulemaking Process

Look for the Agency Notice Review (inspect) notices published in the *Arizona Administrative Register.* Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble

of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency

START HERE

APA, statute or ballot proposition is passed. It gives an agency authority to make rules.

It may give an agency an exemption to the process or portions thereof.

Agency files Notice of Supplemental Proposed Rulemaking. Notice published in *Register*.

Agency opens a docket.

Agency files a Notice of Rulemaking Docket Opening; it is published in the *Register.* Often an agency will file the docket with the proposed rulemaking.

review/comment.

Agency files Notice of Proposed Rulemaking.

Notice is published in the *Register*.

Notice of meetings may be published in *Register* or included in Preamble of Proposed Rulemaking.

Agency drafts proposed rule and Economic Impact Statement (EIS); informal public

Agency opens comment period.

Oral proceeding and close of record. Comment period must last at least 30 days after publication of notice. Oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing

Substantial change?

If no change then

Agency decides not to act and closes docket.

The agency may let the docket lapse by not filing a Notice of Proposed rulemaking within one year.

Agency decides not to proceed and does not file final rule with G.R.R.C. within one year after proposed rule is published. A.R.S. § 41- 1021(A)(4).

Agency decides not to proceed and files Notice of Termination of Rulemaking for publication in *Register*. A.R.S. § 41-1021(A)(2).

Agency decides not to proceed; files Notice of Termination of Rulemaking. May open a new Docket.

close of the record.

A final rulemaking package is submitted to G.R.R.C. or A.G. for review. Contains final preamble, rules, and Economic Impact Statement.

must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Rule must be submitted for review or terminated within 120 days after the

G.R.R.C. has 90 days to review and approve or return the rule package, in whole or in part; A.G. has 60 days.

After approval by G.R.R.C. or A.G., the rule becomes effective 60 days after filing with the Secretary of State (unless otherwise indicated).

Final rule is published in the *Register* and the quarterly *Code* Supplement.

Definitions

***Arizona Administrative Code* (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at www.azsos.gov. ***Arizona Administrative Register* (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at www.azsos.gov.

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

Arizona Revised Statutes (A.R.S.): The statutes are made by the Arizona State Legislature during a legislative session. They are complied by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at www.azleg.gov.

Chapter: A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

Close of Record: The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

Code of Federal Regulations (CFR): The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

Docket: A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

Economic, Small Business, and Consumer Impact Statement (EIS): The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

Governor's Regulatory Review (G.R.R.C.): Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

Incorporated by Reference: An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

Federal Register (FR): The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

Session Laws or "Laws": When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.", and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

United States Code (U.S.C.): The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

Acronyms

A.A.C. – *Arizona Administrative Code* A.A.R. – *Arizona Administrative Register* APA – Administrative Procedure Act

A.R.S. – Arizona Revised Statutes CFR – *Code of Federal Regulations* EIS – Economic, Small Business, and Consumer Impact Statement

FR – *Federal Register*

G.R.R.C. – Governor's Regulatory Review Council

U.S.C. – *United States Code*

About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.

I. A person who possesses a cervid shall maintain all records pertaining to the origin, disposition and those required under this Section for a period of ~~at least~~ five years after the disposition of the animal and shall make the records available for inspection to the Depart ment upon request.

J. The Department has the authority to seize, euthanize, and dispose of any cervid possessed in violation of this Section, at the owner's expense.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

[R25-294]

PREAMBLE

1. Permission to proceed with this final rulemaking was granted under A.R.S. § 41-1039 by the governor on:

May 26, 2023

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

R18-2-101 Amend
R18-2-301 Amend
R18-2-302 Amend
R18-2-302.01 Amend
R18-2-304 Amend
R18-2-306 Amend
R18-2-306.01 Amend
R18-2-306.02 New Section
R18-2-306.03 New Section
R18-2-307 Amend
R18-2-309 Amend
R18-2-310.01 Amend
R18-2-317.01 Amend
R18-2-320 Amend
R18-2-324 Amend
R18-2-501 Amend
R18-2-513 Amend

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

Authorizing statute: A.R.S. §§ 49-404, 49-406, and 49-425
Implementing statute: A.R.S. § 49-426

4. The effective date of the rule:

February 7, 2026

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 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 the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

5. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the current record of the final rule:

Notice of Rulemaking Docket Opening: 30 A.A.R. 2337; Issue Date: July 12, 2024; Issue Number: 28; File Number: R24-127 Notice of Proposed Rulemaking: 30 A.A.R. 3365; Issue Date: November 15, 2024; Issue Number: 46; File Number: R24-227 Notice of Public Information: 31 A.A.R. 1557; Issue Date: May 9, 2025; Issue Number: 19; File Number: M25-34

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

Name: Zachary Dorn
Title: Associate Environmental Science Specialist
Address: Arizona Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4585
Email: airplanning@azdeq.gov

Website: https://www.azdeq.gov/voluntaryaprulemaking

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

ADEQ is amending Air Quality rules for the following purposes: 1) to allow permitted facilities to adopt voluntary permit condi tions to protect ambient air quality; 2) to make technical corrections related to ADEQ's new source review (NSR) rules; 3) to cor rect the gaps between ADEQ's rules and the U.S. Environmental Protection Agency's (EPA) Title V requirements; and 4) to fulfill ADEQ's five year rule review (5 YRR) commitment to the Governor's Regulatory Review Council.

1) Voluntary permit conditions to protect ambient air quality

This section provides background into the permit requirements, uses of voluntary permit conditions and ADEQ's new rules. Gen erally, when a source is required to obtain a permit under Arizona Administrative Code (A.A.C.) R18-2-302, the permit must con tain all applicable requirements at the time of issuance and any voluntary permit conditions adopted under A.A.C. R18-2-306.01. A.A.C. R18-2-306(A)(2). A.A.C. R18-2-101(16) defines "applicable requirements" to mean either any "federal applicable require ment," as defined by A.A.C. R18-2-101(51), or requirements established under A.A.C. Title 18, or A.R.S. Title 49, Chapter 3.

ADEQ has identified three potential categories for the use of voluntary permit conditions: 1) to avoid an applicable requirement that would apply to a stationary source; 2) to prevent a stationary source's emissions from causing or contributing to ambient air quality exceeding an applicable standard; 3) or to assume limits that could be developed for air quality planning purposes. The first category is for sources seeking to avoid an applicable requirement, most commonly by limiting emissions to a level below the threshold of an applicable requirement. For example, sources may seek voluntarily accepted limitations to avoid classification as a major source in order to avoid major NSR or Class I permitting requirements.

The second category would be for voluntary permit conditions that would be necessary to demonstrate that a source would not interfere with an ambient air quality standard. In order to obtain a permit under the prevention of significant deterioration (PSD) or minor NSR programs, the source seeking a permit is required to demonstrate that the source's emissions will not cause or contrib ute to a violation of the National Ambient Air Quality Standards (NAAQS). The PSD program requires a demonstration that max imum allowable increases for particulate matter (PM), nitrogen oxides (NOx), or sulfur dioxide (SO2) will not be exceeded. If a source satisfies applicable requirements, but will still cause or contribute to ambient air quality exceeding an applicable standard, the source will have to assume a voluntary limit that can be demonstrated to protect the NAAQS in order to obtain a permit.

The third category is for voluntary permit conditions that can be adopted to facilitate the SIP planning process or state plan process under CAA §§ 110 and 111(d), respectively. For nonattainment areas where emissions are predominately from a limited number of sources, a source may wish to adopt voluntary limits in their operating permit that will reduce emissions in order to bring the area back into attainment of the NAAQS. In developing the technically complex SIP revisions to bring an area back into attainment of the NAAQS it is necessary to engage with sources to determine the mix of limitations that are necessary to achieve the SIP plan ning process's ultimate goal of compliance with the NAAQS. This is especially true for nonattainment areas where the significant majority of emissions come from a single source.

A.A.C. R18-2-306.01 provides that a source may voluntarily propose in its application, and accept in its permit, emissions limita tions, controls, or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to

avoid classification as a source that requires a Class I permit or to avoid one or more other applicable requirements. Previously, ADEQ interpreted A.A.C. R18-2-306.01 to allow voluntary permit terms for all three of the categories described above. Recently, EPA notified ADEQ that its interpretation of A.A.C. R18-2-306.01, which allowed sources to take voluntary per mit limitations in for the second and third categories, would be objected to because those categories did not appear in the plain text of the rule. As a result, ADEQ is no longer able to issue permits that rely on this interpretation of A.A.C. R18-2-306.01. Addition ally, permitted sources that previously relied on these conditions may not be able to have their permit renewal issued as EPA will object to the permit issuance.

Therefore, to expand flexibility for voluntary permit conditions to the two other potential uses of voluntary permit conditions, ADEQ is adopting A.A.C. R18-2-306.03. The purpose of this new rule is to allow for permit conditions that would fit in the sec ond and third categories: to allow voluntary permit conditions that are necessary to prevent a stationary source's emissions from causing or contributing to ambient air quality exceeding an applicable standard; and to assume limits that can be included in state air quality planning.

This new rule aligns with ADEQ's historic practices. It will maintain ADEQ's regulations to be as protective of human health and the environment as federal law requires. Without this change, EPA will object to permit applications and renewals that seek to implement voluntary conditions beyond those explicitly permitted in A.A.C. R18-2-306.01. The use of voluntary permit condi tions will not increase allowable emissions from a facility. Instead, voluntary permit conditions allow measures that have the potential to reduce emissions or otherwise make the permit more protective of human health and the environment.

The CAA, and long-standing EPA practice, allows States to develop permitting programs for voluntary emissions limitations so long as there is a demonstration that the requirements will be federally enforceable. 54 FR 2724 (June 28, 1989); 40 C.F.R. § 51.165(a)(1)(iii); *Northwest Envtl. De. Ctr. v. Cascade Kelly Holdings LLC*, 155 F. Supp. 3d 1100, 1102 (D. Or. 2015); EPA, *Guid ance on Enforceability Requirements for Limiting Potential to Emit Through SIP and Section 112 Rule and General Permits*; 40 C.F.R. § 52.21. This encourages sources to voluntarily reduce emissions and will aid in state air planning by allowing sources to create enforceable conditions. In order to preserve this flexibility, ADEQ must create a new rule that will allow for voluntary con ditions beyond the scope of A.A.C. R18-2-306.01.

Additionally, ADEQ is reinstating A.A.C. R18-2-306.02, which provided for the establishment of voluntary emissions caps. This rule was allowed to expire under A.R.S. § 41-1056(J) in 2016. Before its expiration, this rule allowed permitted sources to take voluntary permit caps for particular pollutants as a tons-per-year limit. Subsequently, ADEQ learned that this rule is still necessary

for some permits. In order to allow sources to take or keep these voluntary emissions caps in the permits, the rule needs to be rein stated as it existed prior to its expiration. Reinstating this rule will not increase the regulatory burden as A.A.C. R18-2-306.02 remains federally enforceable as part of Arizona's EPA approved SIP. Reinstating the rule under state law will simplify the require ments for ADEQ and its customers. ADEQ is amending any necessary cross references for A.A.C. R18-2-306.02 and R18-2- 306.03.

2) NSR Changes

ADEQ identified various technical or typographical errors in its NSR rules, such as the changes to A.A.C. R18-2-302(E), R18-2-309, and R18-2-310.0(A)(1). Correcting these errors will not change the substantive requirements of the rules, but will help improve the clarity of the rules for the public.

3) Title V changes

In December 2020, EPA issued a final report detailing the results of its audit of ADEQ's Title V operating permit program under 40 C.F.R. Part 70. As part of this report, EPA recommended that ADEQ revise its state operating permit program because EPA's and ADEQ's permitting rules have been revised since the last approval of ADEQ's state operating permit program in 2001. ADEQ reviewed its program to determine if revisions were necessary and identified three gaps between the state rules and the correspond ing federal requirements. Two of these gaps relate to portable Title V sources (40 CFR §§ 70.6(e) and 70.6(e)(2)). To address these issues, ADEQ amends A.A.C. R18-2-324 and R18-2-513. The third gap, under 40 CFR § 70.8, requires ADEQ's rules to state that the Department will submit a written response to substantive comments on a permit to EPA as part of the permitting process. While ADEQ performs this as a routine matter, A.A.C. R18-2-307 was amended to conform to this requirement. Additionally, ADEQ removed the certified mailing requirement from paragraph (E) to not be more stringent than federal law. Finally, EPA identified a few definitions in A.A.C. R18-2-101 that could be amended to align more closely to the federal definitions in 40 CFR § 70.2.

4) GRRC Commitment

Lastly, ADEQ amends A.A.C. R18-2-302(F) to fulfill a commitment made to the Governor's Regulatory Review Council (GRRC) in a five year rule review report to GRRC. Tucson Electric Power requested ADEQ add Selective Catalytic Reduction (SCR) to the elective limit/control list in A.A.C. R18-2-302.01(F) to reduce the time and costs associated with the public process. Under A.A.C. R18-2-302.01(A)(6) a source applying for registration must include its maximum capacity to emit, both with and without elective limits if any are chosen. Paragraph (B)(5) provides that all registrations are subject to public notice and participation (A.A.C. R18- 2-330) except where the maximum capacity to emit (with elective limits) is less than the applicable permitting exemption thresh old. The addition of SCR to the elective limit list in A.A.C. R18-2-302.01(F) would reduce the time and costs associated with the public process specified in A.A.C. R18-2-330 for source registration, while ensuring there are enforceable limits.

Section by Section Explanation of Rules:

R18-2-101 Add a new definition of "enforceable as a practical matter" and amend NSR and Title V programs to use the defined term; amend cross-references.

R18-2-301 Add a definition for alternative operating scenario.

R18-2-302 Clarify the meaning of this paragraph which prohibits major sources from taking elective limits to become a registration.

R18-2-302.01 Amend the list of elective limits in (F) to include any control used to comply with 40 CFR Part 1039, including SCR for Tier 4 engines.

R18-2-304 Amend internal cross references to R18-2-306.01 to add R18-2-306.03.

R18-2-306 Amend internal cross references to R18-2-306.01 to add R18-2-306.03.

R18-2-306.01 Remove the definition of "enforceable as a practical matter."

R18-2-306.02 This rule, which provided for the establishment of emissions caps, was expired under A.R.S. § 41-1056(J) in 2016. Subsequently, ADEQ learned that this rule is still necessary for some permits. Therefore, ADEQ is reinstating this rule, as it existed prior to its expiration.

R18-2-306.03 Creates a provision that allows a source to voluntarily propose in its permit application emissions limita tions, 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.

R18-2-307 Amend to add language to require ADEQ to provide a written response to substantive comments to EPA as required by 40 CFR §§ 70.8(a)(1) and 70.8(a)(1)(i).

R18-2-309 Add a sentence that permittees may submit the certification electronically. R18-2-310.01 Amend the requirement to provide Excess Emissions Reports to include the option of providing notifica tion through email or myDEQ.

R18-2-317.01 Amend internal cross references to R18-2-306.01 to add R18-2-306.03.

R18-2-320 Amend internal cross references to R18-2-306.01 to add R18-2-306.03.

R18-2-324 Amend this section to include the requirement that Title V sources: 1) must provide notification 10 days prior to change in location; and 2) must involve at least one change of location during the term of the per mit; and 3) clarify the language in this section. Other sources will retain the requirement for notification "prior to" without any specified timeline.

R18-2-513 Amend this section to include the requirement that Title V sources: 1) must provide notification 10 days prior to change in location; and 2) must involve at least one change of location during the term of the per-

mit; and 3) clarify the language in this section. Other sources will retain the requirement for notification "prior to" without any specified timeline.

Informal Stakeholder Outreach: After publication of the June 2023 Notice of Docket Opening, ADEQ engaged in an informal pro cess with stakeholders. First, ADEQ held an informational session on October 5, 2023. Next, ADEQ provided a draft rule language on December 1, 2023 and accepted informal comments for 30 days. ADEQ made changes to its draft rule language based on com ments received, as detailed in a response to comments document that is available on ADEQ's website (https://azdeq.gov/volun taryaprulemaking). ADEQ made these changes, and response to comments, available for a second 30-day informal comment period, starting on May 28, 2024. During the second comment period, ADEQ received no additional comments.

Formal Public Comment Periods and Hearings: ADEQ held a public comment period from November 15, 2024 to December 16, 2024, with a hearing on the last day of the comment period. Subsequently, ADEQ reopened its record, extended the comment period, and held an additional public hearing for the notice of proposed rulemaking listed above in Item #5. The purpose of this extension was to align the comment period for this rulemaking with the state implementation plan (SIP) revision public comment period and hearing. The extended the public comment period from May 20, 2025 to June 20, 2025, with a public hearing on the last day of the comment period.

8. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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

9. 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

10. 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 State ment (EIS) under A.R.S. § 41-1055.

An identification of the rulemaking:

The rulemaking addressed by this EIS is the adoption of amendments to provide flexibility for permitted sources to adopt volun tary permit conditions, conform to NSR and Title V requirements, and fulfill a five-year rule review commitment to GRRC. New sections R18-2-306.02 and R18-2-306.03 create flexibility for sources and will not impose any additional requirements on permit ted sources. The changes are technical in nature and should have, at most, a trivial economic impact on the agency, small busi nesses, or consumers. Lastly, the addition of SCR to R18-2-302.01(F) will create flexibility for sources and will not impose any additional requirements.

An identification of the persons who will be directly affected by, bear the cost of or directly benefit from the rulemaking:

New sections R18-2-306.02 and R18-2-306.03 and the addition of SCR to R18-2-302.01(F) create flexibility for sources and will not impose any additional requirements on permitted sources. Permitted sources may voluntarily elect to adopt either emission caps or voluntary permit limitations but are not required to do so. Therefore, no sources will be required to bear any cost from these changes. The other changes to the rules are required either by EPA's NSR or Title V programs under the federal CAA. **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 rulemaking:

ADEQ's increased costs of implementing the NSR and Title V programs resulting from the changes contained in this rule will likely be minimal. The rulemaking consists of adjustments to existing programs to preserve regulatory flexibility and conform to federal requirements.

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

The costs to political subdivisions subject to permitting under ADEQ's rules from the amendments should be minimal. In general, the types of sources operated by political subdivisions are very unlikely to be subject to NSR or Title V. ADEQ considers any impacts to sources in counties with their own air pollution control programs to be indirect. Several of the amendments are neces sary to comply with federal requirements for the NSR and Title V programs. If ADEQ fails to adopt this amendment, the same or similar standards would ultimately apply to sources in Arizona through the adoption of either a federal implementation plan, or application of the federal operating permit program (40 C.F.R. Part 71). 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 gov ernment. Thus, the 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 substantial negative impact on the state's economy.

(c) The probable costs and benefits to businesses directly affected by the proposed rule making, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule making: As the changes are largely voluntary in nature, ADEQ does not anticipate that any businesses will be directly affected by the rulemaking. The changes provide for permitting flexibility, as described above, or are technical, non-substantive in nature and are unlikely to have any costs for businesses subject to these rules. ADEQ anticipates one benefit of this flexibility is that it would allow sources through application of applicable requirement only would interfere with attainment of maintenance of the NAAQS, to adopt voluntary permit conditions that would allow the source to demonstrate non-interference with attainment or maintenance of the relevant NAAQS. Therefore, this flexibility has the possibility to allowing businesses the flexibility to adopt conditions that

will allow them to operate where otherwise they might not be able to do so.

A general description of the probable impact on private and public employment in businesses, agencies, and political subdi visions 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 requirements 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(23) "Small business" means a concern, including its affiliates, which is independently owned and oper ated, which is not dominant in its field and which 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. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.

ADEQ does not believe that there are any small businesses that 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 costs and benefit to private persons and consumers who are directly affected by the rulemaking. Not applicable.

A statement of the probable effect on state revenues

The options made available to permittees through this rulemaking will allow permittees to submit applications to ADEQ request ing to utilize these options. ADEQ will review all permit applications consistent with current hourly and fixed fees. There are no fee additions as a part of this rulemaking. ADEQ expects a minimal impact on state revenues.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking. ADEQ was not able to identify any less intrusive or costly alternative methods for achieving the purpose of the rulemaking. **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 data is acceptable. For the purposes of this paragraph "acceptable data" means empirical, replicable, and testable data as evi denced in supporting documentation, statistics, reports, studies or research.**

Not applicable.

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

No changes were made between the proposed rulemaking and the final rulemaking.

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

ADEQ received three comments during the comment period. For the ease of response, the third comment is addressed in five sub parts. ADEQ's summary and response to those comments are as follows:

Comment 1 (Tucson Electric Power (TEP)): Commenter stated that the proposed rulemaking allows electric generating unit

(EGU) permitted entities, including TEP, to apply for and develop permit terms and conditions that are protective of public health and the environment, take in account the unique characteristics and circumstances of each EGU, and preserve compliance flexibil ity. Commenter stated tailored requirements will allow TEP to retain critical flexibility to address ongoing reliability needs in the state while working towards a cost-effective and just energy transition.

ADEQ's Response 1: ADEQ thanks the commenter for their comment.

Comment 2 (Renée Neumann): Commenter stated, "Unless and until your air quality guidelines include specific and effective ways to prevent all the constant, decades-long spewing of massive harmful dust clouds from the mines west of I-19 in Sahuarita and Green Valley, you are not doing your job."

ADEQ's Response 2: ADEQ thanks the commenter for their comment. The comment regarding the specific emission limitations for mines is beyond the scope of the four reasons for this specific rulemaking: creating rules to allow for voluntary permit condi tions; NSR corrections; title V corrections; and the GRRC commitment.

With regard to particle pollution (e.g. PM_{10} or $PM_{2.5}$) emissions standard from mining operations, the most relevant consideration is whether the area is attaining the National Ambient Air Quality Standards (NAAQS) for both coarse (PM_{10}) and fine ($PM_{2.5}$) particulate matter. Ambient air means that portion of the atmosphere, external to buildings, to which the general public has access. A.A.C. R18-2-101(14). While there may be visible dust clouds at particular mining facilities, a visible dust cloud does not inher ently mean that the air quality in the ambient air is violating the relevant NAAQS or specific permit conditions.

Generally, emission limitations for criteria air pollutants where EPA has established a NAAQS (such as PM_{10} or $PM_{2.5}$) are designed to limit air pollution to levels below where they will interfere with attainment or maintenance of the relevant NAAQS. The general goal of the CAA with regard to criteria pollutants (such as PM_{10} and $PM_{2.5}$) is to ensure that the ambient air in an area

does not exceed the relevant standard. For the area around Sahuarita and Green Valley, monitoring data show the area is attaining both the 1987 PM_{10} NAAQS and the 2024 $PM_{2.5}$ NAAQS.

Additionally, the area is designated as either unclassifiable/attainment or unclassifiable for the $PM_{2.5}$ and PM_{10} NAAQS, respec tively. *See* 40 CFR § 81.303. In areas that are designated as either attainment or unclassifiable, the prevention of significant deteri oration (PSD) program applies to new major sources or major modifications at existing sources. If the PSD program applies to source, the source is required to: 1) install the Best Available Control Technology (BACT); conduct an air quality analysis; an additional impacts analysis (that assesses the impacts on air, ground, and water pollution on soils, vegetation, and visibility caused by any increase in emissions of any regulated pollutant from the source or modification under review, and from associated growth); and provide for public involvement.

Regarding the air quality analysis, its purpose is to demonstrate that new emissions from a major source or major modification, in conjunction with other applicable increases and decreases from existing sources, will not cause or contribute to a violation of any applicable NAAQS or PSD increment. Generally, the NAAQS is the maximum allowable concentration for a given criteria pollut ant. A PSD increment is the maximum allowable increase in concentration that is allowed to occur above a baseline concentration for that pollutant. The baseline concentration is defined as the ambient concentration existing at the time the first complete PSD permit application affecting the area is submitted. Significant deterioration occurs when the amount of new pollution (from the new major source or major modification) would exceed the applicable PSD increment. Importantly, air quality is not allowed to deteriorate beyond the applicable NAAQS, even if all of the PSD increment has not been consumed.

In developing its SIP revisions, ADEQ is required to comply with its applicable state and federal statutes. Specifically, A.R.S. § 49-104(A)(16) provides; "Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, vari ances and orders are adopted and construed to be consistent with and not more stringent than the corresponding federal law that addresses the same subject matter. This paragraph does not adversely affect standards adopted by an Indian tribe under federal law." Therefore, ADEQ is required to prevent air pollution that would violate one of the relevant NAAQS. However, if the ambient air is attaining the NAAQS, ADEQ's rules cannot be more stringent than what is required by the PSD program.

Lastly, some of the mines located near Sahuarita and Green Valley are permitted by the Pima Department of Environmental Qual ity (PDEQ). Information regarding PDEQ's air permitting program is available https://www.pima.gov/397/Air-Program. PDEQ operates a $PM_{2.5}$ and PM_{10} monitor in Green Valley, with data reported hourly to PDEQ's air monitoring website (https:// envista.pima.gov/) or to EPA's Air Now website (https://www.airnow.gov/). More information is available on PDEQ's website at https://www.pima.gov/408/Air-Monitoring.

Comment 3a (Hiser, Burggraff, Curtis, Arizona Electric Power Cooperative, Lhoist North American): Commenters generally sup port the definition. However, they recommended R18-2-101(49)(b)(iv) be revised to reflect that the listed elements are not always required. Commenters acknowledge that "appropriate" allows exclusion, but there is potential confusion that every element is required for every condition.

In (49)(c)(ii), there is an "and" but nothing following. If this is following the EPA's tribal minor NSR rule, the missing section should be as follows: iii. Specify the enforcement consequences relevant to the rule or general permit. This language is appropriate to include the ADEQ definition as well.

ADEQ's Response: Regarding the comment for (49)(b)(iv), ADEQ believes that the term "appropriate" sufficiently modifies "monitoring, recordkeeping, reporting" in that the methods of demonstrating compliance would only include appropriate condi tions. If recordkeeping, reporting or test methods are not suitable to demonstrate compliance, they would not be appropriate and would not need to be included. The additional advantage of not making this change is that it will remain identical to EPA's rule lan guage, improving the approvability of this rule language for inclusion in the Arizona state implementation plan.

Regarding (49)(c)(ii), ADEQ appreciates this comment. As described in the preamble, the definition of "enforceable as a practical matter" was derived from EPA's rule 40 CFR 49.167. In a scrivener's error, ADEQ accidentally omitted the language in (3)(iii) of

the EPA's definition of "enforceable as a practical matter." ADEQ corrects this issue in the final rule.

Comment 3b (Hiser, Burggraff, Curtis, Arizona Electric Power Cooperative, Lhoist North American): Commenters are generally in support of the change in R18-2-302.01(F)(5). However, commenters state that reliance on this condition could be compromised by arguments that potential to emit after application of (F)(5) must be determined based on running the engine on the highest level before the SCR unit is engaged. This argument could impair the benefits of this rule change. Commenters recommend ADEQ establish a default rule to address startup/shutdown emissions to provide clarity on how ADEQ will calculate potential to emit for these units not obtaining a permit.

ADEQ's Response: ADEQ appreciates this comment. However, establishing a default rule to address startup/showdown emis sions is beyond the scope of this rulemaking. ADEQ agrees to continue additional conversations with stakeholders regarding top ics outside of this rulemaking.

Comment 3c (Hiser, Burggraff, Curtis, Arizona Electric Power Cooperative, Lhoist North American): Comment stated support for the new definition of "enforceable as a practical matter."

ADEQ's Response: ADEQ appreciates this comment.

Comment 3d (Hiser, Burggraff, Curtis, Arizona Electric Power Cooperative, Lhoist North American): Commenters provided feedback regarding three specific provisions of R18-2-306.02: (B)(1), (C)(1) and, (C)(2). Regarding (B)(1) commenters recom mend including language that would allow multiple applicable requirements for pollutants to be expressed in tons per year. Com menters purpose is if there are multiple applicable requirements for the pollutant applying to multiple units at the facility, the cap cannot address each individually but is presumably meant to address the sum of all applicable limits. Commenters agree that for a smaller cap that applies to just one unit, the cap should not exceed what is allowable for that unit but (B) states it applies to the entire source.

Regarding (C)(1), commenters recommend removing this condition. Commenters argue that it is impossible for a cap that covers more than one unit to assure compliance for each constituent part.

For (C)(2), commenters recommend removing the definition of "enforceable as a practical matter" due to its definition in R18-2-101(49). Commenters also recommend added language to state that if a cap is for less than the full source, the cap must identify which units are participating in the emissions cap and whether additional units may be added to the cap. **ADEQ's Response**: 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. While ADEQ acknowledges there may be 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. ADEQ appreciates this comment. However, establishing a default rule to address startup/showdown emissions is beyond the scope of this rulemaking. ADEQ agrees to continue additional conversations with stakeholders regarding topics outside of this rulemaking.

Comment 3e (Hiser, Burggraff, Curtis, Arizona Electric Power Cooperative, Lhoist North American): Commenters supported the language in A.A.C. R18-2-306.03, with the suggestion of deleting all the language in (A) that comes after "other requirements." Commenters stated that it is potentially difficult to tie a proposed emission limitation into the categories listed in R18-2-306.03. Commenters suggest the reason for a voluntary emission limit could be included as a requirement in the permit application, and not in the rule. Commenters also argue that taking voluntary permit limits to simplify emissions estimations or calculations is a valu able purpose of voluntary permit limits.

ADEQ's Response: Amending the rule as suggested would greatly expand the scope of this rulemaking. As stated in the preamble, the reasons for adopting R18-2-306.03 are "to allow voluntary permit conditions that are necessary to prevent a stationary source's emissions from causing or contributing to ambient air quality exceeding an applicable standard; and to assume limits that can be included in state air quality planning." ADEQ would be happy to address other possible uses for voluntary limits and potential future rulemakings with stakeholders.

13. 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 other matters prescribed by statutes 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:

This rulemaking does not require a permit.

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: This rulemaking will help Arizona comply with the federal Clean Air Act, Titles I and Title V. This rulemaking is 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 competitive ness of business in this state to the impact on business in other states: Not applicable

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

Not applicable

15. 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 the final rulemaking packages:

Not applicable

16. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

ARTICLE 1. GENERAL

Section
R18-2-101. Definitions

ARTICLE 3. PERMITS AND PERMIT REVISIONS

Section
R18-2-301. Definitions
R18-2-302. Applicability; Registration; Classes of Permits
R18-2-302.01. Source Registration Requirements
R18-2-304. Permit Application Processing Procedures
R18-2-306. Permit Contents
R18-2-306.01. Permits Containing Voluntarily Accepted Emissions Limitations and Standards

R18-2-306.02. Establishment of an Emissions Cap
R18-2-306.03. Voluntary Air Permit Requirements for Ambient Air Quality Protection and Planning
R18-2-307. Permit Review by the EPA and Affected States
R18-2-309. Compliance Plan; Certification
R18-2-310.01. Reporting Requirements
R18-2-317.01. Facility Changes that Require a Permit Revision - Class II
R18-2-320. Significant Permit Revisions
R18-2-324. Portable Sources

ARTICLE 5. GENERAL PERMITS

Section
R18-2-501. Applicability
R18-2-513. Portable Sources Covered under a General Permit

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.

1. "Act" means the Clean Air Act of 1963 (P.L. 88-206; 42 U.S.C. 7401 through 7671q) as amended through December 31, 2011 (and no future editions).
2. "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in subsections (2)(a) through (e), except that this definition shall not apply for calculating whether a significant emissions increase as defined in R18-2-401 has occurred, or for establishing a plantwide applicability limitation as defined in R18-2-401. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
   a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Director may allow the use of a different time period upon a determination that it is more rep resentative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, produc tion rates, and types of materials processed, stored or combusted during the selected time period.
   b. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
   c. For any emissions unit that is or will be located at a source with a Class I permit and has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.
   d. For any emissions unit that is or will be located at a source with a Class II permit and has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.
   e. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
3. "Administrator" means the Administrator of the United States Environmental Protection Agency.
4. "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable. 5. "Affected source" means a source that includes one or more units which are subject to emission reduction requirements or lim itations under Title IV of the Act.
6. "Affected state" means any state whose air quality may be affected by a source applying for a permit, permit revision, or permit renewal and that is contiguous to Arizona or that is within 50 miles of the permitted source.
7. "Afterburner" means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion. 8. "Air contaminants" means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, wind-borne matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.

9. “Air curtain destructor” means an incineration device designed and used to secure, by means of a fan-generated air curtain, con trolled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin. 10. *“Air pollution” means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in suffi cient quantities, which either alone or in connection with other substances by reason of their concentration and duration are or tend to be injurious to human, plant or animal life, or cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the director.* A.R.S. § 49-421(2).

11. “Air pollution control equipment” means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.

12. “Air quality control region” (AQCR) means an area so designated by the Administrator pursuant to Section 107 of the Act and includes the following regions in Arizona:
    a. Maricopa Intrastate Air Quality Control Region which is comprised of the County of Maricopa.
    b. Pima Intrastate Air Quality Control Region which is comprised of the County of Pima.
    c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo, and Yavapai.
    d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave, and Yuma.

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

13. “Allowable emissions” means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:
    a. The applicable standards as set forth in 40 CFR 60, 61 and 63;
    b. The applicable emissions limitations approved into the state implementation plan, including those with a future compliance date; or,
    c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. 14. “Ambient air” means that portion of the atmosphere, external to buildings, to which the general public has access. 15. “Applicable implementation plan” means those provisions of the state implementation plan approved by the Administrator or a federal implementation plan promulgated for Arizona or any portion of Arizona in accordance with Title I of the Act. 16. “Applicable requirement” means any of the following:
    a. Any federal applicable requirement.
    b. Any other requirement established pursuant to this Chapter or A.R.S. Title 49, Chapter 3.

17. “Arizona Testing Manual” means sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).

18. “ASTM” means the American Society for Testing and Materials.

19. “Attainment area” means any area that has been identified in regulations promulgated by the Administrator as being in compli ance with national ambient air quality standards.

20. *“Begin actual construction” means, initiation of physical on-site construction activities on an emissions unit which are of a per manent nature. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change*.
    a. For purposes of title I, parts C and D and section 112 of the clean air act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the clean air act, these activi ties include installation of building supports and foundations, laying of underground pipework, and construction of perma nent storage structures but do not include any of the following, subject to subsection (20)(c):
        i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpil ing of topsoil.
        ii. Installation of access roads, driveways and parking lots.
        iii. Installation of ancillary structures, including fences, office buildings and temporary storage structures, that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.
        iv. Ordering and onsite storage of materials and equipment.
    b. For purposes other than those identified in subsection (20)(a), these activities do not include any of the following, subject to subsection (20)(c):
        i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpil ing of topsoil and earthwork cut and fill for foundations.
        ii. Installation of access roads, parking lots, driveways and storage areas.
        iii. Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment. iv. Ordering and onsite storage of materials and equipment.
        v. Installation of underground pipework, including water, sewer, electric and telecommunications utilities. vi. Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and plat forms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.
    c. An applicant’s performance of any activities that are excluded from the definition of “begin actual construction” under sub section (20)(a) or (b) shall be at the applicant’s risk and shall not reduce the applicant’s obligations under this Chapter. The director shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activi ties allowed under subsection (20)(a) or (b) had not occurred. A.R.S. § 49-401.01(7).

21. “Best available control technology” (BACT) means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major source or major modification, taking into account energy, environmental, and economic impact and other costs, determined by the Direc

tor in accordance with R18-2-406(A)(4) to be achievable for such source or modification.
22. “Btu” means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water 1°F.
23. “Categorical sources” means the following classes of sources:
    a. Coal cleaning plants with thermal dryers;
    b. Kraft pulp mills;
    c. Portland cement plants;
    d. Primary zinc smelters;
    e. Iron and steel mills;
    f. Primary aluminum ore reduction plants;
    g. Primary copper smelters;
    h. Municipal incinerators capable of charging more than 50 tons of refuse per day;
    i. Hydrofluoric, sulfuric, or nitric acid plants;

    j. Petroleum refineries;
    k. Lime plants;
    l. Phosphate rock processing plants;
    m. Coke oven batteries;
    n. Sulfur recovery plants;
    o. Carbon black plants using the furnace process;
    p. Primary lead smelters;
    q. Fuel conversion plants;
    r. Sintering plants;
    s. Secondary metal production plants;
    t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;
    u. Fossil-fuel boilers, combinations thereof, totaling more than 250 million Btus per hour heat input;
    v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
    w. Taconite ore processing plants;
    x. Glass fiber processing plants;
    y. Charcoal production plants;
    z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million Btus per hour heat input.
24. “Categorically exempt activities” means any of the following:
    a. Any combination of diesel-, natural gas- or gasoline-fired engines with cumulative power equal to or less than 145 horse power.
    b. Natural gas-fired engines with cumulative power equal to or less than 155 horsepower.
    c. Gasoline-fired engines with cumulative power equal to or less than 200 horsepower.
    d. Any of the following emergency or stand-by engines used for less than 500 hours in each calendar year, provided the per mittee keeps records documenting the hours of operation of the engines:
        i. Any combination of diesel-, natural gas- or gasoline-fired emergency engines with cumulative power equal to or less than 2,500 horsepower.
        ii. Natural gas-fired emergency engines with cumulative power equal to or less than 2,700 horsepower.
        iii. Gasoline-fired emergency engines with cumulative power equal to or less than 3,700 horsepower.
    e. Any combination of boilers with a cumulative maximum design heat input capacity of less than 10 million Btu/hr. 25. “CFR” means the Code of Federal Regulations, amended as of July 1, 2011, (and no future editions), with standard references in this Chapter by Title and Part, so that “40 CFR 51” means Title 40 of the Code of Federal Regulations, Part 51. 26. “Charge” means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel. 27. “Clean coal technology” means any technology, including technologies applied at the precombustion, combustion, or post-com bustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, that was not in widespread use as of November 15, 1990.
28. “Clean coal technology demonstration project” means a project using funds appropriated under the heading “Department of Energy - Clean Coal Technology,” up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technol ogy or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.
29. “Coal” means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D-388-91, (Classifi cation of Coals by Rank).
30. “Combustion” means the burning of matter.
31. “Commence” means, as applied to construction of a source, or a major modification as defined in Article 4 of this Chapter, that the owner or operator has all necessary preconstruction approvals or permits and either has:
    a. Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a rea sonable time; or
    b. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
32. “Construction” means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in emissions.
33. “Continuous monitoring system” means a CEMS, CERMS, or CPMS.
34. “Continuous emissions monitoring system” or “CEMS” means the total equipment, required under the emission monitoring pro visions in this Chapter, used to sample, condition (if applicable), analyze, and provide, on a continuous basis, a permanent record of emissions.
35. “Continuous emissions rate monitoring system” or “CERMS” means the total equipment required for the determination and

recording of the pollutant mass emissions rate (in terms of mass per unit of time).

36. "Continuous parameter monitoring system" or "CPMS" means the total equipment, required under the emission monitoring pro visions in this Chapter, to monitor process or control device operational parameters (for example, control device secondary volt ages and electric currents) or other information (for example, gas flow rate, O2 or CO2 concentrations) and to provide, on a continuous basis, a permanent record of monitored values.
37. "Controlled atmosphere incinerator" means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.

38. *"Conventional air pollutant" means any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard.* A.R.S. § 49-401.01(12).
39. *"Department" means the Department of Environmental Quality.* A.R.S. § 49-101(2)
40. *"Director" means the director of environmental quality who is also the director of the department.* A.R.S. § 49-101(3).
41. "Discharge" means the release or escape of an effluent from a source into the atmosphere.
42. "Dust" means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or stor age of materials in the solid state.
43. "Dust suppressant" means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.
44. "Effluent" means any air contaminant which is emitted and subsequently escapes into the atmosphere. 45. "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribu tion system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
46. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invis ible.
47. "Emission standard" or "emission limitation" means a requirement established by the state, a local government, or the Adminis trator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any require ments which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
48. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollut ant and includes an electric steam generating unit.
49. "Enforceable as a practical matter" means that an emission limitation or a design, equipment, work practice, or operational stan dard is both legally and practicably enforceable as follows:
    a. An emission limitation or a design, equipment, work practice, or operational standard is legally enforceable if the depart ment has the authority to enforce it under A.R.S. Title 49, Chapter 3, Article 2 Any emission limitation imposed in a permit under this chapter is legally enforceable.
    b. An emission limitation or a design, equipment, work practice, or operational standard in a permit for a stationary source is practicably enforceable if the permit specifies:
        i. The limitation or standard and the emissions units or activities at the stationary source subject to the limitation or stan dard;
        ii. In the case of an emission limitation, the averaging period and the data handling methods for calculating averages to be compared to the limitation;
        iii. In the case of a design, equipment, work practice, or operational standard, the schedule for implementing the standard and for performing inspection, maintenance, repair, and any other activities necessary to assure compliance with the standard;
        iv. The methods to determine compliance, including appropriate monitoring, recordkeeping, reporting and testing meth ods.
    c. A rule or general permit that applies to categories of sources is practicably enforceable if the rule or general permit speci fies the items identified in subsections (b)(i) to (iv) and additionally:
        i. Identifies the types or categories of sources that are covered by the rule or general permit;
        ii. Where coverage is optional, provides for notice to the department of the source's election to be covered by the rule or general permit; and
        iii. Specify the enforcement consequences relevant to the rule or general permit.

~~49~~50."Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated under R18-2-311(D) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

~~50~~51."Excess emissions" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.

~~51~~52."Federal applicable requirement" means any of the following (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):
    a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
    b. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act.
    c. Any standard or other requirement under section 111 of the Act, including 111(d).
    d. Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act.
    e. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated there under and incorporated pursuant to R18-2-333.

f. Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act.

g. Any standard or other requirement governing solid waste incineration, under section 129 of the Act. h. Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act. i. Any standard or other requirement for tank vessels under section 183(f) of the Act.

j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under sec tion 328 of the Act.

k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit. l. Any national ambient air quality standard or maximum increase allowed under R18-2-218 or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act. ~~52~~53."Federal Land Manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

~~53~~54."Federally enforceable" means all limitations and conditions which are enforceable by the Administrator under the Act, includ ing all of the following:

a. The requirements of the new source performance standards and national emission standards for hazardous air pollutants. b. The requirements of such other state or county rules or regulations approved by the Administrator, including the require ments of state and county operating and new source review permit and registration programs that have been approved by the Administrator. Notwithstanding this subsection, the condition of any permit or registration designated as being enforce able only by the state is not federally enforceable.

c. The requirements of any applicable implementation plan.

d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements that are included in a permit pursuant to R18-2-306.01~~, or~~ R18-2-306.02, or R18-2-306.03. ~~54~~55."Federally listed hazardous air pollutant" means a pollutant listed pursuant to R18-2-1701(9).

~~55~~56."Final permit" means the version of a permit issued by the Department after completion of all review required by this Chapter. ~~56~~57."Fixed capital cost" means the capital needed to provide all the depreciable components.

~~57~~58."Fuel" means any material which is burned for the purpose of producing energy.

~~58~~59."Fuel burning equipment" means any machine, equipment, incinerator, device or other Article, except stationary rotating machinery, in which combustion takes place.

~~59~~60."Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other function ally equivalent opening.

~~60~~61."Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.

~~61~~62."Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.

~~62~~63."Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in R18-2-332. ~~63~~64."Hazardous air pollutant" means any federally listed hazardous air pollutant.

~~64~~65."Heat input" means the quantity of heat in terms of Btus generated by fuels fed into the fuel burning equipment under condi tions of complete combustion.

~~65~~66."Incinerator" means any equipment, machine, device, contrivance or other Article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material.

~~66~~67."Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

~~67~~68."Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

~~68~~69."Insignificant activity" means any of the following activities:

a. Liquid Storage and Piping

i. Petroleum product storage tanks containing the following substances, provided the applicant lists and identifies the contents of each tank with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such tank: diesel fuels and fuel oil in storage tanks with capacity of 40,000 gallons or less, lubricating oil, transformer oil, and used oil.

ii. Gasoline storage tanks with capacity of 10,000 gallons or less.

iii. Storage and piping of natural gas, butane, propane, or liquified petroleum gas, provided the applicant lists and identi fies the contents of each stationary storage vessel with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such vessel.

iv. Piping of fuel oils, used oil and transformer oil, provided the applicant includes a system description. v. Storage and handling of drums or other transportable containers where the containers are sealed during storage, and covered during loading and unloading, including containers of waste and used oil regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992(k). Permit applicants must provide a description of material in the containers and the approximate amount stored.

vi. Storage tanks of any size containing exclusively soaps, detergents, waxes, greases, aqueous salt solutions, aqueous solutions of acids that are not regulated air pollutants, or aqueous caustic solutions, provided the permit applicant specifies the contents of each storage tank with a volume of 350 gallons or more.

vii. Electrical transformer oil pumping, cleaning, filtering, drying and the re-installation of oil back into transformers. b. Internal combustion engine-driven compressors, internal combustion engine-driven electrical generator sets, and internal combustion engine-driven water pumps used for less than 500 hours per calendar year for emergency replacement or standby service, provided the permittee keeps records documenting the hours of operation of this equipment. c. Low Emitting Processes

i. Batch mixers with rated capacity of 5 cubic feet or less.

ii. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose produc tion rate is 200 tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.
iii. Powder coating operations.
iv. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
v. Blast-cleaning equipment using a suspension of abrasive in water and any exhaust system or collector serving them exclusively.
vi. Plastic pipe welding.

d. Site Maintenance
i. Housekeeping activities and associated products used for cleaning purposes, including collecting spilled and accumu lated materials at the source, including operation of fixed vacuum cleaning systems specifically for such purposes. ii. Sanding of streets and roads to abate traffic hazards caused by ice and snow.
iii. Street and parking lot striping.
iv. Architectural painting and associated surface preparation for maintenance purposes at industrial or commercial facili ties.

e. Sampling and Testing
i. Noncommercial (in-house) experimental, analytical laboratory equipment which is bench scale in nature, including quality control/quality assurance laboratories supporting a stationary source and research and development laborato ries.
ii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units.

f. Ancillary Non-Industrial Activities
i. General office activities, such as paper shredding, copying, photographic activities, and blueprinting, but not to include incineration.
ii. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Sub stances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use. iii. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition. g. Miscellaneous Activities
i. Installation and operation of potable, process and waste water observation wells, including drilling, pumping, filtering apparatus.
ii. Transformer vents.

~~69~~70. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

~~70~~71. "Lead" means elemental lead or alloys in which the predominant component is lead.

~~71~~72. "Lime hydrator" means a unit used to produce hydrated lime product.

~~72~~73. "Lime plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.

~~73~~74. "Lime product" means any product produced by the calcination of limestone.

~~74~~75. "Major modification" is defined as follows:
a. A major modification is any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollut ant from the stationary source.
b. Any emissions increase or net emissions increase that is significant for nitrogen oxides or volatile organic compounds is significant for ozone.
c. For the purposes of this definition, none of the following is a physical change or change in the method of operation: i. Routine maintenance, repair, and replacement;
ii. Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Fed eral Power Act, 16 U.S.C. 792 - 825r;
iii. Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, any of the following: (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 21, 1976, unless the change would be prohibited under any federally enforceable permit condi tion established after December 12, 1976 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter; or (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any per mit issued under R18-2-403;
(3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 21, 1976, under 40 CFR 52.21, or under Arti cles 3 or 4 of this Chapter.
vi. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, any of the following: (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter;

(2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under R18-2-406; or

(3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.

vii. Any change in ownership at a stationary source;

viii. [Reserved.]

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

(1) The SIP, and

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

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

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

d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of R18-2-412 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification in R18-2-401(20) shall apply.

~~75~~76."Major source" means:

a. A major source as defined in R18-2-401.

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

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

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

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

~~76~~77."Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal and usual manner, but does not include failures that are caused by poor maintenance, careless operation or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care.

~~77~~78."Minor source" means a source of air pollution which is not a major source for the purposes of Article 4 of this Chapter and over which the Director, acting pursuant to A.R.S. § 49-402(B), has asserted jurisdiction.

~~78~~79."Minor source baseline area" means the air quality control region in which the source is located.

~~79~~80.*"Mobile source" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest.* A.R.S. § 49-401.01(23).

~~80~~81.*"Modification" or "modify" means a physical change in or change in the method of operation of a source that increases the emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or that results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source's potential to emit before and after the modification. The following exemptions apply:*

a. A physical or operational change does not include routine maintenance, repair or replacement.

b. An increase in the hours of operation or if the production rate is not considered an operational change unless such increase is prohibited under any permit condition that is legally and practically enforceable by the department.

c. A change in ownership at a source is not considered a modification. A.R.S. § 49-401.01(24).

~~81~~82."Monitoring device" means the total equipment, required under the applicable provisions of this Chapter, used to measure and record, if applicable, process parameters.

~~82~~83."Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on public highways.

~~83~~84."Multiple chamber incinerator" means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.

~~84~~85."Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

~~85~~86.*"National ambient air quality standard" means the ambient air pollutant concentration limits established by the Administrator pursuant to section 109 of the Act.* A.R.S. § 49-401.01(25).

~~86~~87."National emission standards for hazardous air pollutants" or "NESHAP" means standards adopted by the Administrator under section 112 of the Act.

~~87~~88.“Necessary preconstruction approvals or permits” means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.

~~88~~89.“Net emissions increase” means:

a. The amount by which the sum of subsections (88)(a)(i) and (ii) exceeds zero:

i. The increase in emissions of a regulated NSR pollutant from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to R18-2-402(D); and

ii. Any other increases and decreases in actual emissions of the regulated NSR pollutant at the source that are contempo raneous with the particular change and are otherwise creditable.

iii. For purposes of calculating increases and decreases in actual emissions under subsection (88)(a)(ii), baseline actual emissions shall be determined as provided in the definition of baseline actual emissions in R18-2-401(2), except that R18-2-401(2)(a)(iii) and (b)(iv) shall not apply.

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

i. The date five years before a complete application for a permit or permit revision authorizing the particular change is submitted or actual construction of the particular change begins, whichever occurs earlier, and

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

c. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit or permit revision under R18-2-403, which permit is in effect when the increase in actual emissions from the particular change occurs. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit under R18-2-406, which permit is in effect when the increase in actual emissions from the particular change occurs.

d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, PM_{10}, or $PM_{2.5}$ which occurs before the applicable minor source baseline date, as defined in R18-2-218, is creditable only if it is required to be considered in calcu lating the amount of maximum allowable increases remaining available.

e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level. f. A decrease in actual emissions is creditable only to the extent that it satisfies all of the following conditions: i. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.

ii. It is enforceable as a practical matter at and after the time that actual construction on the particular change begins. iii. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

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

v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, the Director has not relied on it in issuing any permit, permit revision, or registration under Article 4, R18-2-302.01, or R18-2-334, and the state has not relied on it in demonstrating attainment or reasonable further progress.

g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit, as defined in R18-2-401(24), that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days. h. Subsection (2)(a) shall not apply for determining creditable increases and decreases.

~~89~~90.“New source” means any stationary source of air pollution which is subject to a new source performance standard. ~~90~~91.“New source performance standards” or “NSPS” means standards adopted by the Administrator under section 111(b) of the Act.

~~91~~92.“Nitric acid plant” means any facility producing nitric acid 30% to 70% in strength by either the pressure or atmospheric pres sure process.

~~92~~93.“Nitrogen oxides” means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.

~~93~~94.“Nonattainment area” means an area so designated by the Administrator acting pursuant to section 107 of the Act as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.

~~94~~95.“Nonpoint source” means a source of air contaminants which lacks an identifiable plume or emission point. ~~95~~96.“Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the back ground.

~~96~~97.“Operation” means any physical or chemical action resulting in the change in location, form, physical properties, or chemical character of a material.

~~97~~98.“Owner or operator” means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source.

~~98~~99.“Particulate matter” means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

~~99~~100.“Particulate matter emissions” means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.

~~100~~101.*“Permitting authority” means the department or a county department, agency or air pollution control district that is charged with enforcing a permit program adopted pursuant to A.R.S. § 49-480(A).* A.R.S. § 49-401.01(28).

~~101~~102.“Permitting exemption thresholds” for a regulated minor NSR pollutant means the following:

Regulated Air Pollutant	Emission Rate in tons per year (TPY)
$PM_{2.5}$ (primary emis	5

sions only; levels for pre cursors are set below)	
PM_{10}	7.5
SO_2	20
NO_x	20
VOC	20
CO	50
Pb	0.3

~~102~~103."Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.

~~103~~104. *"Planning agency" means an organization designated by the governor pursuant to 42 U.S.C. 7504.* A.R.S. § 49-401.01(29). ~~104~~105."$PM_{2.5}$" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53. ~~105~~106."PM_{10}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.

~~106~~107."PM_{10} emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.

~~107~~108."Plume" means visible effluent.

~~108~~109."Pollutant" means an air contaminant the emission or ambient concentration of which is regulated pursuant to this Chapter.

~~109~~110."Portable source" means any stationary source that is capable of being operated at more than one location.

~~110~~111."Potential to emit" or "potential emission rate" means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally and practically enforceable by the Department or a county under A.R.S. Title 49, Chapter 3; any rule, ordinance, order or permit adopted or issued under A.R.S. Title 49, Chapter 3 or the state implementation plan. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in title IV of the Act or the regulations promulgated thereunder.

~~111~~112."Predictive Emissions Monitoring System" or "PEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O2 or CO2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

~~112~~113."Primary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Article 2 of this Chapter.

~~113~~114."Process" means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.

~~114~~115."Project" means a physical change in, or change in the method of operation of, an existing major source. ~~115~~116."Proposed final permit" means the version of a Class I permit or Class I permit revision that the Department proposes to issue and forwards to the Administrator for review in compliance with R18-2-307(A). A proposed final permit constitutes a final and enforceable authorization to begin actual construction of, but not to operate, a new Class I source or a modification to a Class I source.

~~116~~117."Proposed permit" means the version of a permit for which the Director offers public participation under R18-2-330 or affected state review under R18-2-307(D).

~~117~~118."Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation if the unit:

a. Has not been in operation for the two-year period before enactment of the Clean Air Act Amendments of 1990, and the emissions from the unit continue to be carried in the Director's emissions inventory at the time of enactment; b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

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

d. Is otherwise in compliance with the Act.

~~118~~119."Reasonable further progress" means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.

~~119~~120.“Reasonably available control technology” (RACT) means devices, systems, process modifications, work practices or other apparatus or techniques that are determined by the Director to be reasonably available taking into account: a. The necessity of imposing the controls in order to attain and maintain a national ambient air quality standard; b. The social, environmental, energy and economic impact of the controls;

c. Control technology in use by similar sources; and

d. The capital and operating costs and technical feasibility of the controls.

~~120~~121.“Reclaiming machinery” means any machine, equipment device or other Article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.

~~121~~122.“Reference method” means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appen dices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in 18 A.A.C. 2, Appendix 2.

~~122~~123.“Regulated air pollutant” means any of the following:

a. Any conventional air pollutant.

b. Nitrogen oxides and volatile organic compounds.

c. Any pollutant that is subject to a new source performance standard.

d. Any pollutant that is subject to a national emission standard for hazardous air pollutants or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r), including the following:

i. Any pollutant subject to requirements under section 112(j) of the act. If the administrator fails to promulgate a stan dard by the date established pursuant to section 112(e) of the act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to sec tion 112(e) of the Act; and

ii. Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement.

e. Any Class I or II substance subject to a standard promulgated under title VI of the Act.

~~123~~124.“Regulated minor NSR pollutant” means any pollutant for which a national ambient air quality standard has been promul gated and the following precursors for such pollutants:

a. VOC and nitrogen oxides as precursors to ozone.

b. Nitrogen oxides and sulfur dioxide as precursors to $PM_{2.5}$.

~~124~~125.“Regulated NSR pollutant” is defined as follows:

a. For purposes of determining the applicability of R18-2-403 through R18-2-405 and R18-2-411, regulated NSR pollutant means any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this subsection as a constituent of or precursor to such pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of the regulation of the general pollutant. Precursors for purposes of NSR are the following:

i. Volatile organic compounds and nitrogen oxides are precursors to ozone in all areas.

ii. Sulfur dioxide is a precursor to $PM_{2.5}$ in all areas.

iii. Nitrogen oxides are precursors to $PM_{2.5}$ in all areas.

iv. VOC and ammonia are precursors to $PM_{2.5}$ in $PM_{2.5}$ nonattainment areas.

b. For all other purposes, regulated NSR pollutant means the pollutants identified in subsection (a) and the following: i. Any pollutant that is subject to any new source performance standard except greenhouse gases as defined in 40 CFR 86.1818-12(a).

ii. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act as of July 1, 2011.

iii. Any pollutant that is otherwise subject to regulation under the Act, except greenhouse gases as defined in 40 CFR 86.1818-12(a).

c. Notwithstanding subsections (124)(a) and (b), the term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

d. $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On and after January 1, 2011, condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in permits issued under Article 4.

~~125~~126.“Repowering” means:

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

i. Atmospheric or pressurized fluidized bed combustion;

ii. Integrated gasification combined cycle;

iii. Magnetohydrodynamics;

iv. Direct and indirect coalfired turbines;

v. Integrated gasification fuel cells; or

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

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

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

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

~~126~~127."Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.

~~127~~128."Secondary ambient air quality standards" means the ambient air quality standards which define levels of air quality neces sary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as specified in Article 2 of this Chapter.

~~128~~129."Secondary emissions" means emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emis sions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

~~129~~130."Section 302(j) category" means:

a. Any of the classes of sources listed in the definition of categorical source in subsection (23); or

b. Any category of affected facility which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

~~130~~131."Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

~~131~~132."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 subsec tion (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_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy
Municipal waste combustor organics (measured as total tetra through octa-chlorinated dibenzo p-dioxins and dibenzofurans)	Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) 3.5×10^{-6} tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy 40 tpy

Municipal solid waste landfill emissions (measured as nonmeth ane organic compounds)	50 tpy	
Any regulated NSR pollutant not specifically listed in this subsec tion (or)	Any emission rate	subsection (131)(a), except for ammonia.

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.

g. 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 $\mu g/m^3$ (24-hour average).

~~132~~133."Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in this Section for that pollutant.

~~133~~134."Smoke" means particulate matter resulting from incomplete combustion.

~~134~~135.*"Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution.* A.R.S. § 49-401.01(23).

~~135~~136."Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

~~136~~137."Stack in existence" means that the owner or operator had either:

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

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

~~137~~138."Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

~~138~~139."State implementation plan" or "SIP" means the accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.

~~139~~140."Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a station ary mounting and used for the production of electric power or for the direct drive of other equipment. ~~140~~141."Stationary source" means any building, structure, facility or installation which emits or may emit any regulated NSR pollut ant, any regulated air pollutant or any pollutant listed under section 112(b) of the act. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollut ant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987."

~~141~~142."Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Act, or a nation ally-applicable regulation codified by the administrator in 40 CFR chapter I, subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.

~~142~~143."Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.

~~143~~144."Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

~~144~~145."Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01(23) and which is not an affected source.

~~145~~146."Total reduced sulfur" (TRS) means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.

~~146~~147."Trivial activities" means activities and emissions units, such as the following, that may be omitted from a permit or registra tion application. Certain of the following listed activities include qualifying statements intended to exclude similar activities: a. Low-Emitting Combustion

i. Combustion emissions from propulsion of mobile sources;

ii. Emergency or backup electrical generators at residential locations;

iii. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capa ble of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device; b. Low- Or Non-Emitting Industrial Activities

i. Blacksmith forges;

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

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

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

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

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

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

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

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

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

xi. CO2 lasers used only on metals and other materials that do not emit HAP in the process;

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

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

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

xv. Process water filtration systems and demineralizers;

xvi. Demineralized water tanks and demineralizer vents;

xvii. Oxygen scavenging or de-aeration of water;

xviii.Ozone generators;

xix. Steam vents and safety relief valves;

xx. Steam leaks; and

xxi. Steam cleaning operations and steam sterilizers;

xxii. Use of vacuum trucks and high pressure washer/cleaning equipment within the stationary source boundaries for cleanup and in-source transfer of liquids and slurried solids to waste water treatment units or conveyances;

xxiii.Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.

xxiv.Electric motors.

c. Building and Site Maintenance Activities

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

ii. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision; iii. Janitorial services and consumer use of janitorial products;

iv. Landscaping activities;

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

vi. Sanding of streets and roads to abate traffic hazards caused by ice and snow;

vii. Street and parking lot striping;

viii. Caulking operations which are not part of a production process.

d. Incidental, Non-Industrial Activities

i. Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act; ii. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufactur ing, industrial or commercial process;

iii. Tobacco smoking rooms and areas;

iv. Non-commercial food preparation;

v. General office activities, such as paper shredding, copying, photographic activities, pencil sharpening and blueprint ing, but not including incineration;

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

vii. Bathroom and toilet vent emissions;

viii. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability pur poses under subsection (146)(c) of the definition of major source in this Section and any required fugitive dust

control plan or its equivalent is submitted with the application;

ix. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Sub stances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use; x. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition; xi. Circuit breakers; xii. Adhesive use which is not related to production.

e. Storage, Piping and Packaging

i. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP; ii. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;

iii. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;

iv. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;

v. Storage cabinets for flammable products;

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

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

f. Sampling and Testing

i. Vents from continuous emissions monitors and other analyzers;

ii. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents; iii. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;

iv. Hydraulic and hydrostatic testing equipment;

v. Environmental chambers not using HAP gases;

vi. Soil gas sampling;

vii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units;

g. Safety Activities

i. Fire suppression systems;

ii. Emergency road flares;

h. Miscellaneous Activities

i. Shock chambers;

ii. Humidity chambers;

iii. Solar simulators;

iv. Cathodic protection systems;

v. High voltage induced corona; and

vi. Filter draining.

~~147~~148."Unclassified area" means an area which the Administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this Chapter, is treated as an attainment area.

~~148~~149."Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds. ~~149~~150."Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a resi dential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.

~~150~~151."Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.

~~151~~152."Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state. ~~152~~153."Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, color ation) from that which would have existed under natural conditions.

~~153~~154."Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain par ticulate matter.

~~154~~155."Volatile organic compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, car bonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions. This includes any such organic compound other than the following:

a. Methane;

b. Ethane;

c. Methylene chloride (dichloromethane);

d. 1,1,1-trichloroethane (methyl chloroform);

e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);

f. Trichlorofluoromethane (CFC-11);

g. Dichlorodifluoromethane (CFC-12);

h. Chlorodifluoromethane (HCFC-22);

i. Trifluoromethane (HFC-23);

j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);

k. Chloropentafluoroethane (CFC-115);

l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);

m. 1,1,1,2-tetrafluoroethane (HFC-134(a));
n. 1,1-dichloro 1-fluoroethane (HCFC-141(b));
o. 1-chloro 1,1-difluoroethane (HCFC-142(b));
p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
q. Pentafluoroethane (HFC-125);
r. 1,1,2,2-tetrafluoroethane (HFC-134);
s. 1,1,1-trifluoroethane (HFC-143(a));
t. 1,1-difluoroethane (HFC-152(a));
u. Parachlorobenzotrifluoride (PCBTF);
v. Cyclic, branched, or linear completely methylated siloxanes;
w. Acetone;
x. Perchloroethylene (tetrachloroethylene);
y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225(ca));
z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225(cb));
aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
bb. Difluoromethane (HFC-32);
cc. Ethylfluoride (HFC-161);
dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236(fa));
ee. 1,1,2,2,3-pentafluoropropane (HFC-245(ca));
ff. 1,1,2,3,3-pentafluoropropane (HFC-245(ea));
gg. 1,1,1,2,3-pentafluoropropane (HFC-245(eb));
hh. 1,1,1,3,3-pentafluoropropane (HFC-245(fa));
ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236(ea));
jj. 1,1,1,3,3-pentafluorobutane (HFC-365(mfc));
kk. Chlorofluoromethane (HCFC-31);
ll. 1 chloro-1-fluoroethane (HCFC-151(a));
mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123(a));
nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);
oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$);
pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$;
rr. Methyl acetate; and
ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C_3F7OCH_3, HFE—7000);
tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE – 7500);
uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC 227ea);
vv. Methyl formate (HCOOCH3): and
ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300);
xx. Propylene carbonate;
yy. Dimethyl carbonate; and
zz. Trans -1,3,3,3-tetrafluoropropene;
aaa. HCF2OCF2H (HFE-134);
bbb. HCF2OCF2OCF2H (HFE-236(cal2));
ccc. HCF2OCF2CF2OCF2H (HFE-338(pcc13));
ddd. HCF2OCF2OCF2CF2OCF2H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
eee. Trans 1-chloro-3,3,3- trifluoroprop-1-ene;
fff. 2,3,3,3-tetrafluoropropene;
ggg. 2-amino-2-methyl-1-propanol; and
hhh. Perfluorocarbon compounds that fall into these classes:
i. Cyclic, branched, or linear, completely fluorinated alkanes.
ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
iii. Cycle, branched, or linear, completely fluorinated tertiary amines with no unsaturations; or
iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine. v. The following compound is VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but is not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

~~155~~156.“Wood waste burner” means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a by-product.

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-301. Definitions

The following definitions apply to this Article:

1. “Alternative method” means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to produce results adequate for the Director’s determination of compliance in accor dance with R18-2-311(D).
2. “Alternative operating scenario” (AOS) means a scenario authorized in a permit that involves a change at the stationary source subject to the permit for a particular emissions unit, and that either results in the unit being subject to one or more applicable

requirements which differ from those applicable to the emissions unit prior to implementation of the change or renders inappli cable one or more requirements previously applicable to the emissions unit prior to implementation of the change. ~~2~~3. "Billable permit action" means the issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.

~~3~~4. "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capac ity rating of the machine or equipment.

~~4~~5. "CEM" means a continuous emission monitoring system as defined in R18-2-101.

~~5~~6. "Complete" means, in reference to an application for a permit, permit revision or registration, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of a permit, permit revi sions or registration processing does not preclude the Director from requesting or accepting any additional information.

~~6~~7. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by any of the following:

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

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

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

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

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

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

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merg ing, an increase in the quantity of pollutants actually emitted prior to the merging, the reviewing agency shall pre sume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source.

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

iv. Episodic restrictions on residential woodburning and open burning.

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

~~7~~8. "Emissions allowable under the permit" means a permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

~~8~~9. "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

~~9~~10. "Fuel oil" means Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas tur bine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or die sel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90a (Specification for Diesel Fuel Oils).

~~10~~11."Itemized bill" means a breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive review, and public involvement activities, and within each category, a further breakdown by employee name. ~~11~~12."Major source threshold" means the lowest applicable emissions rate for a pollutant that would cause the source to be a major source at the particular time and location, under the definition of major source in R18-2-101.

~~12~~13."Maximum capacity to emit" means the maximum amount a source is capable of emitting under its physical and operational design without taking any limitations on operations or air pollution controls into account.

~~13~~14."Maximum capacity to emit with any elective limits" means the maximum amount a source is capable of emitting under its physical and operational design taking into account the effect on emissions of any elective limits included in the source's regis tration under R18-2-302.01(F).

~~14~~15."Minor NSR Modification" means any of the following changes that do not qualify as a major source or major modification:

a. Any physical change in or change in the method of operation of an emission unit or a stationary source that either: i. Increases the potential to emit of a regulated minor NSR pollutant by an amount greater than or equal to the permitting exemption thresholds, or

ii. Results in emissions of a regulated minor NSR pollutant not previously emitted by such emission unit or stationary source in an amount greater than or equal to the permitting exemption thresholds.

b. Construction of one or more new emissions units that have the potential to emit regulated minor NSR pollutants at an amount greater than or equal to the permitting exemption threshold.

c. A change covered by subsections (~~12~~16)(a) or (b) constitutes a minor NSR modification regardless of whether there will be a net decrease in total source emissions or a net increase in total source emissions that is less than the permitting exemption threshold as a result of decreases in the potential to emit of other emission units at the same stationary source.

d. For the purposes of this subsection ~~(~~the~~)~~ following do not constitute a physical change or change in the method of opera tion:

i. A change consisting solely of the construction of, or changes to, a combination of emissions units qualifying as a categorically exempt activity.

ii. For a stationary source that is required to obtain a Class II permit under R18-2-302 and that is subject to source-wide emissions caps under R18-2-306.01, ~~or~~ R18-2-306.02, or R18-2-306.03, a change that will not result in the violation of the existing emissions cap for that regulated minor NSR pollutant.

iii. Replacement of an emission unit by a unit with a potential to emit regulated minor NSR pollutants that is less than or equal to the potential to emit of the existing unit, provided the replacement does not cause an increase in emissions at other emission units at the stationary source. A unit installed under this provision is subject to any limits applicable to the unit it replaced.

iv. Routine maintenance, repair, and replacement.

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

vi. Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.

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

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

(1) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.

ix. An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.

x. Any change in ownership at a stationary source.

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

(1) The SIP, and

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

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

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

e. For purposes of this subsection:

i. "Potential to emit" means the lower of a source's or emission unit's potential to emit or its allowable emissions. ii. In determining potential to emit, the fugitive emissions of a stationary source shall not be considered unless the source belongs to a section 302(j) category.

iii. All of the roadways located at a stationary source constitute a single emissions unit.

~~15~~16."NAICS" means the five- or six-digit North American Industry Classification System-United States, 1997, number for industries used by the U.S. Department of Commerce.

~~16~~17."Permit processing time" means all time spent by Air Quality Division staff or consultants on tasks specifically related to the processing of an application for the issuance or renewal of a particular permit or permit revision, including time spent processing an application that is denied.

~~17~~18."Quantifiable" means, with respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.

~~18~~19."Registration" means a registration under R18-2-302.01.

~~19~~20."Replicable" means, with respect to methods or procedures, sufficiently unambiguous that the same or equivalent results would be obtained by the application of the method or procedure by different users.

~~20~~21."Responsible official" means one of the following:

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

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

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

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

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

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

d. For affected sources:

i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or

the regulations promulgated thereunder are concerned; and

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

~~21~~22."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~~23."Small source" means a source with a potential to emit, without controls, less than the rate defined as permitting exemption thresholds in R18-2-101, but required to obtain a permit solely because it is subject to a standard under 40 CFR 63. ~~23~~24."Startup" means the setting in operation of a source for any purpose.

~~24~~25."Synthetic minor" means a source with a permit that contains voluntarily accepted emissions limitations, controls, or other requirements (for example, a cap on production rates or hours of operation, or limits on the type of fuel) under R18-2-306.01 or R18-2-306.03 to reduce the potential to emit to a level below the major source threshold.

R18-2-302. Applicability; Registration; Classes of Permits

A. Except as otherwise provided in this Article, no person shall begin actual construction of, operate, or make a modification to any stationary source subject to regulation under this Article, without obtaining a registration, permit or permit revision from the Director. **B.** Class I and II permits and registrations shall be required as follows:

1. A Class I permit shall be required for a person to begin actual construction of or operate any of the following:
   a. Any major source,
   b. Any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act,
   c. Any affected source, or
   d. Any stationary source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the Director by rule.
2. Unless a Class I permit is required, a Class II permit shall be required for:
   a. A person to begin actual construction of or operate any stationary source that emits, or has the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level. b. A person to make a physical or operational change to a stationary source that would cause the source to emit, or have the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level.
   c. A person to begin actual construction of or modify a stationary source that otherwise would be subject to registration but that the Director has determined requires a permit under R18-2-302.01(C)(4) or (D).
3. Unless a Class I or II permit is required, registration shall be required for:
   a. A person to begin actual construction of or operate any stationary source that emits or has the maximum capacity to emit any regulated minor NSR pollutant in an amount greater than or equal to a permitting exemption threshold. b. A person to begin actual construction of or operate any stationary source subject to a standard under section 111 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards: i. 40 CFR 60, Subpart AAA (Residential Wood Heaters).
      ii. 40 CFR 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines).
      iii. 40 CFR 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines).
      iv. 40 CFR 60, Subpart QQQQ (Residential Hydronic Heaters and Forced-Air Furnaces).
   c. A person to begin actual construction of or operate any stationary source, including an area source, subject to a standard under section 112 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards:
      i. 40 CFR 61.145.
      ii. 40 CFR 63, Subpart ZZZZ (Reciprocating Internal Combustion Engines).
      iii. 40 CFR 63, Subpart WWWWW (Ethylene Oxide Sterilizers).
      iv. 40 CFR 63, Subpart CCCCCC (Gasoline Distribution).
      v. 40 CFR 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations).
      vi. 40 CFR 63, Subpart JJJJJJ (Industrial, Commercial, and Institutional Boilers Area Sources), published at 76 FR 15554 (March 21, 2011).
      vii. A regulation or requirement under section 112(r) of the Act.
   d. A physical or operational change to a source that would cause the source to emit or have the maximum capacity to emit any regulated minor NSR pollutant in an amount greater than or equal to the permitting exemption threshold. **C.** Notwithstanding subsections (A) and (B), the following stationary sources do not require a permit or registration unless the source is a major source, or unless operation without a permit would result in a violation of the Act:
   1. A stationary source that consists solely of a single categorically exempt activity plus any combination of trivial activities. 2. Agricultural equipment used in normal farm operations. "Agricultural equipment used in normal farm operations" does not include equipment classified as a source that requires a permit under Title V of the Act, or that is subject to a standard under 40 CFR 60, 61 or 63.

D. No person may construct or reconstruct any major source of hazardous air pollutants, unless the Director determines that maximum achievable control technology emission limitation (MACT) for new sources under Section 112 of the Act will be met. If MACT has not been established by the Administrator, such determination shall be made on a case-by-case basis pursuant to 40 CFR 63.40 through 63.44, as incorporated by reference in R18-2-1101(B). For purposes of this subsection, constructing and reconstructing a major source shall have the meaning prescribed in 40 CFR 63.41.

E. Elective limits or controls adopted ~~under~~pursuant to R18-2-302.01(F) shall not be considered in determining whether a source ~~requires~~ is a major source requiring ~~registration or~~ a Class I permit b~~ut~~ under subsection (B)(1)(a). Elective limits or controls adopted pursuant to R18-2-302.01(F) shall be considered in determining any of the following:

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 maintenance of ambient standards is required under R18-2- 302.01(C).
3. Whether the source requires a Class II permit, as provided in subsections (B)(2)(a) or (b).

F. The fugitive emissions of a stationary source shall not be considered in determining whether the source requires a Class II permit

under subsections (B)(2)(a) or (b) or a registration under subsections (B)(3)(a) or (d), unless the source belongs to a section 302(j) category. If a permit is required for a stationary source, the fugitive emissions of the source shall be subject to all of the requirements of this Article.

G. Notwithstanding subsections (A) and (B), a person may begin actual construction, but not operation, of a source requiring a Class I permit or Class I permit revision upon the Director's issuance of the proposed final permit or proposed final permit revision.

R18-2-302.01. Source Registration Requirements

A. Application. An application for registration shall be submitted on the form specified by the Director and shall include the following information:

1. The name of the applicant.
2. The physical location of the source, including the street address, city, county, zip code and latitude and longitude coordinates.
3. The source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant. 4. Identification of any elective limits or controls adopted under subsection (F).
5. In the case of a modification, each increase in the source's maximum capacity to emit with any elective limits that exceeds the applicable threshold in subsection (G)(1)(a).
6. Identification of the method used to determine the maximum capacity to emit under R18-2-302(B)(3)(a), a change in the maxi mum capacity to emit under R18-2-302(B)(3)(d), or the maximum capacity to emit with any elective limits under subsection (G)(1)(a).
7. Process information for the source, including a list of emission units, design capacity, operations schedule, and identification of emissions control devices.

B. Registration Processing Procedures.

1. The Department shall complete a review of a registration application for administrative completeness within 30 calendar days, calculated in accordance with A.A.C. R18-1-503, after its receipt.
2. The Department shall complete a substantive review and take final action on a registration application within 60 calendar days if no hearing is requested, and 90 calendar days if a hearing is requested, calculated in accordance with A.A.C. R18-1-504, after the application is administratively complete.
3. Except as provided in subsection (B)(5), a registration for construction of a source shall be subject to the public notice and par ticipation requirements of R18-2-330. The materials relevant to the registration decision made available to the public under R18- 2-330(D) shall include any determination made or modeling conducted by the Director under subsection (C).
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. A registration for construction of a source shall not be subject to subsections (B)(3) or (4), if the source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant is less than the applicable permitting exemption threshold. **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 lim its 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. In making the determination required by this subsection, the Director shall take into account the following factors:
   a. The source's emission rates, including fugitive emission rates, taking into account any elective limits or controls adopted under subsection (F).
   b. The location of emission units within the facility and their proximity to the ambient air.
   c. The terrain in which the source is or will be located.
   d. The source type.
   e. The location and emissions of nearby sources.
   f. Background concentrations of regulated minor NSR pollutants.
2. The Director may undertake the review specified in subsection (C)(1) for a source with the maximum capacity to emit with any elective limits regulated minor NSR pollutants in an amount less than the permitting exemption threshold. 3. If the Director determines under subsections (C)(1) or (C)(2) that a source's emissions may interfere with attainment or mainte nance of a national ambient air quality standard, the Director shall perform a screening model run for each regulated minor NSR pollutant for which that determination has been made.
4. If the Director determines, based on performance of the screening model pursuant to subsection (C)(3), that a source's emis sions, taking into account any elective limits or controls adopted under subsection (F), will interfere with attainment or mainte nance of a national ambient air quality standard, the Director shall deny the application for registration. Notwithstanding R18-2-302(B)(3), the owner or operator of the source shall be required to obtain a permit under R18-2-302 and shall comply with R18- 2-334 before beginning actual construction of the source or modification.

D. Requirement to Obtain a Permit. Notwithstanding R18-2-302(B)(3)(b) and (c), the Director shall deny an application for registration for a source subject to a standard under section 111 or 112 of the Act and require the owner or operator to obtain a permit under R18- 2-302, if the Director determines based on the following factors that the requirement to obtain a permit is warranted: 1. The size and complexity of the source.
2. The complexity of the section 111 or 112 standard applicable to the source.
3. The public health or environmental risks posed by the pollutants subject to regulation under the section 111 or 112 standard.

E. Registration Contents. A registration shall contain the following elements:

1. Enforceable emission limitations and standards, including operational requirements and limitations, that ensure compliance with all applicable SIP requirements at the time of issuance and any testing, monitoring, recordkeeping and reporting obligations imposed by the applicable requirement or by R18-2-312.
2. Any elective limits or controls and associated operating, maintenance, monitoring and recordkeeping requirements adopted pur

suant to subsection (F).

3. A requirement to retain any records required by the registration at the source for at least three years in a form that is suitable for expeditious inspection and review.
4. For any source that has adopted elective limits or controls under subsection (F), a requirement to submit an annual compliance report on the form provided by the Director in the registration.

F. Elective Limits or Controls. The owner or operator of a source requiring registration may elect to include any of the following emis sion limitations in the registration, provided the Department approves the limitation and the registration also includes the operating, maintenance, monitoring, and recordkeeping requirements specified below for the limitation.

1. A limitation on the hours of operation of any process or combination of processes.
   a. The registration shall express the limitation in terms of hours per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
   b. The owner or operator shall maintain a log or readily available business records showing actual operating hours through the preceding operating day for the process or processes subject to the limitation.
2. A limitation on the production rate for any process or combination of processes.
   a. The registration shall express the limitation in terms of an appropriate unit of mass or production per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
   b. The owner or operator shall maintain a log or readily available business records showing the actual production rate through the preceding operating day for the process or processes subject to the limitation. The owner or operator shall update the log or business records at least once per operating day.
3. A requirement to operate a fabric filter for the control of particulate matter emissions.
   a. The owner or operator shall operate the fabric filter at all times that the emission unit controlled by the fabric filter is oper ated.
   b. The owner or operator shall inspect the fabric filter at least once per month for tears and leaks and shall promptly repair any tears or leaks identified. If the fabric filter is subject to a limit on the opacity of emissions, the inspection shall include an opacity observation in accordance with the applicable reference method.
   c. The owner or operator shall operate and maintain the fabric filter in substantial compliance with the manufacturer's opera tion and maintenance recommendations.
   d. The owner or operator shall keep a log or readily available business records of the inspections required by subsection (F)(3)(b) and the maintenance activities required by subsection (F)(3)(c). The owner or operator shall update the log or business records within 24 hours after an inspection or maintenance activity is performed.
   e. The registration shall identify the fabric filters and processes subject to this requirement.
4. Limitations on the total amount of VOC or hazardous air pollutants in solvents, coatings or other process materials used at the registered source.
   a. The registration shall identify the pollutants and processes covered by the limitations and shall express the limitations in terms of pounds per rolling 12-month period.
   b. The owner or operator shall maintain a log or readily available business records showing the concentration of each covered VOC or hazardous air pollutant in each VOC or hazardous air pollutant containing material used at the source. The owner or operator shall update the records whenever the concentration in any material changes or a new material is used. The pres ence at the source of a current material safety data sheet for a material used without dilution or other alteration satisfies this requirement.
   c. The owner or operator shall maintain a spreadsheet or database to record the amount of each material containing a covered VOC or hazardous air pollutant used. The spreadsheet or database shall calculate the total pounds of the VOC or hazardous air pollutant used by multiplying the concentration of VOC or hazardous air pollutant in a material by the amount of mate rial used and shall employ appropriate units of measurement and conversion factors. The owner or operator shall update the spreadsheet or database at least once per operating day.
5. Requirements in 40 CFR Part 1039 for Tier 4 engines used for electrical generation of less than or equal to 10 megawatts that are powered by diesel fueled reciprocating internal combustion engines that operate selective catalytic reduction. a. The owner or operator of the registration shall comply with 40 CFR Part 1039, as amended as of January 24, 2023 (and no future amendments or editions). The registration shall identify the pollutants and processes covered by the limitations, and the corresponding 40 CFR Part 1039 limitation.
   b. The owner or operator shall operate and maintain the selective catalytic reduction in accordance with the manufacturer's emissions-related work instructions.
   c. The owner or operator shall maintain the selective catalytic reduction in accordance with the maintenance instructions pro vided to the buyer of the Tier 4 engine pursuant to 40 CFR § 1039.125, as amended as of January 24, 2023 (and no future amendments or editions).

   d. The owner or operator shall keep a log or readily available business records of the maintenance activities required by sub section (F)(5)(b). The owner or operator shall update the log or business records within 24 hours after an inspection or maintenance activity is performed.

G. Revised Registrations.

1. Unless a Class II permit is required under R18-2-302(B)(2)(b), the owner or operator of a registered source shall file a revised registration on the occurrence of any of the following:
   a. A modification to the source that would result in an increase in the source's maximum capacity to emit with any elective limits exceeding any of the following amounts:
      i. 2.5 tons per year for NO_x, SO_2, PM_{10}, $PM_{2.5}$, VOC or CO.
      ii. 0.3 tons per year for lead.
   b. Relocation of a portable source.
   c. The transfer of the source to a new owner.
2. The requirements of subsection (B) shall not apply to a revised registration. The owner or operator may begin actual construc tion

and operation of the modified, relocated or transferred source on filing the revised registration.

H. Registration Term.

1. A source's registration shall expire five years after the date of issuance of the last registration for the source or any modification to the source.
2. A source shall submit an application for renewal of a registration not later than six months before expiration of the registration's term.
3. If a source submits a timely and complete application for renewal of a registration, the source's authorization to operate under its existing registration shall continue until the Director takes final action on the application.
4. The Director may terminate a registration under R18-2-321(C). If the Director terminates a registration under R18-2-321(C)(3), the owner or operator shall be required to apply for a permit for the source under R18-2-302.

I. Issuance of a registration shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

R18-2-304. Permit Application Processing Procedures

A. Unless otherwise noted, this Section applies to each source requiring a Class I or II permit or permit revision. **B.** Standard Application Form and Required Information. To apply for a permit required by this Chapter, applicants shall complete the applicable standard application form provided by the Director and supply all information required by the form's filing instructions. The application forms and filing instructions for Class I Permits shall at a minimum require submission of the following elements: 1. Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

2. A description of the source's processes and products (by Standard Industrial Classification (SIC) Code), including those associ ated with any proposed alternative operating scenarios (AOS) identified by the source.
3. The following emission-related information:
   a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except as otherwise provided in R18-2-304(F)(8). The Director shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under R18-2-326.
   b. Identification and description of all points of emissions described in subsection (B)(3)(a) in sufficient detail to establish the basis for fees and applicability of requirements.
   c. Emissions rate in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applica ble standard reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with an applicable requirement.
   d. The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, pro duction rates, and operating schedules.
   e. Identification and description of air pollution control equipment and compliance monitoring devices or activities. f. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pol lutants at the Class I source.
   g. Other information required by any applicable requirement (including information related to stack height limitations in R18-2-332).
   h. Calculations on which the information in subsections (B)(3)(a) through (g) is based.
4. The following air pollution control requirements:
   a. Citation and description of all applicable requirements, and
   b. Description of or reference to any applicable test method for determining compliance with each applicable requirement. 5. Other specific information that may be necessary to implement and enforce other applicable requirements or to determine the applicability of such requirements.
6. An explanation of any proposed exemptions from otherwise applicable requirements.
7. Additional information as determined to be necessary by the Director to define proposed AOS identified by the source pursuant to R18-2-306(A)(11) or to define permit terms and conditions implementing any AOS under R18-2-306(A)(11) or implementing R18-2-317, R18-2-306(A)(12), R18-2-306(A)(14), or R18-2-306.02. The permit application shall include documentation demonstrating that the source has obtained all authorizations required under the applicable requirements relevant to any pro posed AOS, or a certification that the source has submitted all relevant materials to the Director for obtaining such authoriza tions.

8. A compliance plan for all Class I sources that contains all of the following:
   a. A description of the compliance status of the source with respect to all applicable requirements.
   b. A description as follows:
      i. For applicable requirements with which the source is in compliance, a statement that the source will continue to com ply with such requirements.
      ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
      iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
      iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. c. A compliance schedule as follows:
      i. For applicable requirements with which the source is in compliance, a statement that the source will continue to com ply with such requirements.

ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable require ments that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompli ance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that con tained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A state ment that the source will meet, in a timely manner, applicable requirements that become effective during the permit term will satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.

e. The compliance plan content requirements specified in subsection (B)(8) shall apply and be included in the acid rain por tion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the acid rain emis sions limitations.

9. Requirements for compliance certification, including the following:

a. A certification of compliance with all applicable requirements by a responsible official, which shall include: i. Identification of the applicable requirement that is the basis of the certification;

ii. The method used for determining the compliance status of the source, including a description of monitoring, record keeping, and reporting requirements and test methods;

iii. The compliance status; and

iv. Such other facts as the Director may require;

b. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certifica tion requirements of the Act; and

d. A certification of truth, accuracy, and completeness pursuant to R18-2-304(I).

10. The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by reg ulations promulgated under title IV of the act.

C. The Director, either upon the Director's own initiative or on the request of a permit applicant, may waive a requirement that specific information or data be submitted in the application for a Class II permit for a particular source or category of sources if the Director determines that the information or data would be unnecessary to determine all of the following:

1. The applicable requirements to which the source may be subject;
2. That the source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to oper ate without emitting or without causing to be emitted air contaminants in violation of the provisions of A.R.S. Title 49, Chapter 3, Article 2 and this Chapter;
3. The fees to which the source may be subject; and
4. A proposed emission limitation, control, or other requirement that meets the requirements of R18-2-306.01~~, or~~ R18-2-306.02**,** or R18-2-306.03.

D. A timely application is:

1. For a source, that becomes subject to the permit program as a result of a change in regulation and not as a result of construction or a physical or operational change, one that is submitted within 12 months after the source becomes subject to the permit pro gram.

2. For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.
3. Any source under R18-2-326(A)(3) which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act shall, within 12 months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.

E. If an applicable implementation plan allows the determination of an alternative emission limit, a source may, in its application, pro pose an emission limit that is equivalent to the emission limit otherwise applicable to the source under the applicable implementation plan. The source shall also demonstrate that the equivalent limit is quantifiable, accountable, enforceable, and subject to replicable compliance determination procedures.

F. A complete application 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 infor mation consistent with subsection (I) (Certification of Truth, Accuracy, and Completeness).
2. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Article 4 of this Chapter. If the applicant determines that the proposed new source is a major source as defined in R18-2-401, or the pro posed permit revision constitutes a major modification as defined in R18-2-101, then the application shall comply with all appli cable requirements of Article 4.

3. An application for a new permit or permit revision shall contain an assessment of the applicability of Minor New Source Review requirements in R18-2-334. If the applicant determines that the proposed new source is subject to R18-2-334, or the proposed permit revision constitutes a Minor NSR Modification, then the application shall comply with all applicable requirements of R18-2-334.

4. Except for proposed new major sources or major modifications subject to the requirements of Article 4 of this Chapter, an appli cation for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless, within 60 days of receipt of the application, the Director notifies the applicant by certified mail that the application is not complete.

5. If a source wishes to voluntarily enter into an emissions limitation, control, or other requirement pursuant to R18-2-306.01 or R18-2-306.03, the source shall describe that emissions limitation, control, or other requirement in its application, along with pro posed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emissions limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.

6. If, while processing an application that has been determined or deemed to be complete, the 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 (K), 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. The completeness determination shall not apply to revisions processed through the minor permit revision process. 8. Activities which are insignificant pursuant to the definition of insignificant activities in R18-2-101 shall be listed in the applica tion. Except as necessary to complete the assessment required by subsections (F)(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 subsections (F)(2) or (3), the Director shall notify the applicant in writing and specify addi tional information required.

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

10. The Director is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-432.

G. A source applying for a Class I permit that has submitted information with an application under a claim of confidentiality pursuant to A.R.S. § 49-432 and R18-2-305 shall submit a copy of such information directly to the Administrator.

H. Duty to Supplement or Correct Application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supple mentary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed per mit.

I. Certification of Truth, Accuracy, and Completeness. Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Article shall state that, based on information and belief formed after reasonable inquiry, the state ments and information in the document are true, accurate, and complete.

J. Action on Application.

1. The Director shall issue or deny each permit according to the provisions of A.R.S. § 49-427. The Director may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance. 2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met: a. The application received by the Director for a permit, permit revision, or permit renewal shall be complete according to subsection (F).

b. Except for revisions qualifying as administrative or minor under R18-2-318 and R18-2-319, all of the requirements for pub lic notice and participation under R18-2-330 shall have been met.

c. For Class I permits, the Director shall have complied with the requirements of R18-2-307 for notifying and responding to affected states, and if applicable, other notification requirements of R18-2-402(D)(2) and R18-2-410(C)(2). d. For Class I and II permits, the conditions of the permit shall require compliance with all applicable requirements. e. For permits for which an application is required to be submitted to the Administrator under R18-2-307(A), and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Department, the Director has revised and submitted a proposed final permit in response to the objection and EPA has not objected to this proposed final permit within 45 days of receipt. f. For permits to which the Administrator has objected to issuance pursuant to a petition filed under 40 CFR 70.8(d), the Administrator's objection has been resolved.

g. For a Class II permit that contains voluntary emission limitations, controls, or other requirements established pursuant to R18-2-306.01 or R18-2-306.03, the Director shall have complied with the requirement of R18-2-306.01(C) or R18-2-306.03(C) to provide the Administrator with a copy of the proposed permit.

3. If the Director denies a permit under this Section, a notice shall be served on the applicant by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial and a statement that the permit applicant is entitled to a hearing.

4. The Director shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including ref erences to the applicable statutory or regulatory provisions. The Director shall send this statement to any person who requests it and, for Class I permits, to the Administrator.

5. Priority shall be given by the Director to taking action on applications for construction or modification submitted pursuant to Title I, Parts C (Prevention of Significant Deterioration) and D (New Source Review) of the Act.

K. Requirement for a Permit. Except as noted under the provisions in R18-2-317 and R18-2-319, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued pursuant to this Chapter. However, if a source under R18-2-326(A)(3) submits a timely and complete application for continued operation under a permit revi sion or renewal, the source's failure to have a permit is not a violation of this Article until the Director takes final action on the appli

cation. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Director, any additional information identified as being needed to process the application. This subsection does not affect a source's obligation to obtain a permit revision before making a modification to the source.

R18-2-306. Permit Contents

A. Each permit issued by the Director shall include the following elements:

1. The date of issuance and the permit term.
2. Enforceable emission limitations and standards, including operational requirements and limitations that ensure compliance with all applicable requirements at the time of issuance and operational requirements and limitations that have been voluntarily accepted under R18-2-306.01 or R18-2-306.03.
   a. The permit shall specify and reference the origin of and authority for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
   b. The permit shall state that, if an applicable requirement of the Act is more stringent than an applicable requirement of regu lations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.
   c. Any permit containing an equivalency demonstration for an alternative emission limit submitted under R18-2-304(E) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
   d. The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source cate gory in question is included in the list of sources contained in the definition of major source in R18-2-101. 3. Each permit shall contain the following requirements with respect to monitoring:
   a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:
      i. Monitoring and analysis procedures or test methods under 40 CFR 64;
      ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and
      iii. Monitoring and analysis procedures or test methods required under R18-2-306.01 or R18-2-306.03. b. 40 CFR 64 as adopted July 1, 1998, is incorporated by reference and on file with the Department and the Office of the Sec retary of State. This incorporation by reference contains no future editions or amendments. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;
   c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the rel evant time period that are representative of the source's compliance with the permit as reported under subsection (A)(4). The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conven tions consistent with the applicable requirement, and as otherwise required under R18-2-306.01 or R18-2-306.03. Record keeping provisions may be sufficient to meet the requirements of this subsection; and
   d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.
4. The permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established under R18-2-306.01 or R18-2-306.03, for the following:
   a. Records of required monitoring information that include the following:
      i. The date, place as defined in the permit, and time of sampling or measurement;

      ii. The date any analyses was performed;
      iii. The name of the company or entity that performed the analysis;
      iv. A description of the analytical technique or method used;
      v. The results of any analysis; and
      vi. The operating conditions existing at the time of sampling or measurement;
   b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and mainte nance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit.
5. The permit shall incorporate all applicable reporting requirements including reporting requirements established under R18-2-306.01 or R18-2-306.03 and require the following:
   a. Submittal of reports of any required monitoring. All instances of deviations from permit requirements shall be clearly iden tified in the reports. All required reports shall be certified by a responsible official consistent with R18-2-304(I) and R18-2- 309(A)(5) and shall be submitted with the following frequency:
      i. For a Class I permit, at least once every six months;
      ii. For a Class II permit, at least once per year.
   b. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of the deviations, and any corrective actions or preventive measures taken. Where the applicable requirement contains a definition of prompt or otherwise specifies a timeframe for reporting deviations, that definition or timeframe shall govern. Where the applicable requirement does not address the timeframe for reporting deviations, the per mittee shall submit reports of deviations in compliance with the following schedule:
      i. Notice that complies with timeframe in R18-2-310.01(A) is prompt for deviations that constitute excess emissions; ii. Except as otherwise provided in the permit, notice that complies with subsection (A)(5)(a) is prompt for all other types of deviation.
6. A permit condition prohibiting emissions exceeding any allowances the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.
   a. A permit revision is not required for increases in emissions that are authorized by allowances acquired under the acid rain

program, if the increases do not require a permit revision under any other applicable requirement.

b. A limit shall not be placed on the number of allowances held by the source. The source shall not, however, use allowances as a defense to noncompliance with any other applicable requirement.

c. Any allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

d. Any permit issued under the requirements of this Chapter and Title V of the Act to a unit subject to the provisions of Title IV of the Act shall include conditions prohibiting all of the following:

i. Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owner or operator of the unit or the designated representative of the owner or operator,

ii. Exceedances of applicable emission rates,

iii. Use of any allowance before the year for which it is allocated, and

iv. Contravention of any other provision of the permit.

7. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any por tion of the permit.

8. Provisions stating the following:

a. The permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes A.R.S. Title 49, Chapter 3, and the air quality rules, 18 A.A.C. 2. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal appli cation. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.

b. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the per mitted activity in order to maintain compliance with the conditions of the permit.

c. The permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permit tee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder. e. The permittee shall furnish to the Director, within a reasonable time, any information that the Director may request in writ ing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine com pliance with the permit. Upon the Director's request, the permittee shall also furnish to the Director copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish a copy of the records directly to the Administrator along with a claim of confidentiality.

f. For any major source operating in a nonattainment area for all pollutants for which the source is classified as a major source, the source shall comply with reasonably available control technology.

9. A provision to ensure that the source pays fees to the Director under A.R.S. § 49-426(E), R18-2-326, and R18-2-511. 10. A provision stating that a permit revision shall not be required under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes provided for in the permit.

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

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

b. Extend the permit shield described in R18-2-325 to all terms and conditions under each such operating scenario; and c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the require ments of this Chapter.

12. Terms and conditions, if the permit applicant requests them, and as approved by the Director, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading the increases and decreases without a case-by-case approval of each emissions trade. The terms and conditions:

a. Shall include all terms required under subsections (A) and (C) to determine compliance;

b. Shall not extend the permit shield in subsection (D) to all terms and conditions that allow the increases and decreases in emissions;

c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no rep licable procedures to enforce the emissions trades; and

d. Shall meet all applicable requirements and requirements of this Chapter.

13. Terms and conditions, if the permit applicant requests them and they are approved by the Director, setting forth intermittent operating scenarios including potential periods of downtime. If the terms and conditions are included, the state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.

14. Upon request of a permit applicant, the Director shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforce able. The Director shall not include in the emissions trading provisions any emissions units for which emissions are not quantifi able or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this subsection (shall) not include modifications under any provision of Title I of the Act and shall not exceed emissions allowable under the permit. The terms and conditions shall provide, for Class I sources, for notice that conforms to R18-2-317(D) and (E), and for Class II sources, for logging that conforms to R18-2-317.02(B)(5). In addition, the notices for Class I and Class II sources shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.

15. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1 and 2, and the rules adopted in 18 A.A.C. 2.

B. Federally-enforceable Requirements.

1. The following permit conditions shall be enforceable by the Administrator and citizens under the Act: a. Except as provided in subsection (B)(2), all terms and conditions in a Class I permit, including any provision designed to limit a source's potential to emit;
b. Terms or conditions in a Class II permit setting forth federal applicable requirements; and
c. Terms and conditions in any permit entered into voluntarily under R18-2-306.01 or R18-2-306.03, as follows: i. Emissions limitations, controls, or other requirements; and
ii. Monitoring, recordkeeping, and reporting requirements associated with the emissions limitations, controls, or other requirements in subsection (B)(1)(c)(i).

2. Notwithstanding subsection (B)(1)(a), the Director shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Class I permit that are not required under the Act or under any of its applicable require ments.

C. Each permit shall contain a compliance plan as specified in R18-2-309.

D. Each permit shall include the applicable permit shield provisions under R18-2-325.

E. Emergency provision.

1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that requires immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emer gency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventa tive maintenance, careless or improper operation, or operator error.
2. An emergency constitutes an affirmative defense to an action brought for noncompliance with technology-based emission lim itations if the conditions of subsection (E)(3) are met.
3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
a. An emergency occurred and the permittee can identify the cause or causes of the emergency;
b. At the time of the emergency the permitted facility was being properly operated;
c. During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and
d. The permittee submitted notice of the emergency to the Director by certified mail, facsimile, or hand delivery within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.
4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. 5.

This provision is in addition to any emergency or upset provision contained in any applicable requirement. **F.** A Class I permit issued to a major source shall require that revisions be made under R18-2-321 to incorporate additional applicable requirements adopted by the Administrator under the Act that become applicable to a source with a permit with a remaining permit term of three or more years. A revision shall not be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than 18 months after the promulgation of the

standards and regulations. Any permit revision required under this subsection (shall) comply with R18-2-322 for permit renewal and shall reset the five-year permit term.

R18-2-306.01. Permits Containing Voluntarily Accepted Emission Limitations and Standards

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

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

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

C. At the same time as notice of proposed issuance is first published pursuant to A.R.S. § 49-426(D), the Director shall send a copy of any Class II permit proposed to be issued pursuant to this Section to the Administrator for review during the comment period described in the notice pursuant to R18-2-330(C)(3).

D. The Director shall send a copy of each final permit issued pursuant to this Section to the Administrator.

R18-2-306.02. Establishment of an Emissions Cap

A. An applicant may, in its application for a new permit, renewal of an existing permit, or as a significant permit revision, request an emissions cap for a particular pollutant expressed in tons per year as determined on a 12-month rolling average, or any shorter aver aging time necessary to enforce any applicable requirement, for any emissions unit, combination of emissions units, or an entire source to allow operating flexibility including emissions trading for the purpose of complying with the cap. This Section shall not apply to sources that hold an authority to operate under a general permit pursuant to Article 5 of this Chapter.

B. An emissions cap for a Class II source that limits the emissions of a particular pollutant for the entire source shall not exceed any of the following:

1. The applicable requirement for the pollutant if expressed in tons per year;

2. The source's actual emissions plus the applicable significance level for the pollutant established in R18-2-101(131).
3. The applicable major source threshold for the pollutant; or
4. A source wide emission limitation for the pollutant voluntarily agreed to by the source under R18-2-306.01 or R18-2-306.03. **C.** In order to incorporate an emissions cap in a permit the applicant must demonstrate to the Director that terms and conditions in the permit will:
1. Ensure compliance with all applicable requirements for the pollutant;
2. Contain replicable procedures to ensure that the emissions cap is enforceable as a practical matter and emissions trading con ducted under it is quantifiable and enforceable as a practical matter. For the purposes of this Section, "enforceable as a practical matter" shall include the following criteria:
a. The permit conditions are permanent and quantifiable;
b. The permit includes a legally enforceable obligation to comply;
c. The limits impose an objective and quantifiable operational or production limit or require the use of in-place air pollution control equipment;
d. The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;
e. The permit conditions are enforceable and are independent of any other applicable limitations; and
f. The permit conditions for monitoring, record keeping, and reporting requirements are sufficient to comply with R18-2-306(A)(3), (4), and (5).

D. Class I sources shall log an increase or decrease in actual emissions authorized as a trade under an emissions cap unless an applicable requirement requires notice to the Director. The log shall contain the information required by the permit including, at a minimum, when the proposed emissions increase or decrease occurred, a description of the physical change or change in method of operation that produced the increase or decrease, the change in emissions from the physical change or change in method of operation, and how the increase or decrease in emissions complies with the permit. Class II sources shall comply with R18-2-317.02(B)(5).

E. The Director shall not include in an emissions cap or emissions trading allowed under a cap any emissions unit for which the emis sions are not quantifiable or for which there are no replicable procedures or practical means to enforce emissions trades.

R18-2-306.03. Voluntary Air Permit Requirements for Ambient Air Quality Protection and Planning 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, to comply with any other requirement of the Act, or to generate emissions reductions credits pursuant to Arizona Administrative Code Title 18, Chapter 2, Arti cle 12.

B. In order for a source to obtain a permit containing voluntarily accepted emissions limitations, controls, or other requirements, the source shall demonstrate all of the following in its permit application:
1. The emissions limitations, controls, or other requirements to be imposed under subsection (A) are at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source, including requirements

imposed in an applicable implementation plan; and the permit does not waive, or make less stringent, any limitations or require ments imposed in an applicable implementation plan, or that are otherwise federally enforceable.
2. All voluntarily accepted emissions limitations, controls, or other requirements will be permanent, quantifiable, and otherwise enforceable as a practical matter.

C. At the same time as notice of proposed issuance is first published pursuant to A.R.S. § 49-426(D), the Director shall send a copy of any Class II permit proposed to be issued pursuant to this Section to the Administrator for review during the comment period described in the notice pursuant to R18-2-330(C)(3).

D. The Director shall send a copy of each final permit issued pursuant to this Section to the Administrator.

R18-2-307. Permit Review by the EPA and Affected States

A. Except as provided in R18-2-304(G) and as waived by the Administrator, for each Class I permit, a copy of each of the following shall be provided to the Administrator as follows:
1. The applicant shall provide a complete copy of the application including any attachments, compliance plans, and other informa tion required by R18-2-304(F) at the time of submittal of the application to the Director.
2. The Director shall provide the proposed final permit after public and affected state review.
3. The Director shall provide the final permit at the time of issuance.
4. If a significant comment is received during the public participation process, the Director shall provide the written response to comments, which must include a written response to all significant comments raised during the public participation process on the draft permit and recorded under R18-2-330(G), and an explanation of how those public comments and the permitting author ity's responses are available to the public.

B. The Director shall keep all records associated with all permits for a minimum of five years from issuance. **C.** No permit for which an application is required to be submitted to the Administrator under subsection (A) shall be issued if the Administrator properly objects to its issuance in writing within 45 days of receipt of the proposed final permit from the Department and all necessary supporting information.

D. Review by Affected States.
1. For each Class I permit, the Director shall provide notice of each proposed permit to any affected state on or before the time that the Director provides this notice to the public as required under R18-2-330 except to the extent R18-2-319 requires the timing of the notice to be different.
2. If the Director refuses to accept a recommendation of any affected state submitted during the public or affected state review period, the Director shall notify the Administrator and the affected state in writing. The notification shall include the Director's reasons for not accepting any such recommendation and shall be provided to the Administrator as part of the submittal of the proposed final permit. The Director shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.

E. Any person who petitions the Administrator pursuant to 40 CFR 70.8(d) shall notify the Department by certified mail of such petition as soon as possible, but in no case more than 10 days following such petition. Such notice shall include the grounds for objection

and whether such objections were raised during the public comment period. If the Administrator objects to the permit as a result of a peti tion filed under this subsection, the Director shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day adminis trative review period and prior to the Administrator's objection.

F. If the Director has issued a permit prior to receipt of the Administrator's objection under subsection (E), and the Administrator indi cates that it should be revised, terminated, or revoked and reissued, the Director shall reopen the permit in accordance with R18-2-321 and may thereafter issue only a revised permit that satisfies the Administrator's objection. In any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.

G. Prohibition on Default Issuance.

1. No Class I permit including a permit renewal or revision shall be issued until affected states and the Administrator have had an opportunity to review the proposed permit.
2. No permit or renewal shall be issued unless the Director has acted on the application.

R18-2-309. Compliance Plan; Certification

All permits shall contain the following elements with respect to compliance:

1. The elements required by R18-2-306(A)(3), (4), and (5).
2. Requirements for certifications of compliance with terms and conditions contained in the permit, including emissions limita tions, standards, and work practices. Permits shall include each of the following:
   a. The frequency of submissions of compliance certifications, which shall not be less than annually;
   b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices; c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):
      i. The identification of each term or condition of the permit that is the basis of the certification;
      ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and other means shall include, at a mini mum, the methods and means required under R18-2-306(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;
      iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as

possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred; and
      iv. Other facts the Director may require to determine the compliance status of the source.
   d. A requirement that permittees submit all compliance certifications to the Director. Permittees may submit compliance certi fications to the Director by electronic means. Class I permittees shall also submit compliance certifications to the Adminis trator.
   e. Additional requirements specified in sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01, R18-2-306.02, or R18-2-306.03.
3. A requirement for any document required to be submitted by a permittee, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Sec tion shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the docu ment are true, accurate, and complete.
4. Inspection and entry provisions that require that upon presentation of proper credentials, the permittee shall allow the Director to:
   a. Enter upon the permittee's premises where a source is located, emissions-related activity is conducted, or records are required to be kept under the conditions of the permit;
   b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit; c. Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
   d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
   e. Record any inspection by use of written, electronic, magnetic, or photographic media.
5. A compliance plan that contains all the following:
   a. A description of the compliance status of the source with respect to all applicable requirements;
   b. A description as follows:
      i. For applicable requirements with which the source is in compliance, a statement that the source will continue to com ply with the requirements;
      ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis; and
      iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;
   c. A compliance schedule as follows:
      i. For applicable requirements with which the source is in compliance, a statement that the source will continue to com ply with the requirements;
      ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed

schedule is expressly required by the applicable requirement;

iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. The schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in noncompli ance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that con tained in any judicial consent decree or administrative order to which the source is subject. The schedule of compliance shall supplement, and shall not sanction noncompliance with, the applicable requirements on which it is based.

d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation. The progress reports shall contain:

i. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and

ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or cor rective measures adopted.

6. The compliance plan content requirements specified in subsection (5) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, and incorporated under R18-2-333 with regard to the schedule and each method the source will use to achieve compliance with the acid rain emissions limitations.

7. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.

R18-2-310.01. Reporting Requirements

A. The owner or operator of any source shall report to the Director any emissions in excess of the limits established by this Chapter or the applicable permit. ~~The owner or operator of any registered source may report excess emissions in accordance with this Section in order to qualify for the affirmative defense established in R18-2-310.~~ The report shall be in two parts as specified below: 1. Notification by telephone~~, or~~ facsimile, or electronic means within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).

2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (A)(1). The excess emissions report may be submitted by electronic means.

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

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

2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;
3. The time and duration or expected duration of the excess emissions;
4. The identity of the equipment from which the excess emissions emanated;
5. The nature and cause of the emissions;
6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;
7. The steps that were or are being taken to limit the excess emissions; and
8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures. **C.** In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).

R18-2-317.01. Facility Changes that Require a Permit Revision - Class II

A. The following changes at a source with a Class II permit shall require a permit revision:

1. A change that would trigger a new applicable requirement or violate an existing applicable requirement.
2. Establishment of, or change in, an emissions cap under R18-2-306.02;
3. A change that will require a case-by-case determination of an emission limitation or other standard, or a source-specific determi nation of ambient impacts, or a visibility or increment analysis;
4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under R18-2-306(A)(3), (4), or (5) if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
5. A change that will authorize the burning of used oil, used oil fuel, hazardous waste, or hazardous waste fuel, or any other fuel not currently authorized by the permit;
6. A change that requires the source to obtain a Class I permit;
7. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pol lutant removal efficiency;
8. Establishment or revision of a limit under R18-2-306.01 or R18-2-306.03;
9. Increasing operating hours or rates of production above the permitted level;
10. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results: a. From removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

    b. From a change in an applicable requirement; and
11. A minor NSR modification.

B. A source with a Class II permit may make any physical change or change in the method of operation without revising the source's permit unless the change is specifically prohibited in the source's permit or is a change described in subsection (A). A change that does not require a permit revision may still be subject to requirements in R18-2-317.02.

R18-2-320. Significant Permit Revisions

A. For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in R18- 2-319(A)(6) or (7) shall not be considered a significant permit revision under part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall follow significant revision procedures.

B. A source with a Class II permit shall make the following changes only after the permit is revised following the public participation requirements of R18-2-330:

1. Establishing or revising a voluntarily accepted emission limitation or standard as described by R18-2-306.01, ~~or~~ R18-2-306.02, or R18-2-306.03, except a decrease in the limitation authorized by R18-2-319(B)(5);
2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;
3. A change that is a minor NSR modification subject to R18-2-334;
4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from: a. Removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
   b. A change in an applicable requirement.
5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emis sions cap;
6. A change that will require any of the following:
   a. A case-by-case determination of an emission limitation or other standard;
   b. A source-specific determination of ambient impacts, or an analysis of impacts on visibility or maximum allowable increases allowed under R18-2-218; or
   c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.
7. A change that requires the source to obtain a Class I permit.

C. Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision pro cedures and any rules adopted under A.R.S. § 49-426.03.

D. Significant permit revisions shall meet all requirements of this Article for applications, public participation, review by affected states, and review by the Administrator that apply to permit issuance and renewal. Notwithstanding R18-2-330(C), the Director may provide notice for changes requiring a significant permit revision solely under subsections (B)(2), (4) or (6)(c) by posting a notice on the Department's web site, sending e-mails to persons who have requested electronic notification of the Department's proposed air qual ity permit actions and by mailing a copy of the notice as provided in R18-2-330(C)(1).

E. When an existing source applies for a significant permit revision to revise its permit from a Class II permit to a Class I permit, it shall submit a Class I permit application in accordance with R18-2-304. The Director shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in R18-2-307 and R18-2-330.

R18-2-324. Portable Sources

A. A portable source that will operate for the five-year ~~duration~~ period of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has a permit issued by the Director and obtains a county permit shall request that the Director terminate the permit. Upon issuance of the county permit, the permit issued by the Director is no longer valid.

B. A portable source which has a county permit but proposes to operate outside that county shall obtain a permit from the Director. A portable source that has a permit issued by a county and obtains a permit issued by the Director shall request that the county terminate the permit. Upon issuance of a permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (C).

C. A portable source required to obtain a Class I permit under R18-2-302(B)(1) may be transferred from one location to another pro vided that the owner or operator of such equipment notifies the Director and any control officer who has jurisdiction over the geo graphic area that includes the new location of the transfer at least 10 days in advance of the change in location. A portable source not required to obtain a Class I permit under R18-2-302(B)(1) may be transferred from one location to another provided that the owner or operator of such equipment notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer prior to the transfer. The notification required under this subsection shall include:

1. A description of the equipment to be transferred including the permit number for such equipment;
2. A description of the present location;
3. A description of the new location;
4. The date on which the equipment is to be moved; and
5. The date on which operation of the equipment will begin at the new location.

D. Any permit for a portable source shall contain conditions that will assure compliance with all applicable requirements at all autho rized locations.

E. The operation must be temporary and involve at least one change of location during the term of the permit.

ARTICLE 5. GENERAL PERMITS

R18-2-501. Applicability

A. The Director may issue general permits for a facility class that contains 10 or more facilities that are similar in nature, have substan tially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions,

monitoring, reporting, or recordkeeping. "Similar in nature" refers to facility size, processes, and operating conditions.

B. The Director may issue general permits, in accordance with subsection (A), with emission limitations, controls, or other requirements that meet the requirements of R18-2-306.01 or R18-2-306.03. A source that seeks to vary from such a general permit, and obtain an emission limitation, control, or other requirement not contained in that general permit, shall apply for a permit pursuant to Article 3 of this Chapter.

C. General permits shall not be issued for affected sources except as provided in regulations promulgated by the Administrator under Title IV of the Act.

D. Unless otherwise stated, the provisions of Article 3 shall apply to general permits.

R18-2-513. Portable Sources Covered under a General Permit

A. This Section applies to sources that have been granted coverage under a general permit that allows for the operation of a source at more than one location.

B. General permits developed by the Director for portable sources shall contain conditions that assure compliance with all applicable requirements at all authorized locations.

C. Owners and operators that hold multiple coverages under the same general permit:

1. Shall have separate coverage under the general permit for each location at which each portable source operates. 2. Until the Director notifies permittees of the availability of a web portal under R18-2-503(E), may move equipment between por table sources without obtaining a new authorization to operate. At no time shall an owner or operator move equipment to a por table source if the move would cause emissions from the portable source to exceed emission limitations in the general permit. Equipment from a portable source covered by one general permit shall not be moved to a portable source covered by a different general permit, unless the owner or operator obtains a new authorization to operate under the general permit covering the new location.
3. After the Director notifies permittees of the availability of a web portal under R18-2-503(E), must use the portal to obtain autho rizations to operate for each location at which the equipment will operate.

D. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has been granted coverage under a general permit that subsequently obtains a county per mit shall request that the Director terminate the coverage under the general permit. Upon issuance of the county permit, the coverage under the general permit issued by the Director is no longer valid.

E. A portable source which has a county permit but proposes to operate outside that county may obtain coverage under a general permit from the Director. A portable source that has a permit issued by a county and obtains coverage under a general permit issued by the Director shall request that the county terminate the permit. Upon issuance of coverage under a general permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (F).

F. A portable source granted coverage under a general permit that is required to obtain a Class I permit under R18-2-302(B)(1) may be transferred from one location to another provided that the owner or operator of such equipment notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer at least 10 days in advance of the change in location. A portable source granted coverage under a general permit that is not required to obtain a Class I permit under R18-2-302(B)(1) may be transferred from one location to another provided that the owner or operator of the portable source notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer prior to the transfer. The notification required under this subsection (shall) include:

1. A description of the equipment to be transferred including the permit number and as appropriate the Authorization-to-Operate number for each piece of equipment;
2. A description of the present location;
3. A description of the new location;
4. The date on which the equipment is to be moved;
5. The date on which operation of the equipment will begin at the new location;
6. A complete list of all equipment requiring authorization to operate that may be located at the new location; and 7. Revised emissions calculations demonstrating that the equipment at the new location continues to qualify for the general permit under which the portable source has coverage.

G. The operation must be temporary and involve at least one change of location during the term of the permit.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

[R25-295]

PREAMBLE

1. Permission to proceed with this final rulemaking was granted under A.R.S. § 41-1039 by the governor on:

May 1, 2024

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

R18-2-B1301 Amend
R18-2-B1301.01 Amend
R18-2-B1302 Amend
A14. Appendix 14 Amend

3. 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), and 49-406.
Implementing statute: A.R.S. § 49-425(A).

4. The effective date of the rule:

February 7, 2026

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 the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

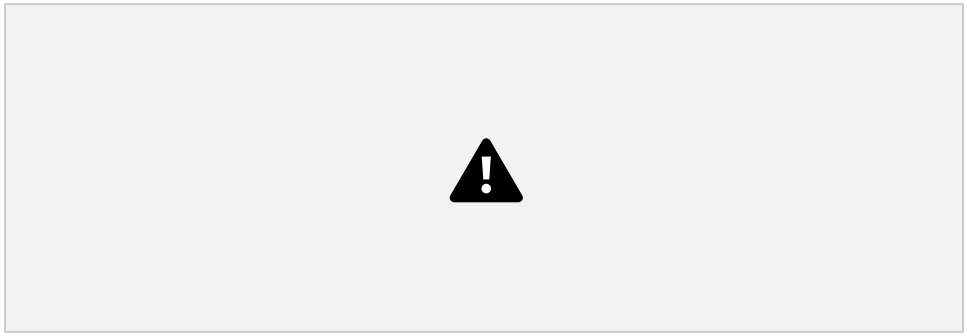
Not applicable

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 the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

5. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the current record of the final rule:

Notice of Rulemaking Docket Opening: 31 A.A.R. 2256; Issue Date: July 4, 2025; Issue Number: 27; File Number: R25-146
Notice of Proposed Rulemaking: 31 A.A.R. 2871; Issue Date: September 12, 2025; Issue Number: 37; File Number: R25-208



Appendix B
Evidence of Adoption

Agency Receipt
Governor's Regulatory Review Council Certificate of Approval of Final Rules Agency Certificate
A.R.S. §§ 41-1013, 41-1031, 41-1032, and 41-1052

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41-1013. Register

A. The secretary of state shall electronically publish the register at least once each month and include the contents listed under subsection B of this section. The secretary of state shall publish the notices that are filed with the secretary of state during the preceding thirty days. The register shall include a table of contents and a cumulative index.

B. The register shall contain the following:

1. Notices of rulemaking docket openings, including the subject matter of the rules under

consideration. 2. Notices of proposed rulemaking.

3. Notices of supplemental proposed rulemaking.

4. Notices of proposed exempt rulemaking for agencies that are exempt from the requirements of chapter 6 of this title but that are required to publish the notice in the register.

5. Notices of oral proceedings if the oral proceeding was not listed in the notice of rulemaking docket opening as provided in section 41-1021, subsection B, paragraph 5.

6. Notices of final exempt rulemaking for agencies that are exempt from the requirements of chapter 6 of this title. For the purposes of this paragraph, "final exempt rulemaking" means rulemaking in which an agency received public comment on the rulemaking regardless of whether the proposed rulemaking was published in the register or elsewhere by the agency as required in the exemption.

7. Notices of exempt rulemaking for agencies that have a onetime exemption from the requirements of chapter 6 of this title or that are exempt pursuant to section 41-1005. For the purposes of this paragraph, "exempt rulemaking" means a rulemaking in which an agency did not publish a notice of proposed rulemaking and the agency was not required to conduct a public hearing or receive public comments.

8. Proposed and final notices of expedited rulemaking and notices that an objection was received regarding a proposed expedited rulemaking.

9. Notices of an agency substantive policy statement. The notice of a substantive policy statement shall contain the name and summary of the policy statement and the website address where the full text of the document is available, if practicable.

10. Notices of intent to increase state museum fees pursuant to section 15-1631.

11. Notices of actions taken by the governor's regulatory review council.

12. Notices of an agency guidance document or revisions to a guidance document. This notice shall contain the name and a summary of the guidance document and information where a person may view the document in its entirety.

13. Notices of each agency ombudsman pursuant to section 41-1006.

14. Notices of public information that pertain to rulemaking notices.

15. Deadlines of the governor's regulatory review council.

C. All notices listed in subsection B of this section, except the notices under subsection B, paragraphs 1, 5, 9, 10, 11, 12, 13, 14 and 15 of this section, must include a preamble and the full text of the rule being proposed, amended, renumbered or repealed.

D. The register shall be published electronically for free. The secretary of state shall establish a commercial-use fee pursuant to section 39-121.03. Any paper subscription in place at the end of fiscal year 2016-2017 shall be honored until the subscription expires.

E. For the purposes of this section, full text publication in the register includes new, amended, renumbered, repealed and existing language that an agency deems necessary for the proper understanding of a rule notice. Rules that are undergoing extensive revision may be reprinted in whole. Existing rule language that is not required for understanding shall be omitted and marked "no change".

 41-1031. Filing rules and preamble with secretary of state; permanent record

A. Following the filing of a rule made pursuant to an exemption to this chapter or following approval and filing of a rule and preamble and an economic, small business and consumer impact statement by the council as provided in article 5 of this chapter or by the attorney general as provided in article 4 of this chapter, the secretary of state shall affix to each rule document, preamble and economic, small business and consumer impact statement the time and date of filing. A rule is not final until the secretary of state affixes the time and date of filing to the rule document as provided in this section.

B. The secretary of state shall keep a permanent record of rules, preambles and economic, small business and consumer impact statements filed with the office.

41-1032. Effective date of rules

A. A rule filed pursuant to section 41-1031 becomes effective sixty days after a certified original and two copies of the rule and preamble are filed in the office of the secretary of state and the time and date are affixed as provided in section 41-1031, unless the rule making agency includes in the preamble information that demonstrates that the rule needs to be effective immediately on filing in the office of the secretary of state and the time and date are affixed as provided in section 41-1031. A rule may only be effective immediately for any of the following reasons:

1. To preserve the public peace, health or safety.

2. To avoid a violation of federal law or regulation or state law, if the need for an immediate effective date is not created due to the agency's delay or inaction.

3. To comply with deadlines in amendments to an agency's governing statute or federal programs, if the need for an immediate effective date is not created due to the agency's delay or inaction.

4. To provide a benefit to the public and a penalty is not associated with a violation of the rule.

5. To adopt a rule that is less stringent than the rule that is currently in effect and that does not have an impact on the public health, safety, welfare or environment, or that does not affect the public involvement and public participation process.

B. Notwithstanding subsection A of this section, a rule making agency may specify an effective date more than sixty days after the filing of the rule in the office of the secretary of state if the agency determines that good cause exists for and the public interest will not be harmed by the later date.

C. This section does not affect the validity of an existing rule until the new or amended rule that is filed with the secretary of state is effective pursuant to this section.

 41-1052. Council review and approval; rule expiration

A. Before filing a final rule subject to this section with the secretary of state, an agency shall prepare, transmit to the council and the committee and obtain the council's approval of the rule and its preamble and economic, small business and consumer impact statement that meets the requirements of section 41-1055. The office of economic opportunity shall prepare the economic, small business and consumer impact statement.

B. The council shall accept an early review petition of a proposed rule, in whole or in part, if the proposed rule is alleged to violate any of the criteria prescribed in subsection D of this section and if the early petition is filed by a person who would be adversely impacted by the proposed rule. The council may determine whether the proposed rule, in whole or in part, violates any of the criteria prescribed in subsection D of this section.

C. Within one hundred twenty days after receipt of the rule, preamble and economic, small business and consumer impact statement, the council shall review and approve or return, in whole or in part, the rule, preamble or economic, small business and consumer impact statement. An agency may resubmit a rule, preamble or economic, small business and consumer impact statement if the council returns the rule, preamble or economic, small business and consumer impact statement, in whole or in part, to the agency.

D. The council shall not approve the rule unless:

1. The economic, small business and consumer impact statement contains information from the state, data and analysis prescribed by this article.

2. The economic, small business and consumer impact statement is generally accurate.

3. The probable benefits of the rule outweigh within this state the probable costs of the rule and the agency has demonstrated that it has selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

4. The rule is written in a manner that is clear, concise and understandable to the general public.

5. The rule is not illegal, inconsistent with legislative intent or beyond the agency's statutory authority and meets the requirements prescribed in section 41-1030.

6. The agency adequately addressed, in writing, the comments on the proposed rule and any supplemental proposals.

7. The rule is not a substantial change, considered as a whole, from the proposed rule and any supplemental notices.

8. The preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule.

9. The rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

10. If a rule requires a permit, the permitting requirement complies with section 41-1037.

E. The council shall verify that a rule with new fees does not violate section 41-1008. The council shall not approve a rule that contains a fee increase unless two-thirds of the voting quorum present votes to approve the rule.

F. The council shall verify that a rule with an immediate effective date complies with section 41-1032. The council shall not approve a rule with an immediate effective date unless two-thirds of the voting quorum present

 votes to approve the rule. The council may only vote at a council meeting.

G. If the rule relies on scientific principles or methods, including a study disclosed pursuant to subsection D, paragraph 8 of this section, and a person submits an analysis to the council questioning whether the rule is based

on valid scientific or reliable principles or methods, the council shall not approve the rule unless the council determines that the rule is based on valid scientific or reliable principles or methods that are specific and not of a general nature. In making a determination of reliability or validity, the council shall consider the following factors as applicable to the rule:

1. The authors of the study, principle or method have subject matter knowledge, skill, experience, training and expertise.

2. The study, principle or method is based on sufficient facts or data.

3. The study is the product of reliable principles and methods.

4. The study and its conclusions, principles or methods have been tested or subjected to peer reviewed publications.

5. The known or potential error rate of the study, principle or method has been identified along with its basis.

6. The methodology and approach of the study, principle or method are generally accepted in the scientific community.

H. The council may require a representative of an agency whose rule is under examination to attend a council meeting and answer questions. The council may also communicate to the agency its comments on any rule, preamble or economic, small business and consumer impact statement and require the agency to respond to its comments in writing.

I. For all council meetings that are open to the public for comment, the council shall allot an equal amount of time to the individuals who support or oppose a rule.

J. At any time during the thirty days immediately following receipt of the rule, a person may submit written comments to the council that are within the scope of subsection D, E, F or G of this section. The council may allow testimony at a council meeting within the scope of subsection D, E, F or G of this section.

K. If the agency makes a good faith effort to comply with the requirements prescribed in this article and has explained in writing the methodology used to produce the economic, small business and consumer impact statement, the rule may not be invalidated after it is finalized on the ground that the contents of the economic, small business and consumer impact statement are insufficient or inaccurate or on the ground that the council erroneously approved the rule, except as provided by section 41-1056.01.

L. The absence of comments pursuant to subsection D, E, F or G of this section or article 4.1 of this chapter does not prevent the council from acting pursuant to this section.

M. The council shall review and approve or reject a notice of proposed expedited rulemaking pursuant to section 41-1027.

N. An agency that seeks to expire a rule or rules may file a notice of intent to expire with the council. The notice shall describe the rule or rules to be expired and the reasons for expiration. The council shall place the notice on the agenda for the next scheduled council meeting for consideration. If a quorum of the council approves the notice, the council shall cause a notice of rule expiration to be prepared and provide the notice of rule expiration to the agency for filing with the secretary of state.