



# Arizona State Implementation Plan Revision: Rescinding Outdated Provisions

*Air Quality Division  
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## **Acknowledgements**

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## Table of Contents

Table of Contents .....	iii
List of Tables.....	iii
1 Introduction .....	1
2 Declaration of Policy and Legal Authority.....	1
3 Jurisdiction Over Indian Lands .....	1
4 Prohibitory Rules.....	2
5 Test Methods and Performance Specifications .....	2
6 Conclusion.....	3

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## List of Tables

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

The Arizona Department of Environmental Quality (ADEQ) requests the Environmental Protection Agency (EPA) remove certain state statutory provisions, administrative and prohibitory rules, and test methods from its State Implementation Plan (SIP) because they have been identified as outdated, irrelevant, or previously repealed. Removal of the identified provisions will have no impact on the effect, application, or enforceability of the state's SIP as it is currently implemented. This action merely rescinds the provisions identified in Table 1-1 to update the State's plan as it appears in the Code of Federal Regulations.

The provisions ADEQ is removing generally fall into four categories: 1) declarations of policy and legal authority, 2) jurisdiction over Indian Lands, 3) prohibitory rules, and 4) test methods and performance test specifications. The follow sections describe the provisions that fall into each category and the basis for rescission from the SIP.

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## 2 Declaration of Policy and Legal Authority

In May 1972 EPA approved ARS section 36-1700 ("Declaration of Policy) as part of the original Arizona SIP, then in July 1972, and once more as amended in June 1982. ARS section 36-1700 is a general statement of policy by the Arizona Legislature that sets forth the intent to establish an air pollution control program. As such, ARS 36-1700 does not provide specific authority to any administrative agency to fulfill any particular regulatory function, nor does it establish any type of emissions standard or address any particular requirement for SIPs under the CAA.

EPA approved Arizona air pollution rule 7-1-9.1 ("Policy and legal authority") in July 1972 and then again as amended and renumbered (R9-3-1001) in August 1978. This rule provides a general statement of policy and cites to legal authority for rules relating to motor vehicle inspection and maintenance are adopted. The specific statutory provisions cited by rule 7-1-9.1 (R9-3-1001) have been approved into the SIP and general statements of policy are not required. See Table 1-1.

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## 3 Jurisdiction Over Indian Lands

In July of 1972 EPA approved chapter 2, section 2.9 ("Legal authority – Jurisdiction over Indian Lands") and ARS Section 36-1801 ("Jurisdiction over Indian Lands") of *The State of Arizona Air Pollution Control Implementation Plan*. Section 2.9 provides that the State of Arizona assumed jurisdiction under ARS section 36-1801 for all air pollution control through out the state, including Indian tribal lands, reservations, and allotments.

The State's jurisdiction in ARS section 36-1801 (recodified as ARS section 49-561 in 1986) that is referenced in Section 2.9 is no longer part of Arizona law. In addition, a state's assumption of control over Indian reservations conflicts with federal law. See *generally* CAA section 301(d)

and the EPA's tribal authority rule at 40 CFR Part 49 ("Indian country: air quality planning and management"). Specifically, within the boundaries of an Indian reservation and any other area for which the EPA or a tribe has demonstrated that a tribe has jurisdiction, the EPA or authorized tribe has regulatory jurisdiction under the Clean Air Act. See *Oklahoma Department of Environmental Quality v. EPA*, 740 F.3d 185 (D.C. Cir. 2014). As such, ARS section 36-1801, and the corresponding Chapter 2, Section 2.9 of *The State Arizona Air Pollution Control Implementation Plan* should not be retained in the state SIP. Both provisions are listed below in Table 1-1.

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## 4 Prohibitory Rules

EPA previously approved into the SIP four rules that are no longer necessary because there are no operating facilities in the state that fall under any of the specified source categories. The following list of rules will be removed from the Arizona Administrative Code through expiration following final publication of ADEQ's Five Year Rule Review. ADEQ is allowing them to expire under the review process because there are no secondary lead smelters, secondary brass and bronze ingot production plants, iron and steel plants, or electric arc furnaces (EAF) that are subject to the rules.

- R9-3-511 (R18-2-711): Standards of Performance for Existing Secondary Lead Smelters
- R9-3-512 (R18-2-712): Standards of Performance for Existing Secondary Brass and Bronze Ingot Production Plants
- R9-3-513 (R18-2-713): Standards of Performance for Existing Iron and Steel Plants, and
- R9-3-517 (R18-2-717): Standards of Performance for Steel Plants; Existing Electric Arc Furnaces (EAF)

In addition to the rules listed above, 7-14-4.3 (R9-3-403) was repealed by ADEQ in 1996 and must also be rescinded from the SIP. All the prohibitory rules that will be rescinded are listed below in Table 1-1.

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## 5 Test Methods and Performance Specifications

In April of 1982, EPA approved Sections 3 and 4 of *The Arizona Testing Manual for Air Pollution Emissions* ("Arizona Testing Manual") as a revision to the state's SIP. Section 3 of the Arizona Testing Manual includes certain test methods from 40 CFR Part 60, Appendix A, and Section 4 includes certain performance test specifications from 40 CFR Part 60, Appendix B. The provisions for both the test methods and the performance test methods approved into the Arizona SIP date to the 1970s. In October 1984, EPA also approved an update to the Arizona Testing Manual.

Over the years, EPA has revised the test methods and performance specifications found in 40 CFR Part 60. Therefore, the version of the test methods and performance test specifications

approved as part of the Arizona SIP are outdated. In addition, EPA has approved two state rules in recent years that effectively incorporate more recent versions of EPA's test methods and performance specifications into the State's SIP. R18-2-311 ("Test Methods and Procedures") provides that applicable procedures and testing methods contained in 40 CFR Part 60, Appendices A through F, shall be used to determine compliance with state requirements for stationary sources. In addition, Appendix 2 in Title 18, Chapter 2 of the Arizona Administrative Code incorporates by reference Part 60 appendices revised as of July 1, 2006. As such, the outdated test methods and performance test specifications approved as part of the Arizona Testing Manual should not be retained in the State's SIP. The specific sections of the Arizona Testing Manual to be rescinded from the SIP are listed below in Table 1-1.

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## 6 Conclusion

The rescission of all the statutory and regulatory provisions listed in Table 1-1 is necessary and appropriate for the following reasons: 1) the statements of policy and legal authority are not necessary to fulfill any Clean Air Act SIP purposes, 2) the provisions asserting jurisdiction over Indian reservations conflicts with federal law, 3) there are no existing sources subject to the listed prohibitory rules, and 4) the test methods and performance test specifications are outdated and other SIP provisions provide for use of more up-to-date procedures.

Furthermore, with respect to the identified prohibitory rules, emissions from any new facilities of the type that would have been subject to those rules will be subject to applicable New Source Review rules and New Source Performance Standards, which can reasonably be assumed to result in more stringent emission limits.

The rescission of the statutory and regulatory provisions and rules listed in Table 1-1 would not interfere with attainment or maintenance of any of the national ambient air quality standards or any other requirements of the Clean Air Act, would not affect emission of nonattainment pollutants, and would therefore comply with Sections 110(l) and 193 of the Clean Air Act.

**Table 6-1 Rules to be Removed from the SIP**

<b>Statutory/ Regulatory Provisions Removed from SIP</b>	<b>Title</b>	<b>EPA Approval</b>
ARS 36-1700	Declaration of Policy	37 FR 10842 (May 31, 1972); 37 FR 15080 (July 27, 1972); 47 FR 26382 (June 18, 1982)
ARS 36-1801	Jurisdiction over Indian Lands	37 FR 15080 (July 27, 1972)
Chapter 2, section 2.9 of “The State of Arizona Air Pollution Control Implementation Plan”	Legal Authority – Jurisdiction over Indian Lands	37 FR 15080 (July 27, 1972)
Rule 7-1-9.1	Policy and legal authority	37 FR 15080 (July 27, 1972)
Rule R9-3-1001	Policy and legal authority	43 FR 34470 (August 4, 1978)
Rule 7-1-4.3	Sulfite Pulp Mills	37 FR 15080 (July 27, 1972)
Rule 7-1-4.3 (R9-3-403)	Sulfur Emissions: Sulfite Pulp Mills	43 FR 33245 (July 31, 1978)
AAC R9-3-511	Standards of Performance for Existing Secondary Lead Smelters	47 FR 42572 (September 28, 1982); 47 FR 17483 (April 23, 1982)
AAC R9-3-512	Standards of Performance for Existing Secondary Brass and Bronze Ingot Production Plants	47 FR 17483 (April 23, 1982)
AAC R9-3-513	Standards of Performance for Existing Iron and Steel Plants	47 FR 42572 (September 28, 1982); 47 FR 17483 (April 23, 1982)

## Rescinding Outdated Provisions

AAC R9-3-517	Standards of Performance for Steel Plants; Existing Electric Arc Furnaces (EAF)	47 FR 42572 (September 28, 1982); 47 FR 17483 (April 23, 1982)
R9-3-310	Arizona Testing Manual for Air Pollutant Emissions	49 FR 41026 (October 19, 1984)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.01	Method 1 Sample and Velocity Traverses for Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.02	Method 2 Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.02	Method 2A Direct Measurement of Gas Volume Through Pipes and Small Ducts	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.02	Method 2B Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.03	Method 3 Gas Analysis for Carbon Dioxide, Excess Air, Dry Molecular Weight	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.03	Method 3A Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.04	Method 4 Determination of Moisture in Stack Gases	47 FR 17483 (April 23, 1982)

## Rescinding Outdated Provisions

Arizona Testing Manual for Air Pollutant Emissions, Section 3.05	Method 5 Determination of Particulate Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.06	Method 6 Determination of Sulfur Dioxide Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.07	Method 7 Determination of Nitrogen Oxide Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.08	Method 8 Determination of Sulfuric Acid Mist and Sulfur Dioxide Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.09	Method 9 Visual Determination of the Opacity of Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.10	Method 10 Determination of Carbon Monoxide Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.11	Method 11 Determination of Hydrogen Sulfide Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.13	Method 13B Determination of Total Fluoride Emissions from Stationary Sources – Specific Ion Electrode Method	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.13	Method 13 Determination of Total Fluoride Emissions from Stationary Sources – SOADNS Zirconium Lake Method	47 FR 17483 (April 23, 1982)

## Rescinding Outdated Provisions

Arizona Testing Manual for Air Pollutant Emissions, Section 3.14	Method 14 Determination of Total Fluoride Emissions from Potroom Roof Monitors for Primary Aluminum Plants	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.15	Method 15 Determination of Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.16	Method 16 Semicontinuous Determination of Sulfur Emissions from Stationary Sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.17	Method 17 Determination of Particulate Emissions from Stationary Sources (In-Stack Filtration Method)	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.19	Method 19 Determination of Sulfur Dioxide, Removal Efficiency and Particulate, Sulfur Dioxide and Nitrogen Oxides Emission Rates from Electric Utility Steam Generators	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 3.20	Method 20 Determination of Nitrogen Oxides, Sulfur Dioxide, and Diluent Emissions from Stationary Gas Turbines	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 4.01	Performance Specification 1: Performance specifications and specification test procedures for transmissometer systems for continuous measurement of the opacity of stack emissions	47 FR 17483 (April 23, 1982)

## Rescinding Outdated Provisions

Arizona Testing Manual for Air Pollutant Emissions, Section 4.02	Performance Specification 2: Performance specifications and specification test procedures for monitors of SO <sub>2</sub> and NO <sub>x</sub> from stationary sources	47 FR 17483 (April 23, 1982)
Arizona Testing Manual for Air Pollutant Emissions, Section 4.03	Performance Specification 3: Performance specifications and specification test procedures for monitors of CO <sub>2</sub> and O <sub>2</sub> from stationary sources	47 FR 17483 (April 23, 1982)