



Janet Napolitano, Governor  
Stephen A. Owens, ADEQ Director

## ***Air Quality Division***

### ***REVISION STATE IMPLEMENTATION PLAN FOR REGIONAL HAZE***

***December 31, 2004***

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Janet Napolitano  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Stephen A. Owens  
Director

December 30, 2004

Mr. Wayne NASTRI  
Regional Administrator  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street, ORA-1  
San Francisco, CA 94105

Re: Submittal of Arizona Regional Haze State Implementation Plan (SIP) Revision

Dear Mr. NASTRI:

Consistent with the provisions of Arizona Revised Statutes (ARS) Title 49, §§ 49-104, 49-106, 49-404, 49-406, 49-414, and 49-414.01 (Enclosure 1) and the Code of Federal Regulations (CFR) Title 40, §§ 51.102-51.104, the Arizona Department of Environmental Quality (ADEQ) hereby adopts and submits to the U.S. Environmental Protection Agency (EPA), five copies of the *Arizona Regional Haze State Implementation Plan Revision*. The revision is a separate document to the *Arizona Regional Haze State Implementation Plan* submitted December 2003. The Revision meets specific commitments outlined in the December 2003 SIP (Enclosures 2 through 7) as well as a correction to the authorizing regional haze statutes. The submittal contains a SIP completeness checklist, and the following seven enclosures:

- \$ Enclosure 1 contains copies of the State's legal authority to develop and submit air quality plans, including the specific authority to develop the Regional Haze plan.
- \$ Enclosure 2 contains Senate Bill 1064, transferring and renumbering the authorizing regional haze statutes ARS 49-458 and 49-458.01, and the public procedure documents for the related SIP revision.
- \$ Enclosure 3 contains Arizona's SO<sub>2</sub> Milestones and Backstop Trading Program rule, R18-2-1610 through R18-2-1613, effective December 20, 2004, and to be published in the *Arizona Administrative Register* January 14, 2005; this satisfies a commitment in Chapter 7.1, page 38, of the December 2003 *Arizona Regional Haze State Implementation Plan*.
- \$ Enclosure 4 contains Unlawful Open Burning, R18-2-602, and Forest and Range Management Burns, Article 15, as they appear in the *Arizona Administrative Code*; this satisfies a commitment to provide codified versions of the final rules submitted in the December 2003 *Arizona Regional Haze State Implementation Plan*.

Northern Regional Office  
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004  
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Wayne Nastri  
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- \$ Enclosure 5 contains revisions to Pima County Code 17.12.480, Open Burning Permits (page 4609), in order to meet the requirements of Arizona's Enhanced Smoke Management Plan; this satisfies a commitment in Chapter 10.3, page 76, of the December 2003 *Arizona Regional Haze State Implementation Plan*. Pima County Code 17.12.480 was effective November 19, 2004, and is part of a larger revision to Title 17 - Air Quality Control.
- \$ Enclosure 6 contains revisions to Pinal County Code Sections 3-8-700 and 3-8-710, Open Burning Permits (page 5117), in order to meet the requirements of Arizona's Enhanced Smoke Management Plan; this satisfies a commitment in Chapter 10.3, page 76, of the December 2003 *Arizona Regional Haze State Implementation Plan*. Sections 3-8-700 and 3-8-710 were effective October 27, 2004, and are part of a larger revision to Pinal County Air Quality Control District Codes.
- \$ Enclosure 7 contains revisions to Maricopa County Rule 314, Open Outdoor Fires, in order to meet the requirements of Arizona's Enhanced Smoke Management Plan; this satisfies a commitment in Chapter 10.3, page 76, of the December 2003 *Arizona Regional Haze State Implementation Plan*. Rule 314 was effective December 15, 2004, and will be published in the *Arizona Administrative Register* January 14, 2005.

With this submittal, ADEQ requests that EPA approve this implementation plan revision.

If you have any questions, please contact Nancy Wrona, Director, Air Quality Division, at (602) 771-2308 or Diane Arnst, Air Quality Planning Section Manager, at (602) 771-2375.

Sincerely,

Stephen A. Owens  
Director

Enclosures (7)

cc: Nancy Wrona, ADEQ  
Colleen McKaughan, EPA

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# STATE IMPLEMENTATION PLAN COMPLETENESS CHECKLIST

## ARIZONA REGIONAL HAZE STATE IMPLEMENTATION PLAN (SIP) REVISION (December 31, 2004)

1. SUBMITTAL LETTER FROM GOVERNOR/DESIGNEE

See cover letter.

2. EVIDENCE OF ADOPTION

See cover letter.

3. STATE LEGAL AUTHORITY FOR ADOPTION/IMPLEMENTATION

See Enclosure 1.

4. COMPLETE COPY OF APPLICABLE REGULATION

See:

Enclosure 2, Regional Haze Statutes 49-458 and 49-548.01;  
Enclosure 3, Arizona SO<sub>2</sub> Trading Rule, R18-2-1610 through R18-2-1613;  
Enclosure 4, Codified Arizona Burn Rules R18-2-602 and Article 15;  
Enclosure 5, Pima County Code 17.12.480, Open Burning Permits;  
Enclosure 6, Pinal County Code Section 3-8-700, General Provisions (for open  
burns) and 3-8-710, Permit provisions and administration (for open burns);  
Enclosure 7, Maricopa County Rule 314, Open Outdoor Fires.

5. EVIDENCE THAT ARIZONA ADMINISTRATIVE PROCEDURE ACT  
REQUIREMENTS (ARS ' ' 41-1021 through 1036) WERE MET FOR RULES

See:

Enclosure 2, Regional Haze Statutes 49-458 and 49-548.01  
Enclosure 3, Arizona SO<sub>2</sub> Trading Rule, R18-2-1610 through R18-2-1613;  
Enclosure 4, see Chapter 10 and appendices of 2003 Regional Haze SIP;  
Enclosure 5, Pima County Code 17.12.480, Open Burning Permits;  
Enclosure 6, Pinal County Code Section 3-8-700, General Provisions (for open  
burns) and 3-8-710, Permit provisions and administration (for open burns);  
Enclosure 7, Maricopa County Rule 314, Open Outdoor Fires.

6. EVIDENCE OF PUBLIC HEARING PER 40 CFR 51.102

See:

Enclosure 2, Regional Haze Statutes, ARS 49-458 and 49-458.01

Enclosure 3, Arizona SO<sub>2</sub> Trading Rule, R18-2-1610 through R18-2-1613;  
Enclosure 4, see Chapter 10 and appendices of 2003 Regional Haze SIP;  
Enclosure 5, Pima County Code 17.12.480, Open Burning Permits;  
Enclosure 6, Pinal County Code Section 3-8-700, General Provisions (for open burns) and 3-8-710, Permit provisions and administration (for open burns);  
Enclosure 7, Maricopa County Rule 314, Open Outdoor Fires.

7. PUBLIC COMMENTS AND AGENCY RESPONSE

See:

Enclosure 2, Regional Haze Statutes, ARS 49-458 and 49-458.01  
Enclosure 3, Arizona SO<sub>2</sub> Trading Rule, R18-2-1610 through R18-2-1613;  
Enclosure 4, see Chapter 10 and appendices of 2003 Regional Haze SIP;  
Enclosure 5, Pima County Code 17.12.480, Open Burning Permits;  
Enclosure 6, Pinal County Code Section 3-8-700, General Provisions (for open burns) and 3-8-710, Permit provisions and administration (for open burns);  
Enclosure 7, Maricopa County Rule 314, Open Outdoor Fires.

8. IDENTIFICATION OF POLLUTANTS REGULATED BY RULE

Sulfur dioxide (SO<sub>2</sub>), Oxides of Nitrogen (NO<sub>x</sub>), Volatile Organic Compounds (VOCs), and Particulate Matter (PM)

9. IDENTIFICATION OF SOURCES/ATTAINMENT STATUS

Enclosures 2 through 7, not applicable

10. WRITTEN SUMMARY OF RULE/RULE CHANGE

See:

Enclosure 2, Regional Haze Statutes, ARS 49-458 and 49-458.01  
Enclosure 3 for Arizona SO<sub>2</sub> Trading Rule, R18-2-1610 through R18-2-1613;  
Enclosure 4, see Chapter 10 and appendices of 2003 Regional Haze SIP;  
Enclosure 5 for Pima County Code 17.12.480, Open Burning Permits;  
Enclosure 6 for Pinal County Code Section 3-8-700, General Provisions (for open burns) and 3-8-710, Permit provisions and administration (for open burns);  
Enclosure 7 for Maricopa County Rule 314, Open Outdoor Fires.

11. RULE CHANGES INDICATED BY UNDERLINING AND CROSS-OUTS

See:

Enclosure 2, Regional Haze Statutes, ARS 49-458 and 49-458.01  
Enclosure 3 for Arizona Trading Rule, R18-2-1610 through R18-2-1613;  
Enclosure 4, see Chapter 10 and appendices of 2003 Regional Haze SIP;  
Enclosure 5 for Pima County Code 17.12.480, Open Burning Permits;  
Enclosure 6 for Pinal County Code Section 3-8-700, General Provisions (for open burns) and 3-8-710, Permit provisions and administration (for open burns);  
Enclosure 7 for Maricopa County Rule 314, Open Outdoor Fires.

12. RULES' EFFECT ON EMISSIONS

Reduction of emissions causing impairment to visibility; specifically, reduction to emissions of sulfur dioxide from stationary sources (Arizona SO<sub>2</sub> Trading Rule, R18-2-1610 through R-18-2-1613), and reduction of emissions from open burning rules from Pima County, Pinal County and Maricopa County.

13. DEMONSTRATION THAT NAAQS, PSD INCREMENTS AND RFP ARE PROTECTED

Enclosures 2 through 7, not applicable

14. EVIDENCE THAT EMISSIONS LIMITATIONS ARE BASED ON CONTINUOUS EMISSIONS REDUCTION TECHNOLOGY

Enclosures 2 through 7, not applicable

15. MODELING SUPPORT

Enclosures 2 through 7, not applicable

16. IDENTIFICATION OF RULE SECTIONS CONTAINING EMISSION LIMITS, WORK PRACTICE STANDARDS, AND/OR RECORD KEEPING/REPORTING REQUIREMENTS

Arizona SO<sub>2</sub> Trading Rule (Appendix 3)  
Pima County Code 17.12.480, Open Burning Permits (Appendix 5)  
Pinal County Code Section 3-8-700, General Provisions (for open burns) and 3-8-710, Permit provisions and administration (for open burns) (Appendix 6)  
Maricopa County Rule 314, Open Outdoor Fires (Appendix 7)

17. COMPLIANCE/ENFORCEMENT STRATEGIES

See December 31, 2003 Regional Haze SIP

18. ECONOMIC TECHNICAL JUSTIFICATION FOR DEVIATION FROM EPA POLICIES

No known deviation from EPA policy.

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## **List of Enclosures**

Enclosure 1	Statutory Authority
Enclosure 2	Regional Haze Statutes
Enclosure 3	Arizona SO <sub>2</sub> Trading Rule
Enclosure 4	Codified State of Arizona Burn Rules
Enclosure 5	Pima County Revised Burn Rule
Enclosure 6	Pinal County Revised Burn Rule
Enclosure 7	Maricopa County Revised Burn Rule

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# **Enclosure 1**

Statutory Authority

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# ARIZONA LAWS RELATING TO ENVIRONMENTAL QUALITY

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## 2004–2005 EDITION



Reprinted from  
Arizona Revised Statutes  
(included are portions of Titles 11, 26, 27, 28, 32, 41, 42, 44, 45  
and all of Title 49)

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Office of the State Bar of Arizona  
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**THOMSON**  
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*Title 49, Chapter 1, Article 1, relating to the department of environmental quality, is repealed on January 1, 2006, by § 41-3005.14.*

### § 49-101. Definitions

In this title, unless the context otherwise requires:

1. "Approximately equal" means, for purposes of fees adopted pursuant to § 49-480, excluding per ton emissions fees, an amount that is not greater than ten per cent more than the fees or costs charged by the state for similar state permits or approvals.

2. "Department" means the department of environmental quality.

3. "Director" means the director of environmental quality who is also the director of the department.

Added by Laws 1986, Ch. 368, § 34, eff. July 1, 1987. Amended by Laws 2000, Ch. 353, § 2, eff. July 18, 2000, retroactively effective to July 1, 2000.

### § 49-102. Department of environmental quality; director; deputy director; division directors; divisions

A. The department of environmental quality is established.

B. The governor shall appoint a director of environmental quality pursuant to § 38-211. The director shall administer the department and serve at the pleasure of the governor. The director is entitled to receive compensation as determined under § 38-611. The director shall appoint a deputy director and, subject to legislative appropriation, may appoint division directors if necessary. The positions of director and deputy director are exempt from title 41, chapter 4, articles 5 and 6 relating to state service.<sup>1</sup>

C. To be eligible for appointment as director a person must have a background or experience in one or more of the following areas:

1. Public administration.
2. Planning.
3. Personnel management.
4. Law.
5. Environmental science.

D. The director may organize the department into divisions as he deems appropriate.

Added by Laws 1986, Ch. 368, § 34, eff. July 1, 1987. Amended by Laws 1994, Ch. 95, § 1.

<sup>1</sup> Sections 41-761 et seq. and 41-781 et seq.

### § 49-103. Department employees; legal counsel

A. The director, subject to title 41, chapter 4, articles 5 and 6,<sup>1</sup> shall employ, determine the conditions of employment and specify the duties of administrative, secretarial and clerical employees as he deems necessary.

B. The attorney general shall be the legal advisor of the department and shall give legal services as the department requires. Compensation for personnel assigned by the attorney general to perform such services shall be a charge against appropriations to the department. The attorney general shall prosecute and defend in the name of this state all actions necessary to carry out the provisions of this title.

Added by Laws 1986, Ch. 368, § 34, eff. July 1, 1987.

<sup>1</sup> Sections 41-761 et seq. and 41-781 et seq.

### § 49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.

2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.

5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

6. Promote and coordinate the management of air resources to assure their protection, enhance-

ment and balanced utilization consistent with the environmental policy of this state.

7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.

8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.

9. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.

10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.<sup>1</sup>

11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies.

12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.

13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.

14. Assist the department of health services in recruiting and training state, local and district health department personnel.

15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

**B.** The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.

5. Contract with other agencies including laboratories in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

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

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

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

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

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

and may require that the design documents anticipate and provide for future sewage treatment needs.

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

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

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

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499)<sup>2</sup> and title 26, chapter 2, article 3.<sup>3</sup>

16. Approve remediation levels pursuant to article 4 of this chapter.<sup>4</sup>

C. The department may charge fees to cover the costs of all permits and inspections it performs to insure compliance with rules adopted under § 49-203, subsection A, paragraph 6, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited in the water quality fee fund established by § 49-210.

D. The director may:

1. If he has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act

that the director is authorized or required to do by law.

Added by Laws 1986, Ch. 368, § 34, eff. July 1, 1987. Amended by Laws 1987, Ch. 317, § 14, eff. Aug. 18, 1987, retroactively effective to July 1, 1987; Laws 1989, Ch. 238, § 10; Laws 1995, Ch. 202, § 2, eff. July 1, 1996; Laws 1995, Ch. 231, § 1; Laws 1995, Ch. 232, § 2; Laws 1995, Ch. 261, § 1; Laws 1996, Ch. 351, § 37; Laws 1997, Ch. 49, § 6; Laws 1997, Ch. 287, § 17, eff. April 29, 1997; Laws 1997, Ch. 296, § 1; Laws 1999, Ch. 26, § 3, eff. Jan. 1, 2001; Laws 2000, Ch. 225, § 1; Laws 2000, Ch. 225, § 2, eff. Jan. 1, 2001; Laws 2001, Ch. 21, § 3; Laws 2001, Ch. 231, § 12; Laws 2003, Ch. 104, § 37.

<sup>1</sup> Sections 49-141 et seq., 49-201 et seq. and 49-401 et seq.

<sup>2</sup> 42 U.S.C.A. § 11021 et seq.

<sup>3</sup> Section 26-341 et seq.

<sup>4</sup> Section 49-151 et seq.

**§ 49-105. Repealed by Laws 2003, Ch. 104, § 38**

**§ 49-106. Statewide application of rules**

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

Added by Laws 1987, Ch. 317, § 15, eff. Aug. 18, 1987, retroactively effective to July 1, 1987.

**§ 49-107. Local delegation of state authority**

**A.** The director may delegate to a local environmental agency, county health department, public health services district or municipality any functions, powers or duties which the director believes can be competently, efficiently and properly performed by the local agency if the local agency accepts the delegation and agrees to perform the delegated functions, powers and duties according to the standards of performance required by law and prescribed by the director.

**B.** Monies appropriated or otherwise made available to the department for distribution to local agencies may be allocated or reallocated in a manner designed to assure that the recognized local activities and the delegated functions, powers and

duties are accomplished according to the applicable standards of performance.

**C.** The director may terminate, for cause, all or part of the delegation and reallocate all or part of any monies that may have been conditioned on the further performance of the delegated functions, powers and duties.

Added by Laws 1987, Ch. 317, § 15, eff. Aug. 18, 1987, retroactively effective to July 1, 1987. Amended by Laws 2000, Ch. 11, § 20.

**§ 49-108. Hazardous materials emergency response operations**

The director of environmental quality shall establish a hazardous materials emergency response and recovery organizational unit in the department to function as the scientific support, health, safety and environmental element of the hazardous materials emergency management program pursuant to § 26-305.02.

Added by Laws 1988, Ch. 292, § 5, eff. July 8, 1988.

**§ 49-109. Certificate of disclosure of violations; definition; remedies**

**A.** The following persons shall file a certificate of disclosure with the department as prescribed by this section:

1. A person who is engaged in an activity subject to regulation under this title and who has been convicted of a felony involving laws related to solid waste, special waste, hazardous waste, water quality or air quality in any state or federal jurisdiction or for a violation of 42 United States Code § 9603<sup>1</sup> within the five year period immediately preceding execution of the certificate.

2. A person who is engaged in an activity subject to regulation under this title and who is or has been subject in any civil proceeding to an injunction, decree, judgment or permanent order of any state or federal court within the five year period immediately preceding the execution of the certificate that involved a violation of laws of that jurisdiction relating to solid waste, special waste, hazardous waste, used oil or used oil fuel, petroleum, water quality or air quality, except for a misdemeanor violation of § 49-550, or a violation of 42 United States Code § 9603.

**B.** The certificate of disclosure prescribed by subsection A of this section shall contain the following:

1. Identification of that person, including without limitation present full name, all prior names or aliases, including full birth name, present house address and all prior addresses for the immediately preceding five year period, date and location of birth and social security number.

2. The nature and description of each conviction or judicial action, the date and location, the court and public agency involved, and the file or cause number of the case.

3. A written declaration that each signer swears to its contents under penalty of perjury.

C. The certificate of disclosure submitted on behalf of a corporation shall be executed by any two executive officers or directors of that corporation.

D. For purposes of subsection A of this section, "person" means a natural person, any public or private corporation, its officers, directors, trustees, incorporators and persons controlling or holding over ten per cent of the issued and outstanding common shares or ten per cent of any other proprietary, beneficial or membership interest in the corporation, a partnership, including all general partners and limited partners controlling a ten per cent or more beneficial interest in the partnership, association or society of persons, the federal government and any of its departments or agencies, this state and any of its agencies, departments, political subdivisions, counties, towns or municipal corporations.

E. Initial certificates shall be delivered to the department within ninety days after the person first becomes subject to the disclosure requirements of this section. Certificates shall be filed annually thereafter within ninety days after the close of that person's fiscal year as reported on the initial certificate.

F. By December 1 of each year, the department shall provide the attorney general with a list of all persons who were convicted of the crimes or who are the subject of the judicial actions described in subsection A of this section, as indicated from the certificates of disclosure filed during the preceding year.

G. In lieu of the certificate of disclosure prescribed by this section, a corporation may submit to the director copies of annual reports filed with the securities and exchange commission pursuant to § 13 or 15(d) of the securities exchange act of 1934 (15 United States Code § 78),<sup>2</sup> commonly known as a "10-K form", within ninety days of

filing the annual report. The initial submission to the director shall include 10-K forms for the preceding five years.

H. A person who contributes information for a certificate of disclosure and who makes an untrue statement of material fact concerning the requirements of subsection B of this section or withholds any material fact concerning the requirements of subsection B of this section or a person who is obligated to file a certificate of disclosure and who fails to file the certificate is subject to the remedies prescribed in § 49-110.

Added by Laws 1991, Ch. 315, § 6, eff. July 3, 1991. Amended by Laws 1992, Ch. 201, § 1; Laws 1994, Ch. 95, § 3.

<sup>1</sup> 42 U.S.C.A. § 9603.

<sup>2</sup> 15 U.S.C.A. §§ 78l, 78m.

### § 49-110. Compliance order; hearing; judicial review; enforcement

A. If the director has reasonable cause to believe that a person is in violation of § 49-109, the director may issue an order requiring compliance immediately or within a specified time period.

B. A compliance order shall state with reasonable specificity the nature of the violation, a time for compliance, if applicable, and the right to a hearing.

C. A compliance order shall be transmitted to the alleged violator by certified mail, return receipt requested, or by hand delivery.

D. A compliance order becomes final and enforceable in the superior court unless within thirty days after the receipt of the order the alleged violator requests a hearing before an administrative law judge. If a hearing is requested, the order does not become final until the administrative law judge has issued a final decision on the appeal, except as provided in § 41-1092.08, subsection H, any final agency order issued pursuant to this section is subject to judicial review pursuant to title 12, chapter 7, article 6.<sup>1</sup>

E. If a violator fails to comply with a compliance order issued pursuant to subsection A of this section, the director may issue an order assessing a civil penalty of not more than one thousand dollars for each day of continued noncompliance with the order, not to exceed twenty-five thousand dollars. Added by Laws 1991, Ch. 315, § 6, eff. July 3, 1991. Amended by Laws 1997, Ch. 221, § 217; Laws 2000, Ch. 113, § 182.

<sup>1</sup> Section 12-901 et seq.

18. Strategies for controlling the generation of air pollution by nonresidents of nonattainment or maintenance areas.
19. Use of alternative fuels.
20. Use of emission control devices on public diesel powered vehicles.
21. Paving of roads.
22. Restricting off-road vehicle travel.
23. Construction site air pollution control.
24. Other air quality control measures.

**F.** Each regional planning agency shall consult with the department of transportation to coordinate the plans developed pursuant to subsection E of this section with transportation plans developed by the department of transportation pursuant to any other law.

Added as § 36-1706 by Laws 1967, Ch. 2, § 9. Amended by Laws 1969, Ch. 53, § 17; Laws 1970, Ch. 164, § 28, eff. May 18, 1970; Laws 1971, Ch. 190, § 12; Laws 1973, Ch. 158, § 201; Laws 1982, Ch. 259, § 2; Laws 1986, Ch. 319, § 2, eff. Jan. 1, 1987. Renumbered as § 49-402 by Laws 1986, Ch. 368, § 37, subsec. B, eff. July 1, 1987. Amended by Laws 1987, Ch. 317, § 35, eff. Aug. 18, 1987, retroactively effective to July 1, 1987; Laws 1992, Ch. 299, § 8, eff. Sept. 1, 1993; Laws 1994, Ch. 353, § 21, eff. April 26, 1994; Laws 1999, Ch. 295, § 41; Laws 2002, Ch. 110, § 1.

<sup>1</sup> Section 49-541 et seq.

<sup>2</sup> Section 49-471 et seq.

**§ 49-403. Repealed by Laws 1988, Ch. 252, § 16, eff. Nov. 2, 1992**

**§ 49-404. State implementation plan**

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

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

**C.** The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance

area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective.

Added by Laws 1992, Ch. 299, § 9. Amended by Laws 1999, Ch. 295, § 42.

**§ 49-405. Attainment area designations**

**A.** The governor may designate the status and classification of areas of this state with respect to attainment of national ambient air quality standards.

**B.** The director shall adopt rules that both:

1. Describe the geographic extent of attainment, nonattainment or unclassifiable areas of this state for all pollutants for which a national ambient air quality standard exists.

2. Establish procedures and criteria for changing the designations of areas that include all of the following:

(a) Technical bases for proposed changes, including ambient air quality data, types and distributions of sources of air pollution, population density and projected population growth, transportation system characteristics, traffic congestion, projected industrial and commercial development, meteorology, pollution transport and political boundaries.

(b) Provisions for review of and public comment on proposed changes to area designations.

(c) All area designations adopted by the administrator as of May 30, 1992.

Added by Laws 1992, Ch. 299, § 9.

**§ 49-406. Nonattainment area plan**

**A.** For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code § 134<sup>1</sup> as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

**B.** For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which

no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

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

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

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

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

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.

6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.
11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:
  - (a) Demographics.
  - (b) Transportation.
  - (c) Emissions inventories.
  - (d) Assumptions used in developing the model.
  - (e) Results of modeling done in support of the plan.
  - (f) Monitoring data.

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

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

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

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described

no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

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

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

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

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

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.

6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.
11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:
  - (a) Demographics.
  - (b) Transportation.
  - (c) Emissions inventories.
  - (d) Assumptions used in developing the model.
  - (e) Results of modeling done in support of the plan.
  - (f) Monitoring data.

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

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

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

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described

in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

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

K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of § 174 of the clean air act and that is recommended by the city that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

Added by Laws 1992, Ch. 299, § 9. Amended by Laws 1994, Ch. 134, § 1; Laws 1998, Ch. 217, § 15.

<sup>1</sup> 23 U.S.C.A. § 134.

#### § 49-407. Private right of action; citizen suits

A. Except as provided in subsection B, a person having an interest which is or may be adversely affected may commence a civil action in superior court on his own behalf against the director alleging a failure of the director to perform an act or duty under this article or article 2 of this chapter<sup>1</sup> that is not discretionary with the director. The

court has jurisdiction to order the director to perform the act or duty.

B. No action may be commenced in any of the following cases:

1. Before sixty days after the plaintiff has given notice of the alleged violation to the director and to an alleged violator.

2. If the director determines no violation has occurred, or if the director has initiated an administrative enforcement action by issuing a warning letter, notice of violation or issuing an order.

3. If the attorney general or county attorney has commenced and is diligently prosecuting a civil action in the superior court to require compliance with the provision, order, permit, standard, rule or emission limitation.

C. In an action commenced under this section the plaintiff has the burden of proof.

D. The court, in issuing a final order in an action brought under this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party that substantially prevails.

Added by Laws 1992, Ch. 299, § 9. Amended by Laws 1995, Ch. 231, § 7.

<sup>1</sup> Sections 49-401 et seq. or 49-421 et seq.

#### § 49-408. Air quality conformity; definition

A. Any revision to the state implementation plan adopted pursuant to 40 Code of Federal Regulations, part 51, subpart T shall be no more stringent than required under those regulations. No state agency, metropolitan planning organization or local transportation agency shall take action that is more stringent than required under federal law in performing any of the following functions:

1. Determining which projects require conformity determinations pursuant to 40 Code of Federal Regulations, part 93, any state implementation plan revisions adopted pursuant to 40 Code of Federal Regulations, part 51, subpart T, or the conformity requirements set forth in the federal implementation plan at 40 Code of Federal Regulations, part 52, subpart D.

2. Determining which projects constitute regionally significant projects within the meaning of any of the regulations identified in paragraph 1.

3. Making conformity determinations pursuant to any of the regulations identified in paragraph 1.

1. "Agricultural general permit" means best management practices that:

(a) Reduce pm-10 particulate emissions from tillage practices and from harvesting on a commercial farm.

(b) Reduce pm-10 particulate emissions from those areas of a commercial farm that are not normally in crop production.

(c) Reduce pm-10 particulate emissions from those areas of a commercial farm that are normally in crop production including prior to plant emergence and when the land is not in crop production.

2. "Applicable implementation plan" means that term as defined in 42 United States Code 7601(q).<sup>3</sup>

3. "Best management practices" means techniques verified by scientific research, that on a case by case basis are practical, economically feasible and effective in reducing pm-10 particulate emissions from a regulated agricultural activity.

4. "Maricopa pm-10 particulate nonattainment area" means the Phoenix planning area as set forth in 40 code of Federal Regulations part 81.303.

5. "Regulated agricultural activities" means commercial farming practices that may produce pm-10 particulate emissions within the maricopa pm-10 particulate nonattainment area.

Added by Laws 1998, Ch. 217, § 16.

<sup>1</sup> So in original. Should be "subsection B".

<sup>2</sup> Section 41-1092 et seq.

<sup>3</sup> 42 U.S.C.A. 7601(q).

**§ 49-458. Regional haze program; authority**

The department may participate in interstate regional haze programs that are established by the regional planning organization that is authorized for this region pursuant to 40 code of federal regulations part 51, subpart P and the clean air act. Added as § 49-411 by Laws 2002, Ch. 251, § 2. Renumbered as § 49-414. Renumbered as § 49-458 by Laws 2004, Ch. 129, § 1.

**§ 49-458.01. State implementation plan revision; regional haze; rules**

A. The director shall submit to the administrator state implementation plan revisions to address regional haze visibility impairment in mandatory federal class I areas. The state implementation plan revisions submitted to the administrator shall address any of the following as necessary to submit an approvable plan:

1. The applicable time period.
2. A monitoring strategy for regional haze visibility impairment.
3. Calculations of baseline visibility conditions and natural visibility conditions.
4. Comprehensive emissions tracking strategies for clean air corridors.
5. Implementation of stationary source emissions reduction strategies.
6. Provisions addressing mobile source emissions.
7. Programs related to emissions from fire sources defined as wildland fire, including wildfire, prescribed natural fire, wildland fire use, prescribed fire and agricultural burning conducted and occurring on federal, state and private lands.
8. Provisions addressing the impact of dust emissions on visibility impairment.
9. Provisions relating to pollution prevention.
10. Best available retrofit technology requirements.

11. A report that assesses emissions control strategies for stationary source emissions of oxides of nitrogen and particulate matter and the degree of visibility improvement that would result from implemented strategies.

12. A long-term strategy that addresses regional haze visibility impairment.

13. Additional measures necessary to make reasonable progress toward remedying existing and preventing future regional haze in mandatory federal class I areas.

14. For the Arizona Grand canyon visibility transport commission class I areas, a projection of the improvement in visibility conditions that are expected from the implementation of all measures set forth in the implementation plan.

15. For the eight other Arizona mandatory federal class I areas, provisions for the establishment of reasonable progress goals.

16. Periodic progress reports.

B. The department may establish intrastate market trading programs and participate in interstate market trading programs as necessary to submit an approvable plan under subsection A.

C. The director may adopt rules necessary for the revisions to the state implementation plan that address regional haze.

D. Except as provided in subsection E, the department may meet the requirements of subsection A by submitting plan revisions under 40 code of federal regulations § 51.308 or § 51.309.

E. The department may submit a plan revision under 40 code of federal regulations § 51.309 only if the revision contains a determination pursuant to 40 code of federal regulations § 51.309(d)(5)(ii) that mobile source emissions from areas within the state do not contribute significantly to visibility impairment in any of the Grand canyon visibility transport commission class I areas.

Added as § 49-411.01 by Laws 2002, Ch. 251, § 2. Renumbered as § 49-414.01. Renumbered as § 49-458.01 by Laws 2004, Ch. 129, § 1.

#### § 49-460. Violations; production of records

When the director has reasonable cause to believe that any person has violated or is in violation of any provision of this article, any rule adopted pursuant to this article or any requirement of a permit issued pursuant to this article, he may request in writing that such person produce all existing books, records and other documents evidencing tests, inspections or studies which may reasonably relate to compliance or noncompliance with rules adopted pursuant to this article.

Added by Laws 1992, Ch. 299, § 34, eff. Sept. 1, 1993.

#### § 49-461. Violations; order of abatement

When the director has reasonable cause to believe that any person has violated or is in violation of any provision of this article, any rule adopted pursuant to this article or any requirement of a permit issued pursuant to this article, he may serve upon such person by certified mail or in person an order of abatement or may file a complaint in superior court alleging a violation pursuant to § 49-463. The order shall state with particularity the act constituting the violation, shall state in its entirety the specific requirement, provision or rule violated, shall state the duration of the order and shall state that the alleged violator is entitled to a hearing, if such hearing is requested in writing within thirty days after the date of issuance of the order. The order may be conditional and require a person to refrain from particular acts unless certain conditions are met. An order issued under this section shall require the persons to whom it is issued to comply with the requirement, provision or rule as expeditiously as practicable. In the case of a source required to obtain a permit pursuant to

this article and title V of the clean air act,<sup>1</sup> the order shall require compliance no later than one year after the date the order was issued and may be renewable for no more than one additional year on a showing of good cause to the director.

Added by Laws 1992, Ch. 299, § 34, eff. Sept. 1, 1993. Amended by Laws 2001, Ch. 292, § 1; Laws 2003, Ch. 104, § 44.

<sup>1</sup> 42 U.S.C.A. § 7401 et seq.

#### § 49-462. Violations; injunctive relief

The attorney general, at the request of the director, shall file an action for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law, if the director has reasonable cause to believe that any of the following is occurring:

1. A person has violated or is in violation of any provision of this article, a rule adopted pursuant to this article or a permit issued pursuant to this article.

2. A person has violated or is in violation of an effective order of abatement.

3. A person is creating an imminent and substantial endangerment to the public health or the environment because of a release of a harmful air contaminant, unless that release is subject to enforcement under title 3, chapter 2, article 6.<sup>1</sup>

Added by Laws 1992, Ch. 299, § 34, eff. Sept. 1, 1993.

<sup>1</sup> Section 3-361 et seq.

#### § 49-463. Violations; civil penalties

A. A person who violates any provision of this article, any permit or permit condition issued pursuant to this article, any fee or filing requirement, any rule adopted pursuant to this article, an effective order of abatement issued pursuant to this article or any duty to allow or carry out inspection, entry or monitoring activities, is subject to a civil penalty of not more than ten thousand dollars per day per violation. The attorney general at the request of the director shall file an action in superior court to recover penalties provided for in this section.

B. For purposes of determining the number of days of violation for which a civil penalty may be assessed under this section, if the director has notified the source of the violation and makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of

3. Determines that those studies or data are necessary to accomplish the purposes of this article, and that the monitoring, sampling or other studies by the source are necessary in order to assess the impact of the source on the emission of air contaminants.

**B.** The board of supervisors shall adopt rules requiring sources of air contaminants to monitor, sample or otherwise quantify their emissions or air pollution which may reasonably be attributable to such sources for air contaminants for which ambient air quality standards or emission standards or design, equipment, work practice or operational standards have been adopted pursuant to § 49-424 or § 49-425, subsection A. In the development of the rules, the board shall consider the cost and effectiveness of the monitoring, sampling or other studies.

**C.** For those sources of air contaminants for which rules are not required to be adopted pursuant to subsection B of this section, the control officer may require a source of air contaminants, by permit or order, to perform monitoring, sampling or other quantification of its emissions or air pollution that may reasonably be attributed to such a source. Before requiring such monitoring, sampling or other quantification by permit or order, the control officer shall consider the relative cost and accuracy of any alternatives which may be reasonable under the circumstances such as emission factors, modeling, mass balance analyses or emissions projections. The control officer may require such monitoring, sampling or other quantification by permit or order if the control officer determines in writing that all of the following conditions are met:

1. The actual or potential emissions of air pollution may adversely affect public health or the environment.
2. An adequate scientific basis for the monitoring, sampling or quantification method exists.
3. The monitoring, sampling or quantification method is technically feasible for the subject contaminant and the source.
4. The monitoring, sampling or quantification method is reasonably accurate.
5. The cost of the method is reasonable in light of the use to be made of the data.

**D.** Orders issued or permit conditions imposed pursuant to this section shall be appealable to the hearing board in the same manner as that pre-

scribed for orders of abatement in §§ 49-489 and 49-490 and for permit conditions in § 49-482. Added by Laws 1991, Ch. 283, § 11, eff. July 1, 1992. Amended by Laws 1992, Ch. 299, § 35, eff. Sept. 1, 1993.

**§ 49-477. Advisory council**

The board of supervisors may appoint an advisory council of such membership as it deems necessary to advise and consult with the board of supervisors, the control agency, and the control officer in effecting the purposes of this article.

Added as § 36-777 by Laws 1970, Ch. 164, § 5, eff. May 18, 1970. Renumbered as § 49-477 by Laws 1986, Ch. 368, § 38, eff. July 1, 1987.

**§ 49-478. Hearing board**

**A.** The board of supervisors shall appoint an air pollution hearing board.

**B.** The hearing board shall consist of five members. The five members shall be knowledgeable in the field of air pollution. At least one member of the board shall be an attorney licensed to practice law in this state. At least three members shall not have a substantial interest, as defined in § 38-502, in any person required to obtain a permit pursuant to this article. Each board member shall serve for a term of three years.

**C.** The hearing board shall select a chairman and vice-chairman and such other officers as it deems necessary.

**D.** The board of supervisors may authorize compensation for hearing board members, and may authorize reimbursement for subsistence and travel, including travel from and to their respective places of residence when on official business.

Added as § 36-778 by Laws 1967, Ch. 2, § 8. Amended by Laws 1969, Ch. 53, § 5; Laws 1970, Ch. 164, § 6, eff. May 18, 1970; Laws 1980, Ch. 132, § 2. Renumbered as § 49-478 by Laws 1986, Ch. 368, § 38, eff. July 1, 1987. Amended by Laws 1990, Ch. 42, § 10.

**§ 49-479. Rules; hearing**

**A.** The board of supervisors shall adopt such rules as it determines are necessary and feasible to control the release into the atmosphere of air contaminants originating within the territorial limits of the county or multi-county air quality control region in order to control air pollution, which rules, except as provided in subsection C shall contain standards at least equal to or more restrictive than those adopted by the director. In fixing such stan-

for  
that

dards, the board or region shall give consideration but shall not be limited to:

1. The latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on health and welfare which may be expected from the presence of an air pollution agent, or combination of agents in the ambient air, in varying quantities.

2. Atmosphere conditions and the types of air pollution agent or agents which, when present in the atmosphere, may interact with another agent or agents to produce an adverse effect on public health and welfare.

3. Securing, to the greatest degree practicable, the enjoyment of the natural attractions of the state and the comfort and convenience of the inhabitants.

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

**C.** A county may adopt or amend a rule, emission standard, or standard of performance that is as stringent or more stringent than a rule, emission standard or standard of performance for similar sources adopted by the director only if the county complies with the applicable provisions of § 49-112.

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

Added as § 36-779 by Laws 1967, Ch. 2, § 8. Amended by Laws 1969, Ch. 53, § 6; Laws 1970, Ch. 164, § 7, eff. May 18, 1970; Laws 1973, Ch. 158, § 139. Renumbered as § 49-479 by Laws 1986, Ch. 368, § 38, eff. July 1, 1987. Amended by Laws 1987, Ch. 365, § 19, eff. Jan. 1, 1989; Laws 1992, Ch. 299, § 36, eff. Sept. 1, 1993; Laws 1994, Ch. 297, § 3.

#### § 49-480. Permits; fees

**A.** The board of supervisors may adopt a program for the review, issuance, revision, administration and enforcement of permits and for public review of proposed permits for sources that are subject to § 49-426, subsection A, that are not under the jurisdiction of the state pursuant to § 49-402 and that are not otherwise exempt pursuant to § 49-426, subsection B and subsection K of this section. This program shall include provisions for administration, inspection and enforcement of

general permits issued pursuant to § 49-426, subsection H and subsection J of this section.

**B.** Procedures for the review, issuance, revision and administration of permits issued pursuant to this section and required to be obtained pursuant to title V of the clean air act<sup>1</sup> including sources that emit hazardous air pollutants shall be substantially identical to procedures for the review, issuance, revision and administration of permits issued by the department under this chapter. Such procedures shall comply with the requirements of §§ 165, 173 and 408 and titles III and V of the clean air act and implementing regulations for sources subject to titles III and V of the clean air act.<sup>2</sup> Procedures for the review, issuance, revision and administration of permits issued pursuant to this section and not required to be obtained pursuant to title V of the clean air act shall impose no greater procedural burden on the permit applicant than procedures for the review, issuance, revision and administration of permits issued by the department under §§ 49-426 and 49-426.01 and other applicable provisions of this chapter.

**C.** Upon adoption of a permit program by the board of supervisors pursuant to this section, no person may begin actual construction, operate or make a modification to any source subject to the permit program without complying with the requirements of that program.

**D.** Permits issued pursuant to a program adopted under this section are subject to payment of a reasonable fee to be determined as follows:

1. For any source required to obtain a permit under title V of the clean air act, the board of supervisors shall establish by rule a system of fees consistent with and equivalent to that prescribed under § 502 of the clean air act.<sup>3</sup> Such system shall prescribe procedures for increasing the fee each year by the percentage, if any by which the consumer price index for the most recent calendar year ending before the beginning of such year exceeds the consumer price index for the calendar year 1989.

2. For any facility subject to the permitting requirements of this chapter but not required to obtain a permit under title V of the clean air act, the board of supervisors shall determine a permit fee based on all reasonable direct and indirect costs required to administer the permit, but not exceeding twenty-five thousand dollars.

## **Enclosure 2**

### **Regional Haze Statutes**

Renumbered Statutes 49-458 and 49-458.01

House Bill

Notice of Public Hearing

Newspaper Notice/Affidavit

Public Hearing Agenda

Sign-in Sheet

Transcripts

Hearing Officer Certification

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1. "Agricultural general permit" means best management practices that:

(a) Reduce pm-10 particulate emissions from tillage practices and from harvesting on a commercial farm.

(b) Reduce pm-10 particulate emissions from those areas of a commercial farm that are not normally in crop production.

(c) Reduce pm-10 particulate emissions from those areas of a commercial farm that are normally in crop production including prior to plant emergence and when the land is not in crop production.

2. "Applicable implementation plan" means that term as defined in 42 United States Code 7601(q).<sup>3</sup>

3. "Best management practices" means techniques verified by scientific research, that on a case by case basis are practical, economically feasible and effective in reducing pm-10 particulate emissions from a regulated agricultural activity.

4. "Maricopa pm-10 particulate nonattainment area" means the Phoenix planning area as set forth in 40 code of Federal Regulations part 81.303.

5. "Regulated agricultural activities" means commercial farming practices that may produce pm-10 particulate emissions within the maricopa pm-10 particulate nonattainment area.

Added by Laws 1998, Ch. 217, § 16.

<sup>1</sup> So in original. Should be "subsection B".

<sup>2</sup> Section 41-1092 et seq.

<sup>3</sup> 42 U.S.C.A. 7601(q).

**§ 49-458. Regional haze program; authority**

The department may participate in interstate regional haze programs that are established by the regional planning organization that is authorized for this region pursuant to 40 code of federal regulations part 51, subpart P and the clean air act. Added as § 49-411 by Laws 2002, Ch. 251, § 2. Renumbered as § 49-414. Renumbered as § 49-458 by Laws 2004, Ch. 129, § 1.

**§ 49-458.01. State implementation plan revision; regional haze; rules**

A. The director shall submit to the administrator state implementation plan revisions to address regional haze visibility impairment in mandatory federal class I areas. The state implementation plan revisions submitted to the administrator shall address any of the following as necessary to submit an approvable plan:

1. The applicable time period.
2. A monitoring strategy for regional haze visibility impairment.
3. Calculations of baseline visibility conditions and natural visibility conditions.
4. Comprehensive emissions tracking strategies for clean air corridors.
5. Implementation of stationary source emissions reduction strategies.
6. Provisions addressing mobile source emissions.
7. Programs related to emissions from fire sources defined as wildland fire, including wildfire, prescribed natural fire, wildland fire use, prescribed fire and agricultural burning conducted and occurring on federal, state and private lands.
8. Provisions addressing the impact of dust emissions on visibility impairment.
9. Provisions relating to pollution prevention.
10. Best available retrofit technology requirements.

11. A report that assesses emissions control strategies for stationary source emissions of oxides of nitrogen and particulate matter and the degree of visibility improvement that would result from implemented strategies.

12. A long-term strategy that addresses regional haze visibility impairment.

13. Additional measures necessary to make reasonable progress toward remedying existing and preventing future regional haze in mandatory federal class I areas.

14. For the Arizona Grand canyon visibility transport commission class I areas, a projection of the improvement in visibility conditions that are expected from the implementation of all measures set forth in the implementation plan.

15. For the eight other Arizona mandatory federal class I areas, provisions for the establishment of reasonable progress goals.

16. Periodic progress reports.

B. The department may establish intrastate market trading programs and participate in interstate market trading programs as necessary to submit an approvable plan under subsection A.

C. The director may adopt rules necessary for the revisions to the state implementation plan that address regional haze.

D. Except as provided in subsection E, the department may meet the requirements of subsection A by submitting plan revisions under 40 code of federal regulations § 51.308 or § 51.309.

E. The department may submit a plan revision under 40 code of federal regulations § 51.309 only if the revision contains a determination pursuant to 40 code of federal regulations § 51.309(d)(5)(ii) that mobile source emissions from areas within the state do not contribute significantly to visibility impairment in any of the Grand canyon visibility transport commission class I areas.

Added as § 49-411.01 by Laws 2002, Ch. 251, § 2. Renumbered as § 49-414.01. Renumbered as § 49-458.01 by Laws 2004, Ch. 129, § 1.

#### § 49-460. Violations; production of records

When the director has reasonable cause to believe that any person has violated or is in violation of any provision of this article, any rule adopted pursuant to this article or any requirement of a permit issued pursuant to this article, he may request in writing that such person produce all existing books, records and other documents evidencing tests, inspections or studies which may reasonably relate to compliance or noncompliance with rules adopted pursuant to this article.

Added by Laws 1992, Ch. 299, § 34, eff. Sept. 1, 1993.

#### § 49-461. Violations; order of abatement

When the director has reasonable cause to believe that any person has violated or is in violation of any provision of this article, any rule adopted pursuant to this article or any requirement of a permit issued pursuant to this article, he may serve upon such person by certified mail or in person an order of abatement or may file a complaint in superior court alleging a violation pursuant to § 49-463. The order shall state with particularity the act constituting the violation, shall state in its entirety the specific requirement, provision or rule violated, shall state the duration of the order and shall state that the alleged violator is entitled to a hearing, if such hearing is requested in writing within thirty days after the date of issuance of the order. The order may be conditional and require a person to refrain from particular acts unless certain conditions are met. An order issued under this section shall require the persons to whom it is issued to comply with the requirement, provision or rule as expeditiously as practicable. In the case of a source required to obtain a permit pursuant to

this article and title V of the clean air act,<sup>1</sup> the order shall require compliance no later than one year after the date the order was issued and may be renewable for no more than one additional year on a showing of good cause to the director.

Added by Laws 1992, Ch. 299, § 34, eff. Sept. 1, 1993. Amended by Laws 2001, Ch. 292, § 1; Laws 2003, Ch. 104, § 44.

<sup>1</sup> 42 U.S.C.A. § 7401 et seq.

#### § 49-462. Violations; injunctive relief

The attorney general, at the request of the director, shall file an action for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law, if the director has reasonable cause to believe that any of the following is occurring:

1. A person has violated or is in violation of any provision of this article, a rule adopted pursuant to this article or a permit issued pursuant to this article.

2. A person has violated or is in violation of an effective order of abatement.

3. A person is creating an imminent and substantial endangerment to the public health or the environment because of a release of a harmful air contaminant, unless that release is subject to enforcement under title 3, chapter 2, article 6.<sup>1</sup>

Added by Laws 1992, Ch. 299, § 34, eff. Sept. 1, 1993.

<sup>1</sup> Section 3-361 et seq.

#### § 49-463. Violations; civil penalties

A. A person who violates any provision of this article, any permit or permit condition issued pursuant to this article, any fee or filing requirement, any rule adopted pursuant to this article, an effective order of abatement issued pursuant to this article or any duty to allow or carry out inspection, entry or monitoring activities, is subject to a civil penalty of not more than ten thousand dollars per day per violation. The attorney general at the request of the director shall file an action in superior court to recover penalties provided for in this section.

B. For purposes of determining the number of days of violation for which a civil penalty may be assessed under this section, if the director has notified the source of the violation and makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of

**Senate Bill 1064 for Regional Haze**

-----  
Senate Engrossed  
-----

State of Arizona  
Senate  
Forty-sixth  
Legislature  
Second Regular Session  
2004  
-----

CHAPTER 129  
-----

SENATE BILL 1064  
-----

**AN ACT**

**TRANSFERRING AND RENUMBERING SECTIONS 49-414 AND 49-414.01, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 49, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, AS SECTIONS 49-458 AND 49-458.01, RESPECTIVELY; RELATING TO THE REGIONAL HAZE PROGRAM.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Transfer and renumber

Sections 49-414 and 49-414.01, Arizona Revised Statutes, are transferred and renumbered for placement in title 49, chapter 3, article 2, Arizona Revised Statutes, as sections 49-458 and 49-458.01, respectively.

APPROVED BY THE GOVERNOR APRIL 19, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2004.

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## **PUBLIC NOTICE**

### **ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY PUBLIC HEARING REVISION TO REGIONAL HAZE STATE IMPLEMENTATION PLAN**

The Arizona Department of Environmental Quality (ADEQ) will hold a public hearing to receive comments on a correction to the authorizing statutes for the Regional Haze State Implementation Plan (SIP). The statutes, A.R.S. §§49-414 and 49-414.01, were transferred from title 49, chapter 3, article 1, to title 49, chapter 3, article 2, and renumbered to §§49-458 and 49-458.01, respectively.

The public hearing will be held at 4:00 p.m. on Monday, August 2, 2004, ADEQ, 1110 W. Washington Street, Room 145, Phoenix, Arizona. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally and in writing. All written comments must be received at ADEQ by the close of the public comment period at 5:00 p.m. on Friday, August 6, 2004. ADEQ anticipates submitting the SIP revision to EPA some time after the close of the public process.

Written comments should be addressed, faxed, or e-mailed to:

Deborah ACorky@Martinkovic  
Air Quality Planning Section  
Arizona Department of Environmental Quality  
1110 W. Washington Street  
Phoenix, AZ 85012-2905  
FAX: (602) 771-2366  
E-Mail: martinkovic.deborah@ev.state.az.us

A copy of Senate Bill 1064 enacting the corrections to the statutes will be available for review beginning June 30, 2004, at the following location as well as ADEQ's Regional Haze Website at:

<http://www.adeq.state.az.us/environ/air/haze/index.html>

Arizona Department of Environmental Quality  
First Floor Library  
1110 W. Washington Street  
Phoenix, Arizona 85012  
Attn: Lorraine Cona, (602) 771-4335

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# THE ARIZONA REPUBLIC

STATE OF ARIZONA }  
COUNTY OF MARICOPA } SS.

**PUBLIC NOTICE**  
**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**PUBLIC HEARING REVISION TO REGIONAL HAZE STATE IMPLEMENTATION PLAN**

The Arizona Department of Environmental Quality (ADEQ) will hold a public hearing to receive comments on a correction to the authorizing statutes for the Regional Haze State Implementation Plan (SW). The statutes, A.R.S. §49-414 and 49-414.01, were transferred from title 49, chapter 3, article 1, to title 49, chapter 3, article 2, and renumbered to §49-458 and 49-458.01, respectively. The public hearing will be held at 4:00 p.m. on Monday, August 2, 2004, ADEQ, 1110 W. Washington Street, Room 145, Phoenix, Arizona. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally and in writing. All written comments must be received at ADEQ by the close of the public comment period at 5:00 p.m. on Friday, August 6, 2004. ADEQ anticipates submitting the SIP revision to EPA some time after the close of the public process. Written comments should be addressed, faxed, or e-mailed to:  
 Deborah "Corky" Martinkovic  
 Air Quality Planning Section  
 Arizona Department of Environmental Quality  
 1110W. Washington Street  
 Phoenix, AZ 85012-2905  
 FAX: (602) 771-2366  
 E-mail: martinkovic.deborrah@ev.state.az.us

A copy of Senate Bill 1064 enacting the corrections to the statutes will be available for review beginning June 30, 2004, at the following location as well as ADEQ's Regional Haze Website at: <http://www.adeq.state.az.us/environ/air/haze/index.html>

Arizona Department of Environmental Quality  
 First Floor Library  
 1110W. Washington Street  
 Phoenix, Arizona 85012  
 Attn: Lorraine Cona, (602) 771-4335  
 04300-June 25, 2004

Tabitha Antoniadis, being first duly sworn, upon oath deposes and says: That she is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

June 25, 2004

Sworn to before me this  
25<sup>TH</sup> day of  
June A.D. 2004

  
Notary Public

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Janet Napolitano  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 W. Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • [www.adeq.state.az.us](http://www.adeq.state.az.us)



Stephen A. Owens  
Director

## **AGENDA** **Air Quality Division**

### **SIP Revision Public Hearing** **Correction to Regional Haze Authorizing Statutes** **Regional Haze State Implementation Plan** **Monday, August 2, 2004, 4:00 p.m.** **Room 145, Arizona Department of Environmental Quality** **1110 West Washington Street, Phoenix, Arizona**

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Pursuant to 40 CFR §51.102, notice is hereby given that the above referenced meeting is open to the public.

1. Welcome and Introductions
2. Purposes of the Public Hearing
3. Procedure for Making Public Comment
4. Brief Overview of the Proposed WEB Trading Program Rule and Related SIP Revision
5. Question and Answer Period
6. Oral Comment Period
7. Adjournment of Public Hearing

Order of agenda items is subject to change. For additional information regarding the meeting, please call Corky Martinkovic, ADEQ Air Quality Division, at (602) 771-2372 or 1-800-234-5677, Ext. 771-2372.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Katie Huebner at (602) 771-4794 or 1-800-234-5677, Ext. 4794. Requests should be made as early as possible to allow sufficient time to make the arrangements for the accommodation. This document is available in alternative formats by contacting ADEQ TDD phone number at (602) 771-4829.

Northern Regional Office  
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004  
(928) 779-0313

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

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Arizona Department of Environmental Quality  
Air Quality Division

# Please Sign In

SUBJECT Public Hearing – Reg. Haze SIP Revision/Correction to Statutes DATE 8/2/04

	<u>NAME</u>	<u>ORGANIZATION</u>	<u>PHONE</u>	<u>FAX</u>	<u>E-MAIL</u>
1.	Joe M. Kefisk	OAG	542-5553	542-7795	
2.	Cathy Marlinton	ADSA	771-2372	1-2366	
3.	Jim Mikyla	APS	250-2232	250-3877	
4.	Wayne Leopold	ADMA	928-473-7149	928-473-7449	
5.	GARY KUYKENDALL	AEC	(602)791-1142	791-1203	

6. JEANNETTE FISH

MARICOPA COUNTY FARM BUREAU  
4001 E. BROADWAY RD STE B-9, PHX 85040

602-437-1330

mefb@msn.c

7. ERIC MASSEY

HEARING OFFICER / ADEQ

8.

9.

10.

11.

12.

13.

14.

15.

**TRANSCRIPT OF PUBLIC HEARING  
CORRECTION TO ARIZONA REGIONAL HAZE STATUTES**

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Phoenix, Arizona**

**May 17, 2004**

**4:35 p.m.**

**Revision to the 2003 Regional Haze State Implementation Plan  
Correction to Regional Haze Authorizing Statutes**

Oral Proceeding  
Hearing Officer Script

August 2, 2004

Good afternoon, thank you for coming. I now open this public hearing to address corrections to the authorizing statutes for regional haze and the subsequent revision to the Arizona Regional Haze State Implementation Plan or SIP.

It is now Monday, August 2, 2004, 4:06p.m. The location is Room 145, Arizona Department of Environmental Quality, Phoenix, Arizona. My name is Eric Massey and I have been appointed by the Director of the Arizona Department of Environmental Quality to preside at this proceeding.

The purposes of this proceeding are to provide the public an opportunity to:

- (1) hear about the substance of the revision to the regional haze state implementation plan or SIP,
- (2) ask questions regarding the SIP revision, and
- (3) present oral argument, data and views regarding the SIP revision in the form of comments on the record.

Corky Martinkovic of the Air Quality Planning Section and I are representing the Department.

The notice of public hearing on the SIP revision was released for public comment on June 30, 2004. The notice appeared in the *Arizona Republic* and ADEQ's website.

The procedure for making a public comment on the record is straightforward. If you wish to comment, you need to fill out a speaker slip, which is available at the sign-in table, and give it to me. Using speaker slips allows everyone an opportunity to be heard and allows us to match the name on the official record with the comments.

You may also submit written comments to me today. Please note, the comment period for the SIP revision closes at 5:00 p.m. on Friday, August 6, 2004.

Comments made during the formal comment period are required by law to be considered by the Department in the preparation of the state implementation plan. This is done through the preparation of a responsiveness summary in which the Department responds in writing to written and oral comments made during the formal comment period.

The agenda for this hearing is simple. First, we will present a brief overview of the revision to the state implementation plan.

Next, I will conduct a question and answer period. The purpose of the question and answer period is to provide information that may help you in making comments on the revision to the state implementation plan.

Thirdly, I will conduct the oral comment period. At that time, I will begin to call speakers in the order that I have received speaker slips.

Please be aware that any comments you make at today's hearing that you want the Department to formally consider must be given either in writing or on the record during the oral comment period of this proceeding.

\* \* \* \* \*

At this time, Corky Martinkovic will give a brief overview of the revision to the Regional Haze State Implementation Plan.

**In Summer 2001, ADEQ conducted several stakeholder meetings to determine which path the State of Arizona would pursue regarding the required state implementation plan for regional haze. The State could opt to develop an earlier state implementation plan (SIP) under Section 309 of the federal Regional Haze Rule, or a later plan under Section 308. Stakeholders agreed for various reasons that the State should develop a Regional Haze SIP under Section 309. Under the federal Regional Haze rule, a 309 SIP had to be submitted to EPA by December 31, 2003.**

**As part of the SIP's development, ADEQ reviewed the statutory authority to pursue a regional haze plan and determined that specific authority would be required for the plan; specifically: to develop the required elements of an approval plan (for example – fire programs, pollution prevention, monitoring strategies, etc.); to establish and participate in an intrastate market trading program and establish and participate in an interstate market trading program, as necessary; to adopt rules necessary for any revisions to the plan; to submit a plan under either Section 308 or Section 309 of the federal rule; and to submit a plan under Section 308 should there be a determination that mobile source emissions contributed significantly to regional haze in any of the 16 Grand Canyon Visibility Transport Commission Class I areas. A diverse group of stakeholders agreed to develop and present draft legislation for the regional haze statutes, and in 2002, the statutes became law.**

**Later the statutes were reviewed to determine if Arizona had sufficient penalty authority should there be noncompliance with either the SIP or any related rules. At that time it was noted that the placement of the statutes in Article 1 of Chapter 3, Title 49 of the Arizona Revised Statutes was not the correct placement for pursuing any remedy for noncompliance. Therefore, ADEQ drafted legislation to move the statutes from Article 1 to Article 2. The effect of moving the statutes was a renumbering of the statutes to fit into Article 2. Therefore, the statutes were renumbered from Sections 49-414 and 414.01 to 49.458 and 458.01, respectively. None of the language contained in the statutes was altered.**

**Section 110 of the Clean Air Act requires that a revision to a state implementation plan be noticed and an opportunity for a public hearing be made. Because the authorizing statutes are an integral part of the Arizona Regional Haze Plan, ADEQ is submitting the correction to EPA as a SIP revision. The public process will then be summarized in a letter to EPA, with all related documents attached including a responsiveness summary should there be any comments on the revision. The revision will be submitted to EPA Region 9 as soon as possible, but no later than December 31, 2004.**

This concludes the explanation period of this proceeding on the proposed state implementation plan.

\* \* \* \* \*

Are there any questions before we move to the oral comment period?

Wayne Leipold: There's no rule change, just the change enabling the legislation?

Corky Martinkovic: Correct. Just the numbers, moving it from one number to the next.

This concludes the question and answer period of this proceeding on the proposed state implementation plan.

\* \* \* \* \*

I now open this proceeding for oral comments.

[Call speakers in the order in which they submitted their speaker's slips; if there are many speakers present, you may limit each speaker's time to speak.]

[or, ASeeing no speaker slips, ...]

This concludes the oral comment period of this proceeding.

\* \* \* \* \*

If you have not already submitted written comments, you may submit them to me at this time. Again, the comment period for this SIP revision closes at 5:00 p.m. on Friday, August 6, 2004.

[Having received \_\_\_\_\_written comments...]

Thank you for attending.

The time is now \_4:12 p.m.\_\_\_\_\_. I now close this oral proceeding.

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Arizona Department of Environmental Quality  
Air Quality Division

**Public Hearing Presiding Officer Certification**

I, Eric Massey, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on Monday, August 2, 2004, Room 145, Arizona Department of Environmental Quality, Phoenix, Arizona, in accordance with public notice requirements by publication in Arizona Administrative Register and other locations beginning June 30, 2004. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

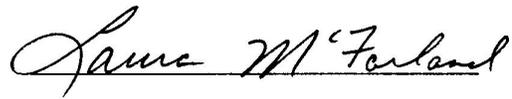
Dated this 3 day of August.

  
Eric Massey

State of Arizona        )  
                                  ) ss.  
County of Maricopa    )

Subscribed and sworn to before me on this 3 day of August 2004.





Notary Public

My commission expires: 4/2/08

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## **Enclosure 3**

### **Arizona SO<sub>2</sub> Trading Rule (SO<sub>2</sub> Milestones and Backstop Trading Program, R18-2-1610 through R18-2-1613)**

**Docket Opening**  
**Notice of Proposed Rulemaking**  
**Public Procedure Documents**  
Public Hearing Notice  
Newspaper Notice/Affidavit  
Public Hearing Agenda, Sign-in Sheet  
Transcripts, Comments, and Hearing Officer Certificate

**Notice of Supplemental Rulemaking**  
**Model Rule and Model Rule Supplement**  
**Public Procedure Documents for Supplemental Rulemaking**  
Public Hearing Notice  
Newspaper Notice/Affidavit  
Public Hearing Agenda, Sign-in Sheet  
Transcripts, Comments, and Hearing Officer Certificate

**Notice of Final Rulemaking**

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**\*\* PLEASE NOTE \*\***

**At this time, the Notice of Final Rulemaking (NFRM) for the SO<sub>2</sub> Milestones and Backstop Trading Program (Arizona Trading Rule R18-2-1610 through 1613) will not be published in the *Arizona Administrative Register* until January 14, 2005. The rule became effective December 20, 2004.**

**A codified version of SO<sub>2</sub> Milestones and Backstop Trading Program (Arizona Trading Rule R18-2-1610 through 1613) will be sent upon its availability.**

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Docket Opening for WEB Trading Program Rule (12/12/03)

ADEQ is proposing a rule to satisfy 40 CFR 51.309(4)(h) of the federal Regional Haze Rule that requires a state to include in its Regional Haze State Implementation Plan a stationary sources emission reductions program that establishes procedures for applicable stationary sources to monitor and report sulfur dioxide (SO<sub>2</sub>) emissions to determine if SO<sub>2</sub> emission milestones (i.e., decreasing regional emissions cap) have been violated, and procedures for the applicable stationary sources to participate in a regional backstop market trading program should any of the SO<sub>2</sub> emission milestones be violated.

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Notices of Proposed Rulemaking

1. 40 CFR 50;
2. 40 CFR 50, Appendices A through K;
3. 40 CFR Part 51, Appendix M, Appendix S, Section IV, Appendix W;
4. 40 CFR 52, Appendices D and E;
5. 40 CFR 58;
6. 40 CFR 58, all appendices;
7. 40 CFR Part 60, all appendices.
8. 40 CFR Part 61, all appendices.
9. 40 CFR Part 63, all appendices.
10. 40 CFR Part 75, all appendices.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

**PREAMBLE**

**1. Sections Affected**

R18-2-1607  
R18-2-1608  
R18-2-1609  
R18-2-1610  
R18-2-1611  
R18-2-1612  
R18-2-1613  
R18-2-1614  
R18-2-1615  
R18-2-1616  
R18-2-1617  
R18-2-1618  
R18-2-1619  
R18-2-1620  
R18-2-1621  
R18-2-1622  
R18-2-1623

**Rulemaking Action**

Reserved  
Reserved  
Reserved  
New Section  
New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

General Authority: A.R.S. §§ 49-104(A)(11) and 49-425

Specific Authority: A.R.S. §§ 49-414 and 414.01

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 217, January 9, 2004.

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking.**

Name: Deborahrah "Corky" Martinkovic

Address: ADEQ, Air Quality Planning Section  
1110 West Washington  
Phoenix, AZ 85007

Telephone: (602) 771-2372 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for a specific number.)

Fax: (602) 771-2366

E-mail: [martinkovic.deborahrah@ev.state.az.us](mailto:martinkovic.deborahrah@ev.state.az.us)

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Summary. The proposed rule would implement federal regional haze requirements by (1) requiring applicable stationary sources to monitor and report sulfur dioxide (SO<sub>2</sub>) emissions to allow Arizona Department of Environmental Quality (ADEQ) to determine if a SO<sub>2</sub> emission milestone has been exceeded, and (2) establishing the procedures for applicable stationary sources to participate in a regional backstop market trading program should a SO<sub>2</sub> emission milestone be exceeded.

Background. Section 169A of the Clean Air Act (CAA) establishes a national goal for protecting visibility in federally-protected national parks and wilderness areas ("Class I areas;" See 40 CFR 81.403). The goal is to remedy existing visibility impairment and prevent future visibility impairment in these Class I areas. Regional haze is a type of visibility impairment caused by air pollutants emitted by numerous sources across a broad region. In 1999, EPA promulgated a Regional Haze Rule that requires development of state implementation plans (SIPs) that assure "reasonable progress" toward the national visibility goal (64 FR 35714, July 1, 1999).

The 1999 Regional Haze Rule (40 CFR 51.309) provided an optional approach for the nine western states that comprised the transport region analyzed by the Grand Canyon Visibility Transport Commission (GCVTC) during the 1990s, including Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming. Arizona, New Mexico, Utah, Oregon, and Wyoming have elected to comply with the Regional Haze Rule by submitting their first SIPs on December 31, 2003, based on the recommendations to improve visibility outlined in the GCVTC's 1996 Report. This option is also available to eligible Indian Tribes within the geographical regional studied by the GCVTC. Indian Tribes have no deadline for submitting Tribal Implementation Plans (TIPs).

One element of the GCVTC's recommendations was a backstop regional trading program to reduce stationary source emissions of SO<sub>2</sub>. The GCVTC identified SO<sub>2</sub> as causing one third of the visibility impairment on the Colorado Plateau, with the majority of the emissions coming from stationary sources. The recommendation called for the setting of a series of declining caps on SO<sub>2</sub> emissions referred to as, "emissions milestones." These milestones would provide sources incentive to reduce their SO<sub>2</sub> emissions voluntarily through means most economical and feasible to them rather than the conventional command-and-control approach to achieve reductions. Implementation plan assessments of progress and identification of deficiencies are due in the years 2008, 2013, and 2018. The voluntary measures that achieve the milestones were approved by EPA because they achieve greater reasonable progress than the application and operation of controls under best available retrofit technology (BART). If the voluntary measures do not succeed in reducing SO<sub>2</sub> emissions over time, an enforceable market trading program would be triggered as a "backstop" to assure the reductions would be met. A regional work group was created to develop a "model" rule that each participating state would, in turn, transition into a state-specific rule.

There are two aspects to this proposed rule. Section R18-2-1611 of the proposed rule outlines monitoring, reporting and recordkeeping requirements during the pre-trigger phase of the program. This also satisfies the pre-trigger requirements in the Regional Haze Rule at 40 CFR 51.309(d)(4)(ii). Then, should a milestone be violated and the program triggered (R18-2-1613), the proposed rule outlines the requirements of the backstop trading program. A number of terms that are used in this proposed rule are not included in the definition section because they are already defined in R18-2-101. These terms are: "affected source," "potential to emit," and "stationary source."

R18-2-1614 through R18-2-1617 of the proposed rule outline responsibilities of the applicable stationary sources (R18-2-1612) - responsibility to select an account representative, register for the program, receive an allocation of allowances (a type of tradable emissions credit), and establish an account to hold the allowances. R18-2-1616(D) sets forth the nature of allowances and the fact that an allowance is not a property right. The clarification preserves the State's right to restrict or terminate an allowance in accordance with existing laws. This right extends to the United States because state law cannot create new or abrogate any existing rights or authorities of the federal government.

R18-2-1618 and R18-2-1619 outline how the applicable stationary sources will, in the post-trigger phase, monitor, report and maintain records to determine if they have sufficient annual allowances within their account to operate. R18-2-1622 contains the allowance limitation requirement that by a specified date, sources shall hold sufficient allowances for its SO<sub>2</sub> emissions. In order to meet the allowance limitation requirement, a source may need to follow the procedures in R18-2-1620 and R18-2-1621 before the deadline, to ensure that they will be able to comply with the allowance limitation. R18-2-1622 sets the penalties should a source fail to comply with the allowance limitation requirements of the program. R18-2-1618 through R18-2-1622 meet the requirements established throughout 40 CFR 51.309(h) of the Regional Haze Rule.

Finally, R18-2-1623 of the proposed rule provides, should the milestone in 2018 be exceeded, that a special penalty be imposed for 2018, and for any subsequent year if the regional SO<sub>2</sub> emissions continue to exceed the 2018 milestone. The Section establishes specific penalties for failure to meet this pivotal goal of the program.

Due to the need to establish the procedure for pre-trigger monitoring, recordkeeping and reporting under R18-2-1611 as soon as possible pursuant to 40 CFR 51.309(d)(4)(ii), ADEQ requests an immediate effective date as permissible under A.R.S. 41-1032(A)(2) and 41-1032(A)(3).

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

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*An Assessment of Critical Mass for the Regional SO<sub>2</sub> Trading Program*, prepared for Western Regional Air Partnership (WRAP) Market Trading Forum, ICF Consulting Group, September 27, 2002; available through the WRAP Web page at [www.wrapair.org](http://www.wrapair.org) or through Arizona Department of Environmental Quality.

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

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

**A. Rule Identification and Summary**

This rulemaking comprises new Sections, R18-2-1610 through R18-2-1623. Rule Sections R18-2-1607, R18-2-1608, and R18-2-1609 are reserved. The Sections within Article 16 pertain to visibility and regional haze.

Regional haze impairs visibility and is caused by air pollutants emitted by many sources across a region. The Clean Air Act (CAA) establishes a national goal to protect visibility in federally protected parks and wilderness areas, called federal Class I areas (40 CFR 81.403). Arizona has 12 federally-protected Class I areas. The region consists of a nine state area in the west. Currently, the states participating in the backstop market trading program consist of the states submitting regional haze state implementation plans (SIPs) under Section 309 of the federal Regional Haze Rule; namely, Arizona, New Mexico, Utah, Oregon, and Wyoming. The 211 Indian Tribes within the region can also participate in the program through the completion of a tribal implementation plan (TIP) or source-specific implementation plans.

The national goal is attained by improving existing visibility impairment and preventing future visibility impairment in the Class I areas. Visibility improvements are anticipated by establishing milestones for sulfur dioxide (SO<sub>2</sub>) reductions over time through voluntary reduction measures as opposed to command-and-control technologies. If the voluntary measures are unsuccessful, however, an enforceable market trading program will be established as a backstop to assure that the SO<sub>2</sub> reductions can be achieved. The greatest reduction in SO<sub>2</sub> emissions is expected to occur at during the last milestone, 2014 to 2018 (see Table below). By 2040, the goal for SO<sub>2</sub> reductions is 52 percent from the 1990 level of 831,000 tons.

MILESTONES	CUMULATIVE REGIONAL EMISSION REDUCTIONS FROM 1990 (IN TONS OF SO <sub>2</sub> )
2003	111,000
2008	116,000
2013	176,000
2018	321,000

This proposed rule implements procedures for Arizona sources participating in the Western Backstop SO<sub>2</sub> Trading Program, referred to as the WEB Trading Program, as required under the federal Regional Haze.

Rule (40 CFR 51.309). The proposed rule will require stationary sources subject to this rulemaking to monitor and report SO<sub>2</sub> emissions as a way to determine if SO<sub>2</sub> emission milestones have been exceeded, and if so, require such sources to participate in the WEB Trading Program.

**B. Entities Directly Affected**

Potential entities directly impacted by this rulemaking include Arizona stationary sources with actual SO<sub>2</sub> emissions of 100 tons or more per year. These sources include: Five coal-fired power plants (utilities), two cement plants, two lime plants, one pulp and paper plant, and three smelters (including one smelter that has suspected operations). The latter eight sources are generally categorized as non-utilities. Other entities include air pollution control manufacturers and vendors; contractors; consultants; lawyers; Arizona Department of Environmental Quality (ADEQ) as the implementing agency; and private persons and consumers.

Potential WEB Trading Program sources include: BART-eligible sources (best available retrofit technology sources as defined in 40 CFR 51.301); other stationary sources not meeting the criteria set forth in R18-2-1611(D), with actual SO<sub>2</sub> emissions of 100 tons or more per year in the trigger years or subsequent years; and other stationary sources regulated under Section 111 or 112 of the CAA (after August 7, 1980). Not all of these sources operate in Arizona.

**C. Potential Costs and Benefits**

Before summarizing the preliminary costs and benefits of this rulemaking, it is necessary to discuss the nine-state region as a whole, as well as generalizations about Arizona sources impacted by this rulemaking. All dollar amounts represent 1997 dollars (as provided in the ICF study cited in section 6 of the preamble to this proposed rule). Due to

inflation, consumer prices have risen approximately 15 percent between 1997 and 2003. Likewise, one can expect capital investments and other compliance costs to also be higher now than in 1997.

Compliance costs are expected to be lowest if all states and tribes participate in the trading program because this will result in the greatest gains from trading. For example, annual compliance costs for the region could be as much as \$90 million less in 2018 under the trading option compared to states and tribes implementing command-and-control programs.<sup>1</sup> Arizona is one state in which sources are expected to have greater compliance costs under command-and-control. Consequently, sources located in Arizona are expected to experience the greatest cost-saving benefits from participating in the trading program. This is due partially to expectations that Arizona will be a net buyer of trading allowances. Thus, because Arizona has opted to participate in the trading program, not only will the Arizona sources experience lower compliance costs, but so will the entire region.

[<sup>1</sup>Anticipated annual savings are the difference between the estimated costs for implementing command-and-control at \$210 million vs. \$120 million for all states and tribes participating in a full trading program. The amount of emissions reduction would be about the same under either program approach. The amount of actual cost savings could change based on which and how many states and tribes elect to opt out of the trading program. See ICF Consulting Group, *An Assessment of Critical Mass for the Regional SO<sub>2</sub> Trading Program*, prepared for Western Regional Air Partnership Market Trading Forum, September 27, 2002.]

States in the nine-state region and 211 tribal areas may choose not to participate in the regional trading program and fulfill regional haze requirements by implementing command-and-control BART technology and satisfy Section 51.308 requirements of the federal Regional Haze Rule. States and tribes electing not to participate in the program, however, will make the regional program less flexible and increase compliance costs not only for themselves but for other program participants.

Program flexibility means that sources can reduce SO<sub>2</sub> emissions by installing pollution control equipment if that option represents a relatively lower cost alternative, or sources could purchase allowances if the market offers a less expensive means of reducing SO<sub>2</sub> emissions. For example, allowances could be sold at a price to older sources that is lower than the cost per ton of SO<sub>2</sub> emissions abatement for these sources.

#### Regulatory Agencies

ADEQ expects to be impacted minimally by its review of monitoring plans and reports from sources as well as its participation in the tracking system requirements, which will be managed and funded by an outside, regional administrator. The current number of ADEQ employees can be expected to handle the workload generated by this program.

#### Regulated Community

Owners and operators of applicable sources are required to monitor, report, and maintain records of their SO<sub>2</sub> emissions during the pre-trigger stage of the program proposed by this rulemaking. These sources already monitor and report emissions under existing stationary source requirements, but may have some additional costs due to an increase in the record retention requirement from five years to ten years. The additional pre-trigger monitoring, reporting and recordkeeping requirements under the proposed rule should have minimal impact. During this pre-trigger stage, owners and operators of sources can plan how they would reduce SO<sub>2</sub> emissions according to their own time-frames.

The incorporation of a pre-trigger time period is vital to the sources by allowing them flexibility to plan and select the optimal compliance strategy. Under command-and-control, sources are much more restricted in developing compliance options. In contrast, a trading program allows increased flexibility for sources to plan how to comply with SO<sub>2</sub> emissions caps and the best strategy for implementing compliance options. This preparation time can be viewed as the foundation for numerous cost-saving benefits to develop in the future. For example, sufficient time is needed to evaluate market conditions relating to demand and resource inputs. Additionally, a source may want to evaluate a variety of variables and options, such as emission variations, production costs, competition, economic profit, expansion capabilities, retrofit possibilities, investments in new technologies, etc. The pre-trigger time provides sources with a mechanism to successfully implement plans with a potential for significant cost-saving benefits.

Should the regional SO<sub>2</sub> emissions cap be exceeded, stationary sources would have an alternative means of reducing SO<sub>2</sub> emissions through tradable allowances, as opposed to having pollution control equipment installed under command-and-control. The regulated community would register for the trading program, select an account representative, and subsequently receive allowances in their compliance accounts. Monitoring would continue to determine if sources have sufficient annual allowances in their respective accounts to operate.

Compliance costs could include fuel costs, annualized capital investments, and operation and maintenance expenditures. Some of the expenditures could include investments in new capacity. According to ICF Consulting Group,<sup>2</sup> Arizona's owners and operators of affected sources would experience annual incremental compliance costs by 2013 of \$25 million if participating in the trading program or \$37 million if complying through command-and-control. By 2018, annual compliance costs for owners and operators of Arizona's sources are expected to be \$25 million for participating in the trading program and \$40 million for command-and-control.

[<sup>2</sup>*An Assessment of Critical Mass for the Regional SO<sub>2</sub> Program*, ICF Consulting Group, 2002.]

It is anticipated that Arizona will have more total SO<sub>2</sub> emissions from its affected sources than its emissions budget (i.e., a negative net allowance budget). Because approximately one third of the SO<sub>2</sub> emission reductions from participating states will come from Arizona sources, Arizona would be a net buyer of trading allowances from out-of-state suppliers. Estimated allowances needed are expected to be in the range of 10,000 to 20,000 tons of SO<sub>2</sub>, not including any intrastate trades. Based on an estimated allowance price of \$1,100 to \$2,100 per ton of SO<sub>2</sub>, Arizona's sources may have to expend between \$11 million to \$42 million to purchase allowances from Indian tribes or sources in other states.<sup>3</sup> Arizona sources could use allowances to avoid some of the high costs of investing in pollution control equipment.

[<sup>3</sup>Costs per ton are dependent upon several factors, such as transaction costs, market power, risk, and market inefficiencies.

Owners and operators of sources participating in the trading program will incur additional compliance costs due to administrative burdens. These costs fall under post-trigger monitoring, recordkeeping, and reporting requirements, and include the preparation of monitoring plans and compliance certification reports. These costs are expected to be minimal in comparison to costs that would be incurred under a straight common-and-control program. Additionally, owners and operators of sources out of compliance will incur penalties in the form of allowance deductions at twice the source's tons of excess SO<sub>2</sub> emissions and assessments of \$5,000 per ton of emissions in excess of the WEB source's allowance limitations. Other civil and criminal penalties also could be assessed.

#### Consumers and Public

ADEQ anticipates that reductions in SO<sub>2</sub> through implementation of the propose rule will generate benefits for the public at large. These benefits include improvement in visibility, human health, and a possible decrease in acid rain deposition.<sup>4</sup> Air quality changes are expected to improve visibility in federal Class I areas, as well as other areas within the transport region. Potential human health benefits are expected to accrue because SO<sub>2</sub> emissions can aggravate asthma. Reductions in SO<sub>2</sub> emissions could also avert or reduce acute illnesses or ailments (e.g., shortness of breath, chest tightness, or wheezing). Health gains also could include reduced hospital admissions for respiratory and cardiovascular problems. Avoidance of premature deaths is also a likely possibility.

[<sup>4</sup>U.S. EPA and National Park Service, *2018 Milestone Reductions Benefits Assessment*, August 11, 2000.]

Sources generally will pass on increased compliance costs to consumers. Thus, increases in production costs may be reflected in higher prices for goods. Even though the health and welfare benefits are for the most part unquantifiable, it is believed that probable benefits will exceed probable costs of this rulemaking, particularly because the compliance costs of a trading program are less than those of a command-and-control emissions reduction program.

#### **D. Potential Impacts to Small Businesses**

A variety of methods are available to reduce the impact of a rulemaking on small businesses. A.R.S. § 41-1035 prescribes five methods for reducing the impact. These methods include establishing less stringent compliance or reporting requirements, less stringent schedules or deadlines for compliance or reporting requirements, simplified reporting requirements, replacing design or operational standards with performance requirements, or exempting small businesses from some or all rule requirements. None of these methods, however, are feasible or fall within the requirements of this proposed rulemaking. Furthermore, applicable sources are expected to be large sources and not classified as small businesses. Sources undergoing modifications that could produce actual SO<sub>2</sub> emissions of 100 tons or more per year would become applicable sources. Potentially, some of these sources could be classified as small businesses.

#### **9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: David Lillie  
Address: ADEQ, Air Quality Planning Section  
1110 West Washington  
Phoenix, AZ 85007  
Telephone: (602) 771-4461 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for a specific number.)  
Fax: (602) 771-2366  
E-mail: [Lillie.David@ev.state.az.us](mailto:Lillie.David@ev.state.az.us)

#### **10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

Date: Monday, May 17, 2004  
Time: 4:30 p.m.  
Location: ADEQ

1110 West Washington, Room 250  
Phoenix, AZ 85007

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporation by reference and their location in the rule:**

40 CFR 51.301 and 40 CFR 51.309; R18-2-1610(A)(1).

**13. The full text of the rule follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

Section

R18-2-1607.	Reserved
R18-2-1608.	Reserved
R18-2-1609.	Reserved
R18-2-1610.	Western Backstop SO <sub>2</sub> Trading Program; Definitions
R18-2-1611.	General Applicability; Pre-trigger Monitoring, Recordkeeping and Reporting
R18-2-1612.	WEB Trading Program Applicability
R18-2-1613.	WEB Trading Program Trigger
R18-2-1614.	Account Representative for WEB Sources
R18-2-1615.	Registration
R18-2-1616.	Allowance Allocations
R18-2-1617.	Establishment of Accounts
R18-2-1618.	Post-trigger Monitoring, Recordkeeping and Reporting
R18-2-1619.	Monitoring Protocols
R18-2-1620.	Allowance Transfers
R18-2-1621.	Use of Allowances from a Previous Year
R18-2-1622.	Compliance
R18-2-1623.	Special Penalty Provisions for the 2018 Milestone

**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

**R18-2-1607.** **Reserved**

**R18-2-1608.** **Reserved**

**R18-2-1609.** **Reserved**

**R18-2-1610.** **Western Backstop SO<sub>2</sub> Trading Program; Definitions**

**A.** **This rule implements the Western Backstop SO<sub>2</sub> Trading Program provisions required under 40 CFR 51.309.**

- 1.** **The parts of 40 CFR 51.301 and 40 CFR 51.309 cited below are incorporated by reference as of July 1, 2003, and no future editions or amendments.**
- 2.** **Nothing in this Article waives any requirement otherwise in effect or subsequently required under any other law, including rules governing new sources.**

**B.** **When used in this Article:**

- 1.** **“Account Certificate of Representation” means the completed and signed submission required to designate an Account Representative for a WEB source or an Account Representative for a general account.**
- 2.** **“Account Representative” means the individual who is authorized through an Account Certificate of Representation to represent owners and operators of the WEB source with regard to matters under the WEB Trading Program or, for a general account, who is authorized through an Account Certificate of Representation to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account.**
- 3.** **“Act” means the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq.**
- 4.** **“Actual Emissions” means total annual sulfur dioxide emissions determined in accordance with R18-2-1618, or determined in accordance with R18-2-1611 for sources that are not subject to R18-2-1618.**

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5. “Allocate” means to assign allowances to a WEB source.
6. “Allowance” means the limited authorization under the WEB Trading Program to emit one ton of SO<sub>2</sub> during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by this Article.
7. “Allowance limitation” means the tonnage of SO<sub>2</sub> emissions authorized by the allowances available for compliance deduction for a WEB source for a control period under R18-2-1622(A) on the allowance transfer deadline for that control period.
8. “Allowance Tracking System” means the database whereby allowances under the WEB Trading Program are recorded, held, transferred and deducted.
9. “Allowance Tracking System Account” means an account in the Allowance Tracking System established for purposes of recording, holding, transferring, and deducting allowances.
10. “Allowance transfer deadline” means the deadline established in R18-2-1620(B) when allowances shall be submitted for recording in a WEB source’s compliance account in order to demonstrate compliance for that control period.
11. “Compliance account” means an account established in the Allowance Tracking System under R18-2-1617(A) for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation.
12. “Compliance certification” means a submission to the Director by the Account Representative as required under R18-2-1622(B) to report a WEB source’s compliance or noncompliance with this Article.
13. “Control period” means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.
14. “Emissions tracking database” means the central database where SO<sub>2</sub> emissions for WEB sources as recorded and reported in accordance with this Article are tracked to determine compliance with allowance limitations.
15. “Emission unit” means any part of a stationary source that emits or would have the potential to emit any pollutant subject to regulations under the Clean Air Act.
16. “Existing source” means a stationary source that commenced operation before the program trigger date.
17. “Fugitive emissions” means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
18. “General account” means an account established in the Allowance Tracking System under R18-2-1617 for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation.
19. “Milestone” means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018 as provided in 40 CFR 51.309.
20. “New WEB Source” means a WEB source that commenced operation on or after the Program Trigger Date.
21. “New source set-aside” means a pool of allowances that is available for allocation to new sources 40 CFR 51.309(h)(4)(i).
22. “Owner or operator” means any person who is an owner or who operates, controls or supervises a WEB source, and includes but is not be limited to any holding company, utility system or plant manager.
23. “Program trigger date” means the date that the Director determines that the WEB Trading Program has been triggered.
24. “Program trigger years” means the years shown in Table 1, column 4, of 40 CFR 51.309(h)(1) for the applicable milestone if the WEB Trading Program is triggered as provided in 40 CFR 51.309(h)(3). For each year after 2018, the SO<sub>2</sub> emissions shall be based on annual SO<sub>2</sub> emissions for the subject year.
25. “Renewable Energy Resource” means a resource that generates electricity by non-nuclear and non-fossil technologies that result in low or no air emissions. The term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meet the Low-Impact Hydropower Institute criteria. Biomass includes agricultural, food and wood wastes. The term does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood.
26. “Retired source” means a WEB source that has received a retired source exemption as provided in R18-2-1612(C). Any retired source resuming operations under R18-2-1612(C)(4), shall submit its exemption as part of its registration materials.
27. “Serial number” means the unique identification number assigned to each allowance by the Tracking System Administrator under R18-2-1616(B).
28. “SO<sub>2</sub> emitting unit” means any equipment that is located at a WEB source and that emits SO<sub>2</sub>.
29. “Submit” means sent to the appropriate authority under the signature of the Account Representative. For purposes of determining when something is submitted, an official U.S. Postal Service postmark, or equivalent electronic time stamp, shall establish the date of submittal.
30. “Ton” means 2000 pounds and, for any control period, any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons.

31. “Tracking System Administrator” means the person designated by the Director as the administrator of the Allowance Tracking System and the emissions tracking database.
32. “WEB source” means a stationary source that meets the applicability requirements of R18-2-1612.
33. “Western Backstop SO<sub>2</sub> Trading Program (“WEB Trading Program”)” means the program implemented by R18-2-1613.

**R18-2-1611. General Applicability; Pre-trigger Monitoring, Recordkeeping and Reporting**

**A. General Applicability.**

1. All stationary sources that have actual SO<sub>2</sub> emissions of 100 tons or more per year are subject to the requirements of this Section.
2. For purposes of determining SO<sub>2</sub> emissions in subsection (1), the fugitive emissions of a stationary source shall not be considered unless the source belongs to one of the following categories of stationary 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 250 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 (furnace process);
  - p. Primary lead smelters;
  - q. Fuel conversion plants;
  - r. Sintering plants;
  - s. Secondary metal production plants;
  - t. Chemical process plants;
  - u. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
  - v. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  - w. Taconite ore processing plants;
  - x. Glass fiber processing plants;
  - y. Charcoal production plants;
  - z. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
  - aa. Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or 112 of the Act.

**B. Pre-trigger Requirements.**

1. All stationary sources meeting the criteria of subsection (A), for the period defined in subsection (C) shall comply with applicable monitoring, recordkeeping and reporting requirements in R18-2-304, R18-2-306, R18-2-327, and R18-2-715.01, and in addition:
2. The stationary source shall submit to the Director an annual inventory of SO<sub>2</sub> emissions, beginning with the 2003 emission inventory.
3. The stationary source shall submit to the Director, if the stationary source is a smelter, an annual report of sulfur input in tons per year with the submission of the annual emissions inventory.
4. The stationary source shall utilize appropriate emission factors and estimating techniques, and document the emissions monitoring or estimation methodology used.
5. The stationary source shall include SO<sub>2</sub> emissions from start up, shut down, and upset conditions in the annual total inventory.
6. The stationary source shall utilize, if an affected source, methods from 40 CFR Part 75 to measure and calculate SO<sub>2</sub> emissions.
7. The stationary source shall include the rate and period of SO<sub>2</sub> emissions, the specific installation that is the source of the SO<sub>2</sub> emissions, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions, and to evaluate pollution control.
8. The stationary source shall retain records required under this Section for a minimum of 10 years from the date of cre-

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ation, or if the record was the basis for an adjustment to a milestone under 40 CFR 51.309(h)(1), 5 years from the date of a state implementation plan revision, whichever is longer.

**C. Duration and Termination of Pre-trigger Requirements.**

A stationary source that meets the criteria of Subsection (A) at any time after the effective date of this Article shall continue to comply with Subsection (B) even if the source no longer meets the criteria in R18-2-1611(A), until either:

1. The WEB Trading Program has been fully implemented and emission tracking is occurring; or
2. The Director determines pursuant to 40 CFR 51.309(h)(3) that the regional SO<sub>2</sub> milestone for 2018 was achieved.

**R18-2-1612. WEB Trading Program Applicability**

**A. General Applicability.** This Article applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and which are under the control of the same person or persons under common control, belonging to the same industrial grouping, and that are described in subsections (B)(1) through (4). A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group as described in the North American Industry Classification System (NAICS), 1997.

**B. The following are WEB sources:**

1. All BART-eligible sources as defined in 40 CFR 51.301 that are BART-eligible due to SO<sub>2</sub> emissions.
2. All stationary sources not meeting the criteria of subsection (1) of this subsection that have actual SO<sub>2</sub> emissions of 100 tons or more per year in the Program Trigger Years or any subsequent year. The fugitive emissions of a stationary source shall not be considered in determining whether it is a WEB source unless the source belongs to one of the following categories of stationary source as listed in R18-2-1611(A)(2).
3. A new stationary source that begins operation after the Program Trigger Date and has the potential to emit 100 tons or more of SO<sub>2</sub> per year.
4. The Director shall determine on a case-by-case basis, with concurrence from the EPA Administrator, that a stationary source defined in R18-2-1612(B)(2) is not a WEB source if the source:
  - a. In each of the previous five years had actual SO<sub>2</sub> emissions of less than 100 tons per year; and
  - b. Had actual SO<sub>2</sub> emissions of 100 tons or more in a single year due to a temporary emission increase that was caused by a sudden, infrequent and not reasonably preventable failure of air pollution control equipment, failure of process equipment, or a failure to operate in a normal or usual manner;
  - c. Took timely and reasonable action to minimize the temporary emission increase; and
  - d. Has corrected the failure of air pollution control equipment, process equipment, or process by the time of the Director's determination under this section; or
  - e. Had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances other than cost of such fuels or feedstocks.
  - f. A temporary emission increase due to poor maintenance or careless operation does not meet the criteria of this subsection.

**C. Duration of Program Participation.** Except as provided in R18-2-1612(D) of this Article, once a source is subject to the WEB Trading Program, it shall remain in the program every year thereafter.

**D. Application for Retired Source Exemption.** Any WEB source that is retired shall apply for a retired source exemption. The WEB source shall only be considered retired if all SO<sub>2</sub> emitting units at the source are retired. The application shall contain the following information:

1. Identification of the WEB source, including plant name and an appropriate identification code in a format specified by the Director.
2. Name of Account Representative.
3. Description of the status of the WEB source, including the date that the WEB source was retired.
4. Signed certification that the WEB source is retired and shall comply with the requirements of R18-2-1612(D) through R18-2-1612(H).
5. Verification that the WEB source has a general account where any unused allowances or future allocations shall be recorded.

**E. Notice of Retired Source Exemption.** The retired source exemption becomes effective when the Director, or control officer with jurisdiction over the source, notifies the source that the retired source exemption has been granted.

**F. Responsibilities of Retired Sources:**

1. A retired source shall be exempt from R18-2-1618 and R18-2-1622, except as provided below.
2. A retired source shall not emit any SO<sub>2</sub> after the date the retired source exemption is effective.
3. A source shall submit SO<sub>2</sub> emissions reports to the Director, as required by R18-2-1618(H) for any time period the source was operating before the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of R18-2-1622, including the requirement to hold allowances in the source's compliance account to cover all SO<sub>2</sub> emissions before the date the source was permanently retired.
4. A retired source that is still in existence but no longer emitting SO<sub>2</sub> shall, for a period of five years from the date the

records are created, retain records demonstrating the effective date of the retired source exemption for purposes of this Article.

**G. Resumption of Operations.** Before a retired source can resume operation, the retired source shall submit to the Director registration materials as follows:

1. If the source is required to obtain a permit under Article 3 or 4 of this Chapter before resuming operation, then registration information as described in R18-2-1615(A) and a copy of the retired source exemption shall be submitted with the application required under Article 3 or 4 of this Chapter;
2. If the source is not required to obtain a permit under Article 3 or 4 of this Chapter before resuming operation, then registration information as described in R18-2-1615(A) and a copy of the retired source exemption shall be submitted to the Director at least 90 days before resumption of operation.
3. The retired source exemption shall automatically expire on the day the source resumes operation.

**H. Loss of Future Allowances.**

1. A WEB source that is retired and that does not apply to the Director for a retired source exemption within 90 days of the date that the source is retired shall forfeit any unused and future allowances.
  - a. The Director shall send the source notice 30 days before taking action to forfeit future allowances.
  - b. The abandoned allowances shall be retired by the Tracking System Administrator.

**R18-2-1613. WEB Trading Program Trigger**

- A.** Except as provided in R18-2-1613(B), R18-2-1613 through R18-2-1622 shall apply on and after the program trigger date that is established by the Director in accordance with 40 CFR 51.309(h)(1) and 51.309(h)(3).
- B.** R18-2-1623, Special Penalty Provisions for Year 2018 Milestone, shall apply beginning January 1, 2018, and shall continue to apply until the provisions of R18-2-1623 have been fully implemented.

**R18-2-1614. Account Representative for WEB Sources**

**A.** Each WEB source shall identify one Account Representative and shall also identify an alternate Account Representative who shall act on behalf of the Account Representative. Any representation, action, inaction or submission by the alternate Account Representative will be deemed to be a representation, action, inaction or submission by the Account Representative.

**B. Identification and Certification of an Account Representative.**

1. The Account Representative and any Alternate Account Representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the Account Representative and any alternate binding on the owners and operators of the WEB source.
2. The Account Representative shall submit to the Director and the Tracking System Administrator a signed and dated Account Certificate of Representation (Certificate) that contains the following elements:
  - a. Identification of the WEB source by plant name, state and an appropriate identification code in a format specified by the Director;
  - b. The name, address, e-mail (if available), telephone and facsimile number of the Account Representative and any alternate;
  - c. A list of owners and operators of the WEB source;
  - d. The specific tracking system data elements shall be as specified by the Director to be consistent with the data system structure, and shall include basic facility information that may appear in other reports and notices submitted by the WEB source, such as county location, industrial classification codes, and similar general facility information.
  - e. The following certification statement:  
*"I certify that I was selected as the Account Representative or alternate Account Representative, as applicable, by an agreement binding on the owners and operators of the WEB source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of the owners and operators of the WEB source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Director regarding the WEB Trading Program."*
3. Upon receipt by the Director of the complete Certificate, the Account Representative and any alternate Account Representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each owner and operator of the WEB source in all matters pertaining to the WEB Trading Program. The owners and operators shall be bound by any decision or order issued by the Director regarding the WEB Trading Program.
4. The Director shall send the Tracking System Administrator a copy of the complete Certificate. No WEB Allowance Tracking System account shall be established for the WEB source until the Tracking System Administrator has received a complete Certificate. Once the account is established, the Account Representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

**C. Requirements and Responsibilities of the Account Representative.**

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1. The responsibilities of the Account Representative include, but are not limited to, the transferring of allowances, and the submission of monitoring plans, registrations, certification applications, SO<sub>2</sub> emissions data and compliance reports as required by this Rule, and representing the source in all matters pertaining to the WEB Trading Program.
2. Each submission under this program shall be signed and certified by the Account Representative for the WEB source. Each submission shall include the following truth and accuracy certification statement by the Account Representative:  
*"I am authorized to make this submission on behalf of the owners and operators of the WEB source for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."*

**D. Changes to the Account Representative; Owners and Operators.**

1. Changes to the Account Representative or the alternate Account Representative.
  - a. The Account Representative or alternate Account Representative may be changed at any time by submitting a complete superseding Certificate to the Director and the Tracking System Administrator under R18-2-1614(B)(3), with the change taking effect upon receipt of such Certificate by the Director.
  - b. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Account Representative or alternate before the time and date when the Tracking System Administrator receives the superseding Certificate shall be binding on the new Account Representative and the owners and operators of the WEB source.
2. Changes in Owners and Operators.
  - a. Within 30 days of any change in the owners and operators of the WEB source, including the addition of a new owner or operator, the Account Representative shall submit a revised Certificate amending the list of owners and operators to include such change.
  - b. In the event a new owner or operator of a WEB source is not included in the list of owners and operators submitted in the Certificate, such new owner or operator shall be deemed to be subject to and bound by the Certificate, the representations, actions, inactions, and submissions of the Account Representative of the WEB source, and the decisions, orders, actions, and inactions of the Director as if the new owner or operator were included in such list.

**R18-2-1615. Registration**

**A. Deadlines.**

1. Each source that is a WEB source on or before the Program Trigger Date shall register by submitting the initial Certificate required in R18-2-1614(B) to the Director no later than 180 days after the Program Trigger Date.
2. Any existing source that becomes a WEB source after the Program Trigger Date shall register by submitting the initial Certificate required in R18-2-1614(B) to the Director by September 30 of the year following the inventory year in which the source exceeded the emission threshold.
3. Any new WEB source shall register by submitting the initial Certificate required in R18-2-1614(B) to the Director before the commencement of operation.

**B. Integration into Permits.**

1. An allocation, transfer or deduction of allowances to or from the compliance account of a WEB source shall not require revision of the WEB source's operating permit.
2. Any WEB source that is not required to have a permit under Article 4 of this Chapter at any time after provisions R18-2-1614 to R18-2-1622 apply, shall at all times possess a permit that includes the requirements of this Article. If it does not possess a Class I permit under Article 3 of this Chapter, it shall do so by obtaining or modifying a permit under Article 4 of this Chapter to incorporate the requirements of this Article. The source shall at all times possess a permit that includes these requirements.

**R18-2-1616. Allowance Allocations**

- A.** The Tracking System Administrator shall record the allowances for each WEB source in the compliance account for a WEB source once the allowances are allocated by the Director under 40 CFR 51.309(h)(4)(i). If applicable, the Tracking System Administrator shall record a portion of the SO<sub>2</sub> allowances for a WEB source in a special reserve compliance account to account for any allowances to be held in accordance with R18-2-1618(A)(2).
- B.** The Tracking System Administrator shall assign a serial number to each allowance.
- C.** All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

**D.** An allowance is not a property right, and is a limited authorization to emit one ton of SO<sub>2</sub> valid only for the purpose of meeting the requirements of this Article. No provision of this WEB Trading Program or other law should be construed to limit the authority of the Director to terminate or limit such authorization in accordance with this Article.

**E.** Early Reduction Bonus Allocation.

1. Any WEB source that reduces permitted annual SO<sub>2</sub> emissions to a level that is below the floor level allocation established for that source between 2003 and the program trigger year may apply to the Director for an early reduction bonus allocation.
2. The application shall be submitted no later than ninety days after the Program Trigger Date. Any WEB source that applies and receives early reduction bonus allocations shall retain the records referenced below for a minimum of five years after the early reduction bonus allowance is certified.
3. The application for an early reduction bonus allocation shall contain the following information:
  - a. Copies of all permits or other enforceable documents that include annual SO<sub>2</sub> emissions limits for the WEB source during the period the WEB source was generating the early reductions. Such permits or enforceable documents require monitoring for SO<sub>2</sub> emissions that meets the requirements in R18-2-1618(A)(1) and R18-2-1618(A)(3).
  - b. Copies of emissions monitoring reports, for the period the WEB source was generating the early reductions, that document the actual annual SO<sub>2</sub> emissions and demonstrate that the actual annual SO<sub>2</sub> emissions were below the floor level allocation established for that source.
  - c. Demonstration that the floor level established for the source was calculated using data consistent with the monitoring methodology during the period the WEB source was generating emission reductions. If new monitoring techniques change the floor level for the source, then a demonstration of the new floor level based on the monitoring techniques should be included in the application.

**F.** Request for allowances for new WEB sources or modified WEB Sources.

1. A new WEB source or an existing WEB source that has increased production capacity through a permitted change in operations under Article 4 of this Chapter may apply to the Director for an allocation from the new source set-aside.
  - a. A new WEB source is eligible to apply for an annual allocation equal to the permitted annual SO<sub>2</sub> emission limit for that source after the source has commenced operation.
  - b. An existing WEB source is eligible to apply for an annual allocation equal to the permitted annual SO<sub>2</sub> emission limit for that source that is attributable to any amount of production capacity that is greater than the permitted production capacity for that source as of January 1, 2003.
  - c. A source that has received a retired source exemption under R18-2-1612(D) is not eligible to apply for an allocation from the new source set-aside.
2. The application for an allocation from the new source set-aside shall contain the following information:
  - a. Demonstration that shows the permitted production capacity of the source before and after the new permit.
  - b. For new WEB sources, documentation of the actual date of the commencement of operation and a copy of the permit.

**R18-2-1617. Establishment of Accounts**

**A.** Allowance Tracking System Accounts.

1. All WEB sources are required to open a compliance account. Any person may open a general account for holding and transferring allowances.
2. If a WEB source conducts monitoring under R18-2-1618(A)(2), the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions.
  - a. The WEB sources and Account Representative shall have no rights to transfer allowances in or out of such special reserve compliance account.
  - b. The Director shall allocate allowances to the account in accordance with R18-2-1618(A)(2)(e), and all such allowances for each control period shall be retired each year for the compliance in accordance with R18-2-1622.
3. To open either type of account, an application that contains the following information shall be submitted to the Director:
  - a. The name, mailing address, e-mail address, telephone number, facsimile number of the Account Representative. For a compliance account, include a copy of the Account Certificate of Representation of the Account Representative and any alternate as required in R18-2-1614(B)(2). For a general account, include the Account Certificate of Representation of the Account Representative and any alternate as required in R18-2-1617(C)(2);
  - b. The WEB source or organization name;
  - c. The type of account to be opened; and
  - d. A signed certification of truth and accuracy by the Account Representative according to R18-2-1614(C) for compliance accounts and for general accounts, certification of truth and accuracy by the Account Representative according to R18-2-1617(D).

**B.** Account Representative for General Accounts.

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For a general account, one Account Representative shall be identified and an alternate Account Representative shall be identified and may act on behalf of the Account Representative. Any representation, action, inaction or submission by the alternate Account Representative will be deemed to be a representation, action, inaction or submission by the Account Representative.

**C. Identification and Certification of an Account Representative for General Accounts.**

1. The Account Representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the Account Representative binding on all persons who have an ownership interest with respect to allowances held in the general account.
2. The Account Representative shall submit to the Director and the Tracking System Administrator a signed and dated Account Certificate of Representation (Certificate) that contains the following elements:
  - a. The name, address, e-mail (if available), telephone and facsimile number of the Account Representative and any alternate;
  - b. The organization name;
  - c. The following certification statement:  
*"I certify that I was selected as the Account Representative or alternate Account Representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Director regarding the general account."*
3. Upon receipt by the Director of the complete Certificate, the Account Representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an ownership interest in allowances held in the general account with regard in all matters concerning the general account. Such persons shall be bound by any decision or order issued by the Director.
4. No WEB Allowance Tracking System general account shall be established until the Tracking System Administrator has received a complete Certificate. Once the account is established, the Account Representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

**D. Requirements and Responsibilities of Account Representative for General Accounts. Each submission for the general account shall be signed and certified by the Account Representative for the general account. Each submission shall include the following truth and accuracy certification statement by the Account Representative:**

*"I am authorized to make this submission on behalf of all person who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."*

**E. Changing the Account Representative for General Accounts.**

The Account Representative or alternate Account Representative may be changed at any time by sending a complete superseding Certificate to the Director and the Tracking System Administrator under R18-2-1617(C)(2), with the change taking effect upon receipt of such Certificate by the Director. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Account Representative or alternate before the time and date when the Director receives the superseding Certificate shall be binding on the new Account Representative and all person having ownership interest with respect to allowances held in the general account.

**F. Changes to the Account.**

Any change to the information required in the application for an existing account under R18-2-1617(A) shall require a submission to the Director of the revised application.

**R18-2-1618. Post-trigger Monitoring, Recordkeeping and Reporting**

**A. General Requirements on Monitoring Methods.**

1. For each SO<sub>2</sub> emitting unit at a WEB source the WEB source shall comply with the following, as applicable, to monitor and record SO<sub>2</sub> mass emissions:
  - a. If a unit is subject to 40 CFR 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in 40 CFR 75 with respect to monitoring, recording and reporting SO<sub>2</sub> mass emissions.
  - b. If a unit is not subject to 40 CFR 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:
    - i. A continuous emission monitoring system (CEMS) for SO<sub>2</sub> and flow that complies with all applicable monitoring provisions in 40 CFR 75;
    - ii. If the unit is a gas- or oil-fired combustion device, the accepted monitoring methodology in Appendix D to

- 40 CFR 75. or, if applicable, the low mass emissions provisions with respect to SO<sub>2</sub> mass emissions only of 40 CFR 75.19;
- iii. One of the optional WEB protocols, if applicable, in R18-2-1619; or;
  - iv. Site-specific monitoring under a petition that the source submits for approval by the Director, and approval by the Administrator in subsection (I).
- c. A permanently retired unit shall not be required to monitor under this Article if such unit was permanently retired and had no emissions for the entire period for which the WEB source implements this subsection (c) and the Account Representative certifies in accordance with R18-2-1622(B) that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section in the same manner as if the unit was a new unit.
2. Notwithstanding subsection (1), the WEB source with a unit that meets one of the conditions of subsection (2)(a) may elect to have the provisions of this subsection (2) apply to that unit.
- a. Any of the following may implement subsection (2):
    - i. A smelting operation where all of the emissions from the operation are not ducted to a stack; or
    - ii. A flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery.
    - iii. Another type of unit without add-on SO<sub>2</sub> control equipment, if no control level was assumed for the WEB source in establishing the floor level and reducible allocation.
  - b. For each unit covered by this subsection (2), the Account Representative shall submit to the Director a notice to request that this subsection (2) apply to one or more SO<sub>2</sub> emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in subsection (F)(1), and shall include the following information in a format specified by the Director with such additional, related information as may be requested:
    - i. A notice of all units at the applicable source, specifying which of the units are to be covered by this subsection (2);
    - ii. Consistent with the emission estimation methodology used to determine the floor level and reducible allocation, the portion of the WEB source's overall allowance allocation that is attributable to any units covered by this subsection; and
    - iii. An identification of any such units that are permanently retired.
  - c. For each new unit at an existing WEB source for which the WEB source seeks to comply with this subsection (2) and for which the Account Representative applies for an allocation under the new source set-aside provisions of R18-2-1616(F), the Account Representative shall submit a modified notice under subsection (2)(b) that includes such new SO<sub>2</sub> emitting unit(s). The modified notice shall be submitted in accordance with the compliance dates in subsection (F)(1), but no later than the date on which a request is submitted under R18-2-1616(F) for allocations from the set-aside.
  - d. The Director shall evaluate the information submitted by the WEB source in subsections (2)(b) and (2)(c), and may issue a notice to the source to exclude any units that do not qualify under this subsection (2) or to adjust the portion of allowances attributable to units that do qualify to be consistent with the emission estimation methodology used to establish the floor level and reducible allocation for the source.
  - e. The Director shall allocate allowances equal to the adjusted portion of the WEB source's allowances under subsections (2)(b), (2)(c), and (2)(d) in a special reserve compliance account, provided that no such treatment of the WEB source's allocation will be required for any unit that is permanently retired and had no emissions for the entire period for which the WEB source implements this subsection (2) and the Account Representative certifies in accordance with R18-2-1622 that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section in the same manner as if the unit was a new unit.
  - f. The Account Representative for a WEB source shall submit an annual emissions statement for each unit under this subsection (2) in accordance with subsection (H). The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with the emission estimation methodology used to establish the floor level and reducible allocation for the source. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account under subsection (2)(e) for the WEB source, the Account Representative will report the excess amount as part of the annual report for the WEB source under R18-2-1622 and be required to use other allowances in the standard compliance account for the WEB source to account for such emissions, in accordance with R18-2-1622.
  - g. The remaining provisions of this Section shall not apply to units covered by this subsection except where otherwise noted.
  - h. A WEB source may opt to modify the monitoring for an SO<sub>2</sub> emitting unit to use monitoring under subsection (A)(1), but any such monitoring change shall take effect on January 1 of the next compliance year. In addition, the Account Representative shall submit an initial monitoring plan at least 180 days before the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with subsection (B). The Account

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Representative shall also submit a revised notice under subsection (2)(b) at the same time that the initial monitoring plan is submitted.

3. For any monitoring that the WEB source uses under this Section, including subsection (2), the WEB source, and, as applicable, the Account Representative, shall implement, certify, and use such monitoring in accordance with this Section, and record and report the data from such monitoring as required in this Section. In addition, the WEB source, and, as applicable, the Account Representative, shall not:
  - a. Except for an alternative approved by the Administrator for a WEB source that implements monitoring under subsection (A)(1)(a), use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with subsection (I);
  - b. Operate an SO<sub>2</sub> emitting unit so as to discharge, or allow to be discharged, SO<sub>2</sub> emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this Section;
  - c. Disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording SO<sub>2</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this Section; or
  - d. Retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:
    - i. During a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in subsection (A)(1)(c);
    - ii. The WEB source is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or
    - iii. The Account Representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this Section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this Section.

**B. Monitoring Plan.**

1. General Provisions. A WEB source with an SO<sub>2</sub> emitting unit that uses a monitoring method under subsection (A)(1)(b) shall meet the following requirements:
  - a. Prepare and submit to the Director an initial monitoring plan for each monitoring method that the WEB source uses to comply with this Section. In accordance with subsection (B)(3), the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit SO<sub>2</sub> emissions are monitored and reported. The plan shall be submitted in accordance with the compliance deadlines specified in subsection (E).
  - b. Prepare, maintain and submit to the Director a detailed monitoring plan before the first day of certification testing, in accordance with the compliance deadline specified in subsection (E). The plan will contain the applicable information required by subsection (B)(4). The Director shall require that the monitoring plan, or portions thereof, be submitted electronically. The Director shall require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under subsection (H)(1), or resubmitted separately after any change is made to the plan in accordance with the following subsection (1)(c).
  - c. Whenever the WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in subsection (A)(1)(b), including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan, then the WEB source shall update the monitoring plan in accordance with the compliance deadline specified in subsection (F).
2. A WEB source with an SO<sub>2</sub> emitting unit that uses a method under subsection (A)(1)(a) shall meet the requirements of subsections (B)(1) through (B)(6) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR 75, provided that the WEB source also shall submit the entire monitoring plan to the Director upon request.
3. Initial Monitoring Plan. The Account Representative shall submit an initial monitoring plan for each SO<sub>2</sub> emitting unit or group of units sharing a common methodology that, except as otherwise specified in an applicable provision in R18-2-1619, contains the following information:
  - a. For all SO<sub>2</sub> emitting units involved in the monitoring plan:
    - i. Plant name and location;
    - ii. Plant and unit identification numbers assigned by the Director;
    - iii. Type of unit or units for a group of units using a common monitoring methodology;
    - iv. Identification of all stacks or pipes associated with the monitoring plan;
    - v. Types of fuels fired or sulfur containing process materials used in the SO<sub>2</sub> emitting unit, and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR 75 methodology;
    - vi. Type(s) of emissions controls for SO<sub>2</sub> installed or to be installed, including specifications of whether such



- g. Unless otherwise specified in Section 6.5.2.1 of Appendix A to 40 CFR 75, for each unit or common stack on which hardware CEMS are installed:
    - i. The upper and lower boundaries of the range of operation as defined in Section 6.5.2.1 of Appendix A to 40 CFR 75, or thousand of pounds per hour (lb/hr) of steam, or feet per second (ft/sec), as applicable;
    - ii. The load or operating levels designated as normal in Section 6.5.2.1 of Appendix A to 40 CFR 75, or thousands of lb/hr of steam, or ft/sec, as applicable;
    - iii. The two load or operating levels (i.e., low, mid, or high) identified in Section 6.5.2.1 of Appendix A to 40 CFR 75 as the most frequently used;
    - iv. The date of the data analysis used to determine the normal load, or operating levels, and the two most frequently-used load or operating levels; and
    - v. Activation and deactivation dates when the normal load or operating levels change and are updated.
  - h. For each unit that is complying with 40 CFR 75 for which the optional fuel flow-to-load test in Section 2.1.7 of Appendix D to 40 CFR 75 is used:
    - i. The upper and lower boundaries of the range of operation as defined in Section 6.5.2.1 of Appendix A to 40 CFR 75, expressed in thousand of lb/hr of steam;
    - ii. The load level designated as normal, pursuant to Section 6.5.2.1 of Appendix A to 40 CFR 75, expressed in thousands of lb/hr of steam; and
    - iii. The date of the load analysis used to determine the normal load level.
  - i. Information related to quality assurance testing, including, as applicable: identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels as percent of span for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration, if applicable, maximum potential flow rate, and span;
  - j. If applicable, apportionment strategies under 40 CFR 75.10 through 75.18.
  - k. Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:
    - i. A schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and subsections (4)(a) and (c). The schematic diagram shall depict the height of any monitor locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common stack.
    - ii. Stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air pre-heaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.
  - l. A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.
5. In addition to supplying the information in subsections (3) and (4) above, the WEB source with an SO<sub>2</sub> emitting unit using either of the methodologies in subsection (A)(1)(b)(ii) shall include the following information in its monitoring plan for the specific situations described:
- a. For each gas-fired or oil-fired SO<sub>2</sub> emitting unit for which the WEB source uses the optional protocol in Appendix D to 40 CFR 75 for SO<sub>2</sub> mass emissions, the WEB source shall include the following information in the monitoring plan:
    - i. Parameter monitored;
    - ii. Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;
    - iii. Test method used to check the accuracy of each fuel flowmeter;
    - iv. Submission status of the data;
    - v. Monitoring system identification code;
    - vi. The method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;
    - vii. A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeters, and the stacks. The schematic diagram shall depict the installation location of each fuel flowmeter and the fuel sampling locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;
    - viii. For units using the optional default SO<sub>2</sub> emission rate for “pipeline natural gas” or “natural gas” in Appendix D to 40 CFR 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either Section 2.3.1.4 or 2.3.2.4 of Appendix D to 40 CFR 75;
    - ix. For units using the 720 hour test under Section 2.3.6 of Appendix D to 40 CFR 75 to determine the required



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approved system or component.

**D.** Ongoing Quality Assurance and Quality Control. The WEB source shall satisfy the applicable quality assurance and quality control requirements of 40 CFR 75 or, if the WEB source is subject to a WEB protocol in R18-2-1619, the applicable quality assurance and quality control requirements in R18-2-1619, on and after the date that certification testing commences.

**E.** Substitute Data Procedures.

1. For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with this Article, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR 75 or, if the WEB source is subject to a WEB protocol in R18-2-1619, with substitute data in accordance with R18-2-1619.
2. For an SO<sub>2</sub> emitting unit that does not have a certified or provisionally certified monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the WEB source shall:
  - a. If the WEB source will use a CEMS to comply with this Section, substitute the maximum potential concentration of SO<sub>2</sub> for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR 75. The procedures for conditional data validation under 40 CFR 75.20(b)(3) shall be used for any monitoring system under this Article that uses these 40 CFR 75 procedures, as applicable;
  - b. If the WEB source uses Appendix D methodology under 40 CFR 75 to substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with section 2.4 of Appendix D to 40 CFR 75;
  - c. If the WEB source uses the 40 CFR 75 methodology for low mass emissions units, substitute the SO<sub>2</sub> emission factor required for the unit as specified in 40 CFR 75.19 and the maximum rated hourly heat input, as defined in 40 CFR 72.2; or
  - d. If using a protocol in R18-2-1619, follow the procedures in the applicable protocol.

**F.** Compliance Deadlines.

1. The initial monitoring plan shall be submitted by the following dates:
  - a. For each source that is a WEB source on or before the Program Trigger Date, the monitoring plan shall be submitted 180 days after such Program Trigger Date.
  - b. For any existing source that becomes a WEB source after the Program Trigger Date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the SO<sub>2</sub> emissions threshold of 100 tons per year.
  - c. For any new WEB source, the monitoring plan shall be included with the permit application under either Article 3 or Article 4 of this Chapter.
2. A detailed monitoring plan under subsection (B)(2) shall be submitted no later than 45 days before commencing certification testing in accordance with the following subsection (3).
3. Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this Section, including any referenced in R18-2-1619, by the following dates:
  - a. For each source that is a WEB source on or before the Program Trigger Date, two years before the start of the first control period as described in R18-2-1622.
  - b. For any existing source that becomes a WEB source after the Program Trigger Date, one year after the due date for the monitoring plan under subsection (F)(1)(b).
  - c. For any new WEB source, or any new unit at a WEB source under subsections (3)(a) or (3)(b), the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.
4. The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in subsection (C)(2).
5. For each applicable control period, the WEB source shall submit each quarterly report under subsection (H) by no later than 30 days after the end of each calendar quarter and shall submit the annual report under subsection (H) no later than 60 days after the end of each calendar year.

**G.** Recordkeeping.

1. Except as provided in subsection (G)(2), the WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under this Article for a period of five years. In addition, the WEB source shall keep a copy of all Account Certificates of Representation. Unless otherwise requested by the WEB source and approved by the Director, the copies shall be kept on site.
2. The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for SO<sub>2</sub>, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this Section or in R18-2-1619. The WEB source shall maintain the applicable records specified in 40 CFR 75 for any SO<sub>2</sub> emitting unit that uses a 40 CFR 75 monitoring method to meet the requirements of this Section.

**H.** Reporting.

1. Quarterly Reports. For each SO<sub>2</sub> emitting unit, the Account Representative shall submit to the Director a quarterly

report within thirty days after the end of each calendar quarter. The report shall be in a format specified by the Director to include hourly and quality assurance activity information and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. If the WEB source submits a quarterly report under 40 CFR 75 to the Administrator, no additional report under this subsection shall be required, provided, however, a copy of that report, or a separate statement of quarterly and cumulative annual SO<sub>2</sub> mass emissions, be submitted separately to the Director.

2. Annual Report. Based on the quarterly reports, each WEB source shall submit to the Director an annual statement of total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source. The annual report shall identify the total emissions for all units monitored in accordance with subsection (A)(1), and the total emissions for all units with emissions estimated in accordance with subsection (A)(2). The annual report shall be submitted within 60 days after the end of a control period.
3. If the Director so directs, any monitoring plan, report, certification, recertification, or emissions data required to be submitted under this Section shall be submitted to the Tracking System Administrator.
4. The Director may review and reject any report submitted under subsection (H) that contains errors or fails to satisfy the requirements of this Section, and the Account Representative shall resubmit the report to correct any deficiencies.
- I. Petitions. A WEB source may petition for an alternative to any requirement specified in subsection (A)(1)(b). The petition shall require approval of the Director and the Administrator. Any petition submitted under this subsection shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:
  1. Identification of the WEB source and applicable SO<sub>2</sub> emitting unit(s);
  2. A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;
  3. A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;
  4. A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed and is consistent with the purposes of this Article and that any adverse effect of approving such alternative will be de minimis; and
  5. Any other relevant information that the Director may require.

**J. Consistency of Identifying Information.**

For any monitoring plans, reports, or other information submitted under this Section, the WEB source shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate of representation for the WEB source submitted under R18-2-1614.

**R18-2-1619. Monitoring Protocols**

**A. Protocol 1: SO<sub>2</sub> Monitoring of Fuel Gas Combustion Devices.**

1. Applicability.
  - a. The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.
  - b. Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.
  - c. Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include (1) natural gas, unless combined with other gases generated at a petroleum refinery, (2) gases generated by a catalytic cracking unit catalyst regenerator, (3) gases generated by fluid coking burners, (4) gases combusted to produce sulfur or sulfuric acid, or (5) process upset gases generated due to startup, shutdown, or malfunctions.
2. Monitoring Requirements.
  - a. Except as provided in subsections (b) and (c) of this subsection, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content, reported as H<sub>2</sub>S, of the fuel gas mixture before combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.
    - i. Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.
    - ii. The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR 60, and the following:
      - (1) Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv H<sub>2</sub>S.
      - (2) Have the span value set so that the majority of readings fall between 10 and 95% of the range.
      - (3) Record negative values of zero drift.
      - (4) Calibration drift shall be ≤5.0% of the span, for initial certification and daily calibration error tests.
      - (5) Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with subsection 4(c) of this Section.
    - iii. All continuous fuel flow meters shall comply with the provisions of Section 2.1.5 of Appendix D to 40 CFR 75.

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- iv. The hourly mass SO<sub>2</sub> emissions rate for all the fuel gas combustion devices monitored by this approach shall be calculated using the following equation:

$$E_t = (C_s)(Q_t)(K)$$

where:

E<sub>t</sub> = Total SO<sub>2</sub> emissions in lb/hr from applicable fuel gas combustion devices

C<sub>s</sub> = Sulfur content of the fuel gas as H<sub>2</sub>S(ppmv)

Q<sub>t</sub> = Fuel gas flow rate to the applicable fuel gas combustion devices (scf/hr)

K = 1.660 x 10<sup>-7</sup> (lb/scf)/ppmv

- b. In place of a CFGMS in subsection (a) of this subsection 2, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> CEMS, a flow CEMS, and, if necessary, a moisture monitoring system at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with subsection (a), and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.

- i. Each CEMS for SO<sub>2</sub>, flow, and, if applicable, moisture, shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR 75.

- ii. All continuous fuel flow meters shall comply with the provisions of Section 2.1.5 of Appendix D to 40 CFR 75.

- iii. The SO<sub>2</sub> hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(Q_t)/(Q_m)$$

where:

E<sub>t</sub> = Total SO<sub>2</sub> emissions in lb/hr from applicable fuel gas combustion devices

E<sub>m</sub> = SO<sub>2</sub> emissions in lb/hr from the CEMS-monitored fuel gas combustion device, calculated using Equation F-1 or (if applicable) F-2 in Appendix F to 40 CFR Part 75

Q<sub>t</sub> = Fuel gas flow rate (scf/hr) to the applicable fuel gas combustion devices

Q<sub>m</sub> = Fuel gas flow rate (scf/hr) to the CEMS-monitored fuel gas combustion device

- c. In place of a CFGMS in subsection (a) of this section, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with subsection (a) of this Section 2, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

- i. Each SO<sub>2</sub>-diluent CEMS shall comply with the applicable provisions for SO<sub>2</sub> monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in Section 3 of Appendix F to Part 75 for determining SO<sub>2</sub> emission rate (lb/mmBtu) by substituting the term SO<sub>2</sub> for NO<sub>x</sub> in that section, and using a K factor of 1.660 x 10<sup>-7</sup> (lb/scf)/ppmv instead of the NO<sub>x</sub> K factor.

- ii. All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input rate from the fuel gas shall comply with the applicable provisions in Sections 2.1.5 and 2.3.4 of Appendix D to 40 CFR 75.

- iii. The SO<sub>2</sub> hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be calculated by using the following equation:

$$E_t = (E_m)(Q_t)(GCV)/10^6$$

where:

E<sub>t</sub> = Total hourly SO<sub>2</sub> mass emissions in lb/hr from the applicable fuel gas combustion devices

E<sub>m</sub> = SO<sub>2</sub> emission rate in lb/mmBtu from the CEMS - monitored fuel gas combustion device

Q<sub>t</sub> = Fuel gas flow rate (scf/hr) to the applicable fuel gas combustion devices GCV = Fuel Gross Calorific Value (Btu/scf)

10<sup>6</sup> = Conversion from Btu to million Btu

- d. Calculate total SO<sub>2</sub> mass emissions for each calendar quarter and each calendar year based on the emissions in lb/hr and Equations F-3 and F-4 in Appendix F to 40 CFR 75.

3. Certification/Recertification Requirements. All monitoring systems are subject to initial certification and recertification testing as follows:

- a. The owner or operator shall comply with the initial testing and calibration requirements in Performance Specification 2 in Appendix B to 40 CFR 60 and subsection 2 (a)(2) of this Section for each CFGMS.

- b. Each CEMS for SO<sub>2</sub> and flow or each SO<sub>2</sub>-diluent CEMS shall comply with the testing and calibration require-

ments specified in 40 CFR 75.20 and Appendices A and B, except that each SO<sub>2</sub>-diluent CEMS shall meet the relative accuracy requirements for a NO<sub>x</sub>-diluent CEMS (lb/mmBtu).

c. A continuous fuel flow meter shall comply with the certification and quality-assurance requirements in Sections 2.1.5 and 2.1.6 to Appendix D to 40 CFR 75.

4. Quality Assurance/Quality Control Requirements.

a. A quality assurance/quality control (QA/QC) plan shall be developed and implemented for each CEMS for SO<sub>2</sub> and flow or the SO<sub>2</sub>-diluent CEMS in compliance with Sections 1, 1.1, and 1.2 of Appendix B to Part 75.

b. A QA/QC plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in compliance with Sections 1, 1.1, and 1.3 of Appendix B to 40 CFR 75.

c. A QA/QC plan shall be developed and implemented for each CFGMS in compliance with Sections 1 and 1.1 of Appendix B to 40 CFR 75, and the following:

i. Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the error is greater than 5.0% of the span value.

ii. In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.

iii. Perform a linearity test once every operating quarter. Calculate the linearity as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.

iv. Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the relative accuracy is greater than 20.0% of the mean value of the reference method measurements.

v. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR 75, and calculate and apply a bias adjustment factor if required.

5. Missing Data Procedures.

a. For any period in which valid data are not being recorded by an SO<sub>2</sub> CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in Subsection D of 40 CFR 75.

b. For any period in which valid data are not being recorded by an SO<sub>2</sub>-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for SO<sub>2</sub> monitors in Subsection D of 40 CFR 75.

c. For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this Section, missing or invalid data shall be replaced with substitute data in accordance with missing data requirements in Appendix D to 40 CFR 75.

d. For any period in which valid data are not being recorded by the CFGMS specified in this Section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in Section 2.4 of Appendix D to 40 CFR 75.

6. Monitoring Plan and Reporting Requirements. In addition to the general monitoring plan and reporting requirements of R18-2-1618, the owner or operator shall meet the following additional requirements:

a. The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this Protocol 1 of this Section, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.

b. If the provisions of subsections 2(b) or (c) are used, provide documentation and an explanation to demonstrate that the SO<sub>2</sub> emission rate from the monitored unit is representative of the rate from non-monitored units.

**B. Protocol 2: Predictive Flow Monitoring Systems for Kilns with Positive Pressure Fabric Filter.**

1. Applicability.

a. The provisions of this protocol are applicable to cement kilns or lime kilns that (1) are controlled by a positive pressure fabric filter, (2) combust only a single fuel, no fuel blends, and (3) have operating conditions upstream of the fabric filter that the WEB source documents would reasonably prevent reliable flow monitor measurements.

b. This protocol does not modify the SO<sub>2</sub> monitoring requirements in R18-2-1618.

2. Monitoring Requirements.

a. A cement or lime kiln with a positive pressure fabric filter shall use a predictive flow monitoring system (PFMS) to determine the hourly kiln exhaust gas flow.

b. A PFMS is the total equipment necessary for the determination of exhaust gas flow using process or control

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- device operating parameter measurements and a conversion equation, a graph, or computer program to produce results in cubic feet per hour.
- c. The PFMS shall meet the following performance specifications:
- i. Sensors readings and conversion of sensor data to flow in cubic feet per hour shall be automated.
  - ii. The PFMS shall allow for the automatic or manual determination of failed monitors. At a minimum a daily determination shall be performed.
  - iii. The PFMS shall have provisions to check the calibration error of each parameter that is individually measured. The owner or operator shall propose appropriate performance specifications in the initial monitoring plan for all parameters used in the PFMS comparable to the degree of accuracy required for other monitoring systems used to comply with this Article. The parameters shall be tested at two levels, low: 0 to 20% of full scale, and high: 50 to 100% of full scale. The reference value need not be certified.
  - iv. The relative accuracy of the PFMS shall be <10.0% of the reference method average value, and include a bias test in accordance with subsection 4(c) of this Section.
3. The PFMS is subject to initial certification testing as follows:
- i. Demonstrate the ability of the PFMS to identify automatically or manually a failed monitor.
  - ii. Provide evidence of calibration testing of all monitoring equipment. Any tests conducted within the previous 12 months of operation that are consistent with the QA/QC plan for the PFMS are acceptable for initial certification purposes.
  - iii. Perform an initial relative accuracy test over the normal range of operating conditions of the kiln. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR 75, and calculate and apply a bias adjustment factor if required.
4. Quality Assurance/Quality Control Requirements. A QA/QC plan shall be developed and implemented for each PFMS in compliance with Sections 1 and 1.1 of Appendix B of 40 CFR 75, and the following:
- a. Perform a daily monitor failure check.
  - b. Perform calibration tests of all monitors for each parameter included in the PFMS. At a minimum, calibrations shall be conducted before each relative accuracy test audit.
  - c. Perform a relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy and bias adjustment factor as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0% of the mean value of the reference method.
5. Missing Data. For any period in which valid data are not being recorded by the PFMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the flow monitor missing data requirements for non-load based units in Subsection D of 40 CFR 75.
6. Monitoring Plan Requirements. In addition to the general monitoring plan requirements of R18-2-1618, the owner or operator shall meet the following additional requirements:
- a. The monitoring plan shall document the reasons why stack flow measurements upstream of the fabric filter are unlikely to provide reliable flow measurements over time.
  - b. The initial monitoring plan shall explain the relationship of the proposed parameters and stack flow, and discuss other parameters considered and the reasons for not using those parameters in the PFMS. The Director may require that the subsequent monitoring plan include additional explanation and documentation for the reasonableness of the proposed PFMS.

**R18-2-1620. Allowance Transfers**

- A. Procedure.** To transfer allowances, the Account Representative shall submit the following information to the Tracking System Administrator:
1. The transfer account number(s) identifying the transferor account;
  2. The transfer account number(s) identifying the transferee account;
  3. The serial number of each allowance to be transferred; and
  4. The transferor's Account Representative's name and signature and date of submission.
- B. Deadline.** The allowance transfer deadline is midnight Pacific Standard Time March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the control period. By this time, the transfer of the allowances into the WEB source's compliance account shall be correctly submitted to the Tracking System Administrator in order to demonstrate compliance under R18-2-1622(A) for that control period.
- C. Retirement of Allowances.** To transfer allowances for the purpose of retirement, the Account Representative shall submit the following information to the Tracking System Administrator:
1. The transfer account number(s) identifying the transferor account;
  2. The serial number of each allowance to be retired; and
  3. The transferor's Account Representative's name and signature and date of submission accompanied by a signed statement acknowledging that each retired allowance is no longer available for future transfers from or to any account.

**R.18-2-1621. Use of Allowances from a Previous Year**

- A.** Any allowance that is held in a compliance account or general account shall remain in such an account unless and until the allowance is deducted in conjunction with the compliance process, or transferred to another account.
- B.** In order to demonstrate compliance under R18-2-1622(A) for a control period, WEB sources shall only use allowances allocated for that current control period or any previous year. Because all allowances held in a special reserve compliance account for a WEB source that monitors certain units in accordance with R18-2-1618(A)(2) will be deducted for compliance for each control period, no banking of such allowances for use in a subsequent year is permitted by this Article.
- C.** If flow control procedures for the current control period have been triggered under R18-2-1613, then the use of allowances that were allocated for any previous year shall be limited as follows:
  - 1.** The number of allowances that are held in each compliance account and general account as of the allowance transfer deadline for the immediately previous year and that were allocated for any previous year will be determined.
  - 2.** The number determined in subsection (1) will be multiplied by the flow control ratio to determine the number of allowances that were allocated for a previous year that can be used without restriction for the current control period.
  - 3.** Allowances that were allocated for a previous year in excess of the number determined in subsection (2) may also be used for the current control period. If such allowances are used to make a deduction, two allowances shall be deducted for each deduction of one allowance required under R18-2-1622.
- D.** Special provisions for the year 2018. After compliance with the 2017 allowance limitation has been determined in accordance with R18-2-1622(A), allowances allocated for any year before 2018 shall not be used for determining compliance with the 2018 allowance limitation or any future allowance limitation.

**R18-2-1622. Compliance**

**A. Compliance with Allowance Limitations.**

- 1.** A WEB source shall hold allowances, in accordance with R18-2-1621 and R18-2-1622(A)(2), as of the allowance transfer deadline in the WEB source's compliance account (together with any current control year allowances held in the WEB source's special reserve compliance account under R18-2-1618(A)(2)) in an amount not less than the total SO<sub>2</sub> emissions for the control period from the WEB source, as determined under R18-2-1618.
  - a.** For each source that is a WEB source on or before the Program Trigger Date, the first control period is the calendar year that is six years following the calendar year for which SO<sub>2</sub> emissions exceeded the milestone.
  - b.** For any existing source that becomes a WEB source after the Program Trigger Date, the first control period is the calendar year that is four years following the inventory year in which the source exceeded the SO<sub>2</sub> emissions threshold of 100 tons per year.
  - c.** For any new WEB source after the Program Trigger Date the first control period is the first full calendar year that the source is in operation.
  - d.** If the WEB Trading Program is triggered in accordance with the 2013 review, the first control period for each source that is a WEB source on or before the Program Trigger Date is the year 2018.
- 2.** The Tracking System Administrator shall only deduct an allowance from the WEB source's compliance account if:
  - a.** The allowance was allocated for the current control period or meets the requirements in R18-2-1621 for use of allowances from a previous control period, and
  - b.** The allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.
- 3.** Compliance with allowance limitations shall be determined as follows:
  - a.** The total annual SO<sub>2</sub> emission for all SO<sub>2</sub> emitting units at the source that are monitored under R18-2-1618(A)(1), as reported by the source in R18-2-1618(H)(2) or R18-2-1618(H)(4), and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with R18-2-1621. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceed the allowances in such special reserve account, the WEB sources shall account for such excess emissions in the following subsection (b).
  - b.** The total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source that are monitored under R18-2-1618(A)(2), as reported by the source in R18-2-1618(H)(2) or R18-2-1618(H)(4), and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding subsection (a), shall be compared to the allowances held in the source's compliance account as of the allowance transfer deadline for the current control period, and adjusted under R18-2-1621.
- 4.** Other than allowances in a special reserve compliance account for units monitored under R18-2-1618(A)(2), to the extent consistent with R18-2-1621, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's Account Representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the

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date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to R18-2-1618(A)(2) shall be deducted as specified in subsection 3(a).

**B. Certification of Compliance.**

1. For each control period in which a WEB source is subject to the allowance limitation, the Account Representative of the source shall submit to the Director a Compliance Certification report for the source.
2. The Compliance Certification report shall be submitted to the Director no later than the allowance transfer deadline of each control period, and shall contain the following:
  - a. Identification of each WEB source;
  - b. At the Account Representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account for compliance with the allowance limitation; and
  - c. The Compliance Certification report according to subsection 3 of this Section.
3. In the Compliance Certification report, the Account Representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the WEB source in compliance with the WEB Trading Program, whether the WEB source for which the compliance certification is submitted was operated during the control period covered by the report in compliance with the requirements of the WEB Trading Program applicable to the source including:
  - a. Whether the WEB source operated in compliance with the SO<sub>2</sub> allowance limitation;
  - b. Whether SO<sub>2</sub> emissions data has been submitted to the Director in accordance with R18-2-1618(H) and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the SO<sub>2</sub> Allowance Tracking System for recording;
  - c. Whether the monitoring plan that governs the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute SO<sub>2</sub> emissions to the source, in accordance with R18-2-1618(B);
  - d. Whether all the SO<sub>2</sub> emissions from the WEB source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;
  - e. If applicable, whether any SO<sub>2</sub> emitting unit for which the WEB source is not required to monitor in accordance with R18-2-1618(A)(1)(c) remained permanently retired and had no emissions for the period covered under the report; and
  - f. Whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification. If there were any such changes, the report shall specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine SO<sub>2</sub> emissions.

**C. Penalties for a WEB source exceeding its allowance limitations.**

1. Allowance deduction penalties.
  - a. If SO<sub>2</sub> emissions from a WEB source exceed the allowance limitation for a control period, as determined in accordance with R18-2-1622(A), the source's allowances held in its compliance account shall be reduced by an amount equal to two times the source's tons of excess emissions.
  - b. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances shall be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.
  - c. Any allowance deduction required under this Section shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy for the act or acts that resulted in the deduction, for the same violation, as ordered under the Clean Air Act, implementing regulations or applicable state or tribal law.
2. The Director shall seek a financial penalty of \$5,000 per ton of SO<sub>2</sub> emissions in excess of the WEB source's allowance limitation shall be levied.
3. WEB Source liability for non-compliance. Separate and regardless of any automatic penalties assessed for allowance deduction penalty and financial penalty, a WEB source that violates any requirement of this Rule, including monitoring, record keeping and reporting requirements, is subject to civil and criminal penalties under the state law and the Clean Air Act. Each day of the control period is a separate violation, and each ton of SO<sub>2</sub> emissions in excess of a source's allowance limitation is a separate violation.

**R18-2-1623. Special Penalty Provisions for the 2018 Milestone**

- A.** If the WEB Trading Program is triggered and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.
1. All WEB sources shall register, and open a compliance account within 180 days after the Program Trigger Date, in accordance with R18-2-1615(A) and R18-2-1617.

2. The Tracking System Administrator will record the allowances for the 2018 control period for each WEB source in the source's compliance account once the Director allocates the 2018 allowances.
  3. The allowance transfer deadline is midnight Pacific Standard Time on May 30, 2021. WEB sources may transfer allowances as provided in R18-2-1620(A) until the allowance transfer deadline.
  4. A WEB source shall hold allowances allocated for 2018 including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO<sub>2</sub> emissions for 2018. Emissions are determined using the pre-trigger monitoring provisions in R18-2-1611.
  5. An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with R18-2-1621(D), R18-2-1622(A)(4), and R18-2-1622(C), except that SO<sub>2</sub> emissions shall be determined under subsection (A)(4).
- B.** If the program has been triggered and provision R18-2-1623(A) is implemented, the provisions of R18-2-1623(C) shall apply for each year after the 2018 emission year until:
1. The first control period under the WEB trading program; or
  2. The Director determined that the 2018 SO<sub>2</sub> milestone has been met.
- C.** If provision R18-2-1623(A) has been implemented, the following shall apply to each emissions year after the 2018 emissions year:
1. The Tracking System Administrator will record the allowances for the control period for the specific year for each WEB source in the source's compliance account once the Director allocates the allowances.
  2. The allowance transfer deadline is midnight Pacific Standard Time on March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the specific emissions year. WEB sources may transfer allowances as provided in R18-2-1620(A) until the allowance transfer deadline.
  3. A WEB source shall hold allowances allocated for that specific emissions year, or any year after 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO<sub>2</sub> emissions for the specific emissions year. SO<sub>2</sub> emissions are determined using the pre-trigger monitoring provisions in R18-2-1611.
  4. An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with R18-2-1621(D), R18-2-1622(A)(4) and R18-2-1622(C), except that SO<sub>2</sub> emissions shall be determined under subsection (C)(3).

## NOTICE OF PROPOSED RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY

##### WASTE MANAGEMENT

###### PREAMBLE

- | <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R18-8-260                          | Amend                           |
| R18-8-261                          | Amend                           |
| R18-8-263                          | Amend                           |
| R18-8-264                          | Amend                           |
| R18-8-265                          | Amend                           |
| R18-8-266                          | Amend                           |
| R18-8-268                          | Amend                           |
| R18-8-270                          | Amend                           |
| R18-8-271                          | Amend                           |
2. **The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes:A.R.S. §§ 41-1003 and 49-104  
Implementing statute:A.R.S. § 49-922
  3. **A list of all previous notices appearing in the Register addressing the proposed rulemaking:**  
Notice of Rulemaking Docket Opening: 10 A.A.R.1399, April 9, 2004
  4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Denise L. McConaghy, Senior Environmental Engineer

## **PUBLIC NOTICE**

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY  
PUBLIC HEARING  
ON NOTICE OF PROPOSED RULEMAKING AND  
REVISION TO REGIONAL HAZE STATE IMPLEMENTATION PLAN FOR  
WESTERN BACKSTOP SO<sub>2</sub> TRADING PROGRAM  
(WEB TRADING PROGRAM RULE)**

The Arizona Department of Environmental Quality (ADEQ) will hold a public hearing to receive comments on a proposed rule and the associated revision to the Regional Haze State Implementation Plan for the Western Backstop SO<sub>2</sub> Trading Program (WEB Trading Program Rule). The proposed rule would implement federal regional haze requirements for applicable stationary sources to monitor and report sulfur dioxide (SO<sub>2</sub>) emissions to determine if the SO<sub>2</sub> emission caps for the region have been exceeded, and establish the procedures for those sources to participate in a regional backstop trading program if SO<sub>2</sub> emissions need to be reduced to comply with the caps.

A public hearing will be held on May 17, 2004, 4:30 p.m., ADEQ, 1110 W. Washington Street, Room 250, Phoenix, Arizona. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally and in writing. All written comments must be received at ADEQ by the close of the public hearing on May 17, 2004. ADEQ anticipates submitting the proposed rule and any comments received to the Governor's Regulatory Review Council on May 24, 2004.

All written comments should be addressed, faxed, or e-mailed to:

Deborah A Corky@Martinkovic  
Air Quality Planning Section  
Arizona Department of Environmental Quality  
1110 W. Washington Street  
Phoenix, AZ 85012-2905  
FAX: (602) 771-2366  
E-Mail: martinkovic.deborah@ev.state.az.us

A copy of the proposal rule will be available for review beginning March 19, 2004, at the following location as well as ADEQ's Web site at <http://www.adeq.state.az.us/function/laws/rules.html>.

Arizona Department of Environmental Quality  
First Floor Library  
1110 W. Washington Street  
Phoenix, Arizona 85012  
Lorraine Cona, (602) 771-4335

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# THE ARIZONA REPUBLIC

STATE OF ARIZONA }  
COUNTY OF MARICOPA } SS.

**PUBLIC NOTICE**  
**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**PUBLIC HEARING**  
**ON NOTICE OF PROPOSED RULEMAKING AND REVISION TO REGIONAL HAZE STATE IMPLEMENTATION PLAN FOR WESTERN BACKSTOP SO2 TRADING PROGRAM (WEB TRADING PROGRAM)**

The Arizona Department of Environmental Quality (ADEQ) will hold a public hearing to receive comments on a proposed rule and the associated revision to the Regional Haze State Implementation Plan for the Western Backstop SO2 Trading Program (WEB Trading Program Rule). The proposed rule would implement federal regional haze requirements for applicable stationary sources to monitor and report sulfur dioxide (SO2) emissions to determine if the SO2 emission caps for the region have been exceeded, and establish the procedures for those sources to participate in a regional backstop trading program if SO2 emissions need to be reduced to comply with the caps.

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Deborah "Corky" Martinkovic  
 Air Quality Planning Section  
 Arizona Department of Environmental Quality 1110 W. Washington Street, Phoenix, AZ 85012-2905  
 FAX: (602) 771-2366  
 E-mail: martinkovic.deborah@ev.state.az.us

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Arizona Department of Environmental Quality First Floor  
 Library 1110 W. Washington Street Phoenix, Arizona 85012  
 Lorraine Coza (602) 771-4335  
 04168-April 9, 2004

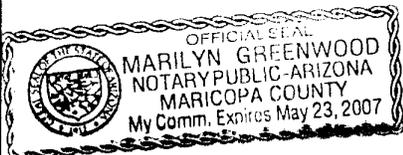
Sally Reede-Morris, being first duly sworn, upon oath deposes and says: That she is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

April 9, 2004

*Sally Reede-Morris*  
\_\_\_\_\_

Sworn to before me this  
9<sup>TH</sup> day of  
April A.D. 2004



*Marilyn Greenwood*  
\_\_\_\_\_  
Notary Public

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Janet Napolitano  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 W. Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • [www.adeq.state.az.us](http://www.adeq.state.az.us)



Stephen A. Owens  
Director

## **AGENDA** **Air Quality Division**

### **Rule and SIP Revision Public Hearing** **Western Backstop SO<sub>2</sub> Trading Program (WEB Trading Program Rule) and** **Regional Haze State Implementation Plan** **Monday, May 17, 2004, 4:30 p.m.** **Room 250, Arizona Department of Environmental Quality** **1110 West Washington Street, Phoenix, Arizona**

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Pursuant to ARS § 49-425 for air quality rule hearings, notice is hereby given that the above referenced meeting is open to the public.

1. Welcome and Introductions
2. Purposes of the Oral Proceeding
3. Procedure for Making Public Comment
4. Brief Overview of the Proposed WEB Trading Program Rule and Related SIP Revision
5. Question and Answer Period
6. Oral Comment Period
7. Adjournment of Oral Proceeding

Order of agenda items is subject to change. For additional information regarding the meeting, please call Corky Martinkovic, ADEQ Air Quality Division, at (602) 771-2372 or 1-800-234-5677, Ext. 771-2372.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Katie Huebner at (602) 771-4794 or 1-800-234-5677, Ext. 4794. Requests should be made as early as possible to allow sufficient time to make the arrangements for the accommodation. This document is available in alternative formats by contacting ADEQ TDD phone number at (602) 771-4829.

Northern Regional Office  
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004  
(928) 779-0313

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

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Arizona Department of Environmental Quality  
Air Quality Division

# Please Sign In

SUBJECT Public Hearing - WES Trading Program Rule DATE 5/17/04

	<u>NAME</u>	<u>ORGANIZATION</u>	<u>PHONE</u>	<u>FAX</u>	<u>E-MAIL</u>
1.	Wayne Leipold	Phelps Dodge Miami	928-473-7149	928-473-7449	wleipold@phelps-dodge.com
2.	KERIC	ADEQ	1-4410	(602)771-2366	KFI@env.state.az.us
3.	BILL SHEAFFER	USCCC	480-314-2457	480-314-2457	BILL.SHEAFFER@USCCC.COM
4.	Coshy Martinkovic	ADEQ	1-2370	(602)771-2366	dam@env.state.az.us
5.	Eva Domszy	ADEQ			
6.	Nancy Wrona	ADEQ			

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**TRANSCRIPT OF PUBLIC HEARING  
ARIZONA'S WEB TRADING PROGRAM RULE**

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Phoenix, Arizona**

**May 17, 2004**

**4:35 p.m.**





1 national visibility goal established by Section 169 of the Clean Air Act. The  
2 national goal for protecting visibility in federally protected national parks and  
3 wilderness areas seeks to remedy existing visibility impairment and prevent  
4 future visibility impairment in these federally protected areas. Arizona has 12 of  
5 these federally protected areas known as mandatory federal Class I areas:  
6 Grand Canyon National Park, Petrified National Park, Sycamore Canyon  
7 Wilderness, Mt. Baldy Wilderness, Sierra Ancha Wilderness, Chiricahua  
8 Wilderness, Chiricahua National Monument, Galiuro Wilderness, Mazatzal  
9 Wilderness, Saguaro Wilderness, Superstition Wilderness, and Pine Mountain  
10 Wilderness.

11 Regional haze is a type of impairment caused by air pollutants emitted by  
12 numerous sources across a broad region. One type of source found to be a  
13 significant contributor to regional haze was stationary sources. Stationary  
14 sources include, in the State of Arizona, utilities such as coal-fired power plants,  
15 along with non-utilities such as copper smelters, chemical lime plants, pulp and  
16 paper plants, and cement plants. While the Regional Haze Rule and Regional  
17 Haze implementation plans address all sources of regional haze, the Regional  
18 Haze Rule was revised to allow western States preparing a state implementation  
19 plan, or SIP, under Section 309 of the Regional Haze Rule to participate in a  
20 backstop market trading program for stationary sources emitting the pollutant  
21 sulfur dioxide or SO<sub>2</sub>.

22 The SO<sub>2</sub> Milestones and Backstop Trading Program developed under the  
23 Annex to the Grand Canyon Visibility Transport Commission represents over  
24 ten years of work by western states, tribes and numerous related stakeholders,  
25 and was incorporated into the federal Regional Haze Rule in June of 2003. The  
26 program satisfies one of the primary recommendations of the Grand Canyon  
27 Visibility Transport Commission; namely, the establishment of a backstop

1 **market trading program to address sulfur dioxide emissions from stationary**  
2 **sources. The SO<sub>2</sub> Milestones and Backstop Trading Program sets specific**  
3 **milestones for the regional emissions of sulfur dioxide from stationary sources.**  
4 **These milestones act as a regional cap that, if exceeded, triggers a backstop**  
5 **trading program. Currently, five western States (Arizona, Utah, New Mexico,**  
6 **Wyoming, and Oregon) have developed implementation plans that include the**  
7 **SO<sub>2</sub> Milestones and Backstop Trading Program for stationary sources emitting**  
8 **100 tons or more of SO<sub>2</sub> per year.**

9 **Each state developing a Regional Haze SIP containing the SO<sub>2</sub> Milestones**  
10 **and Backstop Trading Program must also develop a state-specific rule requiring**  
11 **the applicable stationary sources to monitor and report SO<sub>2</sub> emissions in order**  
12 **to determine if an SO<sub>2</sub> emission milestone has been exceeded, and establish the**  
13 **procedures for applicable stationary sources to participate in a regional**  
14 **backstop market trading program should an SO<sub>2</sub> emission milestone be**  
15 **exceeded. The public hearing today is for Arizona's state-specific rule. The**  
16 **hearing today is also serves as a SIP public hearing as Arizona, due to**  
17 **regulatory time constraints, was unable to submit a final rule at the time of the**  
18 **SIP's submission to EPA in December of 2003. Upon final approval of the rule,**  
19 **the effective rule will be included in the 2003 Regional Haze SIP as a SIP**  
20 **revision, replacing the previously submitted draft rule.**

21 HEARING OFFICER MCCABE: This concludes the explanation period of this  
22 proceeding on the proposed state implementation plan.

23  
24 \* \* \* \* \*

25  
26 Are there any questions before we move to the oral comment period?

1 BILL SHEAFFER, USCCC: I do have one quick question. I know it is  
2 automatic to submit the rule as a change to your SIP, but if it is a SIP hearing,  
3 shouldn't there be a notice?

4 CORKY MARTINKOVIC: The Arizona SIP is a rule hearing and SIP revision  
5 hearing.

6 BILL SHEAFFER: Okay. I didn't see the relationship. This applies  
7 specifically only to the stationary sources?

8 CORKY MARTINKOVIC: Yes.

9 BILL SHEAFFER: And not all the sources.

10 CORKY MARTINKOVIC. Correct.

11 BILL SHEAFFER: Would back up generators qualify as stationary sources?

12 CORKY MARTINKOVIC: If they emit 100 tons or more of sulfur dioxide.  
13 Ira, would you think those sources would come into play in this program?

14 IRA DOMSKY: Not with this particular program, but the permits that are  
15 issued for facilities like copper smelters. They have a back up generator that would  
16 then help them to improve emissions. The primary issue with them would be  
17 particulates and oxides of nitrogen and sulfur dioxide.

18 BILL SHEAFFER: Further on that, what about the equipment operating that  
19 would be classified as off-road equipment?

20 CORKY MARTINKOVIC: No.

21 BILL SHEAFFER: This would still be mobile although it is operating?

22 CORKY MARTINKOVIC: No. This is not operating.

23 IRA DOMSKY: It would be included in the total for the mine for all of the  
24 emissions as part of the activity that is taking place. On the facility, it is the business  
25 of scalping, or monitoring. It would be covered under this particular program because  
26 it applies to sources of sulfur dioxide. That's not to say that there aren't components  
27 of the SIP that don't deal with the whole range of sources that affect visibility. The

1 SIP covers all of them. It is just that it gets a little (?) as it is relative to all of the  
2 sources.

3 MCCABE: Any more questions?

4 BILL SHEAFFER: Would you anticipate that this would lead to a market for  
5 the reduction of SO2 or could good credits be traded for someone who reduces  
6 emissions?

7 CORKY MARTINKOVIC: This is a backstop market program. So there will  
8 be a market share of (?) being exceeded.

9 MCCABE: This concludes the question and answer period.

10 \* \* \* \* \*

11 I now open this proceeding for oral comments.

12 We have a speaker slip for Wayne Leipold.

13 WAYNE LEIPOLD: Good Afternoon. My name is Wayne Leipold. I am a  
14 Chief Environmental Engineer at Phelps Dodge Miami Inc. Located at our Miami,  
15 Arizona facility is a copper smelter which is directly affected by the proposed rule.  
16 Although I submitted formal comments last week which were of an editorial nature, I  
17 now wish to read two additional comments into the record.

18 The State Implementation Plan submitted to EPA last year contained provisions  
19 for a series of sulfur dioxide emission milestones that must be  
20 met between now and 2018. In addition there was a provision for a back stop  
21 trading program. The proposed rule incorporates this provision. As an  
22 affected entity, we would like to support the adoption of this rule.

23 Having just stated our endorsement of the rule, I would like to have the  
24 record reflect our continuing objection to the provision in R18-2-1621.B  
25 which prohibits banking of unused allowances by sources that do not use  
26 Continuous Emission Monitors (CEMs) for determining their emissions. While  
27 we agree that the rule should not allow these allowances to be sold, we

1 believe that a source which can not or elects not to measure its emissions  
2 with CEMs should be allowed to bank its unused allowances for its own use  
3 subject to the same flow controls as other unused allowances. This is  
4 especially important for sources whose emissions vary from year to year.

5 Thank you.

6 SEAN MCCABE: This concludes the oral comment period of this proceeding.  
7

8 \* \* \* \* \*

9  
10 If you have not already submitted written comments, you may submit them to  
11 me at this time. The comment period for this proposed rule and SIP revision ends  
12 with the close of this public hearing.

13 Thank you for attending.

14 The time is now 4:45 p.m.. I now close this oral proceeding.

Page 3 line 3. add SO2 between the and emissions or change the to those.

Page 4 first line. Suggest rearrange to read “should the 2018 milestone be exceeded”

Page 5. The table I believe represents the reductions if all 9 states and the 4 tribes are in the program. I think it should be identified as such as you talk about the 5 states that submitted SIPs as well as the whole region. Also suggest that the use of the word region in the third sentence of second paragraph should be followed by “consisted” not consists.

The footnotes are scrambled in the pdf version. Also indents.

Page 9. First line in Consumers and Public section, “propose” should be “proposed”.

Page 13. B1. Why repeat “an Account Representative”

B2. I think you can delete the “who is” in two places in this paragraph.

Page 15. 24. Why is last sentence in this paragraph? It makes no sense. Also, the word after year should be “after”.

Page 17. B2 is going to be hard to do as the EI has already or will soon be submitted so the rule will be requiring something in the past. What I suggest is that you add something that says if this rule requires information to be submitted that previously was not part of the EI submitted that it be submitted within 180 days. For example, the rule requires smelters to submit input sulfur which is not part of the EI. This information is currently being submitted in the case of Miami with our monthly report; I don't know if ASARCO does this.

Page 18. B7. I am not sure I know what this means. (Rate and period)

Page 20. F2. Because the source might have had some ancillary equipment capable of emitting SO2 such as emergency generators, hot water heaters, they should still be allowed to use them if the main source of their emissions (generating unit, smelter, etc) is retired.

Page 25. E1 Suggest moving “between 2003 and the program trigger year” from its current location to the first line between “that” and “reduces”.

Page 26. F2. Why don't you have to include when the modified source started up? Paragraph b only says new sources.

Page 27. 3.a & d. why not just say as in required in R18-2-1614(B)(2) and (C)(2) instead of all those extra words?

Page 29. 1618 A.1. In first line, I think a comma should be added after the first usage of “WEB source”.

Page 34. b.(near top of page) The sentence starting on 6<sup>th</sup> line of paragraph seems redundant.

Page 37. d. This requirement applicable to flow monitors only doesn't make sense. If you are using a flow monitor with a CEMs you need the area also. When do you only have a flow monitor?

Page 42. C.2. To what does the "that" refer to in line 3 of the paragraph.

Page 43. F.1. The word "within" should be inserted between "submitted" and "180 days".

Page 44. G.1. This paragraph doesn't seem to jive with the 10 year requirement elsewhere in the rule.

Page 50. a.ii. Why for SO<sub>2</sub> are we referencing a NO<sub>x</sub> method? When I get back to the office I will look at the method and maybe it will be obvious.

Page 52. B.1.a. I know we discussed this in the stakeholder meeting so I offer the following. Instead of a flat prohibition of different fuels, we should require a different predictive flow system for each fuel type. In other words if the source has three different fuel options, e.g. gas, coal, coal plus tires, then they should be able to adopt three different predictive models. I do not disagree with the concept of one model not being usable for more than one fuel type unless it can be shown that there is no difference; it may be that coal and coal with tires are identical.

Page 57. 3a & b. Last sentence in a says do per b, but the words in b seem to be the same as those in a. Am I missing something?

Page 59. C.1.a. This paragraph does not seem to read correctly. If a source's allowances are less than its emissions, the source must use banked allowances or purchase allowances to make up the difference. There is no penalty for doing this. The only time there is a penalty is if they don't make up the difference. The way "a" reads it violates the principle of the trading program.

Page 60. 3.a. last sentence. Same comment as on page 59.

My comments that I read yesterday at the hearing follow:

Good Afternoon. My name is Wayne Leipold. I am a Chief Environmental Engineer at Phelps Dodge Miami Inc. Located at our Miami, Arizona facility is a copper smelter which is directly affected by the proposed rule. Although I submitted formal comments last week which were of an editorial nature, I now wish to read two additional comments into the record.

The State Implementation Plan submitted to EPA last year contained provisions for a series of sulfur dioxide emission milestones that must be met between now and 2018. In addition there was a provision for a back stop trading program. The proposed rule incorporates this provision. As an affected entity, we would like to support the adoption of this rule.

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Arizona Department of Environmental Quality  
Air Quality Division

**Public Hearing Presiding Officer Certification**

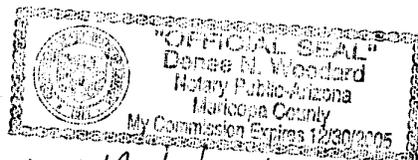
I, Sean McCabe, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on May 17, 2004, Room 250, Arizona Department of Environmental Quality, Phoenix, Arizona, in accordance with public notice requirements by publication in Arizona Administrative Register and other locations beginning March 19, 2004. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

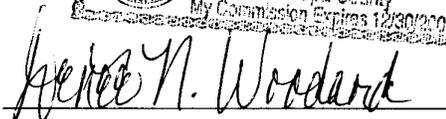
Dated this 21<sup>st</sup> day of May, 2004

  
Sean McCabe

State of Arizona        )  
                                  ) ss.  
County of Maricopa    )

Subscribed and sworn to before me by Sean McCabe this 21<sup>st</sup> day of May, 2004.



  
Denise N. Woodard

Notary Public

My commission expires: 12/30/05

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# NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

## NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

##### PREAMBLE

**1. Register citations and dates for Notice of Proposed Rulemaking:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 217, January 9, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 1353, April 9, 2004

**2. Sections Affected**

R18-2-1610

R18-2-1611

R18-2-1612

R18-2-1613

**Rulemaking Action**

New Section

New Section

New Section

New Section

**3. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 49-104(A)(10) and 49-425

Implementing statutes: A.R.S. §§ 49-414 and 414.01 (S.B. 1064, effective August 27, 2004, transfers these sections from Title 49, Chapter 3, Article 1 to Title 49, Chapter 3, Article 2, and renumbers them as sections 49-458 and 49-458.01, respectively.)

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Deborah "Corky" Martinkovic

Address: ADEQ, Air Quality Planning Section  
1110 W. Washington St.  
Phoenix, AZ 85007

Telephone: (602) 771-2372, or dial (800) 234-5677 and enter 771-2372

Fax: (602) 771-2366

E-mail: [martinkovic.deborrah@azdeq.gov](mailto:martinkovic.deborrah@azdeq.gov)

**5. An explanation of the rule, including the agency's reasons for initiating the rules:**

**Summary.**

These rules implement federal regional haze requirements for the pre-trigger portion of the SO<sub>2</sub> Milestones and Backstop Trading Program by requiring applicable stationary sources to monitor and report sulfur dioxide (SO<sub>2</sub>) emissions to allow Arizona Department of Environmental Quality (ADEQ) to determine if a regional SO<sub>2</sub> emission milestone has been exceeded. The procedures for applicable stationary sources to participate in a regional backstop market trading program should any milestone be exceeded is outlined in the Model Rule and Model Rule Supplement incorporated by reference in the proposed rule.

**Background.** Section 169A of the Clean Air Act (CAA) establishes a national goal for protecting visibility in federally-protected national parks and wilderness areas ("Class I areas;" See 40 CFR 81.403). The goal is to remedy existing visibility impairment and prevent future visibility impairment in these Class I areas. Regional haze is a type of visibility impairment caused by air pollutants emitted by numerous sources across a broad region. In 1999, EPA promulgated a Regional Haze Rule that requires development of state implementation plans (SIPs) that assure "reasonable progress" toward the national visibility goal (64 FR 35714, July 1, 1999).

The 1999 Regional Haze Rule (40 CFR 51.309) provided an optional approach for the nine western states that comprised the transport region analyzed by the Grand Canyon Visibility Transport Commission (GCVTC) during the 1990s, including Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming. Arizona, New Mexico, Utah, Oregon, and Wyoming have elected to comply with the Regional Haze Rule by submitting their first SIPs on December 31, 2003, based on the recommendations to improve visibility outlined in the GCVTC's 1996 Report. This option is also available to eligible Indian Tribes within the geographical region studied by the GCVTC. Indian Tribes have no deadline for submitting Tribal Implementation Plans (TIPs).

One element of the GCVTC's recommendations was a backstop regional trading program to reduce stationary source emissions of SO<sub>2</sub>. The GCVTC identified SO<sub>2</sub> as causing one third of the visibility impairment on the Colorado Plateau, with the majority of those emissions coming from stationary sources. The recommendation called for the setting of a series of declining caps on SO<sub>2</sub> emissions referred to as, "emissions milestones." These milestones would provide sources incentive to reduce their SO<sub>2</sub> emissions voluntarily through means most economical and feasible to them rather than the conventional command-and-control approach to achieve reductions. Implementation plan assessments of progress and identification of deficiencies are due in the years 2008, 2013, and 2018. The voluntary measures that achieve the milestones were approved by EPA because they must achieve greater reasonable progress than the application and operation of controls under best available retrofit technology (BART). If the voluntary measures do not succeed in reducing SO<sub>2</sub> emissions over time, an enforceable market trading program would be triggered as a "backstop" to assure the reductions would be met.

The Western Regional Air Partnership (WRAP), the successor organization to the GCVTC, authorized a regional work group consisting of affected states, tribes, and EPA regional offices to develop a "model" rule that each participating state would utilize as a standard to establish and operate the Western Backstop SO<sub>2</sub> Trading Program (WEB Trading Program) should any of the milestones be exceeded. The Model Rule and Model Rule Supplement, adopted by the WRAP on August 13, 2003, and incorporated by reference in the proposed rule is available from WRAP at [www.wrapair.org](http://www.wrapair.org). The Model Rule and Model Rule Supplement are also available through ADEQ.

Section R18-2-1610 defines terms used specifically in the proposed rule. Two terms that are used in this rule are not included in the definition section because they are already defined in R18-2-101. These terms are, "affected source" and "stationary source." Section R18-2-1611 establishes which applicable stationary sources are required to participate in the pre-trigger requirements of the SO<sub>2</sub> Milestones and Backstop Trading Program. R18-2-1612 satisfies the pre-trigger requirements of the Regional Haze Rule at 40 CFR 51.309(d)(4)(ii) and outlines the monitoring, reporting and recordkeeping requirements for the applicable stationary sources.

Section R18-2-1613 covers the transition to the Western Backstop SO<sub>2</sub> Trading Program (WEB Trading Program) upon the determination that a regional milestone was exceeded and the backstop trading program has been triggered. During this time it is essential that the applicable stationary sources continue the monitoring, reporting and recordkeeping requirements until the WEB Trading Program is fully implemented, even if an applicable stationary source no longer emits 100 tons per year of SO<sub>2</sub>.

The Model Rule and Model Rule Supplement outline the specific post-trigger requirements for the affected stationary sources under the Western Backstop SO<sub>2</sub> Trading Program (WEB Trading Program). The requirements include the responsibility to select an account representative, register for the program, receive an allocation of allowances (a type of tradable emissions credit), and establish an account to hold the allowances. The applicable stationary sources continue to monitor, report and maintain records to determine if they have sufficient annual allowances within their account. Penalties are set should a source fail to comply with the allowance limitation requirements of the program. The Model Rule and Model Rule Supplement also establish a procedure should the 2018 regional milestone be exceeded, and imposes a special penalty for 2018, and for any subsequent year regional SO<sub>2</sub> emissions continue to exceed the 2018 milestone.

Due to the need to establish the procedures for pre-trigger monitoring, recordkeeping and reporting as soon as possible as required under 40 CFR 51.309(d)(4)(ii), and to meet the requirements of the 2003 Arizona Regional Haze State Implementation Plan before December 31, 2004, ADEQ requests an immediate effective date as permissible under A.R.S. 41-1032 (A)(2) and 41-1032(A)(3).

**6. An explanation of the substantial change which resulted in this supplemental notice:**

R18-2-1613 through R18-2-1623 of the original proposed rule have been replaced by material incorporated by reference in R18-2-1613.

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

**A. Rule Identification and Summary**

This rulemaking comprises new Sections, R18-2-1610 through R18-2-1613. Rule Sections R18-2-1607, R18-2-1608, and R18-2-1609 are reserved. The Sections within Article 16 pertain to visibility and regional haze.

Regional haze impairs visibility and is caused by air pollutants emitted by many sources across a region. The Clean Air Act (CAA) establishes a national goal to protect visibility in federally protected parks and wilderness areas,

called federal Class I areas (40 CFR 81.403). Arizona has 12 federally-protected Class I areas. The region consisted of a nine-state area in the west. Currently, the states participating in the backstop market trading program consist of the states submitting regional haze state implementation plans (SIPs) under Section 309 of the federal Regional Haze Rule; namely, Arizona, New Mexico, Utah, Oregon, and Wyoming. The 211 Indian Tribes within the region can also participate in the program through the completion of a tribal implementation plan (TIP) or source-specific implementation plans.

The CAA's national goal is attained by improving existing visibility impairment and preventing future visibility impairment in federally mandated Class I areas. Arizona has 12 Class I areas. Visibility improvements are anticipated by establishing milestones for sulfur dioxide (SO<sub>2</sub>) reductions over time through voluntary reduction measures as opposed to command-and-control technologies. If the voluntary measures are unsuccessful, however, an enforceable market trading program will be established as a backstop to assure that the SO<sub>2</sub> reductions can be achieved. The greatest reduction in SO<sub>2</sub> emissions is expected to occur at during the last milestone, 2014 to 2018 (see Table below). By 2040, the regional goal for SO<sub>2</sub> reductions is 52 percent from the 1990 level of 831,000 tons.

<b>Milestones</b>	<b>Cumulative 9 State Region Emission Reductions from 1990 (in tons of SO<sub>2</sub>)</b>
2003	111,000
2008	116,000
2013	176,000
2018	321,000

This rule implements procedures for Arizona sources participating in the Western Backstop SO<sub>2</sub> Trading Program, referred to as the WEB Trading Program, as required under the federal Regional Haze Rule (40 CFR 51.309). The rule will require stationary sources subject to this rulemaking to monitor and report SO<sub>2</sub> emissions as a way to determine if SO<sub>2</sub> emission milestones have been exceeded, and if so, require such sources to participate in the WEB Trading Program. Arizona's SO<sub>2</sub> emissions will be tracked annually along with other participating states and tribes, and analyzed in a regional milestone report submitted to EPA within a year after each milestone date.

#### **B. Entities Directly Affected**

Potential entities directly impacted by this rulemaking include Arizona stationary sources with actual SO<sub>2</sub> emissions of 100 tons or more per year. These sources include: Five coal-fired power plants (utilities), two cement plants, two lime plants, one pulp and paper plant, and three smelters (including one smelter that has suspended operations). The latter eight sources are generally categorized as non-utilities. Other entities include air pollution control manufacturers and vendors; contractors; consultants; lawyers; Arizona Department of Environmental Quality (ADEQ) as the implementing agency; and private persons and consumers.

Potential post-trigger sources include: BART-eligible sources (best available retrofit technology sources as defined in 40 CFR 51.301); other stationary sources not meeting the criteria set forth in R18-2-1611, with actual SO<sub>2</sub> emissions of 100 tons or more per year in the trigger years or subsequent years; and other stationary sources regulated under Section 111 or 112 of the CAA (after August 7, 1980).

#### **C. Potential Costs and Benefits**

It should be noted that the analysis outlined here includes both the pre-trigger and post-trigger costs and benefits of the trading program. The post-trigger requirements of the program can be found in the Model Rule and Model Rule Supplement incorporated by reference in the proposed rulemaking. The Model Rule and Model Rule Supplement are available at the Western Regional Air Partnership (WRAP) at [www.wrapair.org](http://www.wrapair.org) and at ADEQ.

Before summarizing the preliminary costs and benefits of this rulemaking, it is necessary to discuss the nine-state region as a whole, as well as generalizations about Arizona sources impacted by this rulemaking. All dollar amounts represent 1997 dollars (as provided in the ICF study cited in section 7 of the preamble to this rule). Due to inflation, consumer prices have risen approximately 15 percent between 1997 and 2003. Likewise, one can expect capital investments and other compliance costs to also be higher now than in 1997.

Compliance costs are expected to be lowest if all states and tribes participate in the trading program because this will result in the greatest gains from trading. For example, annual compliance costs for the region could be as much as \$90 million less in 2018 under the trading option compared to states and tribes implementing command-and-control programs.<sup>1</sup> Arizona is one state in which sources are expected to have greater compliance costs under command-and-control. Consequently, sources located in Arizona are expected to experience the greatest cost-saving benefits from participating in the trading program. This is due partially to expectations that Arizona will be a net buyer of trading allowances. Thus, because Arizona has opted to participate in the trading program, not only will the Arizona sources experience lower compliance costs, but so will the entire region.

[1 Anticipated annual savings are the difference between the estimated costs for implementing command-and-control at \$210 million vs. \$120 million for all states and tribes participating in a full trading program. The amount of emissions reduction would be about the same under either program approach. The amount of actual cost savings could

change based on which and how many states and tribes elect to opt out of the trading program. See ICF Consulting Group, *An Assessment of Critical Mass for the Regional SO<sub>2</sub> Trading Program*, prepared for Western Regional Air Partnership Market Trading Forum, September 27, 2002.]

States in the nine-state region and 211 tribal areas may choose not to participate in the regional trading program and fulfill regional haze requirements by implementing command-and-control BART technology and satisfy Section 51.308 requirements of the federal Regional Haze Rule. States and tribes electing not to participate in the program, however, will make the regional program less flexible and increase compliance costs not only for themselves but for other program participants.

Program flexibility means that sources can reduce SO<sub>2</sub> emissions by installing pollution control equipment if that option represents a relatively lower cost alternative, or sources could purchase allowances if the market offers a less expensive means of reducing SO<sub>2</sub> emissions. For example, allowances could be sold at a price to older sources that is lower than the cost per ton of SO<sub>2</sub> emissions abatement for these sources.

#### Regulatory Agencies

ADEQ expects to be impacted minimally by its review of monitoring plans and reports from sources as well as its participation in the tracking system requirements, which will be managed and funded by an outside, regional administrator. The current number of ADEQ employees can be expected to handle the workload generated by this program.

#### Regulated Community

Owners and operators of applicable sources are required to monitor, report, and maintain records of their SO<sub>2</sub> emissions during the pre-trigger stage of the program established by this rulemaking. These sources already monitor and report emissions under existing stationary source requirements, but may have some additional costs due to an increase in the record retention requirement from five years to ten years. The additional pre-trigger monitoring, reporting and recordkeeping requirements under the rule should have minimal impact. During this pre-trigger stage, owners and operators of sources can plan how they would reduce SO<sub>2</sub> emissions according to their own time frames.

The incorporation of a pre-trigger time period is vital to the sources by allowing them flexibility to plan and select the optimal compliance strategy. Under command-and-control, sources are much more restricted in developing compliance options. In contrast, a trading program allows increased flexibility for sources to plan how to comply with SO<sub>2</sub> emissions caps and the best strategy for implementing compliance options. This preparation time can be viewed as the foundation for numerous cost-saving benefits to develop in the future. For example, sufficient time is needed to evaluate market conditions relating to demand and resource inputs. Additionally, a source may want to evaluate a variety of variables and options, such as emission variations, production costs, competition, economic profit, expansion capabilities, retrofit possibilities, investments in new technologies, etc. The pre-trigger time provides sources with a mechanism to successfully implement plans with a potential for significant cost-saving benefits.

Should the regional SO<sub>2</sub> emissions cap be exceeded, stationary sources would have an alternative means of reducing SO<sub>2</sub> emissions through tradable allowances, as opposed to having pollution control equipment installed under command-and-control. The regulated community would register for the trading program, select an account representative, and subsequently receive allowances in their compliance accounts. Monitoring would continue to determine if sources have sufficient annual allowances in their respective accounts to operate.

Compliance costs could include fuel costs, annualized capital investments, and operation and maintenance expenditures. Some of the expenditures could include investments in new capacity. According to ICF Consulting Group,<sup>2</sup> Arizona's owners and operators of affected sources would experience annual incremental compliance costs by 2013 of \$25 million if participating in the trading program or \$37 million if complying through command-and-control. By 2018, annual compliance costs for owners and operators of Arizona's sources are expected to be \$25 million for participating in the trading program and \$40 million for command-and-control.

[2 *An Assessment of Critical Mass for the Regional SO<sub>2</sub> Program*, ICF Consulting Group, 2002.]

It is anticipated that Arizona will have more total SO<sub>2</sub> emissions from its affected sources than its emissions budget (i.e., a negative net allowance budget). Because approximately one third of the SO<sub>2</sub> emission reductions from participating states will come from Arizona sources, Arizona would be a net buyer of trading allowances from out-of-state suppliers. Estimated allowances needed are expected to be in the range of 10,000 to 20,000 tons of SO<sub>2</sub>, not including any intrastate trades. Based on an estimated allowance price of \$1,100 to \$2,100 per ton of SO<sub>2</sub>, Arizona's sources may have to expend between \$11 million to \$42 million to purchase allowances from Indian tribes or sources in other states.<sup>3</sup> Arizona sources could use allowances to avoid some of the high costs of investing in pollution control equipment.

[3 Costs per ton are dependent upon several factors, such as transaction costs, market power, risk, and market inefficiencies.

Owners and operators of sources participating in the trading program will incur additional compliance costs due to administrative burdens. These costs fall under post-trigger monitoring, recordkeeping, and reporting requirements, and include the preparation of monitoring plans and compliance certification reports. These costs are expected to be minimal in comparison to costs that would be incurred under a straight common-and-control program. Additionally,

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owners and operators of sources out of compliance will incur penalties in the form of allowance deductions and assessments of \$5,000 per ton per violation. Other civil and criminal penalties also could be assessed.

Consumers and Public

ADEQ anticipates that reductions in SO<sub>2</sub> through implementation of this rule will generate benefits for the public at large. These benefits include improvement in visibility, human health, and a possible decrease in acid rain deposition.<sup>4</sup> Air quality changes are expected to improve visibility in national parks and wilderness areas, as well as other areas within the transport region. Potential human health benefits are expected to accrue because SO<sub>2</sub> emissions can aggravate asthma. Reductions in SO<sub>2</sub> emissions could also avert or reduce acute illnesses or ailments (e.g., shortness of breath, chest tightness, or wheezing). Health gains also could include reduced hospital admissions for respiratory and cardiovascular problems. Avoidance of premature deaths is also a likely possibility.

[4 U.S. EPA and National Park Service, 2018 Milestone Reductions Benefits Assessment, August 11, 2000.]

Sources may pass on increased compliance costs to consumers. Thus, increases in production costs may be reflected in higher prices for goods. Even though the health and welfare benefits are for the most part unquantifiable, it is believed that probable economic benefits will exceed probable costs of this rulemaking, particularly because the compliance costs of a trading program are less than those of a command-and-control emissions reduction program.

**D. Potential Impacts to Small Businesses**

A variety of methods are available to reduce the impact of a rulemaking on small businesses. A.R.S. § 41-1035 prescribes five methods for reducing the impact. These methods include establishing less stringent compliance or reporting requirements, less stringent schedules or deadlines for compliance or reporting requirements, simplified reporting requirements, replacing design or operational standards with performance requirements, or exempting small businesses from some or all rule requirements. None of these methods, however, are feasible or fall within the requirements of this rulemaking. Furthermore, applicable sources are expected to be large sources and not classified as small businesses. Sources undergoing modifications that could produce actual SO<sub>2</sub> emissions of 100 tons or more per year would become applicable sources. Potentially, some of these sources could be classified as small businesses.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: David Lillie  
Address: ADEQ, Air Quality Planning Section  
1110 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 771-4461, or dial 800-234-5677 and enter 771-4461  
Fax: (602) 771-2366  
E-mail: [lillie.david@azdeq.gov](mailto:lillie.david@azdeq.gov)

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule.**

Date/Time: Wednesday, October 13, 2004, 4:30 p.m.

Location: Room 250, ADEQ, 1110 West Washington Street, Phoenix, Arizona

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rule:**

<u>Incorporations by reference</u>	<u>Location</u>
Model Rule and Model Rule Supplement	Western Regional Air Partnership at <a href="http://www.wrapair.org">www.wrapair.org</a> and ADEQ

**13. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR POLLUTION CONTROL**

**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

Section

R18-2-1610. SO<sub>2</sub> Milestones and Backstop Trading Program; Definitions

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- R18-2-1611. Applicability  
R18-2-1612. Pre-trigger Monitoring, Recordkeeping and Reporting  
R18-2-1613. WEB Trading Program Trigger

**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

**R18-2-1610. SO<sub>2</sub> Milestones and Backstop Trading Program: Definitions**

- A.** This rule implements the pre-trigger provisions of the SO<sub>2</sub> Milestones and Backstop Trading Program required under 40 CFR 51.309(d)(4)(ii). Nothing in this Article waives any requirement otherwise in effect or subsequently required under any other law, including rules governing new sources.
- B.** When used in this Article:
1. “Actual SO<sub>2</sub> Emissions” means total annual sulfur dioxide emissions determined according to R18-2-1611.
  2. “Fugitive emissions” means those emissions that cannot reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
  3. “Milestone” means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018 as provided in 40 CFR 51.309(f)(1)(i).
  4. “Western Backstop SO<sub>2</sub> Trading Program or WEB Trading Program” means the program implemented under R18-2-1613.

**R18-2-1611. Applicability**

- A.** All BART-eligible sources as defined in 40 CFR 51.303 that are BART-eligible due to SO<sub>2</sub> emissions.
- B.** All stationary sources that have actual SO<sub>2</sub> emissions of 100 tons or more per year are subject to the requirements of this Section.
- C.** When determining actual SO<sub>2</sub> emissions in subsection (B), the fugitive emissions of a stationary source shall not be included unless the source belongs to one of the following categories of stationary sources:
1. Coal cleaning plants (with thermal dryers);
  2. Kraft pulp mills;
  3. Portland cement plants;
  4. Primary zinc smelters;
  5. Iron and steel mills;
  6. Primary aluminum ore reduction plants;
  7. Primary copper smelters;
  8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
  9. Hydrofluoric, sulfuric, or nitric acid plants;
  10. Petroleum refineries;
  11. Lime plants;
  12. Phosphate rock processing plants;
  13. Coke oven batteries;
  14. Sulfur recovery plants;
  15. Carbon black plants (furnace process);
  16. Primary lead smelters;
  17. Fuel conversion plants;
  18. Sintering plants;
  19. Secondary metal production plants;
  20. Chemical process plants;
  21. Fossil-fuel boilers or combination of boilers totaling more than 250 million British thermal units per hour heat input;
  22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  23. Taconite ore processing plants;
  24. Glass fiber processing plants;
  25. Charcoal production plants;
  26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
  27. Any other stationary source category, which as of August 7, 1980 is regulated under Section 111 or 112 of the Act.

**R18-2-1612. Pre-trigger Monitoring, Recordkeeping and Recording**

- A.** All stationary sources meeting the criteria of R18-2-1611, for the period defined in subsection (B) shall:
1. Comply with applicable monitoring, recordkeeping and reporting requirements in R18-2-304, R18-2-306, R18-2-327, and R18-2-715.01;
  2. Submit to the Director an annual inventory of SO<sub>2</sub> emissions, beginning with the 2003 emission inventory;
  3. Submit to the Director, if the stationary source is a smelter, an annual report of sulfur input in tons per year with the submission of the annual emissions inventory;
  4. Utilize appropriate emission factors and estimating methodology, and document the emissions monitoring or estimation methodology used;

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5. Include SO<sub>2</sub> emissions from start up, shut down, and upset conditions in the annual total inventory;
6. Utilize, if an affected source, methods from 40 CFR Part 75 to measure and calculate SO<sub>2</sub> emissions;
7. Maintain records that include the rate and period of SO<sub>2</sub> emissions, the specific installation that is the source of the SO<sub>2</sub> emissions, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions, and to evaluate pollution control;
8. Retain records required under this Section for a minimum of 10 years from the date of record creation, or if the record was the basis for an adjustment to a milestone under 40 CFR 51.309(h)(1), 5 years from the date of a state implementation plan revision, whichever is longer.

**B. Duration and Termination of Pre-trigger Requirements.**

Any stationary source that meets the criteria of R18-2-1611 at any time after the effective date of this Article shall continue to comply with R18-2-1612 even if the source no longer has actual SO<sub>2</sub> emissions of 100 tons per year or more until either:

- a. The WEB Trading Program is triggered under R18-2-1613; and
- b. The Director and affected sources fully comply with the requirements of the WEB Trading Program; or
- c. The Director determines under 40 CFR 51.309(h)(3) that the regional SO<sub>2</sub> 2018 milestone was achieved.

**R18-2-1613. Western Backstop SO<sub>2</sub> Trading Program Trigger**

The requirements of the WEB Trading Program contained in the Model Rule and Model Rule Supplement as adopted August 13, 2003 (and no later amendments or editions) by the Western Regional Air Partnership (WRAP), are incorporated by reference and available through the Western Regional Air Partnership at [www.wrapair.org](http://www.wrapair.org), and the Director. The requirements shall apply beginning on the date the Director determines the program has been triggered according to 40 CFR 51.309(h)(1) and 51.309(h)(3).

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# **Western Backstop SO<sub>2</sub> Trading Program**

## **Model Rule**

**August 13, 2003  
(Final Draft)**

**The Model Rule is available through the Western Regional Air Partnership (WRAP) at [www.wrapair.org](http://www.wrapair.org)**

**This Model Rule was developed through a broad stakeholder process of the WRAP as a template to facilitate consistent, multi-jurisdictional implementation of the SO<sub>2</sub> Milestones and Backstop Trading Program Section 309 of the Regional Haze Rule.**

[The following document is a model rule to implement regional SO<sub>2</sub> milestones and a backstop trading program in accordance with section 309 of the regional haze rule. The regional haze rule establishes the mandatory requirements that must be met by a state implementation plan and establishes provisions that potentially may be used in a tribal implementation plan. This model rule was developed through the broad stakeholder process of the WRAP as a template to facilitate consistent, multi-jurisdictional implementation of section 309. The template does not establish the only acceptable way to implement section 309, but it does have the benefit of extensive review and discussion by the many stakeholders involved in the WRAP process, including EPA review and comment. A state or tribe that develops alternate language will need to demonstrate to the other participating states and tribes and EPA that their plan and accompanying rules will respect the sovereignty of other participating states and tribes; satisfies the regional haze rule; be enforceable; be consistent with the emissions and allowance tracking provisions and trading provisions in implementation plans developed by other participating states and tribes; and be administratively practicable.]

## **Western Backstop SO<sub>2</sub> Trading Program Model Rule**

**August 13, 2003 (final draft)**

*[Note: This Model Rule covers only the post-trigger phase of the Western Backstop SO<sub>2</sub> Trading Program (“WEB Trading Program”). The Model SIP/TIP covers both the pre-trigger and post-trigger phases of the program, and is known as the SO<sub>2</sub> Milestones and Backstop Trading Program. The Model SIP/TIP and the Model Rule should be reviewed together in order to fully understand the complete WEB Trading Program. As each participating 309 State develops its state’s rule, care should be taken to include or reference any local or delegated authority that may have responsibilities under the state’s rule (most notably – local governmental units with Title V permitting authority). Delegation agreements should be examined for any relevant revisions necessary to assure the program is conducted as the rule specifies.]*

### **A. Purpose**

1. This Rule implements the Western Backstop SO<sub>2</sub> Trading Program (“WEB Trading Program”) provisions required under the federal Regional Haze Rule, 40 CFR 51.309, and [state or tribe]’s Regional Haze Implementation Plan.
2. Nothing in this Rule waives any requirement otherwise in effect or subsequently required under another program, including Rules governing new sources.

### **B. Definitions**

The definitions in this part apply only to this Rule:

**Account Certificate of Representation** means the completed and signed submission required to designate an Account Representative for a WEB source or an Account Representative for a general account.

**Account Representative** means the individual who is authorized through an Account Certificate of Representation to represent owners and operators of the WEB source with regard to matters under the WEB Trading Program or, for a general account, who is authorized through an Account Certificate of Representation to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account.

**Act** means the federal Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*

**Actual Emissions** means total annual sulfur dioxide emissions determined in accordance with Section I of this Rule, or determined in accordance with [refer to state or tribal inventory rule] for sources that are not subject to Section I of this Rule.

**Allocate** means to assign allowances to a WEB source through section C1 of the Implementation Plan.

**Allowance** means the limited authorization under the WEB Trading Program to emit one ton of SO<sub>2</sub> during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by this Rule.

**Allowance limitation** means the tonnage of SO<sub>2</sub> emissions authorized by the allowances available for compliance deduction for a WEB source for a control period under Section L1 of this Rule on the allowance transfer deadline for that control period.

**Allowance Tracking System** means the system developed by [state or tribe] where allowances under the WEB Trading Program are recorded, held, transferred and deducted.

**Allowance Tracking System account** means an account in the Allowance Tracking System established for purposes of recording, holding, transferring, and deducting allowances.

**Allowance transfer deadline** means the deadline established in Section J.2 of the Model Rule when allowances must be submitted for recording in a WEB source's compliance account in order to demonstrate compliance for that control period.

**Compliance account** means an account established in the Allowance Tracking System under Section H1 of this Rule for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation.

**Compliance certification** means a submission to [state or tribe] by the Account Representative as required under Section L2 of this Rule to report a WEB source's compliance or noncompliance with this Rule.

**Control period** means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.

**Emissions tracking database** means the central database where SO<sub>2</sub> emissions for WEB sources as recorded and reported in accordance with this Rule are tracked to determine compliance with allowance limitations.

**Emission unit** means any part of a stationary source that emits or would have the potential to emit any pollutant submitted to regulations under the Clean Air Act.

**Existing source** means, a stationary source that commenced operation before the Program Trigger Date.

**Fugitive emissions** are those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

**General account** means an account established in the Allowance Tracking System under Section H of this Rule for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation.

**Milestone** means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018, established according to the procedures in Section A of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

**New WEB Source** means a WEB source that commenced operation on or after the Program Trigger Date.

**New Source Set-aside** means a pool of allowances that are available for allocation to new sources in accordance with the provisions of Section C1.3 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

**Owner or operator** means any person who is an owner or who operates, controls or supervises a WEB source, and includes but is not be limited to any holding company, utility system or plant manager.

**Potential to emit** means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 is enforceable by the EPA Administrator.

**Program trigger date** means the date that [state or tribe] determines that the WEB Trading Program has been triggered in accordance with the provisions of Section A2 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

**Program trigger years** means the years shown in Table 1, column 3, of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan for the applicable milestone if the WEB Trading Program is triggered as described in Section A of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

**Renewable Energy Resource** means a resource that generates electricity by non-nuclear and non-fossil technologies that results in low or no air emissions. The term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meets the Low-Impact Hydropower Institute criteria. Biomass includes agricultural, food and wood wastes. The term does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood.

**Retired source** means a WEB source that has received a retired source exemption as provided in Section D3 of this Rule. Any retired source resuming operations under D3(d) of this Rule, must submit its exemption as part of its registration materials.

**Serial number** means, when referring to allowances, the unique identification number assigned to each allowance by the Tracking Systems Administrator, in accordance with Section G2.

**SO<sub>2</sub> emitting unit** means any equipment that is located at a WEB source and that emits SO<sub>2</sub>.

**Stationary source** means any building, structure, facility or installation that emits or may emit any air pollutant subject to regulation under the Clean Air Act.

**Submit** means sent to the appropriate authority under the signature of the Account Representative. For purposes of determining when something is submitted, an official U.S. Postal Service postmark, or equivalent electronic time stamp, shall establish the date of submittal.

**Ton** means 2000 pounds and, for any control period, any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons.

**Tracking System Administrator** means the person designated by [state or tribe] as the administrator of the Allowance Tracking System and the emission tracking database.

**WEB source** means a stationary source that meets the applicability requirements of Section D of this Rule.

**Western Backstop SO<sub>2</sub> Trading Program (“WEB Trading Program”)** refers to this Rule, triggered as a backstop in accordance with the provisions in the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan, if necessary, to ensure that regional SO<sub>2</sub> emissions are reduced.

### **C. WEB Trading Program Trigger**

1. Except as provided in C2, this Rule shall become effective on the program trigger date that is established in accordance with the procedures outlined in the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

2. Section M of this Rule, Special Penalty Provisions for Year 2018, shall become effective on January 1, 2018 and shall remain effective until the provisions of section M have been fully implemented.

## **D. WEB Trading Program Applicability**

### 1. General Applicability

This Rule applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and which are under the control of the same person or persons under common control, belonging to the same industrial grouping, and that are described in paragraphs (a) through (d) of this subsection. A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

The following are WEB sources:

- (a) All BART-eligible sources as defined in 40 CFR 51.301 that are BART-eligible due to SO<sub>2</sub> emissions.
  
- (b) All stationary sources not meeting the criteria of D1(a) of this Rule that have actual SO<sub>2</sub> emissions of 100 tons or more per year in the Program Trigger Years or any subsequent year. The fugitive emissions of a stationary source shall not be considered in determining whether it is a WEB source unless the source belongs to one of the following categories of stationary source:
  - (i) Coal cleaning plants (with thermal dryers);
  - (ii) Kraft pulp mills;
  - (iii) Portland cement plants;
  - (iv) Primary zinc smelters;
  - (v) Iron and steel mills;
  - (vi) Primary aluminum ore reduction plants;
  - (vii) Primary copper smelters;
  - (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
  - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
  - (x) Petroleum refineries;
  - (xi) Lime plants;
  - (xii) Phosphate rock processing plants;
  - (xiii) Coke oven batteries;
  - (xiv) Sulfur recovery plants;
  - (xv) Carbon black plants (furnace process);
  - (xvi) Primary lead smelters;

- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or 112 of the Act.

(c) A new source that begins operation after the Program Trigger Date and has the potential to emit 100 tons or more of SO<sub>2</sub> per year.

(d) [State or tribe] may determine on a case-by-case basis, with concurrence from the EPA Administrator, that a source defined in D1(b) is not a WEB source if the source:

- (1) In each of the previous five years had actual SO<sub>2</sub> emissions of less than 100 tons per year, and
- (2) Had actual SO<sub>2</sub> emissions of 100 tons or more in a single year due to a temporary emission increase that was caused by a sudden, infrequent and not reasonably preventable failure of air pollution control equipment, failure of process equipment, or a failure to operate in a normal or usual manner;
- (3) Took timely and reasonable action to minimize the temporary emission increase; and
- (4) Has corrected the failure of air pollution control equipment, process equipment, or process by the time of the [state or tribe]'s determination under this section; or
- (5) Had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances besides cost of such fuels or feedstocks.
- (6) A temporary emission increase due to poor maintenance or careless operation does not meet the criteria of this section.

## 2. Duration of Program Participation

Except as provided for in Section D3 of this Rule, once a source is subject to the WEB Trading Program, it will remain in the program every year thereafter.

### 3. Retired Source Exemption

#### (a) Application

Any WEB that is retired shall apply for a retired source exemption. The WEB source may only be considered retired if all SO<sub>2</sub> emitting units at the source are retired. The application shall contain the following information:

- (1) Identification of the WEB source, including plant name and an appropriate identification code in a format specified by the [state or tribe].
- (2) Name of Account Representative.
- (3) Description of the status of the WEB source, including the date that the WEB source was retired.
- (4) Signed certification that the WEB source is . retired and will comply with the requirements of Section D3 of this Rule.
- (5) Verification that the WEB source has a general account where any unused allowances or future allocations will be recorded.

#### (b) Notice

The retired source exemption becomes effective when [state or tribe] notifies the source that the retired source exemption has been granted. *[For example, state or tribe could include a provision requiring the permitting authority to notify the source.]*

#### (c) Responsibilities of Retired Sources:

- (1) A retired source shall be exempt from Sections I and L of this Rule, except as provided below.
- (2) A retired source shall not emit any SO<sub>2</sub> after the date the retired source exemption is effective.
- (3) A source shall submit SO<sub>2</sub> emissions reports, as required by Section I8 of this Rule for any time period the source was operating prior to the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of Section L of this Rule, including the requirement to hold allowances in the source's compliance account to cover all SO<sub>2</sub> emissions prior to the date the source was permanently retired.

(4) A retired source that is still in existence but no longer emitting SO<sub>2</sub> shall, for a period of five years from the date the records are created, retain records demonstrating the effective date of the retired source exemption for purposes of this Rule.

(d) Resumption of Operations

(1) Should a retired source desire to resume operation, the retired source must submit registration materials as follows:

(i) If the source is required to obtain a new source review permit or operating permit under [refer to applicable permitting Rules] prior to resuming operation, then registration information as described in Section F1 of this Rule and a copy of the retired source exemption must be submitted with the application required under [refer to applicable permitting Rules];

(ii) If the source is not required to obtain a new source review permit or operating permit under [refer to applicable permitting Rules] prior to resuming operation, then registration information as described in Section F1 of this Rule and a copy of the retired source exemption must be submitted to [state or tribe] at least ninety days prior to resumption of operation.

(2) The retired source exemption shall automatically expire on the day the source resumes operation.

(e) Loss of Future Allowances

A WEB source that is retired and that does not apply to [state or tribe] for a retired source exemption within ninety days of the date that the source is retired shall forfeit any unused and future allowances. The abandoned allowances shall be retired by the Tracking System Administrator.

*Note: This is not intended to be a punitive action, but a method to correct the number of allowances being tracked by the state. [State or tribe] will need to establish due process procedures for forfeiting these “abandoned” allowances in a manner that is consistent with the administrative procedures process. This provision is intended to address sources that go out of business, leave no forwarding address, and truly abandon their allowances. It is assumed that [state or tribe] will have a process to notify sources that their allowances may be forfeited so this provision does not lead to forfeiture just because the deadline was missed.*

## **E. Account Representative for WEB Sources**

Each WEB source must identify one Account Representative and may also identify an alternate Account Representative who may act on behalf of the Account Representative. Any representation, action, inaction or submission by the alternate Account Representative will be deemed to be a representation, action, inaction or submission by the Account Representative.

1. Identification and Certification of an Account Representative.

- (a) The Account Representative and any Alternate Account Representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the Account Representative and any alternate binding on the owners and operators of the WEB source.
- (b) The Account Representative shall submit to [state or tribe] and the Tracking System Administrator a signed and dated Account Certificate of Representation (Certificate) that contains the following elements:
  - (1) Identification of the WEB source by plant name, state and an appropriate identification code in a format specified by the [state or tribe];
  - (2) The name, address, e-mail (if available), telephone and facsimile number of the Account Representative and any alternate;
  - (3) A list of owners and operators of the WEB source;
  - (4) Information to be part of the emission tracking system database in accordance with the Implementation Plan. The specific data elements shall be as specified by the [state or tribe] to be consistent with the data system structure, and may include basic facility information that may appear in other reports and notices submitted by the WEB source, such as county location, industrial classification codes, and similar general facility information.
  - (5) The following certification statement:

*“I certify that I was selected as the Account Representative or alternate Account Representative, as applicable, by an agreement binding on the owners and operators of the WEB source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of the owners and operators of the WEB source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the [state or tribe] regarding the WEB Trading Program.”*
- (c) Upon receipt by the [state or tribe] of the complete Certificate, the Account Representative and any alternate Account Representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each owner and operator of the WEB source in all matters pertaining to the WEB Trading Program. The owners

and operators shall be bound by any decision or order issued by [state or tribe] regarding the WEB Trading Program.

- (d) No WEB Allowance Tracking System account shall be established for the WEB source until the Tracking System Administrator has received a complete Certificate. Once the account is established, the Account Representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

## 2. Requirements and Responsibilities

- (a) The responsibilities of the Account Representative include, but are not limited to, the transferring of allowances, and the submission of monitoring plans, registrations, certification applications, SO<sub>2</sub> emissions data and compliance reports as required by this Rule, and representing the source in all matters pertaining to the WEB Trading Program.
- (b) Each submission under this program shall be signed and certified by the Account Representative for the WEB source. Each submission shall include the following truth and accuracy certification statement by the Account Representative:

*“I am authorized to make this submission on behalf of the owners and operators of the WEB source for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”*

## 3. Changing the Account Representative or Owners and Operators

- (a) Changes to the Account Representative or the alternate Account Representative

The Account Representative or alternate Account Representative may be changed at any time by sending a complete superseding Certificate to the [state or tribe] and the Tracking System Administrator under Section E1(c) of this Rule, with the change taking effect upon receipt of such Certificate by the [state or tribe]. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Account Representative or alternate prior to the time and date when the Tracking System Administrator receives the superseding Certificate shall be binding on the new Account Representative and the owners and operators of the WEB source.

- (b) Changes in Owners and Operators

- (1) Within thirty days of any change in the owners and operators of the WEB source, including the addition of a new owner or operator, the Account Representative shall

submit a revised Certificate amending the list of owners and operators to include such change.

(2) In the event a new owner or operator of a WEB source is not included in the list of owners and operators submitted in the Certificate, such new owner or operator shall be deemed to be subject to and bound by the Certificate, the representations, actions, inactions, and submissions of the Account Representative of the WEB source, and the decisions, orders, actions, and inactions of [state or tribe] as if the new owner or operator were included in such list.

## **F. Registration**

### 1. Deadlines

(a) Each source that is a WEB source on or before the Program Trigger Date shall register by submitting the initial Certificate required in Section E1 of this Rule to the [state or tribe] no later than 180 days after the Program Trigger Date.

(b) Any existing source that becomes a WEB source after the Program Trigger Date shall register by submitting the initial Certificate required in Section E1 of this Rule to the [state or tribe] by September 30 of the year following the inventory year in which the source exceeded the emission threshold.

(c) Any new WEB source shall register by submitting the initial Certificate required in Section E1 of this Rule to the [state or tribe] prior to the commencement of operation.

### 2. Integration into Permits

(a) Any allocation, transfer or deduction of allowance to or from the compliance account of a WEB source shall not require revision of the WEB source's operating permit.

(b) Any WEB source that is not required to have a permit under [state or tribe's New Source Review Rule] at any time after this Rule becomes effective must at all times possess a permit that includes the requirements of [state or tribe's market trading rule]. If it does not possess a Title V permit under [state or tribe's Title V rule], it may do so by obtaining or modifying a permit under [state or tribe's New Source Review Rule] to incorporate the requirements of [state or tribe's market trading rule]. The source must at all times possess a permit that includes these requirements.

## **G. Allowance Allocations**

1. The Tracking System Administrator will record the allowances for each WEB source in the compliance account for a WEB source once the allowances are allocated by the [state or tribe] under Section C1 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan. If applicable, the Tracking System Administrator will record a portion of the SO<sub>2</sub> allowances for a

WEB source in a special reserve account assigned to the [state or tribe] to account for any allowances to be held by the [state or tribe] in accordance with Section I1(b) of this Rule.

2. The Tracking System Administrator will assign a serial number to each allowance in accordance with Section C2 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

3. All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

4. An allowance is not a property right, and is a limited authorization to emit one ton of SO<sub>2</sub> valid only for the purpose of meeting the requirements of this Rule. No provision of this WEB Trading Program or other law should be construed to limit the authority of the United States or [state or tribe] to terminate or limit such authorization.

5. Early Reduction Bonus Allocation.

Any WEB source that reduces permitted annual SO<sub>2</sub> emissions to a level that is below the floor level allocation established for that source in Section C1 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan between 2003 and the program trigger year may apply to [state or tribe] for an early reduction bonus allocation. The application must be submitted no later than ninety days after the Program Trigger Date. Any WEB source that applies and receives early reduction bonus allocations must retain the records referenced below for a minimum of five years after the early reduction bonus allowance is certified in accordance with Section C1.1(a)(3) of the Implementation Plan.

The application for an early reduction bonus allocation must contain the following information:

(a) Copies of all permits or other enforceable documents that include annual SO<sub>2</sub> emissions limits for the WEB source during the period the WEB source was generating the early reductions. Such permits or enforceable documents require monitoring for SO<sub>2</sub> emissions that meets the requirements in Sections I1(a) and I1(c) of this Rule.

*Note: the early reduction bonus allocation needs to address sources that are not using Part 75 equipment monitoring.*

(b) Copies of emissions monitoring reports, for the period the WEB source was generating the early reductions, that documents the actual annual SO<sub>2</sub> emissions and demonstrates that the actual annual SO<sub>2</sub> emissions were below the floor level allocation established for that source in Section C1 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

(c) Demonstration that the floor level established for the source in accordance with Section C1 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan was calculated using data that are consistent with the new monitoring methodology. If

new monitoring techniques will change the floor level for the source, then a demonstration of the new floor level based on new monitoring techniques should be included in the application.

6. Request for allowances for new WEB sources or modified WEB Sources.

(a) A new WEB source or an existing WEB source that has increased production capacity through a permitted change in operations [refer to state or tribal NSR Rules] may apply to [state or tribe] for an allocation from the new source set-aside, as outlined in Section C1.3 of the Implementation Plan.

(1) A new WEB source is eligible to apply for an annual allocation equal to the permitted annual SO<sub>2</sub> emission limit for that source after the source has commenced operation.

(2) An existing WEB source is eligible to apply for an annual allocation equal to the permitted annual SO<sub>2</sub> emission limit for that source that is attributable to any amount of production capacity that is greater than the permitted production capacity for that source as of January 1, 2003.

(3) A source that has received a retired source exemption under Section D3 of this Rule is not eligible to apply for an allocation from the new source set-aside.

(b) The application for an allocation from the new source set-aside must contain the following information:

(1) Demonstration that shows the permitted production capacity of the source before and after the new permit;

(2) For new WEB sources, documentation of the actual date of the commencement of operation and a copy of the permit.

## **H. Establishment of Accounts**

### **1. Allowance Tracking System Accounts**

All WEB sources are required to open a compliance account. Any person may open a general account for holding and transferring allowances. To open either type of account, an application that contains the following information shall be submitted:

(a) The name, mailing address, e-mail address, telephone number, facsimile number of the Account Representative. For a compliance account, include a copy of the Account Certificate of Representation of the Account Representative and any alternate as required in Section E1(b) of this Rule. For a general account, include the Account Certificate of Representation of the Account Representative and any alternate as required in Section H3(b) of the Rule.

(b) The WEB source or organization name;

(c) The type of account to be opened; and

(d) A signed certification of truth and accuracy by the Account Representative according to Section E2(b) of this Rule for compliance accounts and for general accounts, certification of truth and accuracy by the Account Representative according to Section H4 of this Rule.

## 2. Account Representative for General Accounts

For a general account, one Account Representative must be identified and an alternate Account Representative may be identified and may act on behalf of the Account Representative. Any representation, action, inaction or submission by the alternate Account Representative will be deemed to be a representation, action, inaction or submission by the Account Representative.

## 3. Identification and Certification of an Account Representative for General Accounts

(a) The Account Representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the Account Representative binding on all persons who have an ownership interest with respect to allowances held in the general account.

(b) The Account Representative shall submit to [state or tribe] and the Tracking System Administrator a signed and dated Account Certificate of Representation (Certificate) that contains the following elements:

(1) The name, address, e-mail (if available), telephone and facsimile number of the Account Representative and any alternate;

(2) The organization name;

(3) The following certification statement:

*“I certify that I was selected as the Account Representative or alternate Account Representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the [state or tribe] regarding the general account.”*

(c) Upon receipt by the [state or tribe] of the complete Certificate, the Account Representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an ownership interest in allowances held in the general account with regard in all matters concerning the general account. Such persons shall be bound by any decision or order issued by [state or tribe]

(d) No WEB Allowance Tracking System general account shall be established until the Tracking System Administrator has received a complete Certificate. Once the account is established, the Account Representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

#### 4. Requirements and Responsibilities

Each submission for the general account shall be signed and certified by the Account Representative for the general account. Each submission shall include the following truth and accuracy certification statement by the Account Representative:

*“I am authorized to make this submission on behalf of all person who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”*

#### 5. Changing the Account Representative

The Account Representative or alternate Account Representative may be changed at any time by sending a complete superseding Certificate to the [state or tribe] and the Tracking System Administrator under section H3(b) of this rule, with the change taking effect upon receipt of such Certificate by the [state or tribe]. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Account Representative or alternate prior to the time and date when the [state or tribe] receives the superseding Certificate shall be binding on the new Account Representative and all person having ownership interest with respect to allowances held in the general account.

#### 6. Changes to the Account

Any change to the information required in the application for an existing account under H1 of this Rule shall require a revision of the application.

# **I. Monitoring, Recordkeeping and Reporting**

## **1. General Requirements**

(a) For each SO<sub>2</sub> emitting unit at a WEB source the owner or operator shall comply with the following, as applicable, to monitor and record SO<sub>2</sub> mass emissions:

(1) If a unit is subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in Part 75 with respect to monitoring, recording and reporting SO<sub>2</sub> mass emissions. [as necessary, insert state/tribe rule language to address changes to 40 CFR Part 75.]

(2) If a unit is not subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:

(A) A continuous emission monitoring system (CEMS) for SO<sub>2</sub> and flow that complies with all applicable monitoring provisions in 40 CFR Part 75;

(B) If the unit is a gas- or oil-fired combustion device, the excepted monitoring methodology in Appendix D to 40 CFR Part 75, or, if applicable, the low mass emissions (LME) provisions (with respect to SO<sub>2</sub> mass emissions only) of section 75.19 of 40 CFR Part 75;

(C) One of the optional WEB protocols, if applicable, in Appendix A to this Rule; or

(D) A petition for site-specific monitoring that the source submits for approval by [state or tribe], and approval by the U.S. Environmental Protection Agency in accordance with Section I8(e) of this Rule (relating to petitions).

(3) A permanently retired unit shall not be required to monitor under this Section if such unit was permanently retired and had no emissions for the entire period for which the WEB source implements this paragraph (3) and the Account Representative certifies in accordance with Section L2 of this Rule that these conditions were met.

(b) Notwithstanding paragraph (a) of this Section, the owner or operator of a unit that meets one of the conditions of paragraph (b)(1) may elect to have the provisions of this paragraph (b) apply to that unit.

(1) Any of the following units may implement this paragraph (b):

(A) Any smelting operation where all of the emissions from the operation are not ducted to a stack; or

(B) Any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery.

(C) Any other type of unit without add-on SO<sub>2</sub> control equipment, if no control level was assumed for the WEB source in establishing the floor level (and reducible allocation) provided in Section C1 of the Implementation Plan.

(2) For each unit covered by this paragraph (b), the Account Representative shall submit a notice to request that this paragraph (b) apply to one or more SO<sub>2</sub> emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in Section I6(a) of this Rule, and shall include the following information (in a format specified by [state or tribe] with such additional, related information as may be requested):

(A) A notice of all units at the applicable source, specifying which of the units are to be covered by this paragraph (b);

(B) Consistent with the emission estimation methodology used to determine the floor level (and reducible allocation) for the source in accordance with Section C1 of the Implementation Plan, the portion of the WEB source's overall allowance allocation that is attributable to any unit(s) covered by this paragraph; and

(C) An identification of any such units that are permanently retired.

(3) For each new unit at an existing WEB source for which the owner or operator seeks to comply with this paragraph (b) and for which the Account Representative applies for an allocation under the new source set-aside provisions of Section G6 of this Rule, the Account Representative shall submit a modified notice under paragraph (b)(2) that includes such new SO<sub>2</sub> emitting unit(s). The modified notice shall be submitted in accordance with the compliance dates in Section I6(a) of this Rule, but no later than the date on which a request is submitted under Section G6 of this Rule for allocations from the set-aside.

(4) [State or tribe] shall evaluate the information submitted by the WEB source in paragraphs (b)(2) and (b)(3), and may issue a notice to the source to exclude any units that do not qualify under this paragraph (b) or to adjust the portion of allowances attributable to units that do qualify to be consistent with the emission estimation methodology used to establish the floor level (and reducible allocation) for the source. Any such notice shall be provided within 180 days after the date on which the notice from the WEB source was received.

(5) [State or tribe] shall hold allowances equal to the adjusted portion of the WEB source's allowances under paragraphs (b)(2), (b)(3), and (b)(4) in an account maintained by [state or tribe], provided that no such hold back of the WEB source's allocation will be required for any unit that is permanently retired.

(6) The Account Representative for a WEB source shall submit an annual emissions statement for each unit under this paragraph (b). The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with the emission estimation methodology used to establish the floor level (and reducible allocation) for the source. [State or tribe] will retire the allowances held under paragraph (b)(5) to account for the emissions from such units. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances held under paragraph (b)(5) for the WEB source, the Account Representative will report the excess amount as part of the cumulative annual emissions report for the WEB source and be required to use other allowances in the compliance account for the WEB source to account for such emissions, in accordance with Section I8 of this Rule.

(7) The remaining provisions of this Section I shall not apply to units covered by this paragraph except where otherwise noted.

(8) A WEB source may opt to modify the monitoring for an SO<sub>2</sub> emitting unit to use monitoring under Section I1(a) of this Rule, but any such monitoring change must take effect on January 1 of the next compliance year. In addition, the Account Representative must submit an initial monitoring plan at least 180 days prior to the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with Section I2 of this Rule. The Account Representative shall also submit a revised notice under paragraph (b)(2) at the same time that the initial monitoring plan is submitted.

(c) For any monitoring method that the owner or operator uses under this Section (including paragraph (b)), the owner or operator (and, as applicable, the Account Representative) shall implement, certify, and use such method in accordance with this Section, and record and report the data from such method as required in this Section. In addition, the owner or operator (and, as applicable, the Account Representative) may not:

(1) Use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with Section I8(e) of this Rule (relating to petitions);

(2) Operate an SO<sub>2</sub> emitting unit so as to discharge, or allow to be discharged, SO<sub>2</sub> emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this Section;

(3) Disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording SO<sub>2</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this Section; or

(4) Retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:

(A) During a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in Section I1(a)(3);

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or

(C) The Account Representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this Section, and the owner or operator recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this Section.

## 2. Monitoring Plan

(a) General Provisions. The owner or operator of an SO<sub>2</sub> emitting unit that uses a monitoring method under Section I1(a)(2) of this Rule shall meet the following requirements:

(1) Prepare and submit to [state or tribe] an initial monitoring plan for each monitoring method that the owner or operator uses to comply with this Section. In accordance with paragraph I2(c) of this Rule, the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit SO<sub>2</sub> emissions are monitored and reported. The plan shall be submitted in accordance with the compliance dates specified in Section I5 of this Rule.

(2) Prepare, maintain and submit to [state or tribe] a detailed monitoring plan at least 45 days prior to the first day of certification testing. The plan will contain the applicable information required by paragraph I2(d) of this Rule. [State or tribe] may require that the monitoring plan (or portions thereof) be submitted electronically. The [state or tribe] also may require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under Section I8(a) of this Rule or resubmitted separately within 30 days after any change is made to the plan in accordance with the following paragraph (a)(3).

(3) Whenever the owner or operator makes a replacement, modification, or change in one of the systems or methodologies provided for in Section I1(a)(2), including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan (e.g., a change to serial number for a component of a monitoring system), then the owner or operator shall update the monitoring plan.

(b) The owner or operator of an SO<sub>2</sub> emitting unit that uses a method under Section I1(a)(1) of this Rule (a unit subject to 40 CFR Part 75 under a program other than this WEB Trading Program) shall meet the requirements of Section I2(a)-(f) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR Part 75, provided that the owner or operator also shall submit the entire monitoring plan to [state or tribe] upon request.

(c) Initial Monitoring Plan. The Account Representative shall submit an initial monitoring plan for each SO<sub>2</sub> emitting unit (or group of units sharing a common methodology) that, except as otherwise specified in an applicable provision in Appendix A, contains the following information:

(1) For all SO<sub>2</sub> emitting units involved in the monitoring plan:

(A) Plant name and location;

(B) Plant and unit identification numbers assigned by [state or tribe];

(C) Type of unit (or units for a group of units using a common monitoring methodology);

(D) Identification of all stacks or pipes associated with the monitoring plan;

(E) Types of fuel(s) fired (or sulfur containing process materials used in the SO<sub>2</sub> emitting unit), and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR Part 75 methodology;

(F) Type(s) of emissions controls for SO<sub>2</sub> installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process;

(G) Maximum hourly heat input capacity, or process throughput capacity, if applicable;

(H) Identification of all units using a common stack; and

(I) Indicator of whether any stack identified in the plan is a bypass stack.

(2) For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, monitor locations, substitute data approach for the methodology, and general identification of quality assurance procedures. If the proposed methodology is a site-specific methodology submitted pursuant to Section II(a)(2)(D) of this Rule, the description under this paragraph shall describe fully all aspects of the monitoring equipment, installation locations, operating characteristics, certification testing, ongoing quality assurance and maintenance procedures, and substitute data procedures.

(3) If the WEB source intends to petition for a change to any specific monitoring requirement otherwise required under this Section, such petition may be submitted as part of the initial monitoring plan.

(4) [State or tribe] may issue a notice of approval or disapproval of the initial monitoring plan based on the compliance of the proposed methodology with the requirements for monitoring in this Section. Except for any petition contained in the initial monitoring plan, if such notice is not issued within 180 days after the date on which [state or tribe] received the initial monitoring plan, the plan shall be deemed approved.

(d) Detailed Monitoring Plan. The Account Representative shall submit a detailed monitoring plan that, except as otherwise specified in an applicable provision in Appendix A, shall contain the following information:

(1) Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer and/or probe) in a CEMS (e.g., SO<sub>2</sub> pollutant concentration monitor, flow monitor, moisture monitor), a 40 CFR Part 75, Appendix D monitoring system (e.g., fuel flowmeter, data acquisition and handling system), or a protocol in Appendix A, including:

(A) Manufacturer, model number and serial number;

(B) Component/system identification code assigned by the facility to each identifiable monitoring component, such as the analyzer and/or probe;

(C) Designation of the component type and method of sample acquisition or operation (e.g., in situ pollutant concentration monitor or thermal flow monitor);

(D) Designation of the system as a primary or backup system;

(E) First and last dates the system reported data;

(F) Status of the monitoring component; and

(G) Parameter monitored.

(2) Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

(A) Hardware components that perform emission calculations or store data for quarterly reporting purposes (provide the manufacturer and model number); and

(B) Software components (provide the identification of the provider and model/version number).

(3) Explicit formulas for each measured emissions parameter, using component/system identification codes for the monitoring system used to measure the parameter that links the system observations with the reported concentrations and mass emissions. The formulas must contain all constants and factors required to derive mass emissions from component/system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. The owner or operator of a low mass emissions unit for which the owner or operator is using the optional low mass emissions excepted methodology in section 75.19(c) of 40 CFR Part 75 is not required to report such formulas.

(4) Inside cross-sectional area (ft<sup>2</sup>) at flow monitoring location (for units with flow monitors, only).

(5) If using CEMS for SO<sub>2</sub> and flow, for each parameter monitored: scale, maximum potential concentration (and method of calculation), maximum expected concentration (if applicable) (and method of calculation), maximum potential flow rate (and method of calculations), span value, full-scale range, daily calibration units of measure, span effective date/hour, span inactivation date/hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value (in scfh) for each unit or stack using SO<sub>2</sub> or flow component monitors.

(6) If the monitoring system or excepted methodology provides for use of a constant, assumed, or default value for a parameter under specific circumstances, then include the following information for each value of such parameter:

(A) Identification of the parameter;

(B) Default, maximum, minimum, or constant value, and units of measure for the value;

(C) Purpose of the value;

- (D) Indicator of use during controlled/uncontrolled hours;
- (E) Types of fuel;
- (F) Source of the value;
- (G) Value effective date and hour;
- (H) Date and hour value is no longer effective (if applicable); and
- (I) For units using the excepted methodology under section 75.19 of 40 CFR Part 75, the applicable SO<sub>2</sub> emission factor.

(7) Unless otherwise specified in section 6.5.2.1 of Appendix A to 40 CFR Part 75, for each unit or common stack on which hardware CEMS are installed:

- (A) The upper and lower boundaries of the range of operation (as defined in section 6.5.2.1 of Appendix A to 40 CFR Part 75), or thousand of lb/hr of steam, or ft/sec (as applicable);
- (B) The load or operating level(s) designated as normal in section 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of lb/hr of steam, or ft/sec (as applicable);
- (C) The two load or operating levels (i.e., low, mid, or high) identified in section 6.5.2.1 of Appendix A to 40 CFR Part 75 as the most frequently used;
- (D) The date of the data analysis used to determine the normal load (or operating) level(s) and the two most frequently-used load (or operating) levels; and
- (E) Activation and deactivation dates when the normal load or operating level(s) change and are updated.

(8) For each unit that is complying with 40 CFR Part 75 for which the optional fuel flow-to-load test in section 2.1.7 of appendix D to 40 CFR Part 75 is used:

- (A) The upper and lower boundaries of the range of operation (as defined in section 6.5.2.1 of Appendix A to 40 CFR Part 75), expressed in thousand of lb/hr of steam;
- (B) The load level designated as normal, pursuant to section 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam; and

(C) The date of the load analysis used to determine the normal load level.

(9) Information related to quality assurance testing, including (as applicable): identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels (percent of span) for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration (if applicable), maximum potential flow rate, and span;

(10) If applicable, apportionment strategies under sections 75.10 through 75.18 of 40 CFR Part 75.

(11) Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:

(A) A schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and paragraphs (d)(1) and (3). The schematic diagram must depict the height of any monitor locations. Comprehensive and/or separate schematic diagrams shall be used to describe groups of units using a common stack.

(B) Stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

(12) A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.

(e) In addition to supplying the information in paragraphs (c) and (d) above, the owner or operator of an SO<sub>2</sub> emitting unit using either of the methodologies in paragraph I.1(a)(2)(B) of this Section shall include the following information in its monitoring plan for the specific situations described:

(1) For each gas-fired or oil-fired SO<sub>2</sub> emitting unit for which the owner or operator uses the optional protocol in appendix D to 40 CFR Part 75 for SO<sub>2</sub> mass emissions, the Account Representative shall include the following information in the monitoring plan:

(A) Parameter monitored;

(B) Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;

(C) Test method used to check the accuracy of each fuel flowmeter;

(D) Submission status of the data;

(E) Monitoring system identification code;

(F) The method used to demonstrate that the unit qualifies for monthly GCV sampling or for daily or annual fuel sampling for sulfur content, as applicable;

(G) A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeter(s), and the stack(s). The schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling location(s). Comprehensive and/or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(H) For units using the optional default SO<sub>2</sub> emission rate for "pipeline natural gas" or "natural gas" in appendix D to 40 CFR Part 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either section 2.3.1.4 or 2.3.2.4 of appendix D to 40 CFR Part 75;

(I) For units using the 720 hour test under section 2.3.6 of appendix D to 40 CFR Part 75 to determine the required sulfur sampling requirements, report the procedures and results of the test; and

(J) For units using the 720 hour test under section 2.3.5 of appendix D to 40 CFR Part 75 to determine the appropriate fuel GCV sampling frequency, report the procedures used and the results of the test.

(2) For each SO<sub>2</sub> emitting unit for which the owner or operator uses the low mass emission excepted methodology of section 75.19 to 40 CFR Part 75, the designated representative shall include the following information in the monitoring plan that accompanies the initial certification application:

(A) The results of the analysis performed to qualify as a low mass emissions unit under section 75.19(c) to 40 CFR Part 75. This report will include either the previous three years actual or projected emissions. The following items should be included:

(i) Current calendar year of application;

(ii) Type of qualification;

(iii) Years one, two, and three;

(iv) Annual measured, estimated or projected SO<sub>2</sub> mass emissions for years one, two, and three; and

(v) Annual operating hours for years one, two, and three.

(B) A schematic diagram identifying the relationship between the unit, all fuel supply lines and tanks, any fuel flowmeter(s), and the stack(s). Comprehensive and/or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(C) For units which use the long term fuel flow methodology under section 75.19(c)(3) to 40 CFR Part 75, a diagram of the fuel flow to each unit or group of units and a detailed description of the procedures used to determine the long term fuel flow for a unit or group of units for each fuel combusted by the unit or group of units;

(D) A statement that the unit burns only gaseous fuel(s) and/or fuel oil and a list of the fuels that are burned or a statement that the unit is projected to burn only gaseous fuel(s) and/or fuel oil and a list of the fuels that are projected to be burned;

(E) A statement that the unit meets the applicability requirements in sections 75.19(a) and (b) to 40 CFR Part 75 with respect to SO<sub>2</sub> emissions; and

(F) Any unit historical actual, estimated and projected SO<sub>2</sub> emissions data and calculated SO<sub>2</sub> emissions data demonstrating that the unit qualifies as a low mass emissions unit under sections 75.19(a) and (b) to 40 CFR Part 75.

(3) For each gas-fired unit the Account Representative shall include the following in the monitoring plan: current calendar year, fuel usage data as specified in the definition of gas-fired in section 72.2 of 40 CFR Part 72, and an indication of whether the data are actual or projected data.

(f) An operating permit for a WEB source issued in accordance with Title V of the Clean Air Act shall require a source to maintain a detailed monitoring plan in accordance with this Part, but the specific elements of the plan shall not be part of the permit, and modifications to the elements of the plan shall not require a permit modification.

### 3. Certification/Recertification

(a) All monitoring systems are subject to initial certification and recertification testing as specified in 40 CFR Part 75 or Appendix A to this Rule, as applicable. Certification or recertification of a monitoring system by the U.S. Environmental Protection Agency for a WEB source that is subject to 40 CFR Part 75 under a requirement separate from this Rule shall constitute certification under the WEB Trading Program.

(b) The owner or operator of an SO<sub>2</sub> emitting unit not otherwise subject to 40 CFR Part 75 that monitors SO<sub>2</sub> mass emissions in accordance with 40 CFR Part 75 to satisfy the requirements of this Section shall perform all of the tests required by that regulation and shall submit the following:

(1) A test notice, not later than 21 days before the certification testing of the monitoring system, provided that [state or tribe] may establish additional requirements for adjusting test dates after this notice as part of the approval of the initial monitoring plan under paragraph I2(c) of this Rule; and

(2) An initial certification application within 45 days after testing is complete. A monitoring system will be considered provisionally certified while the application is pending, and the system shall be deemed certified if [state or tribe] does not approve or disapprove the system within six months after the date on which the application is submitted.

#### 4. Ongoing Quality Assurance and Quality Control

The WEB source shall satisfy the applicable quality assurance and quality control requirements of Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A, the applicable quality assurance and quality control requirements in Appendix A on and after the date that certification testing commences.

#### 5. Substitute Data Procedures

(a) For any period after certification testing is complete in which valid data are not being recorded by a monitoring system specified in this Rule, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A, with substitute data in accordance with Appendix A.

(b) For an SO<sub>2</sub> emitting unit that does not have a certified (or provisionally certified) monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the owner or operator shall:

(1) If the owner or operator will use a CEMS to comply with this Section, substitute the maximum potential concentration of SO<sub>2</sub> for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR Part 75. The procedures for conditional data validation under section 75.20(b)(3) may be

used for any monitoring system under this Rule that uses these 40 CFR Part 75 procedures, as applicable;

(2) If the owner or operator will use the 40 CFR Part 75 Appendix D methodology, substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with section 2.4 of Appendix D to 40 CFR Part 75;

(3) If the owner or operator will use the 40 CFR Part 75 LME methodology, substitute the SO<sub>2</sub> emission factor required for the unit as specified in 40 CFR 75.19 and the maximum rated hourly heat input, as defined in 40 CFR 72.2; or

(4) If using a protocol in Appendix A to this Rule, follow the procedures in the applicable protocol.

## 6. Compliance Dates

(a) The initial monitoring plan shall be submitted by the following dates:

(1) For each source that is a WEB source on or before the Program Trigger Date, the monitoring plan shall be submitted 180 days after such Program Trigger Date.

(2) For any existing source that becomes a WEB source after the Program Trigger Date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the emissions threshold.

(3) For any new WEB source, the monitoring plan shall be included with the permit application for New Source Review. [State or tribe shall modify the language as necessary to conform with their new source review rules.]

(b) Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this Section I (including any referenced in Appendix A) by the following dates:

(1) For each source that is a WEB source on or before the Program Trigger Date, two years prior to the start of the first control period as described in Section L of this Rule.

(2) For any existing source that becomes a WEB source after the Program Trigger Date, one year after the due date for the monitoring plan under I1(c)(2) of this Rule.

(3) For any new WEB source, the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.

## 7. Recordkeeping

(a) Except as provided in Section I7(b), the WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under this Rule for a period of five years. Unless otherwise requested by the WEB source and approved by [state or tribe], the copies shall be kept on site.

(b) The WEB source shall keep all Account Certificates of Representation on site at the source through the year 2018.

(c) The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for SO<sub>2</sub>, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this Section or in Appendix A to this Rule. The WEB source shall maintain the applicable records specified in 40 CFR Part 75 for any SO<sub>2</sub> emitting unit that uses a Part 75 monitoring method to meet the requirements of this Section.

## 8. Reporting

(a) Quarterly Reports. For each SO<sub>2</sub> emitting unit, the Account Representative shall submit a quarterly report within thirty days after the end of each calendar quarter. The report shall be in a format specified by [state or tribe] and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. [State or tribe] may require the WEB source to submit hourly and quality assurance activity information comparable to quarterly reports under 40 CFR Part 75. If the owner or operator submits a quarterly report under 40 CFR Part 75 to the U.S. EPA Administrator, no additional report under this paragraph (a) shall be required, provided, however, that [state or tribe] may require that a copy of that report (or a separate statement of quarterly and cumulative annual SO<sub>2</sub> mass emissions) be submitted separately to [state or tribe].

(b) Annual Report. Based on the quarterly reports, each WEB source shall submit an annual statement of total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source. The annual report shall contain four elements: total emissions for all units monitored in accordance with Section I1(a) of this Rule; total emissions for all units with emissions estimated in accordance with Section I1(b) of this Rule; the number of tons, if any, of SO<sub>2</sub> emissions estimated under Section I1(b) of this Rule that are subject to deduction of allowances from the source's compliance account in accordance with Section I1(b)(6); and the total number of SO<sub>2</sub> tons subject to deduction of allowances from the source's compliance account in accordance with Section L of this Rule. The annual report shall be submitted within 30 days after the end of a control period.

(c) [State or tribe] may direct that any monitoring plan, report, certification/recertification, or emissions data required to be submitted under this Section be submitted to the Tracking System Administrator.

(d) [State or tribe] may review and reject any report submitted under this Section I7 that contains errors or fails to satisfy the requirements of this Section, and the Account Representative shall resubmit the report to correct any deficiencies.

(e) Petitions. A WEB source may petition for an alternative to any requirement specified in Section I1(a)(2). The petition shall require approval of [state or tribe] and the U.S. EPA Administrator. Any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

(1) Identification of the WEB source and applicable SO<sub>2</sub> emitting unit(s);

(2) A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;

(3) A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;

(4) A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed and is consistent with the purposes of this Rule and that any adverse effect of approving such alternative will be *de minimis*; and

(3) Any other relevant information that [state or tribe] may require.

(f) For any monitoring plans, reports, or other information submitted under Section I of this Rule, the Account Representative shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate of representation for the WEB source submitted under Section E of this Rule.

## **J. Allowance Transfers**

### **1. Procedure**

To transfer allowances, the Account Representative shall submit the following information to the Tracking System Administrator:

(a) The transfer account number(s) identifying the transferor account;

(b) The transfer account number(s) identifying the transferee account;

(c) The serial number of each allowance to be transferred; and

(d) The transferor's Account Representative's name and signature and date of submission.

## 2. Deadline

The allowance transfer deadline is midnight Pacific Standard Time March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the control period. By this time, the transfer of the allowances into the WEB source's compliance account must be correctly submitted to the Tracking System Administrator in order to demonstrate compliance under Section L1 of the rule for that control period.

## 3. Retirement of Allowances

To transfer allowances for the purpose of retirement, the Account Representative shall submit the following information to the Tracking System Administrator:

- (a) The transfer account number(s) identifying the transferor account;
- (b) The serial number of each allowance to be retired; and
- (c) The transferor's Account Representative's name and signature and date of submission accompanied by a signed statement acknowledging that each retired allowance is no longer available for future transfers from or to any account.

## **K. Use of Allowances from a Previous Year**

1. Any allowance that is held in a compliance account or general account will remain in such an account unless and until the allowance is deducted in conjunction with the compliance process, or transferred to another account.

2. In order to demonstrate compliance under section L1 of this rule for a control period, WEB sources shall only use allowances allocated for that current control period or any previous year.

3. If flow control procedures for the current control period have been triggered as outlined in Section C4.2 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan, then the use of allowances that were allocated for any previous year will be limited as follows:

- (a) The number of allowances that are held in each compliance account and general account as of the allowance transfer deadline for the immediately previous year and that were allocated for any previous year will be determined.
- (b) The number determined in (a) will be multiplied by the flow control ratio established in accordance with Section C4.2 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan to determine the number of allowances that were allocated for a previous year that can be used without restriction for the current control period.

(c) Allowances that were allocated for a previous year in excess of the number determined in (b) may also be used for the current control period. If such allowances are used to make a deduction, two allowances must be deducted for each deduction of one allowance required under Section L of this Rule.

4. Special provisions for the year 2018. After compliance with the 2017 allowance limitation has been determined in accordance with Section L1 of this Rule, allowances allocated for any year prior to 2018 shall not be used for determining compliance with the 2018 allowance limitation or any future allowance limitation.

## **L. Compliance**

### **1. Compliance with Allowance Limitations**

(a) The WEB source must hold allowances, in accordance with Section L1(b) and Section K of this Rule, as of the allowance transfer deadline in the WEB source's compliance account (together with any current control year allowances held for the WEB source by the [state or tribe] under Section I1(b) of this Rule) in an amount not less than the total SO<sub>2</sub> emissions for the control period from the WEB source, as determined under the monitoring and reporting requirements of Section I of this Rule.

(1) For each source that is a WEB source on or before the Program Trigger Date, the first control period is the calendar year that is six years following the calendar year for which SO<sub>2</sub> emissions exceeded the milestone in accordance with procedures in Section A of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

(2) For any existing source that becomes a WEB source after the Program Trigger Date, the first control period is the calendar year that is four years following the inventory year in which the source exceeded the SO<sub>2</sub> emissions threshold.

(3) For any new WEB source after the Program Trigger Date the first control period is the first full calendar year that the source is in operation.

(4) If the WEB Trading Program is triggered in accordance with the 2013 review procedures in section A4 of the SO<sub>2</sub> Milestones and Backstop Trading Program implementation plan, the first control period for each source that is a WEB source on or before the Program Trigger Date is the year 2018.

(b) Allowance transfer deadline

An allowance may only be deducted from the WEB source's compliance account if:

(1) the allowance was allocated for the current control period or meets the requirements in Section K of this Rule for use of allowances from a previous control period, and

(2) the allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.

(c) Compliance with allowance limitations shall be determined by comparing the following two numbers:

(1) the monitored SO<sub>2</sub> emissions data reported by the source to [state or tribe], in accordance with Section I of this Rule, and recorded in the emissions tracking database and

(2) the allowance allocations and transfers recorded in the Allowance Tracking System, adjusted in accordance with Section K of this Rule.

(d) To the extent consistent with Section K of this Rule, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's Account Representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held by the [state or tribe] for compliance at a WEB source pursuant to Section I1(b) of this Rule shall be deducted as specified in that Section.

## 2. Certification of Compliance

(a) For each control period in which a WEB source is subject to the allowance limitation, the Account Representative of the source shall submit to [state or tribe] a Compliance Certification report for the source.

(b) The Compliance Certification report shall be submitted no later than the allowance transfer deadline of each control period, and shall contain the following:

(1) Identification of each WEB source;

(2) At the Account Representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account for compliance with the allowance limitation; and

(3) The Compliance Certification report according to subpart (c) of this section.

(c) In the Compliance Certification report, the Account Representative shall certify, based on reasonable inquiry of those persons with primary responsibility for

operating the WEB source in compliance with the WEB Trading Program, whether the WEB source for which the compliance certification is submitted was operated during the control period covered by the report in compliance with the requirements of the WEB Trading Program applicable to the source including:

- (1) Whether the WEB source operated in compliance with the SO<sub>2</sub> allowance limitation;
- (2) Whether SO<sub>2</sub> emissions data has been submitted to [states or tribe] in accordance with Section I of this Rule and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the SO<sub>2</sub> Allowance Tracking System for recording;
- (3) Whether the monitoring plan that governs the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute SO<sub>2</sub> emissions to the source, in accordance with Section II of this Rule;
- (4) Whether all the SO<sub>2</sub> emissions from the WEB source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;
- (5) If applicable, whether any SO<sub>2</sub> emitting unit for which the WEB source is not required to monitor in accordance with Section IIA(3) of this rule remained permanently retired and had no emissions for the entire applicable period; and
- (6) Whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification. If there were any such changes, the report must specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine SO<sub>2</sub> emissions.

### 3. Penalties for any WEB source exceeding its allowance limitations

#### (a) Allowance deduction penalties

If emissions from a WEB source exceed the allowance limitation for a control period, as determined in accordance with Section L1 of this Rule, the source's allowances held in its compliance account will be reduced by an amount equal to two times the source's tons of excess emissions. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances will be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.

(2) Any allowance deduction required under this Section shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy, for the same violation, as ordered under the Clean Air Act, implementing regulations or applicable state or tribal law..

(b) Financial penalties

A financial penalty of \$5,000 per ton of SO<sub>2</sub> emissions in excess of the WEB source's allowance limitation shall be levied.

#### 4. Liability

(a) WEB Source liability for non-compliance

Separate and regardless of any automatic penalties assessed for allowance deduction penalty and financial penalty, a WEB source that violates any requirement of this Rule, including monitoring record keeping and reporting requirements, is subject to civil and criminal penalties under [state or tribe] law and the Clean Air Act. Each day of the control period is a separate violation, and each ton of SO<sub>2</sub> emissions in excess of a source's allowance limitation is a separate violation.

(b) General liability

[State or tribe] may or may not be able to adopt the liability provisions. If a state has existing liability Rules, those can be referenced in this location.]

(1) Any provision of the WEB Trading Program that applies to a source or an Account Representative shall apply also to the owners and operators of such source.

(2) Any person who violates any requirement or prohibition of the WEB Trading Program will be subject to enforcement pursuant to applicable state, tribal or federal law.

(3) Any person who knowingly makes a false material statement in any record, submission, or report under this WEB Trading Program shall be subject to criminal enforcement pursuant to the applicable state, tribal or federal law.

### **M. Special Penalty Provisions for the 2018 Milestone**

1. If the WEB Trading Program is triggered as outlined in Section A of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan, and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.

(a) All WEB sources shall register, and open a compliance account within 180 days after the Program Trigger Date, in accordance with Sections F1 and H of this Rule.

(b) The Tracking System Administrator will record the allowances for the 2018 control period for each WEB source in the source's compliance account once [state or tribe] allocates the 2018 allowances under Section C1 and D1 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

(c) The allowance transfer deadline is midnight Pacific Standard Time on May 30, 2021. WEB sources may transfer allowances as provided in Section J1 of this Rule until the allowance transfer deadline.

(d) A WEB source must hold allowances allocated for 2018 including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO<sub>2</sub> emissions for 2018. Emissions are determined using the pre-trigger monitoring provisions in Section B of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan, and [refer to state or tribe emission inventory or equivalent rule].

(e) An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with Sections K4, L1(d) and L3 of this Rule, except that SO<sub>2</sub> emissions shall be determined under Section M1(d) of this Rule.

2. If the program has been triggered and provision M1 is implemented, the provisions of M3 of this Rule shall apply for each year after the 2018 emission year until:

(a) The first control period under the WEB trading program; or

(c) [State or Tribe] determined, in accordance with section A3.10 of the Implementation Plan, that the 2018 SO<sub>2</sub> milestone has been met.

3. If provision M1 was implemented, the following shall apply to each emissions year after the 2018 emissions year:

(a) The Tracking System Administrator will record the allowances for the control period for the specific year for each WEB source in the source's compliance account once [state or tribe] allocates the allowances under Section C1 of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan.

(b) The allowance transfer deadline is midnight Pacific Standard Time on March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the specific emissions year. WEB sources may transfer allowances as provided in Section J1 of this Rule until the allowance transfer deadline.

(c) A WEB source must hold allowances allocated for that specific emissions year, or any year after 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO<sub>2</sub> emissions for the specific emissions year. Emissions are determined using the pre-trigger monitoring provisions in Section B of the SO<sub>2</sub>

Milestones and Backstop Trading Program Implementation Plan, and [refer to state or tribe emission inventory or equivalent rule].

(d) An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with Sections K4, L1(d) and L3 of this Rule, except that SO<sub>2</sub> emissions shall be determined under Section M3(c) of this Rule.

## APPENDIX A: WEB MODEL RULE MONITORING PROTOCOLS

### Protocol WEB-1: SO<sub>2</sub> Monitoring of Fuel Gas Combustion Devices

#### 1. Applicability

(a) The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.

(b) Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.

(c) Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include: (1) natural gas, unless combined with other gases generated at a petroleum refinery, (2) gases generated by a catalytic cracking unit catalyst regenerator, (3) gases generated by fluid coking burners, (4) gases combusted to produce sulfur or sulfuric acid, or (5) process upset gases generated due to startup, shutdown, or malfunctions.

#### 2. Monitoring Requirements

(a) Except as provided in paragraphs (b) and (c) of this Section 2, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content (reported as H<sub>2</sub>S) of the fuel gas mixture prior to combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.

(1) Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.

(2) The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR Part 60, and the following:

(i) Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv H<sub>2</sub>S.

(ii) Have the span value set so that the majority of readings fall between 10 and 95% of the range.

(iii) Record negative values of zero drift.

(iv) Calibration drift shall be 5.0% of the span.

(v) Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with paragraph 4(c) of this section.

(3) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(4) The hourly mass SO<sub>2</sub> emissions shall be calculated using the following equation:

$$E = (C_S)(Q_f)(K)$$

where:  $E$  = SO<sub>2</sub> emissions in lbs/hr  
 $C_S$  = Sulfur content of the fuel gas as H<sub>2</sub>S(ppmv)  
 $Q_f$  = Fuel gas flow rate (scfh)  
 $K = 1.660 \times 10^{-7}$  (lb/scf)/ppmv

(b) In place of a CFGMS in paragraph (a) of this Section 2, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> CEMS and flow CEMS at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with paragraph (b), and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.

(1) Each CEMS for SO<sub>2</sub> and flow shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR Part 75.

(2) All continuous fuel flow meters shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(3) The SO<sub>2</sub> mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(Q_t)/(Q_m)$$

where:  $E_t$  = Total SO<sub>2</sub> emissions in lbs/hr from applicable fuel gas combustion devices.  
 $E_m$  = SO<sub>2</sub> emissions in lbs/hr from the CEMS-monitored fuel gas combustion device.  
 $Q_t$  = Fuel gas flow rate (scfh) from applicable fuel gas combustion devices.  
 $Q_m$  = Fuel gas flow rate (scfh) from the CEMS-monitored fuel gas combustion device.

(c) In place of a CFGMS in paragraph (a) of this section, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with paragraph (a) of this Section 2, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

(1) Each SO<sub>2</sub>-diluent CEMS shall comply with the applicable provisions for SO<sub>2</sub> monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in section 3 of Appendix F to Part 75 for determining SO<sub>2</sub> emission rate (lb/mmBtu) by substituting the term SO<sub>2</sub> for NO<sub>x</sub> in that section.

(2) All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input rate from the fuel gas shall comply with the applicable provisions of Appendix D to 40 CFR Part 75.

(3) The SO<sub>2</sub> mass emissions for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the fuel gas heat input to the CEMS-monitored fuel gas combustion device to the total fuel gas heat input to all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(H_t)/(H_m)$$

where:

- $E_t$  = Total SO<sub>2</sub> emissions in lbs/hr from applicable fuel gas combustion devices.
- $E_m$  = SO<sub>2</sub> emissions in lb/mmBtu from the CEMS - monitored fuel gas combustion device.
- $H_t$  = Fuel gas heat input (mmBtu/hr) from applicable fuel gas combustion devices.
- $H_m$  = Fuel gas heat input (mmBtu/hr) from the CEMS - monitored fuel gas combustion device.

### 3. Certification/Recertification Requirements

All monitoring systems are subject to initial certification and recertification testing as follows:

(a) The owner or operator shall comply with the initial testing and calibration requirements in Performance Specification 2 in Appendix B of 40 CFR Part 60 and paragraph 2 (a)(2) of this section for each CFGMS.

(b) Each CEMS for SO<sub>2</sub> and flow or each SO<sub>2</sub>-diluent CEMS shall comply with the testing and calibration requirements specified in 40 CFR Part 75, section 75.20 and

Appendices A and B, except that each SO<sub>2</sub>-diluent CEMS shall meet the relative accuracy requirements for a NO<sub>x</sub>-diluent CEMS (lb/mmBtu).

(c) A continuous fuel flow meter shall comply with the testing and calibration requirements in 40 CFR Part 75, Appendix D.

#### 4. Quality Assurance/Quality Control Requirements

(a) A quality assurance/quality control (QA/QC) plan shall be developed and implemented for each CEMS for SO<sub>2</sub> and flow or the SO<sub>2</sub>-diluent CEMS in compliance with Appendix B of 40 CFR Part 75.

(b) A QA/QC plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in compliance with Appendix B of 40 CFR Part 75.

(c) A QA/QC plan shall be developed and implemented for each CFGMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

(1) Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the error is greater than 5.0% of the span value.

(2) In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.

(3) Perform a linearity test once every operating quarter. Calculate the linearity as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.

(4) Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the relative accuracy is greater than 20.0% of the mean value of the reference method measurements.

(5) Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

#### 5. Missing Data Procedures

(a) For any period in which valid data are not being recorded by an SO<sub>2</sub> CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in Subpart D of 40 CFR Part 75.

(b) For any period in which valid data are not being recorded by an SO<sub>2</sub>-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for SO<sub>2</sub> monitors in Subpart D of 40 CFR Part 75.

(c) For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this section, missing or invalid data shall be replaced with substitute data in accordance with missing data requirements in Appendix D to 40 CFR Part 75.

(d) For any period in which valid data are not being recorded by the CFGMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in section 2.4 of Appendix D to 40 CFR Part 75.

## 6. Monitoring Plan and Reporting Requirements

In addition to the general monitoring plan and reporting requirements of Section I of this Rule, the owner or operator shall meet the following additional requirements:

(a) The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this Protocol WEB-1, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.

(b) If the provisions of paragraphs 2(b) or (c) are used, provide documentation and an explanation to demonstrate that the SO<sub>2</sub> emission rate from the monitored unit is representative of the rate from non-monitored units.

## **Protocol WEB-2: Predictive Flow Monitoring Systems for Kilns with Positive Pressure Fabric Filter**

### 1. Applicability

The provisions of this protocol are applicable to cement kilns or lime kilns that (1) are controlled by a positive pressure fabric filter, and (2) have operating conditions upstream of the fabric filter that the WEB source documents would reasonably prevent reliable flow monitor measurements.

### 2. Monitoring Requirements

(a) A cement or lime kiln with a positive pressure fabric filter shall use a predictive flow monitoring system (PFMS) to determine the hourly kiln exhaust gas flow.

(b) A PFMS is the total equipment necessary for the determination of exhaust gas flow using process or control device operating parameter measurements and a conversion equation, a graph, or computer program to produce results in cubic feet per hour.

(c) The PFMS shall meet the following performance specifications:

(1) The PFMS must allow for the automatic or manual determination of failed monitors. At a minimum a daily determination must be performed.

(2) The PFMS shall have provisions to check the calibration error of each parameter that is individually measured. The owner or operator shall propose appropriate performance specifications in the initial monitoring plan for all parameters used in the PFMS comparable to the degree of accuracy required for other monitoring systems used to comply with this Rule. The parameters shall be tested at two levels, low: 0 to 20% of full scale, and high: 50 to 100% of full scale. The reference value need not be certified.

(3) The relative accuracy of the PFMS must be  $\leq 10.0\%$  of the reference method average value, and include a bias test in accordance with paragraph 4(c) of this section.

### 3. Certification Requirements

The PFMS is subject to initial certification testing as follows:

(a) Demonstrate the ability of the PFMS to identify automatically or manually a failed monitor.

(b) Provide evidence of calibration testing of all monitoring equipment. Any tests conducted within the previous 12 months of operation that are consistent with the QA/QC plan for the PFMS are acceptable for initial certification purposes.

(c) Perform an initial relative accuracy test over the normal range of operating conditions of the kiln. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

### 4. Quality Assurance/Quality Control Requirements

A QA/QC plan shall be developed and implemented for each PFMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

- (a) Perform a daily monitor failure check.
- (b) Perform calibration tests of all monitors for each parameter included in the PFMS. At a minimum, calibrations shall be conducted prior to each relative accuracy test audit.
- (c) Perform a relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy (and bias adjustment factor) as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0% of the mean value of the reference method.

## 5. Missing Data

For any period in which valid data are not being recorded by the PFMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the flow monitor missing data requirements for non-load based units in Subpart D of 40 CFR Part 75.

## 6. Monitoring Plan Requirements

In addition to the general monitoring plan requirements of Section I of this Rule, the owner or operator shall meet the following additional requirements:

- (a) The monitoring plan shall document the reasons why stack flow measurements upstream of the fabric filter are unlikely to provide reliable flow measurements over time.
- (b) The initial monitoring plan shall explain the relationship of the proposed parameters and stack flow, and discuss other parameters considered and the reasons for not using those parameters in the PFMS. The [state or tribe] may require that the subsequent monitoring plan include additional explanation and documentation for the reasonableness of the proposed PFMS.

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# **Western Backstop SO<sub>2</sub> Trading Program**

## **Model Rule Supplement**

**August 13, 2003**  
**(Final Draft)**

**The Model Rule Supplement is available through the Western Regional Air Partnership (WRAP) at [www.wrapair.org](http://www.wrapair.org)**

**This Model Rule Supplement was developed through a broad stakeholder process of the WRAP as a template to facilitate consistent, multi-jurisdictional implementation of the SO<sub>2</sub> Milestones and Backstop Trading Program Section 309 of the Regional Haze Rule.**

## H. Establishment of Accounts

***Add following sentence after first sentence in section H1 (or in reorganized section based on Lee's comments):***

In addition, if a WEB source conducts monitoring under Section I1.(b) of this Rule, the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions. The WEB source and Account Representative shall have no rights to transfer allowances in or out of such special reserve compliance account. The [state or tribe] shall allocate allowances to the account in accordance with Section I1.(b)(5) of this Rule and all such allowances for each control period shall be retired each year for compliance in accordance with Section L of this Rule.

## I. Monitoring, Recordkeeping and Reporting

### 1. General Requirements on Monitoring Methods

(a) For each SO<sub>2</sub> emitting unit at a WEB source the WEB source shall comply with the following, as applicable, to monitor and record SO<sub>2</sub> mass emissions:

(1) If a unit is subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in Part 75 with respect to monitoring, recording and reporting SO<sub>2</sub> mass emissions.

(2) If a unit is not subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:

(A) A continuous emission monitoring system (CEMS) for SO<sub>2</sub> and flow that complies with all applicable monitoring provisions in 40 CFR Part 75;

(B) If the unit is a gas- or oil-fired combustion device, the excepted monitoring methodology in Appendix D to 40 CFR Part 75, or, if applicable, the low mass emissions (LME) provisions (with respect to SO<sub>2</sub> mass emissions only) of section 75.19 of 40 CFR Part 75;

(C) One of the optional WEB protocols, if applicable, in Appendix A to this Rule; or

(D) A petition for site-specific monitoring that the source submits for approval by [state or tribe], and approval by the U.S.

Environmental Protection Agency in accordance with Section 18(e) of this Rule (relating to petitions).

(3) A permanently retired unit shall not be required to monitor under this Section if such unit was permanently retired and had no emissions for the entire period for which the WEB source implements this paragraph (3) and the Account Representative certifies in accordance with Section L2 of this Rule that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section I in the same manner as if the unit was a new unit.

(b) Notwithstanding paragraph (a) of this Section, the WEB source with a unit that meets one of the conditions of paragraph (b)(1) may elect to have the provisions of this paragraph (b) apply to that unit.

(1) Any of the following units may implement this paragraph (b):

(A) Any smelting operation where all of the emissions from the operation are not ducted to a stack; or

(B) Any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery.

(C) Any other type of unit without add-on SO<sub>2</sub> control equipment, if no control level was assumed for the WEB source in establishing the floor level (and reducible allocation) provided in Section C1 of the Implementation Plan.

(2) For each unit covered by this paragraph (b), the Account Representative shall submit a notice to request that this paragraph (b) apply to one or more SO<sub>2</sub> emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in Section I6(a) of this Rule, and shall include the following information (in a format specified by [state or tribe] with such additional, related information as may be requested):

(A) A notice of all units at the applicable source, specifying which of the units are to be covered by this paragraph (b);

(B) Consistent with the emission estimation methodology used to determine the floor level (and reducible allocation) for the source in accordance with Section C1 of the Implementation Plan, the portion of the WEB source's overall allowance allocation that is attributable to any unit(s) covered by this paragraph; and

(C) An identification of any such units that are permanently retired.

(3) For each new unit at an existing WEB source for which the WEB source seeks to comply with this paragraph (b) and for which the Account Representative applies for an allocation under the new source set-aside provisions of Section G6 of this Rule, the Account Representative shall submit a modified notice under paragraph (b)(2) that includes such new SO<sub>2</sub> emitting unit(s). The modified notice shall be submitted in accordance with the compliance dates in Section I6(a) of this Rule, but no later than the date on which a request is submitted under Section G6 of this Rule for allocations from the set-aside.

(4) [State or tribe] shall evaluate the information submitted by the WEB source in paragraphs (b)(2) and (b)(3), and may issue a notice to the source to exclude any units that do not qualify under this paragraph (b) or to adjust the portion of allowances attributable to units that do qualify to be consistent with the emission estimation methodology used to establish the floor level (and reducible allocation) for the source.

(5) [State or tribe] shall allocate allowances equal to the adjusted portion of the WEB source's allowances under paragraphs (b)(2), (b)(3), and (b)(4) in a special reserve compliance account, provided that no such treatment of the WEB source's allocation will be required for any unit that is permanently retired and had no emissions for the entire period for which the WEB source implements this paragraph (b) and the Account Representative certifies in accordance with Section L of this Rule that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section I in the same manner as if the unit was a new unit.

(6) The Account Representative for a WEB source shall submit an annual emissions statement for each unit under this paragraph (b) in accordance with Section I8 of this Rule. The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with the emission estimation methodology used to establish the floor level (and reducible allocation) for the source. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account under paragraph (b)(5) for the WEB source, the Account Representative will report the excess amount as part of the annual report for the WEB source under Section L of this Rule and be required to use other allowances in the standard

compliance account for the WEB source to account for such emissions, in accordance with Section L of this Rule.

(7) The remaining provisions of this Section I shall not apply to units covered by this paragraph except where otherwise noted.

(8) A WEB source may opt to modify the monitoring for an SO<sub>2</sub> emitting unit to use monitoring under Section I1(a) of this Rule, but any such monitoring change must take effect on January 1 of the next compliance year. In addition, the Account Representative must submit an initial monitoring plan at least 180 days prior to the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with Section I2 of this Rule. The Account Representative shall also submit a revised notice under paragraph (b)(2) at the same time that the initial monitoring plan is submitted.

(c) For any monitoring that the WEB source uses under this Section (including paragraph (b)), the WEB source (and, as applicable, the Account Representative) shall implement, certify, and use such monitoring in accordance with this Section, and record and report the data from such monitoring as required in this Section. In addition, the WEB source (and, as applicable, the Account Representative) may not:

(1) Except for an alternative approved by the U.S. EPA Administrator for a WEB source that implements monitoring under Section I1.(a)(1), use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with Section I8(e) of this Rule (relating to petitions);

(2) Operate an SO<sub>2</sub> emitting unit so as to discharge, or allow to be discharged, SO<sub>2</sub> emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this Section;

(3) Disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording SO<sub>2</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this Section; or

(4) Retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:

(A) During a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in Section I1(a)(3);

(B) The WEB source is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or

(C) The Account Representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this Section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this Section.

## 2. Monitoring Plan

(a) General Provisions. A WEB source with an SO<sub>2</sub> emitting unit that uses a monitoring method under Section I1(a)(2) of this Rule shall meet the following requirements:

(1) Prepare and submit to [state or tribe] an initial monitoring plan for each monitoring method that the WEB source uses to comply with this Section. In accordance with paragraph I2(c) of this Rule, the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit SO<sub>2</sub> emissions are monitored and reported. The plan shall be submitted in accordance with the compliance deadlines specified in Section I6 of this Rule.

(2) Prepare, maintain and submit to [state or tribe] a detailed monitoring plan prior to the first day of certification testing, in accordance with the compliance deadline specified in Section I5 of this Rule. The plan will contain the applicable information required by Section I2(d) of this Rule. [State or tribe] may require that the monitoring plan (or portions thereof) be submitted electronically. The [state or tribe] also may require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under Section I8(a) of this Rule or resubmitted separately after any change is made to the plan in accordance with the following paragraph (a)(3).

(3) Whenever the WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in Section I1(a)(2), including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects

information reported in the monitoring plan (e.g., a change to serial number for a component of a monitoring system), then the WEB source shall update the monitoring plan in accordance with the compliance deadline specified in Section I5 of this Rule.

(b) A WEB source with an SO<sub>2</sub> emitting unit that uses a method under Section I1(a)(1) of this Rule (a unit subject to 40 CFR Part 75 under a program other than this WEB Trading Program) shall meet the requirements of Section I2(a)-(f) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR Part 75, provided that the WEB source also shall submit the entire monitoring plan to [state or tribe] upon request.

(c) Initial Monitoring Plan. The Account Representative shall submit an initial monitoring plan for each SO<sub>2</sub> emitting unit (or group of units sharing a common methodology) that, except as otherwise specified in an applicable provision in Appendix A, contains the following information:

- (1) For all SO<sub>2</sub> emitting units involved in the monitoring plan:
  - (A) Plant name and location;
  - (B) Plant and unit identification numbers assigned by [state or tribe];
  - (C) Type of unit (or units for a group of units using a common monitoring methodology);
  - (D) Identification of all stacks or pipes associated with the monitoring plan;
  - (E) Types of fuel(s) fired (or sulfur containing process materials used in the SO<sub>2</sub> emitting unit), and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR Part 75 methodology;
  - (F) Type(s) of emissions controls for SO<sub>2</sub> installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process;
  - (G) Maximum hourly heat input capacity, or process throughput capacity, if applicable;
  - (H) Identification of all units using a common stack; and

(l) Indicator of whether any stack identified in the plan is a bypass stack.

(2) For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, monitor locations, substitute data approach for the methodology, and general identification of quality assurance procedures. If the proposed methodology is a site-specific methodology submitted pursuant to Section I1(a)(2)(D) of this Rule, the description under this paragraph shall describe fully all aspects of the monitoring equipment, installation locations, operating characteristics, certification testing, ongoing quality assurance and maintenance procedures, and substitute data procedures.

(3) If the WEB source intends to petition for a change to any specific monitoring requirement otherwise required under this Section, such petition may be submitted as part of the initial monitoring plan.

(4) [State or tribe] may issue a notice of approval or disapproval of the initial monitoring plan based on the compliance of the proposed methodology with the requirements for monitoring in this Section.

(d) Detailed Monitoring Plan. The Account Representative shall submit a detailed monitoring plan that, except as otherwise specified in an applicable provision in Appendix A, shall contain the following information:

(1) Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer or probe) in a CEMS (e.g., SO<sub>2</sub> pollutant concentration monitor, flow monitor, moisture monitor), a 40 CFR Part 75, Appendix D monitoring system (e.g., fuel flowmeter, data acquisition and handling system), or a protocol in Appendix A, including:

(A) Manufacturer, model number and serial number;

(B) Component or system identification code assigned by the facility to each identifiable monitoring component, such as the analyzer or probe;

(C) Designation of the component type and method of sample acquisition or operation (e.g., in situ pollutant concentration monitor or thermal flow monitor);

(D) Designation of the system as a primary or backup system;

(E) First and last dates the system reported data;

(F) Status of the monitoring component; and

(G) Parameter monitored.

(2) Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

(A) Hardware components that perform emission calculations or store data for quarterly reporting purposes (provide the manufacturer and model number); and

(B) Software components (provide the identification of the provider and model or version number).

(3) Explicit formulas for each measured emissions parameter, using component or system identification codes for the monitoring system used to measure the parameter that links the system observations with the reported concentrations and mass emissions. The formulas must contain all constants and factors required to derive mass emissions from component or system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. The WEB source with a low mass emissions unit for which the WEB source is using the optional low mass emissions excepted methodology in section 75.19(c) of 40 CFR Part 75 is not required to report such formulas.

(4) Inside cross-sectional area (ft<sup>2</sup>) at flow monitoring location (for units with flow monitors, only).

(5) If using CEMS for SO<sub>2</sub> and flow, for each parameter monitored: scale, maximum potential concentration (and method of calculation), maximum expected concentration (if applicable) (and method of calculation), maximum potential flow rate (and method of calculations), span value, full-scale range, daily calibration units of measure, span effective date and hour, span inactivation date and hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value (in standard cubic feet per hour (scfh)) for each unit or stack using SO<sub>2</sub> or flow component monitors.

(6) If the monitoring system or excepted methodology provides for use of a constant, assumed, or default value for a parameter under specific circumstances, then include the following information for each value of such parameter:

- (A) Identification of the parameter;
- (B) Default, maximum, minimum, or constant value, and units of measure for the value;
- (C) Purpose of the value;
- (D) Indicator of use during controlled or uncontrolled hours;
- (E) Types of fuel;
- (F) Source of the value;
- (G) Value effective date and hour;
- (H) Date and hour value is no longer effective (if applicable);  
and
- (I) For units using the excepted methodology under section 75.19 of 40 CFR Part 75, the applicable SO<sub>2</sub> emission factor.

(7) Unless otherwise specified in section 6.5.2.1 of Appendix A to 40 CFR Part 75, for each unit or common stack on which hardware CEMS are installed:

- (A) The upper and lower boundaries of the range of operation (as defined in section 6.5.2.1 of Appendix A to 40 CFR Part 75), or thousand of pounds per hour (lb/hr) of steam, or feet per second (ft/sec) (as applicable);
- (B) The load or operating level(s) designated as normal in section 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of lb/hr of steam, or ft/sec (as applicable);
- (C) The two load or operating levels (i.e., low, mid, or high) identified in section 6.5.2.1 of Appendix A to 40 CFR Part 75 as the most frequently used;
- (D) The date of the data analysis used to determine the normal load (or operating) level(s) and the two most frequently-used load (or operating) levels; and
- (E) Activation and deactivation dates when the normal load or operating level(s) change and are updated.

(8) For each unit that is complying with 40 CFR Part 75 for which the optional fuel flow-to-load test in section 2.1.7 of appendix D to 40 CFR Part 75 is used:

(A) The upper and lower boundaries of the range of operation (as defined in section 6.5.2.1 of Appendix A to 40 CFR Part 75), expressed in thousand of lb/hr of steam;

(B) The load level designated as normal, pursuant to section 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam; and

(C) The date of the load analysis used to determine the normal load level.

(9) Information related to quality assurance testing, including (as applicable): identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels (percent of span) for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration (if applicable), maximum potential flow rate, and span;

(10) If applicable, apportionment strategies under sections 75.10 through 75.18 of 40 CFR Part 75.

(11) Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:

(A) A schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and paragraphs (d)(1) and (3). The schematic diagram must depict the height of any monitor locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common stack.

(B) Stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling

ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

(12) A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.

(e) In addition to supplying the information in paragraphs (c) and (d) above, the WEB source with an SO<sub>2</sub> emitting unit using either of the methodologies in paragraph I.1(a)(2)(B) of this Section shall include the following information in its monitoring plan for the specific situations described:

(1) For each gas-fired or oil-fired SO<sub>2</sub> emitting unit for which the WEB source uses the optional protocol in appendix D to 40 CFR Part 75 for SO<sub>2</sub> mass emissions, the WEB source shall include the following information in the monitoring plan:

(A) Parameter monitored;

(B) Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;

(C) Test method used to check the accuracy of each fuel flowmeter;

(D) Submission status of the data;

(E) Monitoring system identification code;

(F) The method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;

(G) A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeter(s), and the stack(s). The schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling location(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(H) For units using the optional default SO<sub>2</sub> emission rate for "pipeline natural gas" or "natural gas" in appendix D to 40 CFR Part 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either section 2.3.1.4 or 2.3.2.4 of appendix D to 40 CFR Part 75;

(I) For units using the 720 hour test under section 2.3.6 of appendix D to 40 CFR Part 75 to determine the required sulfur sampling requirements, report the procedures and results of the test; and

(J) For units using the 720 hour test under section 2.3.5 of appendix D to 40 CFR Part 75 to determine the appropriate fuel GCV sampling frequency, report the procedures used and the results of the test.

(2) For each SO<sub>2</sub> emitting unit for which the WEB source uses the low mass emission excepted methodology of section 75.19 to 40 CFR Part 75, the WEB source shall include the following information in the monitoring plan that accompanies the initial certification application:

(A) The results of the analysis performed to qualify as a low mass emissions unit under section 75.19(c) to 40 CFR Part 75. This report will include either the previous three years actual or projected emissions. The following items should be included:

(i) Current calendar year of application;

(ii) Type of qualification;

(iii) Years one, two, and three;

(iv) Annual measured, estimated or projected SO<sub>2</sub> mass emissions for years one, two, and three; and

(v) Annual operating hours for years one, two, and three.

(B) A schematic diagram identifying the relationship between the unit, all fuel supply lines and tanks, any fuel flowmeter(s), and the stack(s). Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(C) For units which use the long term fuel flow methodology under section 75.19(c)(3) to 40 CFR Part 75, a diagram of the fuel flow to each unit or group of units and a detailed description of the procedures used to determine the long term fuel flow for a unit or group of units for each fuel combusted by the unit or group of units;

(D) A statement that the unit burns only gaseous fuel(s) or fuel oil and a list of the fuels that are burned or a statement that the

unit is projected to burn only gaseous fuel(s) or fuel oil and a list of the fuels that are projected to be burned;

(E) A statement that the unit meets the applicability requirements in sections 75.19(a) and (b) to 40 CFR Part 75 with respect to SO<sub>2</sub> emissions; and

(F) Any unit historical actual, estimated and projected SO<sub>2</sub> emissions data and calculated SO<sub>2</sub> emissions data demonstrating that the unit qualifies as a low mass emissions unit under sections 75.19(a) and (b) to 40 CFR Part 75.

(3) For each gas-fired unit the WEB source shall include the following in the monitoring plan: current calendar year, fuel usage data as specified in the definition of gas-fired in section 72.2 of 40 CFR Part 72, and an indication of whether the data are actual or projected data.

(f) The specific elements of a monitoring plan under this Section I2. shall not be part of an operating permit for a WEB source issued in accordance with Title V of the Clean Air Act, and modifications to the elements of the plan shall not require a permit modification.

### 3. Certification and Recertification

(a) All monitoring systems are subject to initial certification and recertification testing as specified in 40 CFR Part 75 or Appendix A to this Rule, as applicable. Certification or recertification of a monitoring system by the U.S. Environmental Protection Agency for a WEB source that is subject to 40 CFR Part 75 under a requirement separate from this Rule shall constitute certification under the WEB Trading Program.

(b) The WEB source with an SO<sub>2</sub> emitting unit not otherwise subject to 40 CFR Part 75 that monitors SO<sub>2</sub> mass emissions in accordance with 40 CFR Part 75 to satisfy the requirements of this Section shall perform all of the tests required by that regulation and shall submit the following:

(1) A test notice, not later than 21 days before the certification testing of the monitoring system, provided that [state or tribe] may establish additional requirements for adjusting test dates after this notice as part of the approval of the initial monitoring plan under paragraph I2(c) of this Rule; and

(2) An initial certification application within 45 days after testing is complete.

(c) A monitoring system will be considered provisionally certified while the application is pending, and the system shall be deemed certified if [state or tribe] does not approve or disapprove the system within six months after the date on which the application is submitted.

(d) Whenever an audit of any monitoring certified under this Rule, and a review of the initial certification or recertification application, reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement of this Rule, both at the time of the initial certification or recertification application submission and at the time of the audit, the [state or tribe] will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit of the facility or an audit of any information submitted to the [state or tribe] regarding the facility. By issuing the notice of disapproval, the certification status is revoked prospectively, and the data measured and recorded shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the WEB source completes subsequently approved initial certification or recertification tests in accordance with the procedures in this Section I3. The WEB source shall apply the substitute data procedures in Section I5.(b) of this Rule to replace, prospectively, all of the invalid, non-quality-assured data for each disapproved system or component.

#### 4. Ongoing Quality Assurance and Quality Control

The WEB source shall satisfy the applicable quality assurance and quality control requirements of Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A, the applicable quality assurance and quality control requirements in Appendix A on and after the date that certification testing commences.

#### 5. Substitute Data Procedures

(a) For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with this Rule, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix A, with substitute data in accordance with Appendix A.

(b) For an SO<sub>2</sub> emitting unit that does not have a certified (or provisionally certified) monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the WEB source shall:

- (1) If the WEB source will use a CEMS to comply with this Section, substitute the maximum potential concentration of SO<sub>2</sub> for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR Part 75. The procedures for conditional data validation under section 75.20(b)(3) may be used for any monitoring system under this Rule that uses these 40 CFR Part 75 procedures, as applicable;
- (2) If the WEB source will use the 40 CFR Part 75 Appendix D methodology, substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with section 2.4 of Appendix D to 40 CFR Part 75;
- (3) If the WEB source will use the 40 CFR Part 75 methodology for low mass emissions units, substitute the SO<sub>2</sub> emission factor required for the unit as specified in 40 CFR 75.19 and the maximum rated hourly heat input, as defined in 40 CFR 72.2; or
- (4) If using a protocol in Appendix A to this Rule, follow the procedures in the applicable protocol.

## 6. Compliance Deadlines

- (a) The initial monitoring plan shall be submitted by the following dates:
  - (1) For each source that is a WEB source on or before the Program Trigger Date, the monitoring plan shall be submitted 180 days after such Program Trigger Date.
  - (2) For any existing source that becomes a WEB source after the Program Trigger Date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the emissions threshold.
  - (3) For any new WEB source, the monitoring plan shall be included with the permit application for [State or tribe shall include appropriate reference for preconstruction permit program under Title I of the Clean Air Act, including both minor and major new source review programs.]
- (b) A detailed monitoring plan under Section I2.(b) shall be submitted no later than 45 days prior to commencing certification testing in accordance with the following paragraph (c).
- (c) Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this Section I (including any referenced in Appendix A) by the following dates:

- (1) For each source that is a WEB source on or before the Program Trigger Date, two years prior to the start of the first control period as described in Section L of this Rule.
  - (2) For any existing source that becomes a WEB source after the Program Trigger Date, one year after the due date for the monitoring plan under I6(a)(2) of this Rule.
  - (3) For any new WEB source (or any new unit at a WEB source under paragraphs (c)(1) or (c)(2)), the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.
- (d) The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in Section I4.(b).
- (e) For each applicable control period, the WEB source shall submit each quarterly report under Section I8 by no later than 30 days after the end of each calendar quarter and shall submit the annual report under Section I8 no later than 60 days after the end of each calendar year.

## 7. Recordkeeping

- (a) Except as provided in Section I7(b), the WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under this Rule for a period of five years. In addition, the WEB source shall keep a copy of all Account Certificates of Representation. Unless otherwise requested by the WEB source and approved by [state or tribe], the copies shall be kept on site.
- (b) The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for SO<sub>2</sub>, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this Section or in Appendix A to this Rule. The WEB source shall maintain the applicable records specified in 40 CFR Part 75 for any SO<sub>2</sub> emitting unit that uses a Part 75 monitoring method to meet the requirements of this Section.

## 8. Reporting

- (a) Quarterly Reports. For each SO<sub>2</sub> emitting unit, the Account Representative shall submit a quarterly report within thirty days after the end of each calendar quarter. The report shall be in a format specified by [state or tribe] to include hourly and quality assurance activity information and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. If the WEB source submits a

quarterly report under 40 CFR Part 75 to the U.S. EPA Administrator, no additional report under this paragraph (a) shall be required, provided, however, that [state or tribe] may require that a copy of that report (or a separate statement of quarterly and cumulative annual SO<sub>2</sub> mass emissions) be submitted separately to [state or tribe].

(b) Annual Report. Based on the quarterly reports, each WEB source shall submit an annual statement of total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source. The annual report shall identify the total emissions for all units monitored in accordance with Section I1(a) of this Rule and the total emissions for all units with emissions estimated in accordance with Section I1(b) of this Rule. The annual report shall be submitted within 60 days after the end of a control period.

(c) If the [State or tribe] so directs, that any monitoring plan, report, certification, recertification, or emissions data required to be submitted under this Section shall be submitted to the Tracking System Administrator.

(d) [State or tribe] may review and reject any report submitted under this Section I7 that contains errors or fails to satisfy the requirements of this Section, and the Account Representative shall resubmit the report to correct any deficiencies.

## 9. Petitions

(a) A WEB source may petition for an alternative to any requirement specified in Section I1(a)(2). The petition shall require approval of [state or tribe] and the U.S. EPA Administrator. Any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

- (1) Identification of the WEB source and applicable SO<sub>2</sub> emitting unit(s);
- (2) A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;
- (3) A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;
- (4) A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed and is consistent with the purposes of this Rule and that any adverse effect of approving such alternative will be *de minimis*; and
- (5) Any other relevant information that [state or tribe] may require.

## 10. Consistency of Identifying Information

For any monitoring plans, reports, or other information submitted under Section I of this Rule, the WEB source shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate of representation for the WEB source submitted under Section E of this Rule.

## K. Use of Allowances from a Previous Year

### ***Add following sentence to Section K2:***

Because all allowances held in a special reserve compliance account for a WEB source that monitors certain units in accordance with Section I1.(b) of this Rule will be deducted for compliance for each control period, no banking of such allowances for use in a subsequent year is permitted by this Rule.

## L. Compliance

### ***Insert paragraph such as the following, based on changes made in response to Lee' redline/strikeout of section L:***

(c) Compliance with allowance limitations shall be determined as follows:

(1) The total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source that are monitored under Section I1.(b) of this Rule, as reported by the source in Section I8(b) or (d) of this Rule, and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with Section K of this Rule. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceeds the allowances in such special reserve account, the WEB source shall account for such excess emissions in the following paragraph (2).

(2) The total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source that are monitored under Section I1.(a) of this Rule, as reported by the source in Section I8(b) or (d) of this Rule, and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding paragraph (1), shall be compared to the allowances held in the source's compliance account as of the

allowance transfer deadline for the current control period, adjusted in accordance with Section K of this Rule.

(d) Other than allowances in a special reserve compliance account for units monitored under Section I1(b) of this Rule, to the extent consistent with Section K of this Rule, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's Account Representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to Section I1.(b) of this Rule shall be deducted as specified in paragraph (c)(1) of this Section L.

## APPENDIX A: WEB MODEL RULE MONITORING PROTOCOLS

### Protocol WEB-1: SO<sub>2</sub> Monitoring of Fuel Gas Combustion Devices

#### 1. Applicability

- (a) The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.
- (b) Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.
- (c) Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include (1) natural gas, unless combined with other gases generated at a petroleum refinery, (2) gases generated by a catalytic cracking unit catalyst regenerator, (3) gases generated by fluid coking burners, (4) gases combusted to produce sulfur or sulfuric acid, or (5) process upset gases generated due to startup, shutdown, or malfunctions.

#### 2. Monitoring Requirements

- (a) Except as provided in paragraphs (b) and (c) of this Section 2, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content (reported as H<sub>2</sub>S) of the fuel gas mixture prior to combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.
  - (1) Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.
  - (2) The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR Part 60, and the following:
    - (i) Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv H<sub>2</sub>S.
    - (ii) Have the span value set so that the majority of readings fall between 10 and 95% of the range.

- (iii) Record negative values of zero drift.
  - (iv) Calibration drift shall be # 5.0% of the span, for initial certification and daily calibration error tests.
  - (v) Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with paragraph 4.(c) of this section.
- (3) All continuous fuel flow meters shall comply with the provisions of section 2.1.5 of Appendix D to 40 CFR Part 75.
  - (4) The hourly mass SO<sub>2</sub> emissions rate for all the fuel gas combustion devices monitored by this approach shall be calculated using the following equation:

$$E_t = (C_s)(Q_t)(K)$$

where:

- $E_t$  = Total SO<sub>2</sub> emissions in lb/hr from applicable fuel gas combustion devices
- $C_s$  = Sulfur content of the fuel gas as H<sub>2</sub>S(ppmv)
- $Q_t$  = Fuel gas flow rate to the applicable fuel gas combustion devices (scf/hr)
- $K = 1.660 \times 10^{-7}$  (lb/scf)/ppmv

- (b) In place of a CFGMS in paragraph (a) of this Section 2, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> CEMS, a flow CEMS, and (if necessary) a moisture monitoring system at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with paragraph (a), and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.
- (1) Each CEMS for SO<sub>2</sub>, flow, and (if applicable) moisture, shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR Part 75.
  - (2) All continuous fuel flow meters shall comply with the provisions of section 2.1.5 of Appendix D to 40 CFR Part 75.
  - (3) The SO<sub>2</sub> hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be

determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(Q_t)/(Q_m)$$

where:

- $E_t$  = Total SO<sub>2</sub> emissions in lb/hr from applicable fuel gas combustion devices
- $E_m$  = SO<sub>2</sub> emissions in lb/hr from the CEMS-monitored fuel gas combustion device, calculated using Equation F-1 or (if applicable) F-2 in Appendix F to 40 CFR Part 75
- $Q_t$  = Fuel gas flow rate (scf/hr) to the applicable fuel gas combustion devices
- $Q_m$  = Fuel gas flow rate (scf/hr) to the CEMS-monitored fuel gas combustion device

(c) In place of a CFGMS in paragraph (a) of this section, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with paragraph (a) of this Section 2, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

- (1) Each SO<sub>2</sub>-diluent CEMS shall comply with the applicable provisions for SO<sub>2</sub> monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in section 3 of Appendix F to Part 75 for determining SO<sub>2</sub> emission rate (lb/mmBtu) by substituting the term SO<sub>2</sub> for NO<sub>x</sub> in that section, and using a K factor of  $1.660 \times 10^{-7}$  (lb/scf)/ppmv instead of the NO<sub>x</sub> K factor.
- (2) All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input rate from the fuel gas shall comply with the applicable provisions in sections 2.1.5 and 2.3.4 of Appendix D to 40 CFR Part 75.
- (3) The SO<sub>2</sub> hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be calculated by using the following equation:

$$E_t = (E_m) (Q_t)(GCV)/10^6$$

where:

$E_t$  = Total hourly SO<sub>2</sub> mass emissions in lb/hr from the applicable fuel gas combustion devices

$E_m$  = SO<sub>2</sub> emission rate in lb/mmBtu from the CEMS-monitored fuel gas combustion device

$Q_t$  = Fuel gas flow rate (scf/hr) to the applicable fuel gas combustion devices

GCV = Fuel Gross Calorific Value (Btu/scf)

$10^6$  = Conversion from Btu to million Btu

(d) Calculate total SO<sub>2</sub> mass emissions for each calendar quarter and each calendar year based on the emissions in lb/hr and Equations F-3 and F-4 in Appendix F to 40 CFR Part 75, Appendix F.

### 3. Certification/Recertification Requirements

All monitoring systems are subject to initial certification and recertification testing as follows:

- (a) The owner or operator shall comply with the initial testing and calibration requirements in Performance Specification 2 in Appendix B to 40 CFR Part 60 and paragraph 2 (a)(2) of this section for each CFGMS.
- (b) Each CEMS for SO<sub>2</sub> and flow or each SO<sub>2</sub>-diluent CEMS shall comply with the testing and calibration requirements specified in 40 CFR Part 75, section 75.20 and Appendices A and B, except that each SO<sub>2</sub>-diluent CEMS shall meet the relative accuracy requirements for a NO<sub>x</sub>-diluent CEMS (lb/mmBtu).
- (c) A continuous fuel flow meter shall comply with the certification and quality-assurance requirements in sections 2.1.5 and 2.1.6 to Appendix D to 40 CFR Part 75.

### 4. Quality Assurance/Quality Control Requirements

- (a) A quality assurance/quality control (QA/QC) plan shall be developed and implemented for each CEMS for SO<sub>2</sub> and flow or the SO<sub>2</sub>-diluent CEMS in compliance with sections 1, 1.1, and 1.2 of Appendix B to Part 75.
- (b) A QA/QC plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in

compliance with sections 1, 1.1, and 1.3 of Appendix B to 40 CFR Part 75.

- (c) A QA/QC plan shall be developed and implemented for each CFGMS in compliance with sections 1 and 1.1 of Appendix B to 40 CFR Part 75, and the following:
  - (i) Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the error is greater than 5.0% of the span value.
  - (ii) In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.
  - (iii) Perform a linearity test once every operating quarter. Calculate the linearity as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.
  - (iv) Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the relative accuracy is greater than 20.0% of the mean value of the reference method measurements.
  - (v) Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

## 5. Missing Data Procedures

- (a) For any period in which valid data are not being recorded by an SO<sub>2</sub> CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in Subpart D of 40 CFR Part 75.

- (b) For any period in which valid data are not being recorded by an SO<sub>2</sub>-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for SO<sub>2</sub> monitors in Subpart D of 40 CFR Part 75.
- (c) For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this section, missing or invalid data shall be replaced with substitute data in accordance with missing data requirements in Appendix D to 40 CFR Part 75.
- (d) For any period in which valid data are not being recorded by the CFGMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in section 2.4 of Appendix D to 40 CFR Part 75.

#### 6. Monitoring Plan and Reporting Requirements

In addition to the general monitoring plan and reporting requirements of Section I of this Rule, the owner or operator shall meet the following additional requirements:

- (a) The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this Protocol WEB-1, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.
- (b) If the provisions of paragraphs 2.(b) or (c) are used, provide documentation and an explanation to demonstrate that the SO<sub>2</sub> emission rate from the monitored unit is representative of the rate from non-monitored units.

## **Protocol WEB-2: Predictive Flow Monitoring Systems for Kilns with Positive Pressure Fabric Filter**

### 1. Applicability

The provisions of this protocol are applicable to cement kilns or lime kilns that (1) are controlled by a positive pressure fabric filter, (2) combust only a single fuel, no fuel blends, and (3) have operating conditions upstream of the fabric filter that the WEB source documents would reasonably prevent reliable flow monitor measurements. This protocol does not modify the SO<sub>2</sub> monitoring requirements in section I of this Rule.

### 2. Monitoring Requirements

(a) A cement or lime kiln with a positive pressure fabric filter shall use a predictive flow monitoring system (PFMS) to determine the hourly kiln exhaust gas flow.

(b) A PFMS is the total equipment necessary for the determination of exhaust gas flow using process or control device operating parameter measurements and a conversion equation, a graph, or computer program to produce results in cubic feet per hour.

(c) The PFMS shall meet the following performance specifications:

(1) Sensors readings and conversion of sensor data to flow in cubic feet per hour must be automated.

(2) The PFMS must allow for the automatic or manual determination of failed monitors. At a minimum a daily determination must be performed.

(3) The PFMS shall have provisions to check the calibration error of each parameter that is individually measured. The owner or operator shall propose appropriate performance specifications in the initial monitoring plan for all parameters used in the PFMS comparable to the degree of accuracy required for other monitoring systems used to comply with this Rule. The parameters shall be tested at two levels, low: 0 to 20% of full scale, and high: 50 to 100% of full scale. The reference value need not be certified.

(4) The relative accuracy of the PFMS must be  $\leq 10.0\%$  of the reference method average value, and include a bias test in accordance with paragraph 4(c) of this section.

### 3. Certification Requirements

The PFMS is subject to initial certification testing as follows:

(a) Demonstrate the ability of the PFMS to identify automatically or manually a failed monitor.

(b) Provide evidence of calibration testing of all monitoring equipment. Any tests conducted within the previous 12 months of operation that are consistent with the QA/QC plan for the PFMS are acceptable for initial certification purposes.

(c) Perform an initial relative accuracy test over the normal range of operating conditions of the kiln. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

#### 4. Quality Assurance/Quality Control Requirements

A QA/QC plan shall be developed and implemented for each PFMS in compliance with sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

(a) Perform a daily monitor failure check.

(b) Perform calibration tests of all monitors for each parameter included in the PFMS. At a minimum, calibrations shall be conducted prior to each relative accuracy test audit.

(c) Perform a relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy (and bias adjustment factor) as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0% of the mean value of the reference method.

#### 5. Missing Data

For any period in which valid data are not being recorded by the PFMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the flow monitor missing data requirements for non-load based units in Subpart D of 40 CFR Part 75.

#### 6. Monitoring Plan Requirements

In addition to the general monitoring plan requirements of Section I of this Rule, the owner or operator shall meet the following additional requirements:

(a) The monitoring plan shall document the reasons why stack flow measurements upstream of the fabric filter are unlikely to provide reliable flow measurements over time.

(b) The initial monitoring plan shall explain the relationship of the proposed parameters and stack flow, and discuss other parameters considered and the reasons for not using those parameters in the PFMS. The [state or tribe] may require that the subsequent monitoring plan include additional explanation and documentation for the reasonableness of the proposed PFMS.

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## **PUBLIC HEARING**

### **ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY ON NOTICE OF PROPOSED RULEMAKING AND REVISION TO REGIONAL HAZE STATE IMPLEMENTATION PLAN FOR SO<sub>2</sub> MILESTONES AND BACKSTOP TRADING PROGRAM**

The Arizona Department of Environmental Quality (ADEQ) will hold a public hearing to receive comments on a proposed rule and the associated revision to the Regional Haze State Implementation Plan for the SO<sub>2</sub> Milestones and Backstop Trading Program. The proposed rule would implement federal regional haze requirements for applicable stationary sources to monitor and report sulfur dioxide (SO<sub>2</sub>) emissions to determine if the SO<sub>2</sub> emission caps for the region have been exceeded.

A public hearing will be held on Wednesday, October 13, 2004, 4:30 p.m., Room 250, ADEQ, 1110 W. Washington Street, Phoenix, Arizona. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally and in writing. All written comments must be received at ADEQ by the close of the public hearing on October 13, 2004.

All written comments should be addressed, faxed, or e-mailed to:

Deborrah A Corky@Martinkovic  
Air Quality Planning Section  
Arizona Department of Environmental Quality  
1110 W. Washington Street  
Phoenix, AZ 85012-2905  
FAX: (602) 771-2366  
E-Mail: martinkovic.deborrah@ev.state.az.us

A copy of the proposed rule will be available for review beginning September 10, 2004, at the following location, and ADEQ's Web site at <http://www.adeq.state.az.us/function/laws/rules.html>.

Arizona Department of Environmental Quality  
First Floor Library  
1110 W. Washington Street  
Phoenix, Arizona 85012  
Lorraine Cona, (602) 771-4335

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AIR QUALITY DIVISION  
04 SEP 17 AM 11:29

# THE ARIZONA REPUBLIC

**PUBLIC HEARING**  
 ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY ON NOTICE OF PROPOSED RULEMAKING AND REVISION TO REGIONAL HAZE STATE IMPLEMENTATION PLAN FOR SO<sub>2</sub> MILESTONES AND BACKSTOP TRADING PROGRAM

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All written comments should be addressed, faxed, or e-mailed to:  
 Deborah "Corky" Martinkovic  
 Air Quality Planning Section  
 Arizona Department of Environmental Quality 1110 W. Washington Street Phoenix, AZ 85012-2905  
 FAX: (602) 771-2366 E-mail: martinkovic.deborah@ev.state.az.us

A copy of the proposed rule will be available for review beginning September 10, 2004, at the following location, and ADEQ's Web site at <http://www.adeq.state.az.us/function/laws/rules.html>.

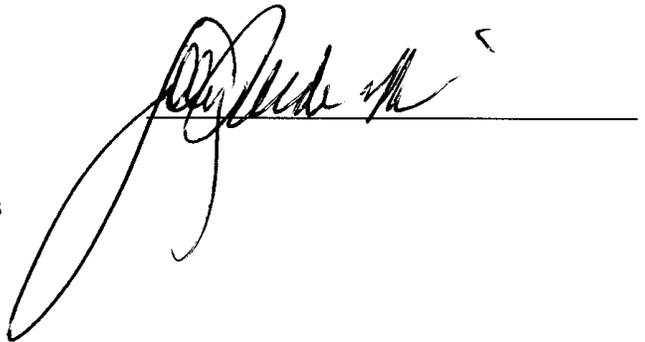
Arizona Department of Environmental Quality  
 First Floor Library 1110 W. Washington Street Phoenix, Arizona 85012  
 Lorraine Cona, (602) 771-4335  
 64459-September 10, 2004

STATE OF ARIZONA }  
COUNTY OF MARICOPA } SS.

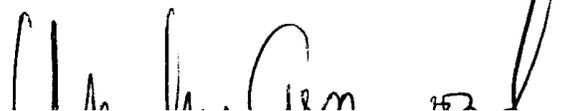
Sally Reede-Morris, being first duly sworn, upon oath deposes and says: That she is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

September 10, 2004



Sworn to before me this  
13<sup>TH</sup> day of  
September A.D. 2004



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Janet Napolitano  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 W. Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • [www.adeq.state.az.us](http://www.adeq.state.az.us)



Stephen A. Owens  
Director

## **AGENDA** **Air Quality Division**

### **Rule and SIP Revision Public Hearing** **SO<sub>2</sub> Milestones and Backstop Trading Program Supplemental Proposed Rule and** **Regional Haze State Implementation Plan** **Wednesday, October 13, 2004, 4:30 p.m.** **Room 250, Arizona Department of Environmental Quality** **1110 West Washington Street, Phoenix, Arizona**

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Pursuant to ARS § 49-425 for air quality rule hearings, notice is hereby given that the above referenced meeting is open to the public.

1. Welcome and Introductions
2. Purposes of the Oral Proceeding
3. Procedure for Making Public Comment
4. Brief Overview of the Proposed WEB Trading Program Rule and Related SIP Revision
5. Question and Answer Period
6. Oral Comment Period
7. Adjournment of Oral Proceeding

Order of agenda items is subject to change. For additional information regarding the meeting, please call Corky Martinkovic, ADEQ Air Quality Division, at (602) 771-2372 or 1-800-234-5677, Ext. 771-2372.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Katie Huebner at (602) 771-4794 or 1-800-234-5677, Ext. 4794. Requests should be made as early as possible to allow sufficient time to make the arrangements for the accommodation. This document is available in alternative formats by contacting ADEQ TDD phone number at (602) 771-4829.

Northern Regional Office  
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004  
(928) 779-0313

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

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Arizona Department of Environmental Quality  
Air Quality Division

# Please Sign In

SUBJECT SO2 Milestones and Backstop Trading Program – Supplement to WEB Trading Rule PUBLIC HEARING DATE 10.13.04

<u>NAME</u>	<u>ORGANIZATION</u>	<u>PHONE</u>	<u>FAX</u>	<u>E-MAIL</u>
1. Eric Massey	ADEQ	602 771 2288	602 771-2366	ecm@azdeg.gov
2. Diane Christ	ADEQ	602 771-2375	"	
3. Wayne Leopold	Phelps Dodge Miami	928-473-7149	928 473-7449	wleopold@phelps.dodge.com
4. Barbara Lockwood	APS	602 250 3361	602 250 3872	barbara.lockwood@aps.com
5. Steve Trussell	ARPA	602 271-0346		

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**TRANSCRIPT OF PUBLIC HEARING**  
**ARIZONA'S WEB TRADING PROGRAM RULE**

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Phoenix, Arizona**

**October 13, 2004**

**4:30 p.m.**



1           The proposed rule was released for public comment on September 10, 2004. The  
2 public notice appeared in the *Arizona Republic* and ADEQ's website. It was also  
3 published in the *Arizona Administrative Register* on September 10, 2004.

4           The procedure for making a public comment on the record is straightforward. If  
5 you wish to comment, you need to fill out a speaker slip, which is available at the sign-in  
6 table, and give it to me. Using speaker slips allows everyone an opportunity to be heard  
7 and allows us to match the name on the official record with the comments that we have  
8 received.

9           You may also submit written comments to me today. Please note, the comment  
10 period for the proposed rule and SIP revision ends at the close of today's public hearing.

11           Comments made during the formal comment period are required by law to be  
12 considered by the Department in the preparation of the final state implementation plan.  
13 This is done through the preparation of a responsiveness summary in which the  
14 Department responds in writing to written and oral comments made during the formal  
15 comment period.

16           The agenda for this hearing is simple. First, we will present a brief overview of the  
17 proposed state implementation plan.

18           Next, I will conduct a question and answer period. The purpose of the question  
19 and answer period is to provide information that may help you in making comments on  
20 the record on the proposed state implementation plan.

21           Thirdly, I will conduct the oral comment period. At that time, I will begin to call  
22 speakers in the order that I have received speaker slips.

1 Please be aware that any comments you make at today's hearing that you want the  
2 Department to formally consider must be given either in writing or on the record during  
3 the oral comment period of this proceeding.

4 \* \* \* \* \*

5 At this time, Corky Martinkovic will give a brief overview of the proposed rule and  
6 related revision to the Regional Haze State Implementation Plan.

7 **In 1999, EPA established the federal Regional Haze Rule requiring States to**  
8 **develop state implementation plans to make reasonable progress toward the**  
9 **national visibility goal established by Section 169 of the Clean Air Act. The**  
10 **national goal seeks to remedy existing visibility impairment and prevent future**  
11 **visibility impairment in federally protected national parks and wilderness areas.**  
12 **Arizona has 12 of these federally protected areas known as mandatory federal Class**  
13 **I areas: Grand Canyon National Park, Petrified National Park, Sycamore Canyon**  
14 **Wilderness, Mt. Baldy Wilderness, Sierra Ancha Wilderness, Chiricahua**  
15 **Wilderness, Chiricahua National Monument, Galiuro Wilderness, Mazatzal**  
16 **Wildernss, Saguaro Wilderness, Superstition Wilderness, and Pine Mountain**  
17 **Wilderness.**

18 **Regional haze is a type of visibility impairment caused by air pollutants**  
19 **emitted by numerous sources across a broad region. Sulfur dioxide from**  
20 **stationary sources was found to be a significant contributor to regional haze. In**  
21 **the state of Arizona, stationary sources emitting large quantifies of sulfur dioxide**  
22 **or SO<sub>2</sub> include utilities such as coal-fired power plants, along with non-utilities**

1 such as copper smelters, chemical lime plants, pulp and paper plants, and cement  
2 plants.

3 One of the primary recommendations of the Grand Canyon Visibility  
4 Transport Commission (established under Section 169B of the Clean Air Act to  
5 research visibility impairment in the Colorado Plateau) was to establish a backstop  
6 market trading program to address sulfur dioxide emissions from stationary  
7 sources – backstop due to the approach of triggering the trading program only if  
8 specific milestones are not met. The SO<sub>2</sub> Milestones and Backstop Trading  
9 Program, representing over ten years of work by western states, tribes, and  
10 numerous stakeholder groups, became an Annex to the Commission  
11 recommendations. The trading program requirements outlined in the Annex were  
12 later incorporated into the federal Regional Haze Rule. The Annex also contained  
13 a Model Rule to assist participating states in the development of state rules for the  
14 trading program.

15 The SO<sub>2</sub> Milestones and Backstop Trading Program sets specific milestones  
16 for the regional emissions of sulfur dioxide from stationary sources. These  
17 milestones act as a regional cap that, if exceeded, triggers the trading program.  
18 Currently, five western States (Arizona, Utah, New Mexico, Wyoming, and Oregon)  
19 have developed implementation plans that include the SO<sub>2</sub> Milestones and  
20 Backstop Trading Program for stationary sources emitting 100 tons or more of SO<sub>2</sub>  
21 per year. During the past two years, the Western Regional Air Partnership or  
22 WRAP, successor organization to the Grand Canyon Visibility Transport

1 **Commission, has worked to refine the Annex's Model Rule for the trading**  
2 **program.**

3 **Each state developing a Regional Haze SIP containing the SO<sub>2</sub> Milestones**  
4 **and Backstop Trading Program is required to develop a state rule. The Western**  
5 **Backstop SO<sub>2</sub> Trading Program (or WEB Trading Program Rule) for Arizona was**  
6 **originally proposed earlier this year with a public hearing on May 17, 2004. The**  
7 **WEB Trading Program Rule included both the pre-trigger monitoring, reporting**  
8 **and recordkeeping requirements included in this Supplemental rulemaking as well**  
9 **as the procedures for the post-trigger trading program. The post-trigger trading**  
10 **program procedures relied heavily on the Model Rule. The Model Rule was used**  
11 **by the participating Western trading states to facilitate their state rulemaking.**  
12 **Reliance on the language and structure of the Model Rule allowed stationary**  
13 **sources to have consistent state rules for the regional program regardless of the**  
14 **state in which they were operating.**

15 **After the May 17<sup>th</sup> public hearing, the rulemaking was reviewed by the**  
16 **Governor's Regulatory Review Council or GRRC. GRRC asked for extensive**  
17 **revisions to meet the structural requirements for Arizona rules. It was ADEQ's**  
18 **conclusion that the necessary revisions could seriously jeopardize the intent and**  
19 **regional consistency of the trading program. All other states participating in the**  
20 **trading program had relied on the language and structure of the Model Rule.**  
21 **ADEQ worked with the Governor's Regulatory Review Council to find a way to**  
22 **maintain the post-trigger procedures for the trading program, while also**

1 **maintaining the pre-trigger monitoring, reporting and recordkeeping requirements**  
2 **found in the federal Regional Haze Rule. The result is the Supplemental**  
3 **rulemaking before us today. This rule incorporates by reference the Model Rule**  
4 **already extensively reviewed by stakeholders, other regional states participating in**  
5 **the trading program, and EPA. Approval of the Supplemental Rule and the**  
6 **incorporated Model Rule establishes both the pre-trigger requirements of the SO<sub>2</sub>**  
7 **Milestones and Backstop Trading Program and post-trigger requirements of the**  
8 **WEB Trading Program Rule.**

9 **The hearing today also serves as a SIP public hearing. Upon final approval**  
10 **of this Supplemental rulemaking, the effective rule will be included in the 2003**  
11 **Regional Haze SIP as a SIP revision, replacing the previously submitted draft rule.**

12 **We anticipate that GRRC will hear the final rule on December 7, 2004. ADEQ has**  
13 **requested an immediate effective date.**

14 This concludes the explanation period of this proceeding on the proposed state  
15 implementation plan.

16  
17 \* \* \* \* \*

18  
19 Are there any questions before we move to the oral comment period?

1 Wayne?

2 WAYNE LEIPOLD: I have one. I think there is something missing in 1611  
3 looking at it just now. It says all stationary sources emitting hundred tons or more of  
4 sulfur dioxide per year, plus any source that has emissions of hundred tons or more back  
5 when the milestones were set is subject to it.

6 CORKY MARTINKOVIC: We start with the 2003 baseline, I mean, correct me if  
7 I'm wrong, Ira, but we start with the baseline sources, but we start with the 2003 actual  
8 emissions. We start with our first set of record keeping and reporting. Are you saying  
9 that we also need to include sources that were part of the compilation of the original  
10 milestones?

11 IRA DOMSKY: During the baseline period.

12 CORKY MARTINKOVIC: 96 to 99. I'll check on that.

13 IRA DOMSKY: Well, yeah, if we had to change the rule.

14 CORKY MARTINKOVIC: Yes. Right.

15 MARTHA SEAMAN: Any more questions?

16 This concludes the question and answer period of this proceeding on the proposed  
17 state implementation plan.

18 \* \* \* \* \*

19 I now open this proceeding for oral comments.

20 I have one speaker slip, Wayne Leipold, Phelps Dodge Miami. Mr. Leipold.



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(Embedded image moved to file: pic15183.jpg) United States Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

October 13, 2004

Transmittal of EPA Rule Review Comments

To: Nancy C. Wrona , Arizona Department Of Environmental Quality  
[ncw@ev.state.az.us](mailto:ncw@ev.state.az.us)

From: Andrew Steckel, Rulemaking Office Chief  
[steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov)

Re: Visibility; Regional Haze  
R18-2-1610 to R18-2-1613

We are providing comments based on our preliminary review of the draft rule identified above, dated August 20, 2004. Unless otherwise indicated, paragraph numbers refer to the draft rule referenced above. Please direct any questions about our comments to me at (415) 947-4115 or to Lily Wong at (415) 947-4114.

1. Correction to Regulatory References

The following corrections should be made:

- a. 1610.A. The reference to 40 CFR 51.309(d)(4)(ii) should be 40 CFR 51.309(h)(2).
- b. 1610.B.3. The reference to 40 CFR 51.309(f)(1)(i) should be 40 CFR 51.309(h)(1).

c. 1611.A            The reference to 40 CFR 51.303 should be 40 CFR 51.301.

2. 1611 - Applicability

It is our understanding that the other Clean Air Act section 309 states have defined the applicability of their pre-trigger rule to include those sources that have actual SO<sub>2</sub> emissions of 100 tons or more per year, but they have not included all BART-eligible sources. While we generally recommend consistency with the programs of the other states participating in the section 309 Backstop Trading Program, Arizona would not be prohibited from including such sources in the pre-trigger phase of the program.

3. 1612.A - Retention of Records and Documentation

The rule should clarify that all documentation relied upon by a source to determine or calculate emissions are records that are subject to the record retention provision in section 1612.A.8.

4. 1612.A.2 and 1612.A.3 - Submittal of Annual Emissions Report  
Arizona's requirements should include a specific deadline for submitting the data required in 1612.A.2 and 1612.A.3.

5. 1612.B - Duration and Termination of Pre-trigger Requirements

We understand that the intent of this section is to establish a termination date for pre-trigger monitoring, recordkeeping, and reporting (MRR) under this rule. In addition to meeting the 2018 milestone, another basis for terminating the pre-trigger MRR requirements is the beginning of the post-trigger monitoring provisions. The rule should more clearly specify the date that sources will be subject to post-trigger monitoring, recordkeeping, and reporting.

6. 1613 - Western Backstop SO<sub>2</sub> Trading Program Trigger

The trading program is triggered in accordance with the procedures laid out in the State's Implementation Plan adopted to comply with 40 CFR 51.309(h)(1) and (3). The rule should refer to these state-adopted procedures directly rather than the general requirements in 40 CFR 51.309(h)(1) and (3) to adopt such procedures.



Arizona Department of Environmental Quality  
Air Quality Division

**Public Hearing Presiding Officer Certification**

I, Martha Seaman, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on October 13, 2004, Room 250, Arizona Department of Environmental Quality, Phoenix, Arizona, in accordance with public notice requirements by publication in Arizona Administrative Register and other locations beginning September 10, 2004. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

Dated this 14<sup>th</sup> day of October, 2004.

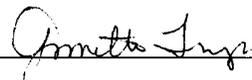
  
Martha Seaman

State of Arizona        )  
                                  ) ss.  
County of Maricopa    )

Subscribed and sworn to before me on this 14<sup>th</sup> day of October, 2004



**ANNETTE TRIPKE**  
Notary Public – Arizona  
Maricopa County  
Expires 06/14/06

  
\_\_\_\_\_

Notary Public

My commission expires: 6/14/06

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**\*\* PLEASE NOTE \*\***

**At this time, the Notice of Final Rulemaking (NFRM) for the SO<sub>2</sub> Milestones and Backstop Trading Program (Arizona Trading Rule R18-2-1610 through 1613) will not be published in the *Arizona Administrative Register* until January 14, 2005. The rule became effective December 20, 2004.**

**A codified version of SO<sub>2</sub> Milestones and Backstop Trading Program (Arizona Trading Rule R18-2-1610 through 1613) will be sent upon its availability.**

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**NOTICE OF FINAL RULEMAKING**  
**TITLE 18. ENVIRONMENTAL QUALITY**  
**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**AIR POLLUTION CONTROL**  
**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

**PREAMBLE**

- | <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R18-2-1610                         | New Section                     |
| R18-2-1611                         | New Section                     |
| R18-2-1612                         | New Section                     |
| R18-2-1613                         | New Section                     |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
General Authority: A.R.S. §§ 49-104(A)(10) and 49-425  
Specific Authority: A.R.S. §§ 49-458 and 458.01.
- 3. The effective date of the rules:**  
ADEQ is requesting an immediate effective date upon filing with the Secretary of State. According to A.R.S. 41-1032(2), the immediate effective date is appropriate in order to satisfy EPA approval requirements for the 2003 Arizona Regional Haze State Implementation Plan (SIP) by having an effective rule in place and submitted as a SIP revision by December 31, 2004.
- 4. A list of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 10 A.A.R. 217, January 9, 2004  
Notice of Proposed Rulemaking: 10 A.A.R. 15, April 9, 2004  
Notice of Supplemental Proposed Rulemaking: 10 A.A.R. 3752, September 10, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Deborrah “Corky” Martinkovic  
Address: ADEQ, Air Quality Planning Section, 1110 West Washington Street, Phoenix,

AZ 85007

Telephone: (602) 771-2372, or dial 800-234-5677 and enter 771-2372

Fax: (602) 771-2366

E-mail: [martinkovic.deborrah@azdeq.gov](mailto:martinkovic.deborrah@azdeq.gov)

**6. An explanation of the rule, including the agency's reasons for initiating the rules:**

**Summary.** These rules implement federal regional haze requirements for the pre-trigger portion of the SO<sub>2</sub> Milestones and Backstop Trading Program by requiring applicable stationary sources to monitor and report sulfur dioxide (SO<sub>2</sub>) emissions to allow Arizona Department of Environmental Quality (ADEQ) to determine whether a regional SO<sub>2</sub> emission milestone has been exceeded. The procedures for applicable stationary sources to participate in a regional backstop market trading program should any milestone be exceeded is outlined in the Model Rule and Model Rule Supplement incorporated by reference in the proposed rule.

**Background.** Section 169A of the Clean Air Act (CAA) establishes a national goal for protecting visibility in federally protected national parks and wilderness areas ("Class I areas;" See 40 CFR 81.403). The goal is to remedy existing visibility impairment and prevent future visibility impairment in these Class I areas. Regional haze is a type of visibility impairment caused by air pollutants emitted by numerous sources across a broad region. In 1999, EPA promulgated a Regional Haze Rule that requires development of state implementation plans (SIPs) that assure "reasonable progress" toward the national visibility goal (64 FR 35714, July 1, 1999).

The 1999 Regional Haze Rule (40 CFR 51.309) provided an optional approach for the nine western states that comprised the transport region analyzed by the Grand Canyon Visibility Transport Commission (GCVTC) during the 1990s, including Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming. Arizona, New Mexico, Utah, Oregon, and Wyoming have elected to comply with the Regional Haze Rule by submitting their first SIPs on December 31, 2003, based on the recommendations to improve visibility outlined in the GCVTC's 1996 Report. This option is also available to eligible Indian Tribes within the geographical regional studied by the GCVTC. Indian Tribes have no deadline for submitting Tribal Implementation Plans (TIPs).

One element of the GCVTC's recommendations was a backstop regional trading program to reduce stationary source emissions of SO<sub>2</sub>. The GCVTC identified SO<sub>2</sub> as causing one third of the visibility impairment on the Colorado Plateau, with the majority of those emissions coming from stationary sources. The recommendation called for the setting of a series of declining caps on SO<sub>2</sub> emissions referred to as, "emissions milestones." These milestones would provide sources incentive to reduce their SO<sub>2</sub> emissions voluntarily through means most economical and feasible to them rather than the conventional command-and-control approach to achieve reductions. Implementation plan assessments of progress and identification of deficiencies are due in the years 2008, 2013, and 2018. The voluntary measures that achieve the milestones were approved by EPA because they must achieve greater reasonable progress than the application and operation of controls under best available retrofit technology (BART). If the voluntary measures do not succeed in reducing SO<sub>2</sub> emissions over time, an enforceable market trading program would be triggered as a "backstop" to ensure the reductions would be met.

The Western Regional Air Partnership (WRAP), the successor organization to the GCVTC, authorized a regional work group consisting of affected states, tribes, and EPA regional offices to develop a "model" rule that each participating state would utilize as a standard to establish and operate the Western Backstop SO<sub>2</sub> Trading Program (WEB Trading Program) should any of the milestones be exceeded. The Model Rule and Model Rule Supplement, adopted by the WRAP on August 13, 2003, and incorporated by reference in this rulemaking is available from WRAP at [www.wrapair.org](http://www.wrapair.org). The Model Rule and Model Rule Supplement are also available through ADEQ.

Section R18-2-1610 defines terms used specifically in the rulemaking. Two terms that are used in this rule are not included in the definition section because they are already defined in R18-2-101. These terms are, "affected source" and "stationary source." Section R18-2-1611 establishes which applicable stationary sources are required to participate in the pre-trigger requirements of the SO<sub>2</sub> Milestones and Backstop Trading Program. R18-2-1612 satisfies the pre-trigger requirements of the Regional Haze Rule at 40 CFR 51.309(d)(4)(ii) and outlines the monitoring, reporting, and recordkeeping requirements for the applicable stationary sources.

Section R18-2-1613 covers the transition to the Western Backstop SO<sub>2</sub> Trading Program

upon the determination that a regional milestone was exceeded and the backstop trading program has been triggered. During this time it is essential that the applicable stationary sources continue the monitoring, reporting, and recordkeeping requirements until the WEB Trading Program is fully implemented, even if an applicable stationary source no longer emits 100 tons per year of SO<sub>2</sub>.

The Model Rule and Model Rule Supplement outline the specific post-trigger requirements for the affected stationary sources under the Western Backstop SO<sub>2</sub> Trading Program. The requirements include the responsibility to select an account representative, register for the program, receive an allocation of allowances (a type of tradable emissions credit), and establish an account to hold the allowances. The applicable stationary sources continue to monitor, report, and maintain records to determine whether they have sufficient annual allowances within their account. Penalties are set should a source fail to comply with the allowance limitation requirements of the program. The Model Rule and Model Rule Supplement also establish a procedure should the 2018 regional milestone be exceeded, and impose a special penalty for 2018, and for any subsequent year regional SO<sub>2</sub> emissions continue to exceed the 2018 milestone.

Due to the need to establish the procedures for pre-trigger monitoring, recordkeeping, and reporting as soon as possible as required under 40 CFR 51.309(d)(4)(ii), and to meet the requirements of the 2003 Arizona Regional Haze State Implementation Plan before December 31, 2004, ADEQ requests an immediate effective date as permissible under A.R.S. 41-1032 (A)(2) and 41-1032(A)(3).

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

*An Assessment of Critical Mass for the Regional SO<sub>2</sub> Trading Program*, prepared for Western Regional Air Partnership (WRAP) Market Trading Forum, ICF Consulting Group, September 27, 2002; available through the WRAP Web page at [www.wrapair.org](http://www.wrapair.org) or through Arizona Department of Environmental Quality.

**8. A showing of good cause why the rules are necessary to promote a statewide interest if**

**the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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

**A. Rule Identification and Summary**

This rulemaking comprises new Sections, R18-2-1610 through R18-2-1613. Rule Sections R18-2-1607, R18-2-1608, and R18-2-1609 are reserved. The Sections within Article 16 pertain to visibility and regional haze.

Regional haze impairs visibility and is caused by air pollutants emitted by many sources across a region. The Clean Air Act (CAA) establishes a national goal to protect visibility in federally protected parks and wilderness areas, called federal Class I areas (40 CFR 81.403). Arizona has 12 federally protected Class I areas. The region consisted of a nine-state area in the west. Currently, the states participating in the backstop market trading program consist of the states submitting regional haze state implementation plans (SIPs) under Section 309 of the federal Regional Haze Rule; namely, Arizona, New Mexico, Utah, Oregon, and Wyoming. The 211 Indian Tribes within the region can also participate in the program through the completion of a tribal implementation plan (TIP) or source-specific implementation plans.

The CAA's national goal is attained by improving existing visibility impairment and preventing future visibility impairment in federally mandated Class I areas. Arizona has 12 Class I areas. Visibility improvements are anticipated by establishing milestones for sulfur dioxide (SO<sub>2</sub>) reductions over time through voluntary reduction measures as opposed to command-and-control technologies. If the voluntary measures are unsuccessful, however, an enforceable market trading program will be established as a backstop to ensure that the SO<sub>2</sub> reductions can be achieved. The greatest reduction in SO<sub>2</sub> emissions is expected to occur during the last milestone, 2014 to 2018 (see Table below). By 2040, the regional goal for SO<sub>2</sub> reductions is 52 percent from the 1990 level of 831,000 tons.

<b>Milestones</b>	<b>Cumulative 9 State Region Emission Reductions from 1990 (in tons of SO<sub>2</sub>)</b>
2003	111,000
2008	116,000
2013	176,000
2018	321,000

This rule implements procedures for Arizona sources participating in the Western Backstop SO<sub>2</sub> Trading Program as required under the federal Regional Haze Rule (40 CFR 51.309). The rule will require stationary sources subject to this rule making to monitor and report SO<sub>2</sub> emissions as a way to determine whether SO<sub>2</sub> emission milestones have been exceeded, and if so, require the sources to participate in the Western Backstop SO<sub>2</sub> Trading Program. Arizona's SO<sub>2</sub> emissions will be tracked annually along with other participating states and tribes, and analyzed in a regional milestone report submitted to EPA within a year after each milestone date.

**B. Entities Directly Affected**

Potential entities directly impacted by this rulemaking include Arizona stationary sources with actual SO<sub>2</sub> emissions of 100 tons or more per year. These sources include: Five coal-fired power plants (utilities), two cement plants, two lime plants, one pulp and paper plant, and three smelters (including one smelter that has suspended operations). The latter eight sources are generally categorized as non-utilities. Other entities include air pollution control manufacturers and vendors; contractors; consultants; lawyers; Arizona Department of Environmental Quality (ADEQ) as the implementing agency; and private persons and consumers.

Potential post-trigger sources include: BART-eligible sources (best available retrofit technology sources as defined in 40 CFR 51.301); other stationary sources not meeting the criteria set forth in R18-2-1611, with actual SO<sub>2</sub> emissions of 100 tons or more per year in the trigger years or subsequent years; and other stationary sources regulated under Section 111 or 112 of the CAA (after August 7, 1980).

### **C. Potential Costs and Benefits**

It should be noted that the analysis outlined here includes both the pre-trigger and post-trigger costs and benefits of the trading program. The post-trigger requirements of the program can be found in the Model Rule and Model Rule Supplement incorporated by reference in the proposed rulemaking. The Model Rule and Model Rule Supplement are available at the Western Regional Air Partnership (WRAP) at [www.wrapair.org](http://www.wrapair.org) and at ADEQ.

Before summarizing the preliminary costs and benefits of this rulemaking, it is necessary to discuss the nine-state region as a whole, as well as generalizations about Arizona sources impacted by this rulemaking. All dollar amounts represent 1997 dollars (as provided in the ICF study cited in section 7 of the preamble to this rule). Due to inflation, consumer prices have risen approximately 15 percent between 1997 and 2003. Likewise, one can expect capital investments and other compliance costs to also be higher now than in 1997.

Compliance costs are expected to be lowest if all states and tribes participate in the trading program because this will result in the greatest gains from trading. For example, annual compliance costs for the region could be as much as \$90 million less in 2018 under the trading option compared to states and tribes implementing command-and-control programs.<sup>1</sup> Arizona is one state in which sources are expected to have greater compliance costs under command-and-control. Consequently, sources located in Arizona are expected to experience the greatest cost-saving benefits from participating in the trading program. This is due partially to expectations that Arizona will be a net buyer of trading allowances. Thus, because Arizona has opted to participate in the trading program, not only will the Arizona sources experience lower compliance costs, but so will the entire region.

States in the nine-state region and 211 tribal areas may choose not to participate in the regional trading program and fulfill regional haze requirements by implementing command-

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<sup>1</sup> Anticipated annual savings are the difference between the estimated costs for implementing command-and-control at \$210 million vs. \$120 million for all states and tribes participating in a full trading program. The amount of emissions reduction would be about the same under either program approach. The amount of actual cost savings could change based on which and how many states and tribes elect to opt out of the trading program. See ICF Consulting Group, An Assessment of Critical Mass for the Regional SO<sub>2</sub> Trading Program, prepared for Western Regional Air Partnership Market Trading Forum, September 27, 2002.

and-control BART technology and satisfy Section 51.308 requirements of the federal Regional Haze Rule. States and tribes electing not to participate in the program, however, will make the regional program less flexible and increase compliance costs not only for themselves but for other program participants.

Program flexibility means that sources can reduce SO<sub>2</sub> emissions by installing pollution control equipment if that option represents a relatively lower cost alternative, or sources could purchase allowances if the market offers a less expensive means of reducing SO<sub>2</sub> emissions. For example, allowances could be sold to older sources at a price that is lower than the cost per ton of SO<sub>2</sub> emissions abatement for these sources.

#### Regulatory Agencies

ADEQ expects to be impacted minimally by its review of monitoring plans and reports from sources as well as its participation in the tracking system requirements, which will be managed and funded by an outside, regional administrator. The current number of ADEQ employees can be expected to handle the workload generated by this program.

#### Regulated Community

Owners and operators of applicable sources are required to monitor, report, and maintain records of their SO<sub>2</sub> emissions during the pre-trigger stage of the program established by this rulemaking. These sources already monitor and report emissions under existing stationary source requirements, but may have some additional costs due to an increase in the record retention requirement from five years to ten years. The additional pre-trigger monitoring, reporting, and recordkeeping requirements under the rule should have minimal impact. During this pre-trigger stage, owners and operators of sources can plan how they would reduce SO<sub>2</sub> emissions according to their own timeframes.

The incorporation of a pre-trigger time period is vital to the sources by allowing them flexibility to plan and select the optimal compliance strategy. Under command-and-control, sources are much more restricted in developing compliance options. In contrast, a trading program allows increased flexibility for sources to plan how to comply with SO<sub>2</sub> emissions caps and the best strategy for implementing compliance options. This preparation time can be viewed as the foundation for numerous cost-saving benefits to develop in the future. For example, sufficient time is needed to evaluate market conditions relating to demand and

resource inputs. Additionally, a source may want to evaluate a variety of variables and options, such as emission variations, production costs, competition, economic profit, expansion capabilities, retrofit possibilities, investments in new technologies, etc. The pre-trigger time provides sources with a mechanism to successfully implement plans with a potential for significant cost-saving benefits.

Should the regional SO<sub>2</sub> emissions cap be exceeded, stationary sources would have an alternative means of reducing SO<sub>2</sub> emissions through tradable allowances, as opposed to having pollution control equipment installed under command-and-control. The regulated community would register for the trading program, select an account representative, and subsequently receive allowances in its compliance accounts. Monitoring would continue to determine whether sources have sufficient annual allowances in their respective accounts to operate.

Compliance costs could include fuel costs, annualized capital investments, and operation and maintenance expenditures. Some of the expenditures could include investments in new capacity. According to ICF Consulting Group,<sup>2</sup> Arizona's owners and operators of affected sources would experience annual incremental compliance costs by 2013 of \$25 million if participating in the trading program or \$37 million if complying through command-and-control. By 2018, annual compliance costs for owners and operators of Arizona's sources are expected to be \$25 million for participating in the trading program and \$40 million for command-and-control.

It is anticipated that Arizona will have more total SO<sub>2</sub> emissions from its affected sources than its emissions budget (i.e., a negative net-allowance budget). Because approximately one-third of the SO<sub>2</sub> emission reductions from participating states will come from Arizona sources, Arizona would be a net buyer of trading allowances from out-of-state suppliers. Estimated allowances needed are expected to be in the range of 10,000 to 20,000 tons of SO<sub>2</sub>, not including any intrastate trades. Based on an estimated allowance price of \$1,100 to \$2,100 per ton of SO<sub>2</sub>, Arizona's sources may have to expend between \$11 million to \$42 million to purchase allowances from Indian tribes or sources in other states.<sup>3</sup> Arizona sources

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<sup>2</sup> An Assessment of Critical Mass for the Regional SO<sub>2</sub> Program, ICF Consulting Group, 2002.

<sup>3</sup> Costs per ton are dependent upon several factors, such as transaction costs, market power, risk, and

could use allowances to avoid some of the high costs of investing in pollution control equipment.

Owners and operators of sources participating in the trading program will incur additional compliance costs due to administrative burdens. These costs fall under post-trigger monitoring, recordkeeping, and reporting requirements, and include the preparation of monitoring plans and compliance certification reports. These costs are expected to be minimal in comparison to costs that would be incurred under a straight command-and-control program. Additionally, owners and operators of sources out of compliance will incur penalties in the form of allowance deductions and assessments of \$5,000 per ton per violation. Other civil and criminal penalties also could be assessed.

#### Consumers and Public

ADEQ anticipates that reductions in SO<sub>2</sub> through implementation of this rule will generate benefits for the public at large. These benefits include improvement in visibility, human health, and a possible decrease in acid rain deposition.<sup>4</sup> Air quality changes are expected to improve visibility in national parks and wilderness areas, as well as other areas within the transport region. Potential human health benefits are expected to accrue because SO<sub>2</sub> emissions can aggravate asthma. Reductions in SO<sub>2</sub> emissions could also avert or reduce acute illnesses or ailments (e.g., shortness of breath, chest tightness, or wheezing). Health gains also could include reduced hospital admissions for respiratory and cardiovascular problems. Avoidance of premature deaths is also a likely possibility.

Sources may pass on increased compliance costs to consumers. Thus, increases in production costs may be reflected in higher prices for goods. Even though the health and welfare benefits are for the most part unquantifiable, it is believed that probable economic benefits will exceed probable costs of this rulemaking, particularly because the compliance costs of a trading program are less than those of a command-and-control emissions reduction program.

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market inefficiencies.

<sup>4</sup> U.S. EPA and National Park Service, 2018 Milestone Reductions Benefits Assessment, August 11, 2000.

#### **D. Potential Impacts to Small Businesses**

A variety of methods is available to reduce the impact of a rulemaking on small businesses. A.R.S. §41-1035 prescribes five methods for reducing the impact. These methods include establishing less stringent compliance or reporting requirements, less stringent schedules or deadlines for compliance or reporting requirements, simplified reporting requirements, replacing design or operational standards with performance requirements, or exempting small businesses from some or all rule requirements. None of these methods, however, is feasible or fall within the requirements of this rulemaking. Furthermore, applicable sources are expected to be large sources and not classified as small businesses. Sources undergoing modifications that could produce actual SO<sub>2</sub> emissions of 100 tons or more per year would become applicable sources. Potentially, some of these sources could be classified as small businesses.

#### **10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

A Notice of Proposed Rulemaking (10 A.A.R. 15, April 9, 2004) and public hearing held May 17, 2004, were summarized in the Notice of Final Rulemaking (NFRM) submitted to the Governor's Regulatory Review Council (GRRC) staff on June 21, 2004. Upon GRRC's preliminary review of the NFRM, it was ADEQ's conclusion that the revisions necessary to meet particular regulatory requirements could jeopardize the intent and consistency of the post-trigger (i.e., actual trading program procedures) portion of the rule. Because the Model Rule developed for the states participating in the program is the basis for all state-specific rules developed for the post-trigger portion of the program, ADEQ discussed the option of incorporation of the Model Rule for the post-trigger portion of the rule. The proposed rule was then revised to maintain the pre-trigger portion of the originally proposed rule (R18-2-1607 through 1613), and the post-trigger portion of the originally proposed rule (R18-2-1614 through 1623) was eliminated with the Model Rule incorporation substituting for those deleted sections. The revised rule was then submitted as a Supplemental Proposed Rulemaking (10 A.A.R. 37, September 10, 2004) with a public hearing held October 13, 2004.

Changes made to the Supplemental Proposed Rule reflect minor grammatical and technical changes for clarity and conciseness, along with revisions made as a response to comments received. Those changes include:

1. R18-2-1610(A). This rule implements the pre-trigger provisions of the SO<sub>2</sub> Milestones and Backstop Trading Program required under ~~40 CFR 51.309(d)(4)(ii)~~ 40 CFR 51.309(h)(2). Nothing in this Article waives any requirement otherwise in effect or subsequently required under any other law, including rules governing new sources.

R18-2-1610(B)(3). “Milestone” means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018 as provided in ~~40 CFR 51.309(f)(1)(i)~~ 40 CFR 51.309(h)(1).

R18-2-1611(A). All BART-eligible sources as defined in ~~40 CFR 51.303~~ 40 CFR 51.301 that are BART-eligible due to SO<sub>2</sub> emissions.

2. R18-2-1612(A)(8) now reads, “Retain all records required under this Section for a minimum of 10 years from the date of record creation, or if the records was were the basis for an adjustment to a milestone under 40 CFR 51.309(h)(1), 5 years from the date of a state implementation plan revision, whichever is longer.”
3. R18-2-1612(A)(2) now reads, “Submit to the Director an annual inventory of SO<sub>2</sub> emissions, beginning with the 2003 emission inventory by the date specified in R18-2-327(A)”. R18-2-1612(A)(3) now reads, “Submit to the Director, if the stationary source is a smelter, an annual report of sulfur input in tons per year with the submission of the annual emissions inventory as required by subsection (A)(2)”.
4. R18-2-1612(B)(1)(a) through (c) has been revised to R18-2-1612(B) in order to specify a date in the event the program is triggered, and now reads, “Any stationary source that meets the criteria of R18-2-1611 at any time after December 10, 2004, shall continue to comply with R18-2-1612 even if the source no longer has actual SO<sub>2</sub> emissions of 100 tons per year or more until either one year after the date of program trigger, or the Director determines under 40 CFR 51.309(h)(3) that the regional SO<sub>2</sub> 2018 milestone was achieved.”

#### **11. A summary of the comments made regarding the rule and the agency response to them:**

A total of seven comments were received on the Supplemental Proposed Rulemaking.

**Comment No. 1:** Corrections to regulatory references.

**Response:** Corrections were made as shown in number 1, section 10 of this final rulemaking.

**Comment No. 2:** The rule should clarify that all documentation relied upon by a source to determine or calculate emissions are records that are subject to the record retention provision in section R18-2-1612(A)(8).

**Response:** The rule has been revised at R18-2-1612(A)(8) to include “all” as shown in number 2, section 10 of this final rulemaking.

**Comment No. 3:** Arizona’s requirements should include a specific deadline for submitting the data required in R18-2-1612(A)(2).

**Response:** The rule has been revised to include a specific deadline as shown in number 3, section 10 of this final rulemaking. The deadline is equivalent to the deadline already specified in the reporting requirements outlined in Title 18, Chapter 2, Article 3, of the Arizona Administrative Code; specifically, R18-2-327(A).

**Comment No. 4:** We understand that the intent of this section is to establish a termination date for pre-trigger monitoring, recordkeeping, and reporting under this rule. In addition to meeting the 2018 milestone, another basis for terminating the pre-trigger requirements is the beginning of the post-trigger monitoring provisions. The rule should more clearly specify the date that sources will be subject to post-trigger monitoring, recordkeeping, and reporting.

**Response:** The program trigger is an event and cannot be given a specific date. The rule has been revised to clarify that one year after the program is triggered is the transition period between pre-trigger requirements and post-trigger requirements.

**Comment No. 5:** The trading program is triggered in accordance with the procedures laid out in the State’s Implementation Plan adopted to comply with 40 CFR 51.309(h)(1) and (3). The rule should refer to these state-adopted procedures directly rather than the general requirements in 40 CFR 51.309(h)(1) and (3) to adopt such procedures.

**Response:** A.R.S. § 41-1028 prohibits incorporation by reference of standards or regulations without an effective date. Arizona Regional Haze State Implementation Plan is yet to be approved and has no effective date. Sources are directed to the specific state implementation plan procedures within the procedures cited in the CFR.

**Comment No. 6:** In R18-2-1611(B) where it says all stationary sources that have actual SO<sub>2</sub> emissions of 100 tons or more are subject to this requirement, I believe that any source that was part of the baseline determination when the milestones were set is also subject to this reporting requirement.

**Response:** 40 CFR 51.309(h)(2)(i) states that the plan must provide for annual emission monitoring and reporting beginning with the calendar year 2003, for all sources with actual emissions of sulfur dioxide of 100 tons per year or more as of 2003, and all sources with actual emissions of 100 tons or more per year in any subsequent year.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class rules:**

Not applicable

**13. Incorporation by reference and their location in the rule:**

<u>Incorporations by reference</u>	<u>Location</u>
Western Backstop SO <sub>2</sub> Trading Program Model Rule and Model Rule Supplement	R18-2-1613

**14. Were these rules previously adopted as emergency rules?**

No

**15. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**  
**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR POLLUTION CONTROL**

**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

*Section*

R18-2-1610.    SO<sub>2</sub> Milestones and Backstop Trading Program; Definitions

R18-2-1611.    Applicability

R18-2-1612.    Pre-trigger Monitoring, Recordkeeping and Reporting

R18-2-1613.    Western Backstop SO<sub>2</sub> Trading Program Trigger

## ARTICLE 16. VISIBILITY; REGIONAL HAZE

**R18-2-1607. Reserved**

**R18-2-1608. Reserved**

**R18-2-1609. Reserved**

### **R18-2-1610. SO<sub>2</sub> Milestones and Backstop Trading Program; Definitions**

**A.** This rule implements the pre-trigger provisions of the SO<sub>2</sub> Milestones and Backstop Trading Program required under 40 CFR 51.309(h)(2). Nothing in this Article waives any requirement otherwise in effect or subsequently required under any other law or rules for new sources.

**B.** When used in this Article:

1. “Actual SO<sub>2</sub> emissions” means total annual sulfur dioxide emissions determined according to R18-2-1611.
2. “Fugitive emissions” means those emissions that can not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
3. “Milestone” means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018 as provided in 40 CFR 51.309(h)(1).
4. “Western Backstop SO<sub>2</sub> Trading Program” means the program implemented under R18-2-1613.

### **R18-2-1611. Applicability**

**A.** All BART-eligible sources as defined in 40 CFR 51.301 that are BART-eligible due to SO<sub>2</sub> emissions are subject to the requirements of this Section.

**B.** All stationary sources that have actual SO<sub>2</sub> emissions of 100 tons or more per year are subject to the requirements of this Section.

**C.** When determining actual SO<sub>2</sub> emissions in subsection (B), the Director shall not include fugitive emissions of a stationary source unless that source belongs to one of the following categories:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;

4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric, or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants (furnace process);
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers or combination of boilers totaling more than 250 million British thermal units per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plants;
25. Charcoal production plants;
26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
27. Any other stationary source category, which as of August 7, 1980, is regulated under Section 111 or 112 of the Act.

**R18-2-1612. Pre-trigger Monitoring, Recordkeeping, and Recording**

**A. All stationary sources meeting the criteria of R18-2-1611, for the period defined in subsection (B) shall:**

1. Comply with applicable monitoring, recordkeeping, and reporting requirements in R18-2-304, R18-2-306, R18-2-327, and R18-2-715.01;

2. Submit to the Director an annual inventory of SO<sub>2</sub> emissions, beginning with the 2003 emission inventory by the date specified in R18-2-327(A);
3. Submit to the Director, if the stationary source is a smelter, an annual report of sulfur input in tons per year with the submission of the annual emissions inventory as required by subsection (A)(2);
4. Utilize appropriate emission factors and estimating methodology, and document the emissions monitoring or estimation methodology used by the source;
5. Include SO<sub>2</sub> emissions from start up, shut down, and upset conditions in the annual total inventory;
6. Utilize, if an affected source, methods from 40 CFR Part 75 to measure and calculate SO<sub>2</sub> emissions;
7. Maintain records that include the rate and period of SO<sub>2</sub> emissions, the specific installation that is the source of the SO<sub>2</sub> emissions, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions, and to evaluate pollution control;
8. Retain all records required under this Section for a minimum of 10 years from the date of record creation, or if the records were the basis for an adjustment to a milestone under 40 CFR 51.309(h)(1), five years from the date of a state implementation plan revision, whichever is longer.

**B. Duration and termination of pre-trigger requirements.**

Any stationary source that meets the criteria of R18-2-1611 after December 10, 2004, shall continue to comply with R18-2-1612 even if the source no longer has actual SO<sub>2</sub> emissions of 100 tons per year or more until either one year after the date of program trigger, or the Director determines under 40 CFR 51.309(h)(3) that the regional SO<sub>2</sub> 2018 milestone was achieved.

**R18-2-1613. Western Backstop SO<sub>2</sub> Trading Program Trigger**

The requirements of the Western Backstop SO<sub>2</sub> Trading Program contained in the Western Backstop SO<sub>2</sub> Trading Program Model Rule and Model Rule Supplement as adopted August 13, 2003 (and no later amendments or editions) by the Western Regional Air Partnership (WRAP), are incorporated by reference and available through the Western Regional Air Partnership at [www.wrapair.org](http://www.wrapair.org), and the Director. The requirements shall apply to applicable sources in the Model Rule and Model Rule Supplement beginning on the date the Director

determines the program has been triggered according to 40 CFR 51.309(h)(1) and 51.309(h)(3).

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## **Enclosure 4**

**Codified State of Arizona Burn Rules  
(R18-2-602, Unlawful Open Burns and  
Article 15, Forest and Range Management Burns)**

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## Department of Environmental Quality – Air Pollution Control

**ARTICLE 6. EMISSIONS FROM EXISTING AND NEW  
NONPOINT SOURCES****R18-2-601. General**

For purposes of this Article, any source of air contaminants which due to lack of an identifiable emission point or plume cannot be considered a point source, shall be classified as a nonpoint source. In applying this criteria, such items as air-curtain destructors, heater-planners, and conveyor transfer points shall be considered to have identifiable plumes. Any affected facility subject to regulation under Article 7 of this Chapter or 9 A.A.C. 3, Article 8, shall not be subject to regulation under this Article.

**Historical Note**

Former Section R9-3-601 repealed, new Section R9-3-601 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-601 renumbered without change as Section R18-2-601 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-601 renumbered to R18-2-801, new Section R18-2-601 renumbered from R18-2-401 and amended effective November 15, 1993 (Supp. 93-4).

**R18-2-602. Unlawful Open Burning**

A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:

1. "Agricultural burning" means burning vegetative materials related to producing and harvesting crops and raising animals for the purpose of marketing for profit, or providing a livelihood, but does not include burning of household waste or prohibited materials. A person may conduct agricultural burns in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, waste disposal, disease and pest prevention, or site preparation.
2. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.
3. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
4. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
5. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
6. "Delegated authority" means any of the following:
  - a. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R.S. § 49-501(E); or
  - b. A private fire protection service provider that has been assigned authority to issue open burning permits by one of the authorities in subsection (A)(6)(a).
7. "Director" means the Director of the Department of Environmental Quality, or designee.
8. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
9. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
10. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multi-

ple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, or demolition debris.

11. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
  12. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
  13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.
  14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.
  15. "Prescribed burning" has the same meaning as in R18-2-1501.
- B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.
- C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the Director or a delegated authority:
1. Fires used only for:
    - a. Cooking of food,
    - b. Providing warmth for human beings,
    - c. Recreational purposes,
    - d. Branding of animals,
    - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
    - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
  2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
    - a. Control of an active wildfire; or
    - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
  3. Fire set by or permitted by the Director of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
  4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the

state or any of its agencies, departments, or political subdivisions, regulated under Article 15 of this Chapter.

**D. Open outdoor fires requiring a permit.**

1. The following open outdoor fires are allowed with an open burning permit from the Director or a delegated authority:
  - a. Construction burning;
  - b. Agricultural burning;
  - c. Residential burning;
  - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under R18-2-1501;
  - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
  - f. Open outdoor fires of dangerous material under subsection (E);
  - g. Open outdoor fires of household waste under subsection (F); and
  - h. Open outdoor fires that use an air curtain destructor, as defined in R18-2-101.
2. A person conducting an open outdoor fire in a county without independent authority to permit fires shall obtain a permit from the Director or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an ADEQ-approved application form.
3. Open outdoor fire permits issued under this Section shall include:
  - a. A list of the materials that the permittee may burn under the permit;
  - b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the Director or the delegated authority;
  - c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the Director on a specific day basis:
    - i. Year-round: ignite fire no earlier than one hour after sunrise; and
    - ii. Year-round: extinguish fire no later than two hours before sunset;
  - d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
    - i. Prevent dispersion of smoke into populated areas;
    - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
    - iii. Do not create a public nuisance or adversely affect public safety;
    - iv. Do not cause an adverse impact to visibility in a Class I area; and
    - v. Do not cause uncontrollable spreading of the fire;
  - e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions; and
  - f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the Director for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the Direc-

tor or delegated authority due on March 31 for the previous calendar year:

- i. The date of each burn;
  - ii. The type and quantity of fuel burned for each date open burning occurred;
  - iii. The fire type, such as pile or pit, for each date open burning occurred; and
  - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
- g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;
  - h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
    - i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
  - j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;
  - k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;
  - l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
  - m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
  - n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared under R18-2-220;
  - o. A statement that the Director, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
  - p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.
4. The Director or a delegated authority shall not issue an open burning permit under this Section:
    - a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;
    - b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or
    - c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the Director has not issued a variance under A.R.S. § 49-763.01.
- E. Open outdoor fires of dangerous material.** A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the Director has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and

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(D)(3)(f). The Director shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.

- F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the Director or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:
1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or
  2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.
- G. Permits issued by a delegated authority. The Director may delegate authority for the issuance of open burning permits to a county, city, town, air pollution control district, or fire district. A delegated authority may not issue a permit for its own open burning activity. The Director shall not delegate authority to issue permits to burn dangerous material under subsection (E). A county, city, town, air pollution control district, or fire district with delegated authority from the Director may assign that authority to one or more private fire protection service providers that perform fire protection services within the county, city, town, air pollution control district, or fire district. A private fire protection provider shall not directly or indirectly condition the issuance of open burning permits on the applicant being a customer. Permits issued under this subsection shall comply with the requirements in subsection (D)(3) and be in a format prescribed by the Director. Each delegated authority shall:
1. Maintain a copy of each permit issued for the previous five years available for inspection by the Director;
  2. For each permit currently issued, have a means of contacting the person authorized by the permit to set an open fire if an order to extinguish open burning is issued; and
  3. Annually submit to the Director by May 15 a record of daily burn activity, excluding household waste burn permits, on a form provided by the Director for the previous calendar year containing the information required in subsections (D)(3)(e) and (D)(3)(f).
- H. The Director shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.
- I. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Correction, subsection (C) repealed effective October 2, 1979, not shown (Supp. 80-1). Former Section R9-3-602 renumbered without change as Section R18-2-602 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-602 renumbered to R18-2-802, new Section R18-2-602 renumbered from R18-2-401 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-603. Repealed****Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-603 renumbered without change as Section R18-2-603 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-603 renumbered to R18-2-803, new Section R18-2-603 renumbered from R18-2-403 effective November 15, 1993 (Supp. 93-4). Repealed effective October 8, 1996 (Supp. 96-4).

**R18-2-604. Open Areas, Dry Washes, or Riverbeds**

- A. No person shall cause, suffer, allow, or permit a building or its appurtenances, or a building or subdivision site, or a driveway, or a parking area, or a vacant lot or sales lot, or an urban or suburban open area to be constructed, used, altered, repaired, demolished, cleared, or leveled, or the earth to be moved or excavated, without taking reasonable precautions to limit excessive amounts of particulate matter from becoming airborne. Dust and other types of air contaminants shall be kept to a minimum by good modern practices such as using an approved dust suppressant or adhesive soil stabilizer, paving, covering, landscaping, continuous wetting, detouring, barring access, or other acceptable means.
- B. No person shall cause, suffer, allow, or permit a vacant lot, or an urban or suburban open area, to be driven over or used by motor vehicles, trucks, cars, cycles, bikes, or buggies, or by animals such as horses, without taking reasonable precautions to limit excessive amounts of particulates from becoming airborne. Dust shall be kept to a minimum by using an approved dust suppressant, or adhesive soil stabilizer, or by paving, or by barring access to the property, or by other acceptable means.
- C. No person shall operate a motor vehicle for recreational purposes in a dry wash, riverbed or open area in such a way as to cause or contribute to visible dust emissions which then cross property lines into a residential, recreational, institutional, educational, retail sales, hotel or business premises. For purposes of this subsection "motor vehicles" shall include, but not be limited to trucks, cars, cycles, bikes, buggies and 3-wheelers. Any person who violates the provisions of this subsection shall be subject to prosecution under A.R.S. § 49-463.

**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-604 renumbered without change as Section R18-2-604 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-604 renumbered to R18-2-804, new Section R18-2-604 renumbered from R18-2-404 and amended effective November 15, 1993 (Supp. 93-4).

**R18-2-605. Roadways and Streets**

- A. No person shall cause, suffer, allow or permit the use, repair, construction or reconstruction of a roadway or alley without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Dust and other particulates shall be kept to a minimum by employing temporary paving, dust suppressants, wetting down, detouring or by other reasonable means.
- B. No person shall cause, suffer, allow or permit transportation of materials likely to give rise to airborne dust without taking reasonable precautions, such as wetting, applying dust suppressants, or covering the load, to prevent particulate matter from becoming airborne. Earth or other material that is deposited by trucking or earth moving equipment shall be removed from paved streets by the person responsible for such deposits.

Table 3

**Projects Exempt From Regional Emissions Analyses**

1. Intersection channelization projects.
2. Intersection signalization projects at individual intersections.
3. Interchange reconfiguration projects.
4. Changes in vertical and horizontal alignment.
5. Truck size and weight inspection stations.
6. Bus terminals and transfer points.

**Historical Note**

Adopted effective June 15, 1995 (Supp. 95-2).

**R18-2-1436. Special Provisions for Nonattainment Areas Which are Not Required to Demonstrate Reasonable Further Progress and Attainment**

- A. This Section applies in the following areas:
  1. Rural transport ozone nonattainment areas,
  2. Marginal ozone areas,
  3. Submarginal ozone areas,
  4. Transitional ozone areas,
  5. Incomplete data ozone areas,
  6. Moderate CO areas with a design value of 12.7 ppm or less,
  7. Not classified CO areas.
- B. The criteria and procedures in R18-2-1422 through R18-2-1424 will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in lieu of the procedures in R18-2-1418 through R18-2-1420, except as otherwise provided in subsection (C).
- C. The state or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the state shall submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in R18-2-1418 through R18-2-1420 apply in lieu of the procedures in R18-2-1422 through R18-2-1424.

**Historical Note**

Adopted effective June 15, 1995 (Supp. 95-2).

**R18-2-1437. Reserved****R18-2-1438. General Conformity for Federal Actions**

The following subparts of 40 CFR 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans, and all accompanying appendices, adopted as of July 1, 1994, and no future editions, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans (58 FR 63253, November 30, 1993).

**Historical Note**

Adopted effective January 31, 1995 (Supp. 95-1).

**ARTICLE 15. FOREST AND RANGE MANAGEMENT BURNS****R18-2-1501. Definitions**

In addition to the definitions contained in A.R.S. § 49-501 and R18-2-101, in this Article:

1. "Activity fuels" means those fuels created by human activities such as thinning or logging.
2. "ADEQ" means the Department of Environmental Quality.

3. "Annual emissions goal" means the annual establishment in cooperation with the F/SLMs, under R18-2-1503(G), of a planned quantifiable value of emissions reduction from prescribed fires and fuels management activities.
4. "Burn plan" means the ADEQ form that includes information on the conditions under which a burn will occur with details of the burn and smoke management prescriptions.
5. "Burn prescription" means, with regard to a burn project, the pre-determined area, fuel, and weather conditions required to attain planned resource management objectives.
6. "Burn project" means an active or planned prescribed burn, including a wildland fire use incident.
7. "Duff" means forest floor material consisting of decomposing needles and other natural materials.
8. "Emission reduction techniques (ERT)" means methods for controlling emissions from prescribed fires to minimize the amount of emission output per unit of area burned.
9. "Federal land manager (FLM)" means any department, agency, or agent of the federal government, including the following:
  - a. United States Forest Service,
  - b. United States Fish and Wildlife Service,
  - c. National Park Service,
  - d. Bureau of Land Management,
  - e. Bureau of Reclamation,
  - f. Department of Defense,
  - g. Bureau of Indian Affairs, and
  - h. Natural Resources Conservation Service.
10. "F/SLM" means a federal land manager or a state land manager.
11. "Local fire management officer" means a person designated by a F/SLM as responsible for fire management in a local district or area.
12. "Mop-up" means the act of extinguishing or removing burning material from a prescribed fire to reduce smoke impacts.
13. "National Wildfire Coordinating Group" means the national inter-agency group of federal and state land managers that shares similar wildfire suppression programs and has established standardized inter-agency training courses and qualifications for fire management positions.
14. "Non-burning alternatives to fire" means techniques that replace fire for at least five years as a means to treat activity fuels created to achieve a particular land management objective (e.g., reduction of fuel-loading, manipulation of fuels, enhancement of wildlife habitat, and ecosystem restoration). These alternatives are not used in conjunction with fire. Techniques used in conjunction with fire are referred to as emission reduction techniques (ERTs).
15. "Planned resource management objectives" means public interest goals in support of land management agency objectives including silviculture, wildlife habitat management, grazing enhancement, fire hazard reduction, wilderness management, cultural scene maintenance, weed abatement, watershed rehabilitation, vegetative manipulation, and disease and pest prevention.
16. "Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a pub-

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- lic officer to provide instruction in fire fighting methods, or construction or residential burning under R18-2-602.
17. "Prescribed fire manager" means a person designated by a F/SLM as responsible for prescribed burning for that land manager.
  18. "Smoke management prescription" means the predetermined meteorological conditions that affect smoke transport and dispersion under which a burn could occur without adversely affecting public health and welfare.
  19. "Smoke management techniques (SMT)" means management and dispersion practices used during a prescribed burn or wildland fire use incident which affect the direction, duration, height, or density of smoke.
  20. "Smoke management unit" means any of the geographic areas defined by ADEQ whose area is based on primary watershed boundaries and whose outline is determined by diurnal windflow patterns that allow smoke to follow predictable drainage patterns. A map of the state divided into the smoke management units is on file with ADEQ.
  21. "State land manager (SLM)" means any department, agency, or political subdivision of the state government including the following:
    - a. State Land Department,
    - b. Department of Transportation,
    - c. Department of Game and Fish, and
    - d. Parks Department.
  22. "Wildfire" means an unplanned wildland fire subject to appropriate control measures. Wildfires include those incidents where suppression may be limited for safety, economic, or resource concerns.
  23. "Wildland fire use" means a wildland fire that is ignited by natural causes, such as lightning, and is managed using the same controls and for the same planned resource management objectives as prescribed burning.
- B. Each planned year extends from January 1 of the registration year to December 31 of the same year. Each F/SLM shall use best efforts to register before December 31 and no later than January 31 of each year.
  - C. A F/SLM shall include the following information on the registration form:
    1. The F/SLM's name, address, and business telephone number;
    2. The name, address, and business telephone number of an air quality representative who will provide technical support to ADEQ for decisions regarding prescribed burning. The same air quality representative may be selected by more than one F/SLM;
    3. All prescribed burn projects and potential wildland fire use areas planned for the next year;
    4. Maximum project and annual acres to be burned, maximum daily acres to be burned, fuel types within project area, and planned use of emission reduction techniques to support the annual emissions goal for each prescribed burn project;
    5. Planned use of any smoke management techniques for each prescribed burn project;
    6. Maximum project and annual acres projected to be burned, maximum daily acres projected to be burned, and a map of the anticipated project area, fuel types and loading within the planned area for an area the F/SLM anticipates for wildland fire use;
    7. A list of all burn projects that were completed during the previous year;
    8. Project area for treatment, treatment type, fuel types to be treated, and activity fuel loading to support the annual emissions goal for areas to be treated using non-burning alternatives to fire; and
    9. The area treated using non-burning alternatives to fire during the previous year including the number of acres, the specific types of alternatives utilized, and the location of these areas.
  - D. After consultation with the F/SLM, ADEQ may request additional information for registration of prescribed burns and wildland fire use to support regional coordination of smoke management, annual emission goal setting using ERTs, and non-burning alternatives to fire.
  - E. A F/SLM may amend a registration at any time with a written submission to ADEQ.
  - F. ADEQ accepts a facsimile or other electronic method as a means of complying with the deadline for registration. If an electronic means is used, the F/SLM shall deliver the original paper registration form to ADEQ for its records. ADEQ shall acknowledge in writing the receipt of each registration.
  - G. ADEQ shall hold a meeting after January 31 and before April 1 of each year between ADEQ and F/SLMs to evaluate the program and cooperatively establish the annual emission goal. The annual emission goal shall be developed to minimize prescribed fire emissions to the maximum extent feasible using emission reduction techniques and alternatives to burning subject to economic, technical, and safety feasibility criteria, and consistent with land management objectives.
  - H. At least once every five years, ADEQ shall request long-term projections of future prescribed fire and wildland fire use activity from the F/SLMs to support planning for visibility impairment and assessment of other air quality concerns by ADEQ.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1502. Applicability**

- A. A F/SLM that is conducting or assisting a prescribed burn shall follow the requirements of this Article.
- B. A private or municipal burner with whom ADEQ has entered into a memorandum of agreement shall follow the requirements of this Article.
- C. The provisions of this Article apply to all areas of the state except Indian Trust lands. All federally managed lands and all state lands, parks, and forests are under the jurisdiction of ADEQ in matters relating to air pollution from prescribed burning.
- D. Notwithstanding subsection (C), ADEQ and any Indian tribe may enter into a memorandum of agreement to implement this Article.
- E. ADEQ and any private or municipal prescribed burner may enter into a memorandum of agreement to implement this Article.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1503. Annual Registration, Program Evaluation and Planning**

- A. Each F/SLM shall register annually with ADEQ on a form prescribed by ADEQ, all planned burn projects, including areas planned for wildland fire use.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1504. Prescribed Burn Plan**

Each F/SLM planning a prescribed burn shall complete and submit to ADEQ the "Burn Plan" form supplied by ADEQ no later than 14 days before the date on which the F/SLM requests permission to burn. ADEQ shall consider the information supplied on the Burn Plan Form as binding conditions under which the burn shall be conducted. A Burn Plan shall be maintained by ADEQ until notification from the F/SLM of the completion of the burn project. Revisions to the Burn Plan for a burn project shall be submitted in writing no later than 14 days before the date on which the F/SLM requests permission to burn. To facilitate the Daily Burn authorization process under R18-2-1505, the F/SLM shall include on the Burn Plan form:

1. An emergency telephone number that is answered 24 hours a day, seven days a week;
2. Burn prescription;
3. Smoke management prescription;
4. The number of acres to be burned, the quantity and type of fuel, type of burn, and the ignition technique to be used;
5. The land management objective or purpose for the burn such as restoration or maintenance of ecological function and indicators of fire resiliency;
6. A map depicting the potential impact of the smoke unless waived either orally or in writing by ADEQ. The potential impact shall be determined by mapping both the daytime and nighttime smoke path and down-drainage flow for 15 miles from the burn site, with smoke-sensitive areas delineated. The map shall use the appropriate scale to show the impacts of the smoke adequately;
7. Modeling of smoke impacts unless waived either orally or in writing by ADEQ, for burns greater than 250 acres per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is non-attainment for particulates, a carbon monoxide non-attainment area, or other smoke-sensitive area. In consultation with the F/SLM, ADEQ shall provide guidelines on modeling;
8. The name of the official submitting the Burn Plan on behalf of the F/SLM; and
9. After consultation with the F/SLM, any other information to support the Burn Plan needed by ADEQ to assist in the Daily Burn authorization process for smoke management purposes or assessment of contribution to visibility impairment of Class I areas.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).

Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1505. Prescribed Burn Requests and Authorization**

A. Each F/SLM planning a prescribed burn, shall complete and submit to ADEQ the "Daily Burn Request" form supplied by ADEQ. The Daily Burn Request form shall include:

1. The contact information of the F/SLM conducting the burn;
2. Each day of the burn;
3. The area to be burned on the day for which the Burn Request is submitted, with reference to the Burn Plan, including size, legal location to the section, and latitude and longitude to the minute;
4. Projected smoke impacts; and
5. Any local conditions or circumstances known to the F/SLM that, if conveyed to ADEQ, could impact the Daily Burn authorization process.

B. After consultation with the F/SLM, ADEQ may request additional information related to the burn, meteorological, smoke dispersion, or air quality conditions to supplement the Daily Burn Request form and to aid in the Daily Burn authorization process.

C. The F/SLM shall submit the Daily Burn Request form to ADEQ as expeditiously as practicable, but no later than 2:00 p.m. of the business day preceding the burn. An original form, a facsimile, or an electronic information transfer are acceptable submittals.

D. An F/SLM shall not ignite a prescribed burn without receiving the approval of ADEQ, as follows:

1. ADEQ shall approve, approve with conditions, or disapprove a burn on the same business day as the Burn Request submittal.
2. If ADEQ fails to address a Burn Request by 10:00 p.m. of the business day on which the request is submitted, the Burn Request is approved by default after the burner makes a good faith effort to contact ADEQ to confirm that the Burn Request was received.
3. ADEQ may communicate its decision by verbal, written, or electronic means. ADEQ shall provide a written or electronic reply if requested by the F/SLM.

E. If weather conditions cease to conform to those in the smoke management prescription of either the Burn Plan or an Approval with Conditions, the F/SLM shall take appropriate action to reduce further smoke impacts, ensure safe and appropriate fire control, and notify the public when necessary. After consultation with ADEQ, the smoke management prescription or burn plan may be modified.

F. The F/SLM shall ensure that there is appropriate signage and notification to protect public safety on transportation corridors including roadways and airports during a prescribed fire.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).

Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1506. Smoke Dispersion Evaluation**

ADEQ shall approve, approve with conditions, or disapprove a Daily Burn Request submitted under R18-2-1505, by using the following factors for each smoke management unit:

1. Analysis of the emissions from burns in progress and residual emissions from previous burns on a day-to-day basis;
2. Analysis of emissions from active wildland fire use incidents, and active multiple-day burns, and consideration of potential long-term emissions estimates;
3. Analysis of the emissions from wildfires greater than 100 acres and consideration of their potential long-term growth;
4. Local burn conditions;
5. Burn prescription and smoke management prescription from the applicable Burn Plan;
6. Existing and predicted local air quality;
7. Local and synoptic meteorological conditions;
8. Type and location of areas to be burned;
9. Protection of the national visibility goal for Class I Areas under § 169A(a)(1) of the Act and 40 CFR 51.309;
10. Assessment of duration and intensity of smoke emissions to minimize cumulative impacts;
11. Minimization of smoke impacts in Class I Areas, areas that are non-attainment for particulate matter, carbon monoxide non-attainment areas, or other smoke-sensitive areas; and

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12. Protection of the National Ambient Air Quality Standards.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective  
March 16, 2004 (Supp. 04-1).

**R18-2-1507. Prescribed Burn Accomplishment; Wildfire Reporting**

- A. Each F/SLM conducting a prescribed burn shall complete and submit to ADEQ the "Burn Accomplishment" form supplied by ADEQ. For each burn approval, the F/SLM shall submit a Burn Accomplishment form to ADEQ by 2:00 p.m. of the business day following the approved burn. The F/SLM shall include the following information on the Burn Accomplishment form:
1. Any known conditions or circumstances that could impact the Daily Burn decision process;
  2. The date, location, fuel type, fuel loading, and acreage accomplishments;
  3. The ERTs and SMTs described in R18-2-1509 and R18-2-1510, respectively, and may include any further ERTs and SMTs that become available, that the F/SLM used to reduce emissions or manage the smoke from the burn.
- B. The F/SLM shall submit the Burn Accomplishment form as an original form, a facsimile, or an electronic information transfer.
- C. ADEQ shall maintain a record of Burn Requests, Burn Approvals/Conditional Approvals/Denials and Burn Accomplishments for five years.
- D. The F/SLM in whose jurisdiction a wildfire occurs shall make available to ADEQ no later than the day after the activity all required information for wildfire incidents that burned more than 100 acres per day in timber or slash fuels or 300 acres per day in brush or grass fuels. For each day of a wildfire incident that exceeds the daily activity threshold, the F/SLM shall provide the location, an estimate of predominant fuel type and quantity consumed, and an estimate of the area blackened that day.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective  
March 16, 2004 (Supp. 04-1).

**R18-2-1508. Wildland Fire Use: Plan, Authorization, Monitoring; Inter-agency Consultation; Status Reporting**

- A. In order for ADEQ to participate in the wildland fire use decision-making process, the F/SLM shall notify ADEQ as soon as practicable of any wildland fire use incident projected to attain or attaining a size of 50 acres of timber fuel or 250 acres of brush or grass fuel.
- B. For each wildland fire use incident that has been declared as such by the F/SLM, the F/SLM shall complete and submit to ADEQ a Wildland Fire Use Burn Plan in a format approved by ADEQ in cooperation with the F/SLM. The F/SLM shall submit the Wildland Fire Use Burn Plan to ADEQ as soon as practicable but no later than 72 hours after the wildland fire use incident is declared or under consideration for such designation. The F/SLM shall include the following information in the Wildland Fire Use Burn Plan:
1. An emergency telephone number that is answered 24 hours a day, seven days a week;
  2. Anticipated burn prescription;
  3. Anticipated smoke management prescription;
  4. The estimated daily number of acres, quantity, and type of fuel to be burned;

5. The anticipated maximum allowable perimeter or size with map;
  6. Information on the condition of the area to be burned, such as whether it is in maintenance or restoration, its ecological function, and other indicators of fire resiliency;
  7. The anticipated duration of the wildland fire use incident;
  8. The anticipated long-range weather trends for the site;
  9. A map depicting the potential impact of the smoke. The potential impact shall be determined by mapping both the daytime and nighttime smoke path and down-drainage flow for 15 miles from the wildland fire use incident, with smoke-sensitive areas delineated. Mapping is mandatory unless waived either orally or in writing by ADEQ. The map shall use the appropriate scale to show the impacts of the smoke adequately; and
  10. Modeling or monitoring of smoke impacts, if requested by ADEQ after consultation with the F/SLM.
- C. ADEQ shall approve or disapprove a Wildland Fire Use Burn Plan within three hours of receipt. ADEQ shall consult directly with the requesting F/SLM before disapproving a Wildland Fire Use Burn Plan. If ADEQ fails to address the Wildland Fire Use Burn Plan within the time allotted, the Plan is approved by default under the condition that the F/SLM makes a good faith effort to contact ADEQ to confirm that the Plan was received. Approval by ADEQ of a Wildland Fire Use Burn Plan is binding upon ADEQ for the duration of the wildland fire use incident, unless smoke from the incident creates a threat to public health or welfare. If a threat to public health or welfare is created, ADEQ shall consult with the F/SLM regarding the situation and develop a joint action plan for reducing further smoke impacts.
- D. The F/SLM shall submit a Daily Status Report for each wildland fire use incident to ADEQ for each day of the burn that the fire burns more than 100 acres in timber or slash fuels or 300 acres in brush or grass fuels. The F/SLM shall include a synopsis of smoke behavior, future daily anticipated growth, and location of the activity of the wildland fire use incident in the Daily Status Report.
- E. The F/SLM shall consult with ADEQ prior to initiating human-made ignition on the wildland fire use incident when greater than 250 acres is anticipated to be burned by the ignition. Emergency human-made ignition on the incident for protection of public or fire-fighter safety does not require consultation with ADEQ regardless of the size of the area to be burned.
- F. The F/SLM shall ensure that there is appropriate signage and notification to protect public safety on transportation corridors including roadways and airports during a wildland fire use incident.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective  
March 16, 2004 (Supp. 04-1).

**R18-2-1509. Emission Reduction Techniques**

- A. Each F/SLM conducting a prescribed burn shall implement as many Emission Reduction Techniques as are feasible subject to economic, technical, and safety feasibility criteria, and land management objectives.
- B. Emission Reduction Techniques include:
1. Reducing biomass to be burned by use of techniques such as yarding or consolidation of unmerchandiseable material, multi-product timber sales, or public firewood access, when economically feasible;

2. Reducing biomass to be burned by fuel exclusion practices such as preventing the fire from consuming dead snags or dead and downed woody material through lining, application of fire-retardant foam, or water;
3. Using mass ignition techniques such as aerial ignition by helicopter to produce high intensity fires of high fuel density areas such as logging slash decks;
4. Burning only fuels essential to meet resource management objectives;
5. Minimizing consumption and smoldering by burning under conditions of high fuel moisture of duff and litter;
6. Minimizing fuel consumption and smoldering by burning under conditions of high fuel moisture of large woody fuels;
7. Minimizing soil content when slash piles are constructed by using brush blades on material-moving equipment and by constructing piles under dry soil conditions or by using hand piling methods;
8. Burning fuels in piles;
9. Using a backing fire in grass fuels;
10. Burning fuels with an air curtain destructor, as defined in R18-2-101, operated according to manufacturer specifications and meeting applicable state or local opacity requirements;
11. Extinguishing or mopping-up of smoldering fuels;
12. Chunking of piles and other consolidations of burning material to enhance flaming and fuel consumption, and to minimize smoke production;
13. Burning before litter fall;
14. Burning before green-up of fuels;
15. Burning before recently cut large fuels cure in areas with activity; and
16. Burning just before precipitation to reduce fuel smoldering and consumption.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1510. Smoke Management Techniques**

- A. Each F/SLM conducting a prescribed burn shall implement as many Smoke Management Techniques as are feasible subject to economic, technical, and safety feasibility criteria, and land management objectives.
- B. Smoke management techniques include:
  1. Burning from March 15 through September 15, when meteorological conditions allow for good smoke dispersion;
  2. Igniting burns under good-to-excellent ventilation conditions;
  3. Suspending operations under poor smoke dispersion conditions;
  4. Considering smoke impacts on local community activities and land users;
  5. Burning piles when other burns are not feasible, such as when snow or rain is present;
  6. Using mass ignition techniques such as aerial ignition by helicopter to produce high intensity fires with short duration impacts;
  7. Using all opportunities that meet the burn prescription and all burn locations to spread smoke impacts over a broader time period and geographic area;
  8. Burning during optimum mid-day dispersion hours, with all ignitions in a burn unit completed by 3:00 p.m. to prevent trapping smoke in inversions or diurnal windflow patterns;

9. Providing information on the adverse impacts of using green or wet wood as fuel when public firewood access is allowed;
10. Implementing maintenance burning in a periodic rotation to shorten prescribed fire duration and to reduce excessive fuel accumulations that could result in excessive smoke production in a wildfire; and
11. Using wildland fire-use strategies to shift smoke into more favorable smoke dispersion seasons.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1510 renumbered to R18-2-1511; new R18-2-1510 made by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1511. Monitoring**

- A. ADEQ may require a F/SLM to monitor air quality before or during a prescribed burn or a wildland fire use incident if necessary to assess smoke impacts. Air quality monitoring may be conducted using both federal and non-federal reference method as well as other techniques.
- B. ADEQ may require a F/SLM to monitor weather before or during a prescribed burn or a wildland fire use incident, if necessary to predict or assess smoke impacts. After consultation with the F/SLM, ADEQ may also require the F/SLM to establish burn site or area-representative remote automated weather stations or their equivalent, having telemetry that allows retrieval on a real-time basis by ADEQ. An F/SLM shall give ADEQ notice and an opportunity to comment before making any change to a long-term established remote automated weather station.
- C. A F/SLM shall employ the following types of monitoring, unless waived by ADEQ, for burns greater than 250 acres per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is non-attainment for particulate matter, carbon monoxide, or ozone, or other smoke-sensitive area:
  1. Smoke plume measurements, using a format supplied by ADEQ; and
  2. The release of pilot balloons (PIBALs) at the burn site to verify needed wind speed, direction, and stability. Instead of pilot balloons, a test burn at the burn site may be used for specific prescribed burns on a case-by-case basis as approved by ADEQ, to verify needed wind speed, direction, and stability.
- D. An F/SLM shall make monitoring information required under subsection (C) available to ADEQ on the business day following the burn ignition.
- E. The F/SLM shall keep on file for one year following the burn date any monitoring information required under this Section.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1511 renumbered to R18-2-1512; new R18-2-1511 renumbered from R18-2-1510 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1512. Burner Qualifications**

- A. All burn projects shall be conducted by personnel trained in prescribed fire and smoke management techniques as required by the F/SLM in charge of the burn and established by National Wildfire Coordinating Group training qualifications.
- B. A Prescribed Fire Boss or other local Fire Management Officer of the F/SLM having jurisdiction over prescribed burns shall have smoke management training obtained through one of the following:

## Department of Environmental Quality – Air Pollution Control

1. Successful completion of a National Wildfire Coordinating Group or F/SLM-equivalent course addressing smoke management; or
2. Attendance at an ADEQ-approved smoke management workshop.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1512 renumbered to R18-2-1513; new R18-2-1512 renumbered from R18-2-1511 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1513. Public Notification and Awareness Program; Regional Coordination**

- A. The Director shall conduct a public education and awareness program in cooperation with F/SLMs and other interested parties to inform the general public of the smoke management program described by this Article. The program shall include smoke impacts from prescribed fires and the role of prescribed fire in natural ecosystems.
- B. ADEQ shall make annual registration, prescribed burn approval, and wildfire and wildland fire use activity information readily available to the public and to facilitate regional coordination efforts and public notification.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1513 renumbered to R18-2-1514; new R18-2-1513 renumbered from R18-2-1512 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1514. Surveillance and Enforcement**

- A. An F/SLM conducting a prescribed burn shall permit ADEQ to enter and inspect burn sites unannounced to verify the accuracy of the Daily Burn Request, Burn Plan, or Accomplishment data as well as matching burn approval with actual conditions, smoke dispersion, and air quality impacts. On-ground site inspection procedures and aerial surveillance shall be coordinated by ADEQ and the F/SLM for safety purposes.
- B. ADEQ may use remote automated weather station data if necessary to verify current and previous meteorological conditions at or near the burn site.
- C. ADEQ may audit burn accomplishment data, smoke dispersion measurements, or weather measurements from previously conducted burns, if necessary to verify conformity with, or deviation from, procedures and authorizations approved by ADEQ.
- D. Deviation from procedures and authorizations approved by ADEQ constitute a violation of this Article. Violations may require containment or mop-up of any active burns and may also require, in the Director's discretion, a five-day moratorium on ignitions by the responsible F/SLM. Violations of this Article are also subject to a civil penalty of not more than \$10,000 per day per violation under A.R.S. § 49-463.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1514 repealed; new R18-2-1514 renumbered from R18-2-1513 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**R18-2-1515. Forms; Electronic Copies; Information Transfers**

- A. ADEQ shall make available on paper and in electronically readable format any form required to be developed by ADEQ and completed by a F/SLM.

- B. After consultation with an F/SLM, ADEQ may require the F/SLM to provide data in a manner that facilitates electronic transfers of information.

**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).  
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1).

**APPENDIX 1. STANDARD PERMIT APPLICATION FORM AND FILING INSTRUCTIONS****FILING INSTRUCTIONS**

No application shall be considered complete until the Director has determined that all information required by this application form and the applicable statutes and regulations has been submitted. The Director may waive certain application requirements for specific source types, pursuant to R18-2-304(B). For permit revisions, the applicant need only supply information which directly pertains to the revision. The Director shall develop special guidance documents and forms to assist certain sources requiring Class 2 permits in completing the application form and filing instructions. Guidance documents can be requested by contacting the Office of Air Quality at the address and phone number given on the "Standard Permit Application Form."

In addition to the information required on the application form, the applicant shall supply the following:

1. Description of the process to be carried out in each unit (include Source Classification Code, if known).
2. Description of product(s).
3. Description of alternate operating scenario, if desired by applicant (include Source Classification Code).
4. Description of alternate operating scenario product(s), if applicable.
5. A flow diagram for all processes.
6. A material balance for all processes (optional, only if emission calculations are based on a material balance).
7. Emissions Related Information:
  - a. The source shall be required to submit the potential emissions of regulated air pollutants as defined in R18-2-101 for all emission sources. Emissions shall be expressed in pounds per hour, tons per year, and such other terms as may be requested. Emissions shall be submitted using the standard "Emission Sources" portion of the "Standard Permit Application Form." Emissions information shall include fugitive emissions in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in R18-2-101.
  - b. The source shall be required to identify and describe all points of emissions and to submit additional information related to the emissions of regulated air pollutants sufficient to verify which requirements are applicable to the source and sufficient to determine any fees under this Chapter.
8. Citation and description of all applicable requirements as defined in R18-2-101 including voluntarily accepted limits pursuant to R18-2-306.01.
9. An explanation of any proposed exemptions from otherwise applicable requirements.
10. The following information to the extent it is needed to determine or regulate emissions or to comply with the requirements of R18-2-306.01:
  - a. Maximum annual process rate for each piece of equipment which generates air emissions.
  - b. Maximum annual process rate for the whole plant.

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## **Enclosure 5**

Pima County Burn Rule  
(Pima County Code 17.12.480)

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**\*\* PLEASE NOTE \*\***

**For the purposes of this Regional Haze SIP Revision, we are asking for the consideration of revisions to Pima County Code 17.12.480 only.**

**At this time, the Notice of Final Rulemaking (NFRM) as published in the November 12, 2004, *Arizona Administrative Register*, is the only available copy of revised PCC 17.12.480. The code became effective November 19, 2004, but will not be codified (clean copy) until 2005.**

**The NFRM has been highlighted in the electronic version to facilitate locating PCC 17.12.480. A codified version of PCC 17.12.480 will be sent upon its availability.**

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**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jean Parkinson  
 Program Coordinator  
 Address: Pima County DEQ  
 150 W. Congress  
 Tucson, AZ 85701  
 Telephone: (520) 740-3978  
 Fax: (520) 882-7709  
 E-mail: Jean.Parkinson@DEQ.CO.PIMA.AZ.US

**6. An explanation of the rule, including the Control Officer’s reasons for initiating the rule:**

Summary: This rulemaking contains amendments to Pima County Code Title 17, which makes corrections to typographical errors; conforms to directly reflect federal and state rule or law, and incorporates by reference provisions of the Arizona Administrative Code and the U.S. Code of Federal Regulations.

Statutory Authority: A.R.S. § 49-471.08 – Expedited rule or Ordinance making – provides a statutory mechanism for a declaration of an expedited process if the rulemaking is a conforming change to directly reflect federal or state rule or law.

Background: Periodically the Pima County Department of Environmental Quality updates and conforms to the Arizona Administrative Code and the Code of Federal Regulations in an effort to achieve consistency and accuracy in Air Quality Regulations for Pima County. The last conforming changes to Title 17 were in 1999.

Section by Section Analysis

PCC 17.04.070	Amend	Updates Code of Federal Regulation references to 2004 version
PCC 17.08.110	Amend	Conforms to CFR part 81 § 81.303, designating Tucson planning area as Attainment for CO
PCC 17.08.130	Amend	Conforms to CFR part 81 § 81.303, designating Ajo planning area as Maintenance for SO <sub>2</sub>
PCC 17.12.060	Amend	Conforms to Arizona Administrative Code § R18-2-313, Existing Source Emission Monitoring
PCC 17.12.070	Amend	Adds subsection references to clarify the rule requirement
PCC 17.12.140	Amend	Conforms to Arizona Administrative Code § R18-2-302, Applicability; Classes of Permits
PCC 17.12.160	Amend	Removes an unnecessary subsection reference.
PCC 17.12.170	Amend	Conforms to Arizona Administrative Code § R18-2-305, Public Records; Confidentiality
PCC 17.12.180	Amend	Conforms to Arizona Administrative Code § R18-2-306, Permit Contents
PCC 17.12.210	Amend	Conforms to Arizona Administrative Code § R18-2-306, Compliance Plan Certification
PCC 17.12.365	Amend	Updated the reference date from July 1, 1996 to July 1, 2004
PCC 17.12.480	Amend	Conforms to Arizona Administrative Code § R18-2-602, Unlawful Open Burning
PCC 12.12.490	Repeal	Repeal Provision relating to standard permit requirements for open burning.
PCC 17.12.540	Amend	Removes outdated Activity Permit Fee Schedule from the code.
PCC 17.16.130	Amend	Conforms to Arizona Administrative Code § R18-2-702, General Provisions
PCC 17.16.165	Amend	Corrects an incorrect code reference within the provision.
PCC 17.16.430	Amend	Typographical error, adds a comma within a series
PCC 17.16.490	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Standards of Performance for New Stationary Sources (NSPS), pursuant to 40 CFR Part 60

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PCC 17.16.530	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Emissions Standards for Hazardous Pollutants, (NESHAP), pursuant to 40 CFR Part 61
PCC 17.16.700	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Emission Standards for Hazardous Air Pollutants for Source Categories (NESHAP), pursuant to 40 CFR 63
PCC 17.28.065	Amend	Incorporates by reference Arizona Administrative Code § R18-2-310.01
TABLE 17.16.040	Amend	Conforms to Arizona Administrative Code § R18-2-702, General Provisions

**7. Reference to any study relevant to the rule that the Control Officer reviewed and either relied or did not rely on in its evaluation of or justification for the rule, where the public may review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No studies were reviewed in reference to this rulemaking action.

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

Not applicable

**9. The preliminary summary of the economic, small business, and consumer impact:**

Pima County is proposing to update its incorporations by reference of the following federal regulations: New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and Acid Rain. These revisions should not have an economic impact on businesses in Pima County, and should not impose additional costs on the regulated community, small businesses, political subdivisions, and members of the public beyond that already incurred by reason of Federal or State law. In addition, Pima County is updating rules to conform to the Arizona Administrative Code and recent rule amendments finalized by the Arizona Department of Environmental Quality. These revisions should not have an economic impact on Pima County businesses beyond that already incurred by reason of State law.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor technical and grammatical changes were made.

**11. A summary of the comments made regarding the rule and the agency response to them:**

None

**12. Any other matters prescribed by the statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

New incorporations by reference (subparts or larger):

<u>Incorporations by Reference updated to July 1, 2004 (may include new sections)</u>	<u>Location</u>
40 CFR Part 60, July 1, 2004 (NSPS)	17.16.490
40 CFR Part 61, July 1, 2004 (NESHAP)	17.16.530 (A)
40 CFR Part 63, July 1, 2004 (NESHAP)	17.16.530 (B)
40 CFR Part 63 Subpart D, July 1, 2004 (Alternative Emission Limitation)	17.16.700
40 CFR Part 72, July 1, 2004 (Acid Rain)	17.12.365
A.A.C. Rule 18-2-310 and Rule 18-2-310.01, February 15, 2001	17.28.065

**14. Were these rules previously made as emergency rules?**

No. These rules were previously published as "Expedited," in accordance with A.R.S. § 49-471.08 (A).

**15. The full text of the rule follows:**

**TITLE 17 OF THE PIMA COUNTY CODE**

**AIR QUALITY CONTROL**

**ORDINANCE 2004 - 97**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO THE ENVIRONMENT AND AIR QUALITY; AMENDING CHAPTERS 17.04; 17.08; 17.12; 17.16; 17.28 TO CONFORM**

**WITH CORRESPONDING STATE AND FEDERAL AIR QUALITY REGULATIONS.**

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:**

**SECTION 1.** Chapter 17.04, Section 17.04.070 is hereby amended to read:

**Chapter 17.04**

**GENERAL PROVISIONS**

\*\*\*\*

**17.04.070 Incorporated Materials.**

\*\*\*\*

3. All parts of the CFR referenced in this Title are amended as of July 1, ~~1996~~ 2004 unless specifically indicated otherwise.

\*\*\*\*

(Ord. 2004-97 § 1, Ord. 1997-79 § 1, 1997; Ord. 1995-87 § 2, 1995; Ord. 1993-128 § 1, 1993)

**SECTION 2.** Chapter 17.08 is hereby amended by amending, Sections 17.08.110 and 17.08.130 to read as follows:

**Chapter 17.08**

**AMBIENT AIR QUALITY STANDARDS**

\*\*\*\*

**17.08.110 Tucson CO ~~nonattainment~~ area**

A. An area defined by the following ~~geographic~~ Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an ~~nonattainment~~ area for CO:

**LATITUDELONGITUDE**

32°38.5'N111°24.0'W

32°26.5'N110°47.5'W

32°12.5'N110°32.5'W

31°49.5'N110°25.5'W

**LATITUDELONGITUDE**

31°42.0'N110°50.5'W

31°52.5'N111°12.5'W

32°24.5'N111°29.0'W

~~All portions of Coronado National Forest and Saguaro National Monument lying within the nonattainment area are excluded.~~

~~B. The Tucson nonattainment area for CO shall be a Class II attainment area for SO<sub>2</sub>, NO<sub>2</sub>, and O<sub>3</sub>, and unclassified for PM<sub>10</sub>.~~

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<u>Designated Area</u>	<u>Designation</u>		<u>Classification</u>	
	<u>Date</u>	<u>Type</u>	<u>Date</u>	<u>Type</u>
<u>Tucson Area:</u> <u>Pima County</u> <u>Township and Ranges as follows:</u> <u>T11-12S, R12-14E; T13-15S, R11-</u> <u>16E; and T16S, R12-16E Gila and</u> <u>Salt River Baseline and Meridian</u> <u>excluding portions of the Saguaro</u> <u>National Monument and the</u> <u>Coronado National Forest.</u>	<u>July 10, 2000</u>	<u>Attainment</u>		

(Ord. 2004-97 § 2, Ord. 1993-128 § 2, 1993; Ord. 1986-227 § 1 (part), 1986; Ord. 1985-183 (part), 1985; Ord. 1983-196 (part), 1983)

**17.08.130 Ajo nonattainment area.**

A. ~~An area encompassing Ajo and its immediate surroundings shall be a nonattainment area for SO<sub>2</sub>, defined by the following township/range/section coordinates:~~

~~T11S R6W, T11S R5W;  
T12S R6W, T12S R5W;  
T13S R6W.~~

A. An area defined by the following Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an attainment area for SO<sub>2</sub>:

<u>Designated Area</u>	<u>Does not meet primary standards</u>	<u>Does not meet secondary standards</u>	<u>Cannot be classified</u>	<u>Better than nations standards</u>
<u>Ajo (T11-13S, R5W-R6W)</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>X</u>

\*\*\*\*

(Ord. 2004-97 § 2, Ord. 1993-128 § 2, 1993; Ord. 1985-183 (part), 1985; Ord. 1983-196 (part), 1983)

**SECTION 3.** Chapter 17.12 is hereby amended by amending Sections 17.12.060, 17.12.070, 17.12.140, 17.12.160, 17.12.170, 17.12.180, 17.12.210 and 17.12.540 to read as follows:

**Chapter 17.12**

**PERMITS AND PERMIT REVISIONS**

\*\*\*\*

**17.12.060 Existing source emission monitoring.**

A. Every source subject to an existing source performance standard as specified in this title shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this Section for the applicable source category.

1. Applicability.

a. Fossil fuel-fired steam generators as specified in ~~subdivision 1 of subsection C~~ (C)(1) of this Section, shall be

- monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
- b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in ~~subdivision 4~~ of subsection ~~€ (C)(4)~~ of this Section, shall be monitored for opacity.
  - c. Sulfuric acid plants, as specified in ~~subdivision 3~~ of subsection ~~€ (C)(3)~~ of this Section, shall be monitored for sulfur dioxide emissions.
  - d. Nitric acid plants, as specified in ~~subdivision 2~~ of subsection ~~€ (C)(2)~~ of this Section, shall be monitored for nitrogen oxides emissions.
2. ~~Exemptions.~~
- a. Emission monitoring shall not be required when the source of emissions is not operating.
3. Variations.
- a. Unless otherwise prohibited by the Act, the control officer may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the control officer on a case-by-case basis and shall include as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Section. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.

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(Ord. 2004-97 § 3, Ord. 1994-83 § 6, 1994: Ord. 1993-128 § 3 (part), 1993)

#### 17.12.070 Quality assurance.

Facilities subject to permit requirements of this chapter shall submit a quality assurance plan to the control officer that meets the requirements of 17.12.040(D)(3) within twelve months of the effective date of this section. Facilities subject to the requirements of 17.12.060 shall submit a quality assurance plan as specified in the permit. (Ord. 2004-97 § 3, Ord. 1995-87 § 10, 1995; Ord. 1994-83 § 7, 1994: Ord. 1993-128 § 3 (part), 1993)

\*\*\*\*

#### 17.12.140 Applicability; classes of permits.

\*\*\*\*

- B. There shall be two classes of permits as follows:
1. A Class I permit shall be required for a person to commence construction of or operate any of the following:
    - a. Any major source.
    - b. Solid waste incineration units required to obtain a permit pursuant to section 129 (e) of the Act (Solid Waste Combustion).
    - c. An affected source.
    - d. Any source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the control officer by rule.
  2. Unless a Class I permit is required, a Class II permit shall be required for:
    - a. A person to commence construction of or modify either of the following:
      - (i) ~~A source that emits with controls, or has the potential to emit with controls, ten (10) tons per year or more of any hazardous air pollutant listed under A.R.S. § 49-426.04 (A)(1) or twenty five (25) tons per year of any combination of hazardous air pollutants.~~
      - (ii) ~~A source that is within a category designated pursuant to A.R.S. 49-426.05 and that emits, or has the potential to emit, with controls one (1) ton per year or more of a hazardous air pollutant or two and one-half (2½) tons per year of any combination of hazardous air pollutants.~~
    - b. ~~A person to commence construction of or operate any of the following:~~
      - (i) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act (Standards of Performance for New Stationary Sources).
      - (ii) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act.
      - (iii) Any source that emits, or has the potential to emit, without controls, significant quantities of regulated air pollutants.
      - (iv) Stationary rotating machinery of greater than 325 brake horsepower.
      - (v) Fuel-burning equipment which, at a location or property other than a one or two family residence, are fired at a sustained rate of more than one million BTU per hour for more than an eight hour period.

- e. ~~A person to make a modification to a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than those specified in items i and ii of paragraph a and item iii of paragraph b of this subdivision.~~
- b. A person to modify a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than or equal to those specified in subsection (B)(2)(a)(iii).

\*\*\*\*

- D. No person may construct or reconstruct any major source of hazardous air pollutants unless the control officer determines that maximum achievable control technology emission limitation (MACT) for new sources under section 112 of the Act will be met. ~~Where~~ 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 17.16.530.B. For purposes of this subsection, construction and reconstructing a major source shall have the meanings prescribed in 40 CFR 63.41. (Ord. 2004-97 § 3, Ord. 1998-27 § 3, 1998; Ord. 1995-87 § 11, 1995; Ord. 1994-83 § 11, 1994; Ord. 1993-128 § 3 (part), 1993)

\*\*\*\*

**17.12.160 Permit application processing procedures.**

\*\*\*\*

- C. Unless otherwise required by 17.12.150 ~~B. through F.~~, a timely application is:
  - 1. For a source, other than a major source, applying for a permit for the first time, one that is submitted within 12 months after the source becomes subject to the permit program.
  - 2. For purposes of permit renewal, a timely application is one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.
  - 3. For initial phase II acid rain permits under Title IV of the Act and regulations incorporated pursuant to section 17.12.365, one that is submitted to the control officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.
  - 4. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1998-27 § 4, 1998; Ord. 1997-79 § 4, 1997; Ord. 1995-87 § 12, 1995; Ord. 1994-83 § 13, 1994; Ord. 1993-128 § 3 (part), 1993)

**17.12.170 Public records; confidentiality.**

\*\*\*\*

- B. Any records, reports or information obtained from any person under this title, including records, reports or information obtained or prepared by the control officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:
  - 1. A showing, satisfactory to the control officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person. A request for confidentiality shall:
    - a. Precisely identify the information in the documents submitted which is considered confidential.
    - b. Contain sufficient supporting information to allow the control officer to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.
  - 2. A determination by the county attorney that disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this chapter in superior court.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1994-83 § 14, 1994; Ord. 1993-128 § 3 (part), 1993)

**17.12.180 Permit contents.**

- A. Each permit issued shall include the following elements:

\*\*\*\*

- 3. Each permit shall contain the following requirements with respect to monitoring:

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- a. ~~All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions), and including any monitoring and analysis procedures or test methods required pursuant to section 17.12.220;~~
- b. ~~Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported pursuant to subdivision A.4 of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required pursuant to section 17.12.220. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and~~
- e. ~~As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.~~
- 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 17.12.220.
- b. 40 CFR 64 as codified July 1, 2004, is incorporated by reference and on file with the control officer. 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 relevant 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 conventions consistent with the applicable requirement, and as otherwise required under 17.12.220. Recordkeeping 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.

\*\*\*\*

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 paragraph (B)(2) of this subsection, all terms and conditions in a Class I permit, including any provisions designed to limit a source's potential to emit.
  - b. Terms or conditions in a Class II permit setting forth federal applicable requirements,
  - c. Terms and conditions in any permit which are entered into voluntarily pursuant to section 17.12.220, as follows:
    - (i) Emissions limitations, controls or other requirements.
    - (ii) Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in ~~subdivision (i) of this subparagraph~~ in subsection (B)(1)(c)(i)
- 2. Notwithstanding ~~subparagraph subsection (B)(1)(a) of this subsection~~, the control officer 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 requirements.

\*\*\*\*

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, which situation requires immediate corrective action to restore normal operation and that causes the sources to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emission attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.
- 2. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of ~~subdivision 3 of this 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 that the permittee can identify the cause(s) of the emergency;
  - b. The permitted facility was at the time 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 control officer by certified mail or hand delivery within two (2) 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.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1998-27 § 5, 1998; Ord. 1995-87 § 13, 1995; Ord. 1994-83 § 15, 1994; Ord. 1993-128 § 3 (part), 1993)

\*\*\*\*

#### 17.12.210 Compliance plan; certification.

- A. All permits shall contain the following elements with respect to compliance:
1. The elements required by 17.12.180(A)(3), (4), and (5).
  2. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
    - a. The frequency for 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 the following:
      - (i) ~~The identification of each term or condition of the permit that is the basis of the certification;~~
      - (ii) ~~The compliance status;~~
      - (iii) ~~Whether compliance was continuous or intermittent;~~
      - (iv) ~~The method(s) used for determining the compliance status of the source, currently and over the reporting period; and~~
      - (v) ~~Other facts as the control officer may require to determine the compliance status of the source.~~
- The identification of each term or condition of the permit that is the basis of the certification;  
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 under 17.12.180(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 false certification or omitting material information;  
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 for consideration 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  
Other facts the control officer may require to determine the compliance status of the source.
- d. A requirement that permittees submit all compliance certifications ~~be submitted~~ to the control officer, ~~and for Class I permits, permittees shall also submit compliance certifications to the Administrator as well.~~
  - e. Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions) or pursuant to section 17.12.220.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1998-27 § 7, 1998; Ord. 1995-87 § 14, 1995; Ord. 1994-83 § 17, 1994; Ord. 1993-128 § 3 (part), 1993)

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#### 17.12.365 Acid Rain

- A. The following subparts of 40 CFR Part 72, Permits Regulation, and all accompanying appendices, adopted as of July 1, ~~1996~~2004, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the

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Department, and shall be applied by the Department.

- C. If the provisions or requirements of the regulations incorporated pursuant to this section conflict with any of the remaining portions of the Title, the regulations incorporated pursuant to this section shall apply and take precedence. (Ord. 2004-97 § 3; Ord. 1997-79 § 7, 1997; Ord. 1995-87 § 19, 1995)

\*\*\*\*

**17.12.480 Open burning permits.**

- A. ~~A person who plans to ignite, allow, or maintain any outdoor fire except as specifically exempted herein shall obtain an open burning permit from the control officer before commencing the burning.~~
- B. ~~Specific types of open outdoor fires which require open burning permits, as well as those types of fires which do not require permits, are identified in Table 17.12.480. Any open burning not listed in Table 17.12.480 is prohibited.~~
- A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:
1. "Agricultural Burning" means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.
  2. "Air Curtain Destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
  3. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.
  4. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
  5. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
  6. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
  7. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
  8. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
  9. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, demolition debris or prohibited materials.
  10. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
  11. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
  12. "Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning.
  13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.
  14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.
- B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.
- C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the control

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officer or a delegated authority:

1. Fires used only for:
    - a. Cooking of food;
    - b. Providing warmth for human beings;
    - c. Recreational purposes;
    - d. Branding of animals;
    - e. Orchard heaters for the purpose of frost protection in farming or nursery operations; and
    - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
  2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
    - a. Control of an active wildfire; or
    - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
  3. Fire set by or permitted by the control officer of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
  4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions.
- D. Open outdoor fires requiring a permit.
1. The following open outdoor fires are allowed with an open burning permit from the control officer or a delegated authority:
    - a. Construction burning;
    - b. Agricultural burning;
    - c. Residential burning;
    - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under;
    - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
    - f. Open outdoor fires of dangerous material under subsection (E);
    - g. Open outdoor fires of household waste under subsection (F); and
    - h. Open outdoor fires that use an air curtain destructor, as defined in 17.12.480 (A)(2).
  2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an PDEQ-approved application form.
  3. Open outdoor fire permits issued under this Section shall include:
    - a. A list of the materials that the permittee may burn under the permit;
    - b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;
    - c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:
      - i. Year-round: ignite fire no earlier than one hour after sunrise; and
      - ii. Year-round: extinguish fire no later than two hours before sunset;
    - d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
      - i. Prevent dispersion of smoke into populated areas;
      - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
      - iii. Do not create a public nuisance or adversely affect public safety;
      - iv. Do not cause an adverse impact to visibility in a Class I area; and
      - v. Do not cause uncontrollable spreading of the fire;
    - e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions.;
    - f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:
      - i. The date of each burn;
      - ii. The type and quantity of fuel burned for each date open burning occurred;
      - iii. The fire type, such as pile or pit, for each date open burning occurred; and
      - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
    - g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire pro-

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tection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;

- h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
- i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
- j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;
- k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;
- l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
- m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
- n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared by ADEQ or PDEQ;
- o. A statement that the control officer, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
- p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.

4. The control officer or a delegated authority shall not issue an open burning permit under this Section:

- a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;
- b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or
- c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the control officer has not issued a variance under A.R.S. § 49-763.01.

E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the control officer has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The control officer shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.

F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the control officer or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:

- 1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or
- 2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.

G. The control officer shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.

H. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

I. The term of any open burning permit shall be as specified by the control officer, subject to the following limitations:

- 1. The term of a temporary open burning permit shall not exceed three consecutive or non-consecutive days within a thirty-day period, and
- 2. The term of an extended open burning permit shall expire as specified on the original application, and shall in no case exceed ninety days. (Ord. 2004-97 § 3; Ord. 1987-175 § 4, 14, 1987; Ord. 1981-12 (part), 1981; Ord. 1979-93 (part), 1979)

**17.12.490 Standard Permit Requirements.**

A. A person granted an open burning permit must comply with the following:

- 1. Permissible burning hours are noon to four p.m. unless stated otherwise on the permit;
- 2. Burning must be at a safe distance from structures;
- 3. Burning must be constantly attended with reasonable control tools at hand;
- 4. Burning may not be conducted on public land or on other land not owned or leased by the permittee without written permission from the owner or land manager;
- 5. Fire must be dead out when left; and
- 6. The burning of materials other than those specified by the permit is prohibited. (Ord. 1979-93 (part), 1979)

**17.12.540 Activity Permit Fees**

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<b>Table 17.12.540</b> <b>ACTIVITY PERMIT FEES SCHEDULE (effective until July 1, 2003)</b>			
S.S.1	ACTIVITY	RATE COMPONENTS	EXEMPTIONS
A	Landstripping and/or Earthmoving	1 to 5 acres \$89.28 plus \$8.93 per each additional acre or fraction thereof	< 1 acre
B	Trenching	300 feet of aggregate trenching \$17.86 base plus \$0.036 per each additional ft.	< 300 ft; trenching for landscaping
C	Road Construction	50 ft. of aggregate road construction \$17.86 base plus \$0.09 per each additional ft.	< 50 ft
D	Activity permit for NES-HAP facilities	\$420.00	See Exemption Note
E	Blasting	\$18.00 plus \$3.53 per day of blasting	None

Exemption Note:  
 < 260 linear feet on pipes;  
 < 160 square feet on other facility components;  
 < 35 cubic feet off facility components

Example Permit Fee Calculations

1. Permit for clearing 4 acres: \$89.28
2. Permit for earthmoving on 9 acres:
  - \_\_\_\_\_ First five acres = \$89.28
  - Remaining four acres =  $8.93 \times 4 = \$35.72$
  - \_\_\_\_\_ Total = \$125.00
3. Permit for trenching 500 feet:
  - \_\_\_\_\_ Base fee for the first 300 feet = \$17.86
  - Remaining 200 feet =  $200 \times 0.036 = \$7.20$
  - \_\_\_\_\_ Total = \$25.06

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1Sub-schedule for identification only.  
 (Ord. 1995-87 §26, 1995; Ord. 1994-83 §44, 1994; Ord. 1993-128 §3 (part), 1993; Ord. 1990-113 §16, 1990; Ord. 1989-165 §17 (part), 1989; Ord. 1987-175 §18, 1987)

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**SECTION 4.** Chapter 17.16, Sections 17.16.130, 17.16.165, 17.16.430, 17.16.430, and 17.16.700 are hereby amended to read:

**Chapter 17.16**

**EMISSION LIMITING STANDARDS**

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**17.16.130 Applicability.**

- A. This article shall apply only to ~~emissions which enter the atmosphere by passing through a vent, stack, flue, or other similar containing or restrictive device, or which by reasonable modification of the emissions source the emissions can be directed through such a device for testing purposes—a source that is all of the following:~~
1. An existing source, as defined in 17.04.340;
  2. A point source. For the purposes of this Section, “point source” means a source of air contaminants that has an iden-

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- tifiable plume or emissions point; and
3. A stationary source, as defined in 17.04.340.
- B. ~~Where the nature of a process, operation, or activity allows more than one interpretation of a requirement in this Chapter, the more restrictive or most restrictive interpretation shall apply.~~
- CB. ~~Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (a), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be: Shall not be greater than 40 percent, and~~
1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the control officer as provided in subsection (D) and (E), after the effective date of this rule.
- ~~Shall be determined by reference Method 9 of the Arizona Testing Manual.~~
2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).
- DC. ~~Where~~ If the presence of uncombined water is the only reason for the an exceedance of any visible emissions requirement in this Article, such the exceedance shall not constitute a violation of the applicable opacity limit.
- ED. ~~A person owning or operating an air pollution a source may ask petition the control officer for a determination on meeting the requirements of the an alternative applicable opacity standard limit. The petition shall be submitted to PDEQ within three months after the effective date of this rule.~~
- ~~The owner or operator shall submit the written reports of the results of the performance tests, the opacity observation results, and observer certification.~~
1. The petition shall contain:
- a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
- i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
- ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
- iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
- b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
- c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
2. ~~If the control officer finds that the facility is in compliance with all applicable standards for the performance test and still fails to meet the applicable opacity standard, he shall notify the owner or operator of the finding.~~
2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
- a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
- b. Evidence that the source conducted the stack tests according to 17.12.050, and that they were witnessed by the control officer or the control officer's agent or representative.
- c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
3. ~~The owner or operator may petition the control officer within ten days of receipt of notification, asking the control officer to make an appropriate adjustment to the opacity standard for the facility.~~
3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
- a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
- b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.
4. ~~The control officer may grant the petition after public notice and opportunity for public hearing takes place, and upon~~

- a demonstration by the owner or operator that:
- a. ~~The affected facility and the associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance test.~~
  - b. ~~The performance tests were performed under the conditions established by the control officer.~~
  - c. ~~The affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the opacity requirement.~~
5. ~~The control officer may establish an opacity standard for the affected facility based on the determination made in subdivision 4 of this subsection. The opacity standard shall be set at a level indicated by the performance and opacity tests, providing that the source will be able to meet the mass or concentration standard and the opacity standard at all times. Such opacity standard shall be incorporated as a condition of the permit for the affected facility.~~
  6. ~~The control officer shall publish the opacity standard once in one or more newspapers of general circulation in the county.~~
- F. ~~The process weight rate utilized in this Article shall be determined as follows:~~
1. ~~For continuous or long runs, steady state process sources, the process weight rate shall be the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.~~
  2. ~~For cyclical or batch process sources, the process weight rate shall be the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.~~
- E. If the control officer receives a petition under subsection (D) the control officer shall approve or deny the petition as provided below by October 15, 2004:
1. If the petition is approved under subsection (D)(1) or (D)(2), the control officer shall include an alternative opacity limit in a proposed significant permit revision for the source under 17.12.260 and 17.12.340. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
  2. If the petition is approved under subsection (D)(3), the control officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
  3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under 17.12.210(5)(c)(iii) by April 23, 2006.
  4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under 17.12.210(5)(c).
- F. The control officer, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:
1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
  2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period. (Ord. 2004-97 § 4, Ord. 1979-93 (part), 1979)

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#### 17.16.165 Standards of performance for fossil-fuel fired industrial and commercial equipment.

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- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with ~~17.12.220~~ 17.12.040. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

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(Ord. 2004-97 § 4, Ord. 1994-83 § 54, 1994: Ord. 1993-128 § 4 (part), 1993)

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#### 17.16.430 Standards of performance for unclassified sources.

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- G. Where a stack, vent or other outlet is at such a level that fumes, gas, mist, odor, smoke, vapor or any combination thereof constituting air pollution are discharged to adjoining property, the control officer may require the installation of abatement equipment or the alteration of such stack, vent or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.  
(Ord. 2004-97 § 4, Ord. 1994-83 § 58, 1994: Ord. 1993-128 § 4 (part), 1993)

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**17.16.490 Standards of performance for new stationary sources (NSPS).**

- A. Except as provided in subsections B, C and D of this section, and 17.16.500 through 17.16.520, the following subparts of 40 CFR Part 60, and accompanying appendices, the federal standards of performance for new stationary sources, adopted as of July 1, ~~1996~~2004 and no future editions are incorporated herein by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.
1. Subpart A - General Provisions. (Section 60.1 – Section 60.19)
  2. Subpart B – Excluded
  3. Subpart C – Excluded
  4. Subpart Ca - Reserved
  5. Subpart Cb – Excluded
  6. Subpart Cc – Excluded
  7. Subpart Cd – Excluded
  8. Subpart Ce – Excluded
  29. Subpart D - Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971. (Section 60.40 – 60.46)
  310. Subpart Da - Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978. (Section 60.40a – 60.49a)
  411. Subpart Db - Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40b – 60.49b)
  512. Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40c – 60.48c)
  613. Subpart E - Incinerators. (Section 60.50 – 60.54)
  714. Subpart Ea - Municipal Waste Combustors for which Construction is Commenced after December 20, 1989, and on or before September 20, 1994. (Section 60.50a – 60.59a)
  815. Subpart Eb - Municipal Waste Combustors for which Construction is Commenced after September 20, 1994. (Section 60.50b – 60.59b)
  16. Subpart Ec – Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996 (Section 60.50c – 60.58c & Tables)
  917. Subpart F - Portland Cement Plants. (Section 60.60 – 60.66)
  4018. Subpart G - Nitric Acid Plants. (Section 60.70 – 60.74)
  419. Subpart H - Sulfuric Acid Plants. (Section 60.80 – 60.85)
  4220. Subpart I - Hot Mix Asphalt Facilities. (Section 60.90 – 60.93)
  4321. Subpart J - Petroleum Refineries. (Section 60.100 – 60.109)
  4422. Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978. (Section 60.110 – 60.113)
  4523. Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984. (Section 60.110a – 60.115a)
  4624. Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984. (Section 60.110b – 60.117b)
  4725. Subpart L - Secondary Lead Smelters. (Section 60.120 – 60.123)
  4826. Subpart M - Secondary Brass and Bronze Ingot Production Plants. (Section 60.130 – 60.133)
  4927. Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973. (Section 60.140 – 60.144)
  2028. Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983. (Section 60.140a – 60.145a)
  2429. Subpart O - Sewage Treatment Plants. (Section 60.150 – 60.156)
  2230. Subpart P - Primary Copper Smelters. (Section 60.160 – 60.166)
  2331. Subpart Q - Primary Zinc Smelters. (Section 60.170 – 60.176)
  2432. Subpart R - Primary Lead Smelters. (Section 60.180 – 60.186)
  2533. Subpart S - Primary Aluminum Reduction Plants. (Section 60.190 – 60.195)
  2634. Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants. (Section 60.200 – 60.204)
  2735. Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants. (Section 60.210 – 60.214)
  2836. Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants. (Section 60.220 – 60.224)

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- 2937.Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants. (Section 60.230 – 60.234)
- 3038.Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities. (Section 60.240 – 60.244)
- 3139.Subpart Y - Coal Preparation Plants. (Section 60.250 – 60.254)
- 3240.Subpart Z - Ferroalloy Production Facilities. (Section 60.260 – 60.266)
- 3341.Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983. (Section 60.270 – 60.276)
- 3442.Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983. (Section 60.270a – 60.276a)
- 3543.Subpart BB - Kraft Pulp Mills. (Section 60.280 – 60.285)
- 3644.Subpart CC - Glass Manufacturing Plants. (Section 60.290 – 60.296)
- 3745.Subpart DD - Grain Elevators. (Section 60.300 – 60.304)
- 3846.Subpart EE - Surface Coating of Metal Furniture. (Section 60.310 – 60.316)
47. Subpart FF - Reserved
- 3948.Subpart GG - Stationary Gas Turbines. (Section 60.330 – 60.335)
- 4049.Subpart HH - Lime Manufacturing Plants. (Section 60.340 – 60.344)
- 4150.Subpart KK - Lead-Acid Battery Manufacturing Plants. (Section 60.370 – 60.374)
- 4251.Subpart LL - Metallic Mineral Processing Plants. (Section 60.380 – 60.388)
- 4352.Subpart MM - Automobile and Light Duty Truck Surface Coating Operations. (Section 60.390 – 60.398)
- 4453.Subpart NN - Phosphate Rock Plants. (Section 60.400 – 60.404)
- 4554.Subpart PP - Ammonium Sulfate Manufacture. (Section 60.420 – 60.424)
- 4655.Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing. (Section 60.430 – 60.435)
- 4756.Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations. (Section 60.440 – 60.447)
- 4857.Subpart SS - Industrial Surface Coating: Large Appliances. (Section 60.450 – 60.456)
- 4958.Subpart TT - Metal Coil Surface Coating. (Section 60.460 – 60.466)
- 5059.Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture. (Section 60.470 – 60.474)
- 5160.Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry. (Section 60.480 – 60.489)
- 5261.Subpart WW - Beverage Can Surface Coating Industry. (Section 60.490 – 60.496)
- 5362.Subpart XX - Bulk Gasoline Terminals. (Section 60.500 – 60.506)
- 5463.Subpart AAA - New Residential Wood Heaters. (Section 60.530 – 60.539b)
- 5564.Subpart BBB - Rubber Tire Manufacturing Industry. (Section 60.540 – 60.548)
65. Subpart CCC – Reserved
- 5666.Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry. (Section 60.560 – 60.566)
67. Subpart EEE - Reserved
- 5768.Subpart FFF - Flexible Vinyl and Urethane Coating and Printing. (Section 60.580 – 60.585)
- 5869.Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries. (Section 60.590 – 60.593)
- 5970.Subpart HHH - Synthetic Fiber Production Facilities. (Section 60.600 – 60.604)
- 6071.Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes. (Section 60.610 – 60.618)
- 6172.Subpart JJJ - Petroleum Dry Cleaners. (Section 60.620 – 60.625)
- 6273.Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. (Section 60.630 – 60.636)
- 6374.Subpart LLL - Onshore Natural Gas Processing; SO<sub>2</sub> Emissions. (Section 60.640 – 60.648)
75. Subpart MMM - Reserved
- 6476.Subpart NNN - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations. (Section 60.660 – 60.668)
- 6577.Subpart OOO - Nonmetallic Mineral Processing Plants. (Section 60.670 – 60.676)
- 6678.Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants. (Section 60.680 – 60.685)
- 6779.Subpart QQQ - VOC Emissions From Petroleum Refinery Wastewater Systems. (Section 60.690 – 60.699)
- 6880.Subpart RRR - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical manufacturing Industry (SOCMI) Reactor Processes. (Section 60.700 – 60.708)
- 6981.Subpart SSS - Magnetic Tape Coating Facilities. (Section 60.710 – 60.718)
- 7082.Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines. (Section 60.720 – 60.726)
- 7183.Subpart UUU - Calcines and Dryers in Mineral Industries. (Section 60.730 – 60.737)
- 7284.Subpart VVV - Polymeric Coating of Supporting Substrates Facilities. (Section 60.740 – 60.747)
- 7385.Subpart WWW - Municipal Solid Waste Landfills. (Section 60.750 – 60.759)
86. Subpart AAAA – Small Municipal Waste Combustion Unites for Which Construction is Commenced After August

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30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001. (Section 60.1000 – 60.1465 & Tables)

87. Subpart BBBB – Excluded

88. Subpart CCCC – Commercial and Industrial Solid Waste Incineration for Which Construction is Commenced after November 30, 1999, or for which Modification or Reconstruction is Commenced on or after June 1, 2001.

89. Subpart DDDD – Excluded

- B. As used in 40 CFR Part 60: “Administrator” means the control officer, except that the control officer shall not be empowered to approve alternate or equivalent test methods nor to deal with equivalency determinations or innovative technology waivers.
- C. From the general standards identified in subsection A, delete the following:
1. 40 CFR 60.4. All requests, reports, applications, submittals and other communication to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.
  2. 40 CFR 60.5, and 60.6.
- D. The control officer shall not be delegated authority to deal with equivalency determinations or innovative technology waivers as covered in sections 111(h)(3) and 111(j) of the Act. (Ord. 2004-97 § 4; Ord. 1997-79 § 9, 1997; Ord. 1994-83 § 59, 1994; Ord. 1993-128 § 4 (part), 1993); Ord. 1991-136 § 15, 1991; Ord. 1990-113 § 6, 1990; Ord. 1989-165 § 21, 1989; Ord. 1988-117 § 2, 1988; Ord. 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

**ARTICLE VII. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**

**17.16.530 National Emissions Standards for Hazardous Air Pollutants (NESHAP).**

- A. Except as provided in subsections B, C, and D of this section, the following subparts of 40 CFR Part 61 (NESHAPs) and all accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.

Subpart A - General Provisions. (Section 61.01 – 61.19)

2. Subpart B – Excluded

23. Subpart C - Beryllium. (Section 61.20 – 61.26)

34. Subpart D - Beryllium Rocket Motor Firing. (Section 61.40 – 61.44)

45. Subpart E - Mercury. (Section 61.50 – 61.56)

56. Subpart F - Vinyl Chloride. (Section 61.60 – 61.71)

7. Subpart G - Reserved

8. Subpart H – Excluded

9. Subpart I – Excluded

610. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene. (Section 61.110 – 61.112)

11. Subpart K – Excluded

712. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants. (Section 61.130 – 61.139)

813. Subpart M - Asbestos. (Section 61.140 – 61.157 & Appendix A)

914. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants. (Section 61.160 – 61.165)

4015. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters. (Section 61.170 – 61.177)

416. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production. (Section 61.180 – 61.186)

17. Subpart Q - Excluded

18. Subpart R - Excluded

19. Subpart S - Reserved

20. Subpart T - Excluded

21. Subpart U - Reserved

422. Subpart V - Equipment Leaks (Fugitive Emission Sources). (Section 61.240 – 61.247 & Tables)

23. Subpart W – Excluded

24. Subpart X - Reserved

4325. Subpart Y - Benzene Emissions From Benzene Storage Vessels. (Section 61.270 – 61.277)

26. Subpart Z - Reserved

27. Subpart AA - Reserved

4428. Subpart BB - Benzene Emissions from Benzene Transfer Operations. (Section 61.300 – 61.306)

29. Subpart CC - Reserved

30. Subpart DD - Reserved

31. Subpart EE - Reserved

4532. Subpart FF - Benzene Waste Operations. (Section 61.340 – 61.359 & Appendices)

- B. Except as provided in subsection A, the following subparts of 40 CFR Part 63, NESHAPs for Source Categories and all

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**County Notices Pursuant to A.R.S. § 49-112**

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accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

1. Subpart A - General Provisions (Section 63.1 - 63.15)
2. Subpart B - Requirements for Control Technology Determinations for major Sources in Accordance with Clean Air Act Sections 112(g) and 112(j) (Section 63.40 - 63.56)
3. Subpart C - Excluded
34. Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants. (Section 63.70 - 63.81)
5. Subpart E - Excluded
46. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (Section 63.100 - 63.107 & Tables)
57. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (Section 63.110 - 63.152 & Appendix)
68. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (Section 63.160 - 63.182 & Tables)
79. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (Section 63.190 - 63.193)
10. Subpart J - Reserved
11. Subpart K - Reserved
812. Subpart L - National Emission Standards for Coke Oven Batteries. (Section 63.300 - 63.313 & Appendix)
913. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities. (Section 63.320 - 63.325)
4014. Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. (Section 63.340 - 63.347 & Table)
4115. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities (Section 63.360 - 63.367)
16. Subpart P - Reserved
4217. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers (Section 63.400 - 63.406 & Table)
4318. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations). (Section 63.420 - 63.429 & Table)
19. Subpart S - National Emission Standards for Pulp and Paper (Section 63.440 - 63.459 & Table)
4420. Subpart T - National Emission Standards for Halogenated Solvent Cleaning. (Section 63.460 - 63.470 & Appendices)
4521. Subpart U - Group I Polymers and Resins (Section 63.480 - 63.506 & Tables)
22. Subpart V - Reserved
4523. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production. (Section 63.520 - 63.528 & Table)
4624. Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting (Section 63.541 - 63.550)
25. Subpart Y - Excluded
26. Subpart Z - Reserved
27. Subpart AA - National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing Plants (Section 63.600 - 63.610 & Appendix)
28. Subpart BB - National Emission Standards for Hazardous Air Pollutant for Phosphate Fertilizers Production Plants (Section 63.620 - 63.631 & Appendix)
4729. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (Section 63.640 - 63.679 & Appendix)
30. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations (Section 63.680 - 63.698 & Tables)
4831. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations. (Section 63.701 - 63.708 & Table)
32. Subpart FF - Reserved
4933. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities (Section 63.741 - 63.759 & Table & Appendix)
34. Subpart HH - National Emission Standards for Oil and Natural Gas Production Facilities (Section 63.760 - 63.779 & Appendix)
35. Subpart II - Excluded
2036. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations (Section 63.800 - 63.819 &

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- Tables)
2437. Subpart KK - National Emission Standards for the Printing and Publishing Industry (Section 63.820 - 63.839 & Tables)
  38. Subpart LL - National Emission Standards for Primary Aluminum Reduction Plants (Section 63.840 - 63.859 & Tables & Appendix)
  39. Subpart MM - Excluded
  40. Subpart OO - National Emission Standards for Tanks- Level 1 (Section 63.900 - 63.907)
  41. Subpart PP - National Emission Standards for Containers (Section 63.920 - 63.928)
  42. Subpart QQ - National Emission Standards for Surface Impoundments (Section 63.940 - 63.948)
  43. Subpart RR - National Emission Standards for Individual Drain Systems (Section 63.960 - 63.966)
  44. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Section 63.980 - 63.999)
  45. Subpart TT - National Emission Standards for Equipment Leaks -Control Level 1 (Section 63.1000 - 63.1018)
  46. Subpart UU - National Emission Standards for Equipment Leaks -Control Level 2 (Section 63.1019 - 63.1039 & Table)
  47. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators (Section 63.1040 - 63.1049)
  48. Subpart WW - National Emission Standards for Storage Vessels (Tanks) – Control Level 2 (Section 63.1060 - 63.1066)
  49. Subpart XX - Reserved
  50. Subpart YY - National Emission Standards for Generic MACT Standards (Section 63.1100 - 63.1113)
  51. Subpart ZZ – Reserved
  52. Subpart AAA – Reserved
  53. Subpart BBB - Reserved
  54. Subpart CCC - National Emission Standards for Steel Pickling (Section 63.1156 - 63.1174 & Table)
  55. Subpart DDD - National Emission Standards for Mineral Wool Production (Section 63.1175 - 63.1199 & Table & Appendix)
  56. Subpart EEE - National Emission Standards for Hazardous Waste Combustors (Section 63.1200 - 63.1213 & Table & Appendix)
  57. Subpart FFF - Reserved
  58. Subpart GGG - National Emission Standards for Pharmaceuticals Production (Section 63.1250 - 63.1261 & Tables)
  59. Subpart HHH - National Emission Standards for Natural Gas Transmission and Storage Facilities (Section 63.1270 - 63.1289 & Appendix)
  60. Subpart III - National Emission Standards for Flexible Polyurethane Foam Production (Section 63.1290 - 63.1309 & Appendix)
  61. Subpart JJJ - National Emission Standards for Group IV Polymers and Resins (Section 63.1310 - 63.1335 & Tables)
  62. Subpart KKK - Reserved
  63. Subpart LLL - National Emission Standards for Portland Cement Manufacturing Industry (Section 63.1340 - 63.1359 & Table)
  64. Subpart MMM - National Emission Standards for Pesticide Active Ingredient Production (Section 63.1360 - 63.1369 & Tables)
  65. Subpart NNN - National Emission Standards for Wool Fiberglass Manufacturing (Section 63.1380 - 63.1399 & Table & Appendices)
  66. Subpart OOO – National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins (Section 63.1400 - 63.1419 & Tables)
  67. Subpart PPP - National Emission Standards for Polyether Polyols Production (Section 63.1420 - 63.1439 & Tables)
  68. Subpart QQQ - National Emission Standards for Primary Copper Smelting (Section 63.1440 - 63.1459 & Table & Figure)
  69. Subpart RRR - National Emission Standards for Secondary Aluminum Production (Section 63.1500 - 63.1520 & Tables)
  70. Subpart SSS - Reserved
  71. Subpart TTT - National Emission Standards for Primary Lead Smelting (Section 63.1541- 63.1550)
  72. Subpart UUU - National Emission Standards for Petroleum Refineries: Catalytic Cracking, Catalytic Reforming, And Sulfur Plan Units (Section 63.1560 - 63.1579 & Tables)
  73. Subpart VVV--National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works (Section 63.1580 - 63.1595 & Table)
  74. Subpart WWW - Reserved
  75. Subpart XXX - National Emission Standards for Ferroalloys Production (Section 63.1620 - 63.1679)
  76. Subpart AAAA - National Emission Standards for Municipal Solid Waste Landfills (Section 63.1930 - 63.1990 &

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- Appendix
77. Subpart CCCC - National Emission Standards for Manufacturing of Nutritional Yeast (Section 63.2130 - 63.2192 & Appendices)
  78. Subpart DDDD - Reserved
  79. Subpart EEEE - National Emission Standards for Organic Liquids Distribution (Non-Gasoline) (Section 63.2330 - 63.2406 & Appendices)
  80. Subpart FFFF--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (Section 63.2430 - 63.2550 & Appendices)
  81. Subpart GGGG - National Emission Standards for Solvent Extraction for Vegetable Oil Production (Section 63.2830 - 63.2872)
  82. Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production (Section 63.2980 - 63.3079 & Appendices)
  83. Subpart JJJJ - National Emission Standards for Paper and Other Web Coating (Section 63.2130 - 63.2192 & Appendices)
  84. Subpart KKKK--National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans (Section 63.3480 - 63.3561 & Appendices)
  85. Subpart MMMM--National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products (Section 63.3880 - 63.3981 & Appendices)
  86. Subpart NNNN - National Emission Standards for Large Appliances (Section 63.4080 - 63.4181 & Appendices)
  87. Subpart OOOO--National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles (Section 63.4280 - 63.4371 & Appendices)
  88. Subpart QQQQ - National Emission Standards for Wood Building Products (Section 63.4680 - 63.4781 & Appendices)
  89. Subpart RRRR - National Emission Standards for Surface Coating of Metal Furniture (Section 63.4880 - 63.4981 & Appendices)
  90. Subpart SSSS - National Emission Standards for Surface Coating of Metal Coil (Section 63.5080 - 63.5206 & Appendices)
  91. Subpart TTTT - National Emission Standards for Leather Finishing Operations (Section 63.5280 - 63.5460 & Appendices)
  92. Subpart UUUU - National Emission Standards for Cellulose Products Manufacturing (Section 63.5480 - 63.5610 & Appendices)
  93. Subpart VVVV - National Emission Standards for Boat Manufacturing (Section 63.5680 - 63.5779 & Appendices)
  94. Subpart WWWW - National Emission Standards for Reinforced Plastics Composites Production (Section 63.5780 - 63.5935 & Appendices)
  95. Subpart XXXX - National Emission Standards for Tire Manufacturing (Section 63.5980 - 63.6015 & Appendices)
  96. Subpart YYYYY--National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines (Section 63.6080 - 63.6175 & Appendices)
  97. Subpart ZZZZ - Reserved
  98. Subpart AAAAA--National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants (Section 63.7080 - 63.7143 & Appendices)
  99. Subpart BBBBB - National Emission Standards for Semiconductor Manufacturing (Section 63.7180 - 63.7195 & Appendices)
  100. Subpart CCCCC - National Emission Standards for Coke Oven: Pushing, Quenching and Battery Stacks (Section 63.7280 - 63.7352 & Appendix)
  101. Subpart DDDDD - Reserved
  102. Subpart EEEEE--National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries (Section 63.7680 - 63.7765 & Appendix)
  103. Subpart FFFFF - National Emission Standards for Integrated Iron and Steel (Section 63.7780 - 63.7852 & Appendices)
  104. Subpart GGGGG--National Emission Standards for Hazardous Air Pollutants: Site Remediation (Section 63.7880 - 63.7957 & Appendices)
  105. Subpart HHHHH--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing (Section 63.7980 - 63.8105 & Appendices)
  106. Subpart IIIII--National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants (Section 63.8180 - 63.8266 & Appendices)
  107. Subpart JJJJJ - National Emission Standards for Brick and Structural Clay Products Manufacturing (Section 63.8380 - 63.8515 & Appendices)
  108. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (Section 63.8530 - 63.8665 & Appendices)

109. Subpart LLLLL - National Emission Standards for Asphalt Roofing and Processing (Section 63.8680 - 63.8698 & Appendices)

110. Subpart MMMMM - National Emission Standards for Flexible Polyurethane Foam Fabrication Operation (Section 63.8780 - 63.8830 & Appendices)

111. Subpart NNNNN--National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production (Section 63.8980 - 63.9075 & Appendices)

112. Subpart OOOOO - Reserved

113. Subpart PPPPP - National Emission Standards for Engine Test Cells/Stands (Section 63.9280 - 63.9375 & Appendices)

114. Subpart QQQQQ - National Emission Standards for Friction Products Manufacturing (Section 63.9480 - 63.9579 & Appendix)

115. Subpart RRRRR--National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing (Section 63.9580 - 63.9652 & Appendices)

116. Subpart SSSSS - National Emission Standards for Refractory Products Manufacturing (Section 63.9780 - 63.9824 & Appendices)

117. Subpart TTTTT--National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining (Section 63.9880 - 63.9942 & Appendices)

- C. When used in 40 CFR Part 61 or part 63, “Administrator” means the control officer except that the control officer shall not be authorized to approve alternate or equivalent test methods or alternate standards/work practices.
- D. From the general standards identified in subsection A of this section delete 40 CFR 61.04. All requests, reports, applications, submittals and other communications to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.
- E. The control officer shall not be delegated authority to deal with equivalency determinations that are nontransferable through section 112(e)(3) of the Act. (Ord. 2004-97 § 4, Ord. 1998-27 § 15, 1998; Ord. 1997-79 § 10, 1997; Ord. 1995-87 § 49, 1995; Ord. 1994-83 § 60, 1994; Ord. 1993-128 § 4 (part), 1993; Ord. 1991-136 § 14, 1991; Ord. 1988-117 § 1, 1988; Ord 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

\*\*\*\*

**17.16.700 Alternative Emission limitations.**

40 CFR 63 Subpart D, “Regulations governing compliance extensions for early reductions of hazardous air pollutants” and all accompanying appendices, adopted as of July 1, 1996-2004, and no future editions is adopted by reference. (Ord. 2004-97 § 4, Ord. 1997-79 § 11, 1997)

**SECTION 5.** Chapter 17.28, Section 17.28.065, is hereby amended to read:

Chapter 17.28

**VIOLATIONS AND CONDITIONAL ORDERS**

\*\*\*\*

**17.28.065 Excess Emissions.**

A.A.C. R18-2-310 and R18-2-310.01 as of February 15, 2001 ~~is~~ are hereby adopted in its entirety and ~~is~~ are incorporated herein by this reference, except that all references to the “Director” shall be to the “Control Officer”. (Ord. 2004-97 § 5, Ord. 1997-79 § 14, 1997)

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**County Notices Pursuant to A.R.S. § 49-112**

<b>Table 17.16.040 EMISSIONS-DISCHARGE OPACITY LIMITING STANDARDS</b>				
<b>Type of Source</b>	<b>Instantaneous Opacity Measurements</b>			<b>Maximum Allowable Average Opacity, %</b>
	<b>Required Number (For a Set)</b>	<b>Excluded Number (Highest Values)</b>	<b>Number to Use For Averaging</b>	
Asbestos Containing Operation <sup>1</sup>	25	0	25	0
Cold Diesel Engines <sup>2</sup>	25	0	25	60
Loaded Diesel Engines <sup>3</sup>	26	1	25	60
Incinerators	27	2	25	20
Portland Cement Plants <sup>4</sup>	25	0	25	20
Other Sources <sup>5</sup>	25	0	25	<del>40</del> 20

<sup>1</sup> An asbestos mill, manufacturing or fabrication operation which uses asbestos as a raw material, or spraying operation which sprays materials containing more than 1% asbestos by weight.

<sup>2</sup> Applicable to the first 10 consecutive minutes after starting up a diesel engine.

<sup>3</sup> Applicable to a diesel engine being accelerated under load.

<sup>4</sup> Applicable to kiln, clinker cooler, and other process equipment.

<sup>5</sup> Any source not otherwise specifically covered within this table, unless otherwise specifically covered in this chapter.

(Ord. 2004-97 § 5; Ord. 1993-128 § 4, 1993; Ord. 1979-93 (part), 1979)

\*\*\*\*

**SECTION 6.** If any of the provisions of this ordinance or the application thereof to any person or circumstance is invalid, the invalidity shall not effect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and do this end the provisions of this ordinance are severable.

**SECTION 7.** This ordinance shall become effective 31 days from the date of adoption.

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**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**150 W. Congress Street**  
**Tucson, Arizona 85701-1317**  
**(520) 740-3340**  
**FAX (520) 882-7709**

Pima County Regional Haze Submittal Pursuant to CAA §169A

RE: Pima County Code Revisions of October 19, 2004

Table of Contents

December 31, 2004

This submittal reflects Pima County Code revisions adopted by the Pima County Board of Supervisors on October 19, 2004, and supplements the elements of the Arizona Department of Air Quality Regional Haze State Implementation Plan submittal to the Environmental Protection Agency, as required by the Clean Air Act §169A and 40 CFR 51.300 -309.

1. Transmittal Letter from Control Officer.
2. Evidence of Legal Adoption – Regarding Board of Supervisors action on October 19, 2004:
  - a. Pima County Board of Supervisors Ordinance 2004-97, which ratifies those changed approved by the Board of Supervisors on October 19, 2004, and additionally adopts changes to the Open Burning rules (17.12.480). Generally, those changes are shown in a strikeout/underlined draft revision proposal. Identified as “Ordinance 2004-97: An Ordinance of the Board of Supervisors of Pima County, Arizona, relating to the Environment and Air Quality; amending Chapters 17.04; 17.08; 17.12; 17.16; and 17.28 to conform with Corresponding State and Federal Air Quality Regulations.”
  - b. Hard-copy version of “Ordinance 2004-97.” **SEE NO. 6b.**
3. Evidence of Legal Authority - County Attorney’s Opinion **NOT AVAILABLE HERE**
4. Copy of Pima County Code (abbreviated with Open Burning Rule changes only) as last amended on October 19, 2004. **NOT AVAILABLE HERE**
5. Copies of public notices:
  - a. Copy of notice as posted and mailed; verification of posting/ mailing prior to public hearing. **CERTIFICATION OF NOTICE, FAXES ONLY**
  - b. “Notice of Expedited Rulemaking – Conformance Changes” dated August 24, 2004. **NOT AVAILABLE HERE**



**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**150 W. Congress Street**  
**Tucson, Arizona 85701-1317**  
**(520) 740-3340**  
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- c. “Notice of Public Hearing” published in the Tucson Citizen on September 12, 2004, and in the Daily Territorial on September 2, 2004. **NOT AVAILABLE HERE**
  - d. Copy of Pima County Department of Environmental Quality (PDEQ) website page with links to: Public Hearing Notice, Arizona Administrative Register Notice, and Title 17 Rule Revisions. **NOT AVAILABLE HERE**
  - e. Copy of Arizona Administrative Register Notice – “Notice of Expedited Rulemaking – Pima County Air Quality Control Regulations” dated September 10, 2004.
  - f. Copy of Arizona Administrative Register Notice – “Notice of Final Rulemaking – Pima County Air Quality Control Regulations” dated November 12, 2004.
6. Evidence of proper adoption by Board of Supervisors:
    - a. Agenda for Board Meeting of October 19, 2004.
    - b. Signed copy of “Ordinance 2004-97.”
    - c. Minutes of Board Meeting of October 19, 2004.
    - d. Certification letter dated December 31, 2004.
  7. Public comments, PDEQ responses and other published information – see Minutes of Board Meeting of October 19, 2004.
  8. Technical materials, including SIP submittal and enforceability checklists.
  9. Floppy disk, containing the files identified above in a Microsoft Word format, namely
    - a. A underline/strike-through version showing only the changed provisions as approved on October 19, 2004;
    - b. A “clean copy” of the SIP related changes of the Code, incorporating the subject changes. **NO. 9 NOT YET AVAILABLE HERE**



**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**150 W. Congress Street**  
**Tucson, Arizona 85701-1317**  
**(520) 740-3340**  
**FAX (520) 882-7709**

December 31, 2004

Mr. Wayne Nastri, Regional Administrator  
U.S. Environmental Protection Agency, Region IX  
Mail Code – ORA-1  
75 Hawthorne Street  
San Francisco, CA 94105

c/o Steve Owens, Director of the Arizona Department of Environmental Quality (ADEQ)  
c/o Nancy Wrona, Director of ADEQ Air Quality Division  
1110 W. Washington Street  
Phoenix, Arizona 85007

**RE: Pima County Regional Haze Submittal Pursuant to CAA § 169A**

To whom it may concern:

Pursuant to Ordinance 2004-97 as adopted by the Pima County Board of Supervisors on October 19, 2004, I convey a requested submittal to the Arizona Regional Haze State Implementation Plan (SIP). The only section of this ordinance that applies to the Regional Haze SIP is §17.12.480. As required by 40 CFR §51.103, I have attached an electronic copy of the respective SIP for the EPA and ADEQ. The electronic copy includes the following documents as per the criteria of 40 CFR Subpart 51, Appendix V:

1. Formal Letter of Submittal
2. Evidence of Legal Adoption (signed Ordinance 2004-97)
3. Evidence of Legal Authority
4. Strikeout/Underline copy of the Pima County Code Chapter 17.12 as amended on October 19, 2004.
5. Clean copy of the Pima County Code Chapter 17.12 as amended on October 19, 2004.
6. Public Notice
7. Affidavit of Publications
8. Published Notice in the Arizona Administrative Register
9. Adoption by Pima County Board of Supervisors – Meeting agenda and minutes
10. Public Comments
11. "SIP Submittal Enforceability Checklist" (Technical Support)

Sincerely,

Ursula Kramer  
Director

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**CERTIFICATION OF POSTING OF NOTICE**

**The undersigned hereby certifies that a copy of the attached notice was duly posted at:**

**LOCATION**

**DATE:**

**LOBBY OF PIMA COUNTY ADMINISTRATION BUILDING**

**9/3/04**

**PIMA COUNTY CLERK OF THE BOARD FOR POSTING**

**9/3/04**

**PDEQ**

**8/30/04**

**PIMA COUNTY PUBLIC LIBRARIES**

**mailed 9/3/04**

**This certification of posting is in accordance with the statement filed by the Pima County Environmental Quality Advisory Council with the Clerk of the Pima County Board of Supervisors.**

**Dated this 7th day of September, 2004.**

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**Vicki Bennie  
Executive Administrative Assistant  
PDEQ**

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**FACSIMILE TRANSMITTAL SHEET**

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TO: TUCSON NEWSPAPER (JANICE)  
**LEGAL NOTICE**  
**PUBLIC NOTICE – AIR QUALITY**

FROM: R. GRIMALDI  
DATE: SEPTEMBER 1, 2004

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FAX NUMBER : **(520) 573-4294**

TOTAL NO. OF PAGES INCLUDING COVER: **2**

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PHONE NUMBER:

SENDER'S REFERENCE NUMBER: 740-3978

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RE: **PUBLIC NOTICE**  
**NOTICE OF PUBLIC HEARING**

TITLE 17 REVISIONS

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URGENT

FOR REVIEW

PLEASE REPLY

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Notes/Comments:

This cover is followed by one page. If incomplete or unclear, please call (520) 740-3978 by voice or (520) 882-7709 for FAX sheet notice.

Please publish on September 12, 2004, and please call 740-3798, if there are any questions.

Please send billing to: Pima County Department of Environmental Quality  
150 W. Congress, First Floor, Room 109  
Tucson, Arizona 85701  
Phone: 740-3978

**Janice - We only want to publish in the Arizona Daily Star. Thanks!**

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**FACSIMILE TRANSMITTAL SHEET**

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TO: TERRITORIAL PUBLISHERS, INC.  
**LEGAL NOTICE**  
**PUBLIC NOTICE – AIR QUALITY**

FROM: R. GRIMALDI

DATE: SEPTEMBER 1, 2004

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RE: **PUBLIC NOTICE**  
**NOTICE OF PUBLIC HEARING**

TITLE 17 REVISIONS

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URGENT

FOR REVIEW

PLEASE REPLY

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Notes/Comments:

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Please send billing to:

Pima County Department of Environmental Quality  
150 W. Congress, First Floor, Room 109  
Tucson, Arizona 85701  
Phone: 740-3978

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## COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

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### NOTICE OF EXPEDITED RULEMAKING PIMA COUNTY AIR QUALITY CONTROL REGULATIONS

#### Pima County Code

#### Title 17 – Air Quality Control

#### Chapter 4 General Provisions

#### Chapter 8 Ambient Air Quality Standards

#### Chapter 12 Permit And Permit Revisions

#### Chapter 16 Emission Limiting Standards

#### Chapter 28 Violations And Conditional Orders

#### PREAMBLE

#### 1. Sections Affected

PCC 17.04.070  
PCC 17.08.110  
PCC 17.08.130  
PCC 17.12.060  
PCC 17.12.070  
PCC 17.12.140  
PCC 17.12.160  
PCC 17.12.170  
PCC 17.12.180  
PCC 17.12.210  
PCC 17.12.365  
PCC 17.12.480  
PCC 17.12.490  
PCC 17.12.540  
PCC 17.16.130  
PCC 17.16.165  
PCC 17.16.430  
PCC 17.16.530  
PCC 17.16.700  
PCC 17.28.065  
Table 17.16.040

#### Rulemaking Action

Amend  
Amend

#### 2. Statutory authority for the rulemaking:

A.R.S. § 49-112  
A.R.S. § 49-424(3)  
A.R.S. § 49-479.04  
A.R.S. § 49-479.08

#### 3. List of all previous notices appearing in the register addressing the proposed rule or ordinance and a concise explanatory statement.

None

#### 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Jean Parkinson  
Program Coordinator

*Arizona Administrative Register / Secretary of State*

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Address: Pima County DEQ  
150 W. Congress  
Tucson, AZ 85701

Telephone: (520) 740-3978

Fax: (520) 882-7709

E-mail: Jean.Parkinson@DEQ.CO.PIMA.AZ.US

**5. An explanation of the rule, including the Control Officer's reasons for initiating the rule:**

Summary: This rulemaking contains amendments to Pima County Code Title 17, which makes corrections to typographical errors; conforms to directly reflect federal and state rule or law, and incorporates by reference provisions of the Arizona Administrative Code and the U.S. Code of Federal Regulations.

Statutory Authority: A.R.S § 49-471.08 – Expedited rule or Ordinance making – provides a statutory mechanism for a declaration of an expedited process if the rulemaking is a conforming change to directly reflect federal or state rule or law.

Background: Periodically the Pima County Department of Environmental Quality updates and conforms to the Arizona Administrative Code and the Code of Federal Regulations in an effort to achieve consistency and accuracy in Air Quality Regulations for Pima County. The last conforming changes to Title 17 were in 1999.

Section by Section Analysis

PCC 17.04.070	Amend	Updates Code of Federal Regulation references to 2004 version
PCC 17.08.110	Amend	Conforms to CFR part 81 § 81.303, designating Tucson planning area as Attainment for CO
PCC 17.08.130	Amend	Conforms to CFR part 81 § 81.303, designating Ajo planning area as Maintenance for SO <sub>2</sub>
PCC 17.12.060	Amend	Conforms to Arizona Administrative Code § R18-2-313, Existing Source Emission Monitoring
PCC 17.12.070	Amend	Adds subsection references to clarify the rule requirement
PCC 17.12.140	Amend	Conforms to Arizona Administrative Code § R18-2-302, Applicability; Classes of Permits
PCC 17.12.160	Amend	Removes an unnecessary subsection reference.
PCC 17.12.170	Amend	Conforms to Arizona Administrative Code § R18-2-305, Public Records; Confidentiality
PCC 17.12.180	Amend	Conforms to Arizona Administrative Code § R18-2-306, Permit Contents
PCC 17.12.210	Amend	Conforms to Arizona Administrative Code § R18-2-306, Compliance Plan Certification
PCC 17.12.365	Amend	Updated the reference date from July 1, 1996 to July 1, 2004
PCC 17.12.480	Amend	Conforms to Arizona Administrative Code § R18-2-602, Unlawful Open Burning
PCC 12.12.490	Repeal	Repeal Provision relating to standard permit requirements for open burning.
PCC 17.12.540	Amend	Removes outdated Activity Permit Fee Schedule from the code.

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PCC 17.16.130	Amend	Conforms to Arizona Administrative Code § R18-2-702, General Provisions
PCC 17.16.165	Amend	Corrects an incorrect code reference within the provision.
PCC 17.16.430	Amend	Typographical error, adds a comma within a series
PCC 17.16.490	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Standards of Performance for New Stationary Sources (NSPS), pursuant to 40 CFR Part 60
PCC 17.16.530	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Emissions Standards for Hazardous Pollutants, (NESHAP), pursuant to 40 CFR Part 61
PCC 17.16.700	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Emission Standards for Hazardous Air Pollutants for Source Categories (NESHAP), pursuant to 40 CFR 63
PCC 17.28.065	Amend	Incorporates by reference Arizona Administrative Code § R18-2-310.01
Table 17.16.040	Amend	Conforms to Arizona Administrative Code § R18-2-702, General Provisions

**6. A demonstration of the grounds and evidence of compliance with A.R.S. § 49-112**

Based on information and belief, the Control Officer of the Pima County Department of Environmental Quality affirms the following:

Pima County is in compliance with A.R.S. §49-112(A) in that Pima County Department of Environmental Quality adopted ordinances that are not more stringent than nor are they in addition to any provisions of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49.

**7. A demonstration of the grounds and evidence of compliance with A.R.S. § 49-471.08:**

Pursuant to A.R.S. §49-471.08, this rulemaking includes conforming changes to directly reflect federal and state rule of law and is thereby declared an expedited rulemaking. The rulemaking does not alter the sense, meaning or effect of the federal or state rule of law and is substantially identical to the rule in which it is derived.

**8. Reference to any study relevant to the rule that the Control Officer reviewed and either relied or did or did not rely on in its evaluation of or justification for the rule, where the public may review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No studies were reviewed in reference to this rulemaking action.

**9. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**10. The preliminary summary of the economic, small business, and consumer impact:**

Pima County is proposing to update its incorporations by reference of the following federal regulations: New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and Acid Rain. These revisions should not have an economic impact on businesses in Pima County, and should not impose additional costs on the regulated community, small businesses, political subdivisions, and members of the public beyond that already incurred by reason of Federal or State law. In addition, Pima County is updating rules to conform to the Arizona Administrative Code and recent rule amendments finalized by the Arizona Department of Environmental Quality. These revisions should have not have an economic impact on Pima County businesses beyond that already incurred by reason of State law.

**11. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Jean Parkinson, Program Coordinator

Address: Pima County DEQ  
150 W. Congress  
Tucson, AZ 85701

Telephone: (520) 740-3978  
Fax: (520) 882-7709  
E-mail: Jean.Parkinson@DEQ.CO.PIMA.AZ.US

**12. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules and or ordinance:**

Written comments will be accepted if received between the date of this publication and **October 12, 2004 at 5:00 p.m.** Written comments may be mailed or hand delivered to the Pima County Department of Environmental Quality (see #4 above). Written comments received during the comment period will be considered formal comments to the proposed expedited rule or ordinance, and will be responded to in the notice of final rulemaking.

**13. Any other matters prescribed by the statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**14. Incorporations by reference and their location in the rules:**

New incorporations by reference (subparts or larger):

Acid Rain (40 CFR Part 72, July 1, 2004): Rule 17.12.365

NSPS (40 CFR Part 60, July 1, 2004): Rule 17.16.490

NESHAP (40 CFR Part 61, July 1, 2004): Rule 17.16.530 (A)

NESHAP (40 CFR Part 63, July 1, 2004): Rule 17.16.530 (B)

All referenced incorporations provided in the text of the rule or ordinance are available for review at the Pima County Department of Environmental Quality. The federal regulations: New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and Acid Rain are also available for review at: <http://www.ecfr.gpoaccess.gov>

**15. The proposed effective date for the rule or ordinance.**

The contents of this rulemaking will go into effect thirty days after Board adoption. The rule or ordinance will be scheduled for a public hearing/oral proceeding before the Board on:

Time: **October 19, 2004 at or after 9:00 a.m.**

Place: Pima County Board of Supervisors Public Hearing Room  
130 West Congress Street, First Floor  
Tucson, AZ 85701

**16. The full text of the rule follows:**

Title 17 of the Pima County Code Air Quality Control

**ORDINANCE 2004-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO THE ENVIRONMENT AND AIR QUALITY; AMENDING CHAPTERS 17.04; 17.08; 17.12; 17.16; 17.28 TO CONFORM WITH CORRESPONDING STATE AND FEDERAL AIR QUALITY REGULATIONS.**

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:**

**SECTION 1.** Chapter 17.04, Section 17.04.070 is hereby amended to read:

**Chapter 17.04  
GENERAL PROVISIONS**

\*\*\*\*

**17.04.070 Incorporated Materials.**

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3. All parts of the CFR referenced in this Title are amended as of July 1, ~~1996~~ 2004 unless specifically indicated otherwise.

\*\*\*\*

(Ord. 2004- § \_\_, Ord. 1997-79 § 1, 1997; Ord. 1995-87 § 2, 1995; Ord. 1993-128 § 1, 1993)

**SECTION 2.** Chapter 17.08 is hereby amended by amending, Sections 17.08.110 and 17.08.130 to read as follows:

**Chapter 17.08  
AMBIENT AIR QUALITY STANDARDS**

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**17.08.110 Tucson CO ~~non~~attainment area**

A. An area defined by the following ~~geographic~~ Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an ~~non~~attainment area for CO:

<u>LATITUDE</u>	<u>LONGITUDE</u>
32°38.5'N	111°24.0'W
32°26.5'N	110°47.5'W
32°12.5'N	110°32.5'W
31°49.5'N	110°25.5'W

<u>LATITUDE</u>	<u>LONGITUDE</u>
31°42.0'N	110°50.5'W
31°52.5'N	111°12.5'W
32°24.5'N	111°29.0'W

All portions of Coronado National Forest and Saguaro National Monument lying within the nonattainment area are excluded.

B. The Tucson nonattainment area for CO shall be a Class II attainment area for SO<sub>2</sub>, NO<sub>2</sub>, and O<sub>3</sub>, and unclassified for PM<sub>10</sub>.

<u>Designated Area</u>	<u>Designation</u>		<u>Classification</u>	
	<u>Date</u>	<u>Type</u>	<u>Date</u>	<u>Type</u>
<u>Tucson Area: Pima County Township and Ranges as follows: T11-12S, R12-14E; T13-15S, R11-16E; and T16S, R12-16E Gila and Salt River Baseline and Meridian excluding portions of the Saguaro National Monument and the Coronado National Forest.</u>	<u>July 10, 2000</u>	<u>Attainment</u>		

(Ord. 2004- § \_\_, Ord. 1993-128 § 2, 1993; Ord. 1986-227 § 1 (part), 1986; Ord. 1985-183 (part), 1985; Ord. 1983-196 (part), 1983)

**17.08.130 Ajo nonattainment area.**

A. ~~An area encompassing Ajo and its immediate surroundings shall be a nonattainment area for SO<sub>2</sub>, defined by the following township/range/section coordinates:~~

~~T11S-R6W, T11S-R5W;  
T12S-R6W, T12S-R5W;  
T13S-R6W.~~

A. An area defined by the following Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an attainment area for SO<sub>2</sub>:

<u>Designated Area</u>	<u>Does not meet primary standards</u>	<u>Does not meet secondary standards</u>	<u>Cannot be classified</u>	<u>Better than nations standards</u>
<u>Ajo (T11-13S, R5W-R6W)</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>X</u>

\*\*\*\*

(Ord. 2004- §, Ord. 1993-128 § 2, 1993; Ord. 1985-183 (part), 1985; Ord. 1983-196 (part), 1983)

**SECTION 3.** Chapter 17.12 is hereby amended by amending Sections 17.12.060, 17.12.070, 17.12.140, 17.12.160, 17.12.170, 17.12.180, 17.12.210 and 17.12.540 to read as follows:

**Chapter 17.12  
PERMITS AND PERMIT REVISIONS**

\*\*\*\*

**17.12.060 Existing source emission monitoring.**

A. Every source subject to an existing source performance standard as specified in this title shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this Section for the applicable source category.

1. Applicability.

- a. Fossil fuel-fired steam generators as specified in ~~subdivision 1~~ of subsection ~~€ (C)(1)~~ of this Section, shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
- b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in ~~subdivision 4~~ of subsection ~~€ (C)(4)~~ of this Section, shall be monitored for opacity.
- c. Sulfuric acid plants, as specified in ~~subdivision 3~~ of subsection ~~€ (C)(3)~~ of this Section, shall be monitored for sulfur dioxide emissions.
- d. Nitric acid plants, as specified in ~~subdivision 2~~ of subsection ~~€ (C)(2)~~ of this Section, shall be monitored for nitrogen oxides emissions.

2. ~~Exemptions.~~

- a. Emission monitoring shall not be required when the source of emissions is not operating.

3. Variations.

- a. Unless otherwise prohibited by the Act, the control officer may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a

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continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the control officer on a case-by-case basis and shall include as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Section. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.

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(Ord. 2004- § \_\_, Ord. 1994-83 § 6, 1994: Ord. 1993-128 § 3 (part), 1993)

**17.12.070 Quality assurance.**

Facilities subject to permit requirements of this chapter shall submit a quality assurance plan to the control officer that meets the requirements of 17.12.040(D)(3) within twelve months of the effective date of this section. Facilities subject to the requirements of 17.12.060 shall submit a quality assurance plan as specified in the permit. (Ord. 2004- § \_\_, Ord. 1995-87 § 10, 1995: Ord. 1994-83 § 7, 1994: Ord. 1993-128 § 3 (part), 1993)

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**17.12.140 Applicability; classes of permits.**

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B. There shall be two classes of permits as follows:

1. A Class I permit shall be required for a person to commence construction of or operate any of the following:
  - a. Any major source.
  - b. Solid waste incineration units required to obtain a permit pursuant to section 129 (e) of the Act (Solid Waste Combustion).
  - c. An affected source.
  - d. Any source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the control officer by rule.
2. Unless a Class I permit is required, a Class II permit shall be required for:
  - a. A person to commence construction of or modify either of the following:
    - (i) ~~A source that emits with controls, or has the potential to emit with controls, ten (10) tons per year or more of any hazardous air pollutant listed under A.R.S. § 49-426.04 (A)(1) or twenty-five (25) tons per year of any combination of hazardous air pollutants.~~
    - (ii) ~~A source that is within a category designated pursuant to A.R.S. 49-426.05 and that emits, or has the potential to emit, with controls one (1) ton per year or more of a hazardous air pollutant or two and one-half (2½) tons per year of any combination of hazardous air pollutants.~~
  - b. ~~A person to commence construction of or operate any of the following:~~
    - (i) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act (Standards of Performance for New Stationary Sources).
    - (ii) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act.
    - (iii) Any source that emits, or has the potential to emit, without controls, significant quantities of regulated air pollutants.
    - (iv) Stationary rotating machinery of greater than 325 brake horsepower.

- (v) Fuel-burning equipment which, at a location or property other than a one or two family residence, are fired at a sustained rate of more than one million BTU per hour for more than an eight hour period.
- e ~~A person to make a modification to a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than those specified in items i and ii of paragraph a and item iii of paragraph b of this subdivision.~~
- b. A person to modify a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than or equal to those specified in subsection (B)(2)(a)(iii).

\*\*\*\*

- D. No person may construct or reconstruct any major source of hazardous air pollutants unless the control officer determines that maximum achievable control technology emission limitation (MACT) for new sources under section 112 of the Act will be met. ~~Where~~ 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 17.16.530.B. For purposes of this subsection, construction and reconstructing a major source shall have the meanings prescribed in 40 CFR 63.41. (Ord. 2004- § \_\_, Ord. 1998-27 § 3, 1998; Ord. 1995-87 § 11, 1995; Ord. 1994-83 § 11, 1994; Ord. 1993-128 § 3 (part), 1993)

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**17.12.160 Permit application processing procedures.**

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- C. Unless otherwise required by 17.12.150 ~~B. through F.~~, a timely application is:

1. For a source, other than a major source, applying for a permit for the first time, one that is submitted within 12 months after the source becomes subject to the permit program.
2. For purposes of permit renewal, a timely application is one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.
3. For initial phase II acid rain permits under Title IV of the Act and regulations incorporated pursuant to section 17.12.365, one that is submitted to the control officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.
4. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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.

\*\*\*\*

(Ord. 2004- § \_\_, Ord. 1998-27 § 4, 1998; Ord. 1997-79 § 4, 1997; Ord. 1995-87 § 12, 1995; Ord. 1994-83 § 13, 1994; Ord. 1993-128 § 3 (part), 1993)

**17.12.170 Public records; confidentiality.**

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- B. Any records, reports or information obtained from any person under this title, including records, reports or information obtained or prepared by the control officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:
1. A showing, satisfactory to the control officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person. A request for confidentiality shall:

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- a. Precisely identify the information in the documents submitted which is considered confidential.
  - b. Contain sufficient supporting information to allow the control officer to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.
2. A determination by the county attorney that disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this chapter in superior court.

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(Ord. 2004-\_\_§ \_\_, Ord. 1994-83 § 14, 1994: Ord.1993-128 § 3 (part), 1993)

**17.12.180 Permit contents.**

- A. Each permit issued shall include the following elements:

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3. Each permit shall contain the following requirements with respect to monitoring:
- a. ~~All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions), and including any monitoring and analysis procedures or test methods required pursuant to section 17.12.220;~~
  - b. ~~Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported pursuant to subdivision A.4 of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required pursuant to section 17.12.220. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and~~
  - e. ~~As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.~~
- 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 17.12.220.
  - b. 40 CFR 64 as codified July 1, 2004, is incorporated by reference and on file with the control officer. 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 relevant 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 conventions consistent with the applicable requirement, and as otherwise required under 17.12.220. Recordkeeping 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.

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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 paragraph (B)(2) of this subsection, all terms and conditions in a Class I permit, including any provisions designed to limit a source's potential to emit.
  - b. Terms or conditions in a Class II permit setting forth federal applicable requirements,
  - c. Terms and conditions in any permit which are entered into voluntarily pursuant to section 17.12.220, as follows:
    - (i) Emissions limitations, controls or other requirements.
    - (ii) Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in ~~subdivision (i) of this subparagraph~~ subsection (B)(1)(c)(i)
2. Notwithstanding ~~subparagraph subsection (B)(1)(a) of this subsection~~, the control officer 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 requirements.

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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, which situation requires immediate corrective action to restore normal operation and that causes the sources to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emission attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.
2. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of ~~subdivision 3 of this 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 that the permittee can identify the cause(s) of the emergency;
  - b. The permitted facility was at the time 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 control officer by certified mail or hand delivery within two (2) 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.

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(Ord. 2004- §, Ord. 1998-27 § 5, 1998; Ord. 1995-87 § 13, 1995; Ord. 1994-83 § 15, 1994; Ord. 1993-128 § 3 (part), 1993)

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**17.12.210 Compliance plan; certification.**

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

1. The elements required by 17.12.180(A)(3), (4), and (5).

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2. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
- a. The frequency for 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 the following:
    - (i) ~~The identification of each term or condition of the permit that is the basis of the certification;~~
    - (ii) ~~The compliance status;~~
    - (iii) ~~Whether compliance was continuous or intermittent;~~
    - (iv) ~~The method(s) used for determining the compliance status of the source, currently and over the reporting period; and~~
    - (v) ~~Other facts as the control officer may require to determine the compliance status of the source:~~
      - 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 under 17.12.180(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 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 for consideration 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 control officer may require to determine the compliance status of the source.
  - d. A requirement that permittees submit all compliance certifications ~~be submitted~~ to the control officer, ~~and for Class I permits, permittees shall also submit compliance certifications to the Administrator as well.~~
  - e. Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions) or pursuant to section 17.12.220.

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(Ord. 2004- § \_\_, Ord. 1998-27 § 7, 1998; Ord. 1995-87 § 14, 1995; Ord. 1994-83 § 17, 1994; Ord. 1993-128 § 3 (part), 1993)

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### 17.12.365 Acid Rain

- A. The following subparts of 40 CFR Part 72, Permits Regulation, and all accompanying appendices, adopted as of July 1, ~~1996~~2004, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department, and shall be applied by the Department.
- C. If the provisions or requirements of the regulations incorporated pursuant to this section conflict with any of the remaining portions of the Title, the regulations incorporated pursuant to this section shall apply and take precedence.  
(Ord. 2004- § \_\_; Ord. 1997-79 § 7, 1997; Ord. 1995-87 § 19, 1995)

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**17.12.480 Open burning permits.**

- A. ~~A person who plans to ignite, allow, or maintain any outdoor fire except as specifically exempted herein shall obtain an open burning permit from the control officer before commencing the burning.~~
- B. ~~Specific types of open outdoor fires which require open burning permits, as well as those types of fires which do not require permits, are identified in Table 17.12.480. Any open burning not listed in Table 17.12.480 is prohibited.~~

A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:

1. "Agricultural Burning" means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.
2. "Air Curtain Destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
3. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.
4. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
5. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
6. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
7. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
8. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
9. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, demolition debris or prohibited materials.
10. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
11. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
12. "Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning.
13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.
14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.

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- B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.
- C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the control officer or a delegated authority:
1. Fires used only for:
    - a. Cooking of food.
    - b. Providing warmth for human beings.
    - c. Recreational purposes.
    - d. Branding of animals.
    - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
    - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
  2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
    - a. Control of an active wildfire; or
    - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
  3. Fire set by or permitted by the control officer of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
  4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions.
- D. Open outdoor fires requiring a permit.
1. The following open outdoor fires are allowed with an open burning permit from the control officer or a delegated authority:
    - a. Construction burning;
    - b. Agricultural burning;
    - c. Residential burning;
    - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under;
    - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
    - f. Open outdoor fires of dangerous material under subsection (E);
    - g. Open outdoor fires of household waste under subsection (F); and
    - h. Open outdoor fires that use an air curtain destructor, as defined in 17.12.480 (A)(2).
  2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an PDEQ-approved application form.
  3. Open outdoor fire permits issued under this Section shall include:
    - a. A list of the materials that the permittee may burn under the permit;
    - b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;
    - c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:
      - i. Year-round: ignite fire no earlier than one hour after sunrise; and
      - ii. Year-round: extinguish fire no later than two hours before sunset;
    - d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
      - i. Prevent dispersion of smoke into populated areas;
      - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
      - iii. Do not create a public nuisance or adversely affect public safety;
      - iv. Do not cause an adverse impact to visibility in a Class I area; and
      - v. Do not cause uncontrollable spreading of the fire;
    - e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions.;
    - f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:
      - i. The date of each burn;
      - ii. The type and quantity of fuel burned for each date open burning occurred;



- 4. Burning may not be conducted on public land or on other land not owned or leased by the permittee without written permission from the owner or land manager;
- 5. Fire must be dead out when left; and
- 6. The burning of materials other than those specified by the permit is prohibited. (Ord. 1979-93 (part), 1979)

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**17.12.540 Activity Permit Fees**

<b>Table 17.12.540</b>			
<b>ACTIVITY PERMIT FEES SCHEDULE (effective until July 1, 2003)</b>			
S.S. <sup>†</sup>	ACTIVITY	RATE COMPONENTS	EXEMPTIONS
A	Landstripping and/or Earthmoving	1 to 5 acres \$89.28 plus \$8.93 per each additional acre or fraction thereof	< 1 acre
B	Trenching	300 feet of aggregate trenching \$17.86 base plus \$0.036 per each additional ft.	< 300 ft; trenching for landscaping
C	Road Construction	50 ft. of aggregate road construction \$17.86 base plus \$0.09 per each additional ft.	< 50 ft
D	Activity permit for NESHAP facilities	\$420.00	See Exemption Note
E	Blasting	\$18.00 plus \$3.53 per day of blasting	None

**Exemption Note:**

- <260 linear feet on pipes;
- <160 square feet on other facility components;
- <35 cubic feet off facility components

**Example Permit Fee Calculations**

1. Permit for clearing 4 acres: \$89.28

2. Permit for earthmoving on 9 acres:

\_\_\_\_\_ First five acres = \$89.28  
\_\_\_\_\_ Remaining four acres =  $\$8.93 \times 4 = \$35.72$   
\_\_\_\_\_ Total = \$125.00

3. Permit for trenching 500 feet:

\_\_\_\_\_ Base fee for the first 300 feet = \$17.86  
\_\_\_\_\_ Remaining 200 feet =  $200 \times 0.036 = \$7.20$   
\_\_\_\_\_ Total = \$25.06

<sup>1</sup>Sub-schedule for identification only.

(Ord. 1995-87 §26, 1995; Ord. 1994-83 §44, 1994; Ord. 1993-128 §3 (part), 1993; Ord. 1990-113 §16, 1990; Ord. 1989-165 §17 (part), 1989; Ord. 1987-175 §18, 1987)

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SECTION 4. Chapter 17.16, Sections 17.16.130, 17.16.165, 17.16.430, 17.16.430, and 17.16.700 are hereby amended to read:

**Chapter 17.16  
EMISSION LIMITING STANDARDS**

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**17.16.130 Applicability.**

- A. This article shall apply only to emissions which enter the atmosphere by passing through a vent, stack, flue, or other similar containing or restrictive device, or which by reasonable modification of the emissions source the emissions can be directed through such a device for testing purposes. a source that is all of the following:
1. An existing source, as defined in 17.04.340;
  2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
  3. A stationary source, as defined in 17.04.340.
- B. ~~Where the nature of a process, operation, or activity allows more than one interpretation of a requirement in this Chapter, the more restrictive or most restrictive interpretation shall apply.~~
- ~~C. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (a), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:~~

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1. ~~Shall not be greater than 40 percent, and~~
  1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the control officer as provided in subsection (D) and (E), after the effective date of this rule.
  2. ~~Shall be determined by reference Method 9 of the Arizona Testing Manual.~~
  2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
  3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).
- DC. ~~Where~~ If the presence of uncombined water is the only reason for ~~the~~ an exceedance of any visible emissions requirement in this Article, ~~such~~ the exceedance shall not constitute a violation of the applicable opacity limit.
- ED. A person owning or operating ~~an air pollution~~ a source may ~~ask~~ petition the control officer for ~~a determination on meeting the requirements of~~ an alternative applicable opacity standard limit. The petition shall be submitted to PDEQ within three months after the effective date of this rule.
1. ~~The owner or operator shall submit the written reports of the results of the performance tests, the opacity observation results, and observer certification.~~
  1. The petition shall contain:
    - a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
      - i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
      - ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
      - iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
    - b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
    - c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
  2. ~~If the control officer finds that the facility is in compliance with all applicable standards for the performance test and still fails to meet the applicable opacity standard, he shall notify the owner or operator of the finding.~~
  2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
    - a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
    - b. Evidence that the source conducted the stack tests according to 17.12.050, and that they were witnessed by the control officer or the control officer's agent or representative.
    - c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
  3. ~~The owner or operator may petition the control officer within ten days of receipt of notification, asking the control officer to make an appropriate adjustment to the opacity standard for the facility.~~
  3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:

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- a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
  - b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.
4. ~~The control officer may grant the petition after public notice and opportunity for public hearing takes place, and upon a demonstration by the owner or operator that:
    - a. ~~The affected facility and the associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance test.~~
    - b. ~~The performance tests were performed under the conditions established by the control officer.~~
    - e. ~~The affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the opacity requirement.~~~~
  5. ~~The control officer may establish an opacity standard for the affected facility based on the determination made in subdivision 4 of this subsection. The opacity standard shall be set at a level indicated by the performance and opacity tests, providing that the source will be able to meet the mass or concentration standard and the opacity standard at all times. Such opacity standard shall be incorporated as a condition of the permit for the affected facility.~~
  6. ~~The control officer shall publish the opacity standard once in one or more newspapers of general circulation in the county.~~
- F. ~~The process weight rate utilized in this Article shall be determined as follows:~~
1. ~~For continuous or long runs, steady state process sources, the process weight rate shall be the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.~~
  2. ~~For cyclical or batch process sources, the process weight rate shall be the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.~~
- E. If the control officer receives a petition under subsection (D) the control officer shall approve or deny the petition as provided below by October 15, 2004:
1. If the petition is approved under subsection (D)(1) or (D)(2), the control officer shall include an alternative opacity limit in a proposed significant permit revision for the source under 17.12.260 and 17.12.340. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
  2. If the petition is approved under subsection (D)(3), the control officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
  3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under 17.12.210(5)(c)(iii) by April 23, 2006.
  4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under 17.12.210(5)(c).
- E. The control officer, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:

1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period. (Ord. 2004- § \_\_, Ord. 1979-93 (part), 1979)

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**17.16.165 Standards of performance for fossil-fuel fired industrial and commercial equipment.**

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- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with ~~17.12.220-17.12.040~~. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

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(Ord. 2004- § \_\_, Ord. 1994-83 § 54, 1994: Ord. 1993-128 § 4 (part), 1993)

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**17.16.430 Standards of performance for unclassified sources.**

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- G. Where a stack, vent or other outlet is at such a level that fumes, gas, mist, odor, smoke, vapor or any combination thereof constituting air pollution are discharged to adjoining property, the control officer may require the installation of abatement equipment or the alteration of such stack, vent or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.

(Ord. 2004- § \_\_, Ord. 1994-83 § 58, 1994: Ord. 1993-128 § 4 (part), 1993)

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**17.16.490 Standards of performance for new stationary sources (NSPS).**

- A. Except as provided in subsections B, C and D of this section, and 17.16.500 through 17.16.520, the following subparts of 40 CFR Part 60, and accompanying appendices, the federal standards of performance for new stationary sources, adopted as of July 1, ~~1996~~2004 and no future editions are incorporated herein by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

1. Subpart A - General Provisions. (Section 60.1 – Section 60.19)
2. Subpart B – Excluded
3. Subpart C – Excluded
4. Subpart Ca - Reserved
5. Subpart Cb – Excluded
6. Subpart Cc – Excluded
7. Subpart Cd – Excluded

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8. Subpart Ce – Excluded
- ~~29.~~ Subpart D - Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971. (Section 60.40 – 60.46)
- ~~310.~~ Subpart Da - Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978. (Section 60.40a – 60.49a)
- ~~411.~~ Subpart Db - Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40b – 60.49b)
- ~~512.~~ Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40c – 60.48c)
- ~~613.~~ Subpart E - Incinerators. (Section 60.50 – 60.54)
- ~~714.~~ Subpart Ea - Municipal Waste Combustors for which Construction is Commenced after December 20, 1989, and on or before September 20, 1994. (Section 60.50a – 60.59a)
- ~~815.~~ Subpart Eb - Municipal Waste Combustors for which Construction is Commenced after September 20, 1994. (Section 60.50b – 60.59b)
- ~~16.~~ Subpart Ec – Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996 (Section 60.50c – 60.58c & Tables)
- ~~917.~~ Subpart F - Portland Cement Plants. (Section 60.60 – 60.66)
- ~~1018.~~ Subpart G - Nitric Acid Plants. (Section 60.70 – 60.74)
- ~~1119.~~ Subpart H - Sulfuric Acid Plants. (Section 60.80 – 60.85)
- ~~1220.~~ Subpart I - Hot Mix Asphalt Facilities. (Section 60.90 – 60.93)
- ~~1321.~~ Subpart J - Petroleum Refineries. (Section 60.100 – 60.109)
- ~~1422.~~ Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978. (Section 60.110 – 60.113)
- ~~1523.~~ Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984. (Section 60.110a – 60.115a)
- ~~1624.~~ Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984. (Section 60.110b – 60.117b)
- ~~1725.~~ Subpart L - Secondary Lead Smelters. (Section 60.120 – 60.123)
- ~~1826.~~ Subpart M - Secondary Brass and Bronze Ingot Production Plants. (Section 60.130 – 60.133)
- ~~1927.~~ Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973. (Section 60.140 – 60.144)
- ~~2028.~~ Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983. (Section 60.140a – 60.145a)
- ~~2129.~~ Subpart O - Sewage Treatment Plants. (Section 60.150 – 60.156)
- ~~2230.~~ Subpart P - Primary Copper Smelters. (Section 60.160 – 60.166)
- ~~2331.~~ Subpart Q - Primary Zinc Smelters. (Section 60.170 – 60.176)
- ~~2432.~~ Subpart R - Primary Lead Smelters. (Section 60.180 – 60.186)
- ~~2533.~~ Subpart S - Primary Aluminum Reduction Plants. (Section 60.190 – 60.195)
- ~~2634.~~ Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants. (Section 60.200 – 60.204)
- ~~2735.~~ Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants. (Section 60.210 – 60.214)
- ~~2836.~~ Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants. (Section 60.220 – 60.224)
- ~~2937.~~ Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants. (Section 60.230 – 60.234)
- ~~3038.~~ Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities. (Section 60.240 – 60.244)
- ~~3139.~~ Subpart Y - Coal Preparation Plants. (Section 60.250 – 60.254)
- ~~3240.~~ Subpart Z - Ferroalloy Production Facilities. (Section 60.260 – 60.266)
- ~~3341.~~ Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983. (Section 60.270 – 60.276)
- ~~3442.~~ Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983. (Section 60.270a – 60.276a)
- ~~3543.~~ Subpart BB - Kraft Pulp Mills. (Section 60.280 – 60.285)
- ~~3644.~~ Subpart CC - Glass Manufacturing Plants. (Section 60.290 – 60.296)

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- 3745. Subpart DD - Grain Elevators. (Section 60.300 – 60.304)
- 3846. Subpart EE - Surface Coating of Metal Furniture. (Section 60.310 – 60.316)
- 47. Subpart FF - Reserved
- 3948. Subpart GG - Stationary Gas Turbines. (Section 60.330 – 60.335)
- 4049. Subpart HH - Lime Manufacturing Plants. (Section 60.340 – 60.344)
- 4150. Subpart KK - Lead-Acid Battery Manufacturing Plants. (Section 60.370 – 60.374)
- 4251. Subpart LL - Metallic Mineral Processing Plants. (Section 60.380 – 60.388)
- 4352. Subpart MM - Automobile and Light Duty Truck Surface Coating Operations. (Section 60.390 – 60.398)
- 4453. Subpart NN - Phosphate Rock Plants. (Section 60.400 – 60.404)
- 4554. Subpart PP - Ammonium Sulfate Manufacture. (Section 60.420 – 60.424)
- 4655. Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing. (Section 60.430 – 60.435)
- 4756. Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations. (Section 60.440 – 60.447)
- 4857. Subpart SS - Industrial Surface Coating: Large Appliances. (Section 60.450 – 60.456)
- 4958. Subpart TT - Metal Coil Surface Coating. (Section 60.460 – 60.466)
- 5059. Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture. (Section 60.470 – 60.474)
- 5160. Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry. (Section 60.480 – 60.489)
- 5261. Subpart WW - Beverage Can Surface Coating Industry. (Section 60.490 – 60.496)
- 5362. Subpart XX - Bulk Gasoline Terminals. (Section 60.500 – 60.506)
- 5463. Subpart AAA - New Residential Wood Heaters. (Section 60.530 – 60.539b)
- 5564. Subpart BBB - Rubber Tire Manufacturing Industry. (Section 60.540 – 60.548)
- 65. Subpart CCC – Reserved
- 5666. Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry. (Section 60.560 – 60.566)
- 67. Subpart EEE - Reserved
- 5768. Subpart FFF - Flexible Vinyl and Urethane Coating and Printing. (Section 60.580 – 60.585)
- 5869. Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries. (Section 60.590 – 60.593)
- 5970. Subpart HHH - Synthetic Fiber Production Facilities. (Section 60.600 – 60.604)
- 6071. Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes. (Section 60.610 – 60.618)
- 6172. Subpart JJJ - Petroleum Dry Cleaners. (Section 60.620 – 60.625)
- 6273. Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. (Section 60.630 – 60.636)
- 6374. Subpart LLL - Onshore Natural Gas Processing; SO<sub>2</sub> Emissions. (Section 60.640 – 60.648)
- 75. Subpart MMM - Reserved
- 6476. Subpart NNN - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations. (Section 60.660 – 60.668)
- 6577. Subpart OOO - Nonmetallic Mineral Processing Plants. (Section 60.670 – 60.676)
- 6678. Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants. (Section 60.680 – 60.685)
- 6779. Subpart QQQ - VOC Emissions From Petroleum Refinery Wastewater Systems. (Section 60.690 – 60.699)
- 6880. Subpart RRR - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical manufacturing Industry (SOCMI) Reactor Processes. (Section 60.700 – 60.708)
- 6981. Subpart SSS - Magnetic Tape Coating Facilities. (Section 60.710 – 60.718)
- 7082. Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines. (Section 60.720 – 60.726)
- 7183. Subpart UUU - Calcines and Dryers in Mineral Industries. (Section 60.730 – 60.737)
- 7284. Subpart VVV - Polymeric Coating of Supporting Substrates Facilities. (Section 60.740 – 60.747)
- 7385. Subpart WWW - Municipal Solid Waste Landfills. (Section 60.750 – 60.759)
- 86. Subpart AAAA – Small Municipal Waste Combustion Unites for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001. (Section 60.1000 – 60.1465 & Tables)

- 87. Subpart BBBB – Excluded
  - 88. Subpart CCCC – Commercial and Industrial Solid Waste Incineration for Which Construction is Commenced after November 30, 1999, or for which Modification or Reconstruction is Commenced on or after June 1, 2001.
  - 89. Subpart DDDD – Excluded
- B. As used in 40 CFR Part 60: “Administrator” means the control officer, except that the control officer shall not be empowered to approve alternate or equivalent test methods nor to deal with equivalency determinations or innovative technology waivers.
- C. From the general standards identified in subsection A, delete the following:
- 1. 40 CFR 60.4. All requests, reports, applications, submittals and other communication to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.
  - 2. 40 CFR 60.5, and 60.6.
- D. The control officer shall not be delegated authority to deal with equivalency determinations or innovative technology waivers as covered in sections 111(h)(3) and 111(j) of the Act. (Ord. 2004- § \_\_, Ord. 1997-79 § 9, 1997; Ord. 1994-83 § 59, 1994; Ord. 1993-128 § 4 (part), 1993); Ord. 1991-136 § 15, 1991; Ord. 1990-113 § 6, 1990; Ord. 1989-165 § 21, 1989; Ord. 1988-117 § 2, 1988; Ord. 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

**Article VII. National Emission Standards for Hazardous Air Pollutants**

**17.16.530 National Emissions Standards for Hazardous Air Pollutants (NESHAP)**

- A. Except as provided in subsections B, C, and D of this section, the following subparts of 40 CFR Part 61 (NESHAPs) and all accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.
- 1. Subpart A - General Provisions. (Section 61.01 – 61.19)
  - 2. Subpart B – Excluded
  - 23. Subpart C - Beryllium. (Section 61.20 – 61.26)
  - 34. Subpart D - Beryllium Rocket Motor Firing. (Section 61.40 – 61.44)
  - 45. Subpart E - Mercury. (Section 61.50 – 61.56)
  - 56. Subpart F - Vinyl Chloride. (Section 61.60 – 61.71)
  - 7. Subpart G - Reserved
  - 8. Subpart H – Excluded
  - 9. Subpart I – Excluded
  - 69. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene. (Section 61.110 – 61.112)
  - 10. Subpart K – Excluded
  - 71. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants. (Section 61.130 – 61.139)
  - 81. Subpart M - Asbestos. (Section 61.140 – 61.157 & Appendix A)
  - 91. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants. (Section 61.160 – 61.165)
  - 101. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters. (Section 61.170 – 61.177)
  - 111. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production. (Section 61.180 – 61.186)
  - 16. Subpart Q - Excluded
  - 17. Subpart R - Excluded
  - 18. Subpart S - Reserved
  - 19. Subpart T - Excluded

- ~~20.~~ Subpart U - Reserved
  - ~~21.~~ Subpart V - Equipment Leaks (Fugitive Emission Sources). (Section 61.240 – 61.247 & Tables)
  - ~~22.~~ Subpart W – Excluded
  - ~~23.~~ Subpart X - Reserved
  - ~~24.~~ Subpart Y - Benzene Emissions From Benzene Storage Vessels. (Section 61.270 – 61.277)
  - ~~25.~~ Subpart Z - Reserved
  - ~~26.~~ Subpart AA - Reserved
  - ~~27.~~ Subpart BB - Benzene Emissions from Benzene Transfer Operations. (Section 61.300 – 61.306)
  - ~~28.~~ Subpart CC - Reserved
  - ~~29.~~ Subpart DD - Reserved
  - ~~30.~~ Subpart EE - Reserved
  - ~~31.~~ Subpart FF - Benzene Waste Operations. (Section 61.340 – 61.359 & Appendices)
- B. Except as provided in subsection A, the following subparts of 40 CFR Part 63, NESHAPs for Source Categories and all accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.
- 1. Subpart A - General Provisions (Section 63.1 - 63.15)
  - 2. Subpart B - Requirements for Control Technology Determinations for major Sources in Accordance with Clean Air Act Sections 112(g) and 112(j) (Section 63.40 - 63.56)
  - 3. Subpart C - Excluded
  - ~~4.~~ Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants. (Section 63.70 - 63.81)
  - ~~5.~~ Subpart E - Excluded
  - ~~6.~~ Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (Section 63.100 - 63.107 & Tables)
  - ~~7.~~ Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (Section 63.110 - 63.152 & Appendix)
  - ~~8.~~ Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (Section 63.160 - 63.182 & Tables)
  - ~~9.~~ Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (Section 63.190 - 63.193)
  - ~~10.~~ Subpart J – Reserved
  - ~~11.~~ Subpart K – Reserved
  - ~~12.~~ Subpart L - National Emission Standards for Coke Oven Batteries. (Section 63.300 - 63.313 & Appendix)
  - ~~13.~~ Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities. (Section 63.320 - 63.325)
  - ~~14.~~ Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. (Section 63.340 - 63.347 & Table)
  - ~~15.~~ Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities (Section 63.360 - 63.367)
  - ~~16.~~ Subpart P - Reserved
  - ~~17.~~ Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers (Section 63.400 - 63.406 & Table)
  - ~~18.~~ Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations). (Section 63.420 - 63.429 & Table)
  - ~~19.~~ Subpart S - National Emission Standards for Pulp and Paper (Section 63.440 - 63.459 & Table)
  - ~~20.~~ Subpart T - National Emission Standards for Halogenated Solvent Cleaning. (Section 63.460 - 63.470 & Appendices)

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- ~~15~~19. Subpart U - Group I Polymers and Resins (Section 63.480 - 63.506 & Tables)
- 20. Subpart V - Reserved
- ~~15~~21. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production. (Section 63.520 - 63.528 & Table)
- ~~16~~22. Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting (Section 63.541 - 63.550)
- 23. Subpart Y - Excluded
- 24. Subpart Z - Reserved
- 25. Subpart AA – National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing Plants (Section 63.600 - 63.610 & Appendix)
- 26. Subpart BB – National Emission Standards for Hazardous Air Pollutant for Phosphate Fertilizers Production Plants (Section 63.620 - 63.631 & Appendix)
- ~~17~~27. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (Section 63.640 - 63.679 & Appendix)
- 28. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations (Section 63.680 - 63.698 & Tables)
- ~~18~~29. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations. (Section 63.701 - 63.708 & Table)
- 30. Subpart FF - Reserved
- ~~19~~31. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities (Section 63.741 - 63.759 & Table & Appendix)
- 32. Subpart HH – National Emission Standards for Oil and Natural Gas Production Facilities (Section 63.760 - 63.779 & Appendix)
- 33. Subpart II - Excluded
- ~~20~~34. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations (Section 63.800 - 63.819 & Tables)
- ~~21~~35. Subpart KK - National Emission Standards for the Printing and Publishing Industry (Section 63.820 - 63.839 & Tables)
- 36. Subpart LL - National Emission Standards for Primary Aluminum Reduction Plants (Section 63.840 - 63.859 & Tables & Appendix)
- 37. Subpart MM - Excluded
- 38. Subpart OO - National Emission Standards for Tanks- Level 1 (Section 63.900 - 63.907)
- 39. Subpart PP - National Emission Standards for Containers (Section 63.920 - 63.928)
- 40. Subpart QQ - National Emission Standards for Surface Impoundments (Section 63.940 - 63.948)
- 41. Subpart RR - National Emission Standards for Individual Drain Systems (Section 63.960 - 63.966)
- 42. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Section 63.980 - 63.999)
- 43. Subpart TT - National Emission Standards for Equipment Leaks -Control Level 1 (Section 63.1000 - 63.1018)
- 44. Subpart UU - National Emission Standards for Equipment Leaks -Control Level 2 (Section 63.1019 - 63.1039 & Table)
- 45. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators (Section 63.1040 - 63.1049)
- 46. Subpart WW - National Emission Standards for Storage Vessels (Tanks) – Control Level 2 (Section 63.1060 - 63.1066)
- 47. Subpart XX - Reserved
- 48. Subpart YY - National Emission Standards for Generic MACT Standards (Section 63.1100 - 63.1113)
- 49. Subpart ZZ – Reserved
- 50. Subpart AAA – Reserved
- 51. Subpart BBB - Reserved
- 52. Subpart CCC - National Emission Standards for Steel Pickling (Section 63.1156 - 63.1174 & Table)

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53. Subpart DDD - National Emission Standards for Mineral Wool Production (Section 63.1175 - 63.1199 & Table & Appendix)
54. Subpart EEE - National Emission Standards for Hazardous Waste Combustors (Section 63.1200 - 63.1213 & Table & Appendix)
55. Subpart FFF - Reserved
56. Subpart GGG - National Emission Standards for Pharmaceuticals Production (Section 63.1250 - 63.1261 & Tables)
57. Subpart HHH - National Emission Standards for Natural Gas Transmission and Storage Facilities (Section 63.1270 - 63.1289 & Appendix)
58. Subpart III - National Emission Standards for Flexible Polyurethane Foam Production (Section 63.1290 - 63.1309 & Appendix)
59. Subpart JJJ - National Emission Standards for Group IV Polymers and Resins (Section 63.1310 - 63.1335 & Tables)
60. Subpart KKK - Reserved
61. Subpart LLL - National Emission Standards for Portland Cement Manufacturing Industry (Section 63.1340 - 63.1359 & Table)
62. Subpart MMM - National Emission Standards for Pesticide Active Ingredient Production (Section 63.1360 - 63.1369 & Tables)
63. Subpart NNN - National Emission Standards for Wool Fiberglass Manufacturing (Section 63.1380 - 63.1399 & Table & Appendices)
64. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins (Section 63.1400 - 63.1419 & Tables)
65. Subpart PPP - National Emission Standards for Polyether Polyols Production (Section 63.1420 - 63.1439 & Tables)
66. Subpart QQQ - National Emission Standards for Primary Copper Smelting (Section 63.1440 - 63.1459 & Table & Figure)
67. Subpart RRR - National Emission Standards for Secondary Aluminum Production (Section 63.1500 - 63.1520 & Tables)
68. Subpart SSS - Reserved
69. Subpart TTT - National Emission Standards for Primary Lead Smelting (Section 63.1541- 63.1550)
70. Subpart UUU - National Emission Standards for Petroleum Refineries: Catalytic Cracking, Catalytic Reforming, And Sulfur Plan Units (Section 63.1560 - 63.1579 & Tables)
71. Subpart VVV--National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works (Section 63.1580 - 63.1595 & Table)
72. Subpart WWW - Reserved
73. Subpart XXX - National Emission Standards for Ferroalloys Production (Section 63.1620 - 63.1679)
74. Subpart AAAA - National Emission Standards for Municipal Solid Waste Landfills (Section 63.1930 - 63.1990 & Appendix)
75. Subpart CCCC - National Emission Standards for Manufacturing of Nutritional Yeast (Section 63.2130 - 63.2192 & Appendices)
76. Subpart DDDD - Reserved
77. Subpart EEEE - National Emission Standards for Organic Liquids Distribution (Non-Gasoline) (Section 63.2330 - 63.2406 & Appendices)
78. Subpart FFFF--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (Section 63.2430 - 63.2550 & Appendices)
79. Subpart GGGG - National Emission Standards for Solvent Extraction for Vegetable Oil Production (Section 63.2830 - 63.2872)
80. Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production (Section 63.2980 - 63.3079 & Appendices)

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81. Subpart JJJJ - National Emission Standards for Paper and Other Web Coating (Section 63.2130 - 63.2192 & Appendices)
82. Subpart KKKK--National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans (Section 63.3480 - 63.3561 & Appendices)
83. Subpart MMMM--National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products (Section 63.3880 - 63.3981 & Appendices)
84. Subpart NNNN - National Emission Standards for Large Appliances (Section 63.4080 - 63.4181 & Appendices)
85. Subpart OOOO--National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles (Section 63.4280 - 63.4371 & Appendices)
86. Subpart QQQQ - National Emission Standards for Wood Building Products (Section 63.4680 - 63.4781 & Appendices)
87. Subpart RRRR - National Emission Standards for Surface Coating of Metal Furniture (Section 63.4880 - 63.4981 & Appendices)
88. Subpart SSSS - National Emission Standards for Surface Coating of Metal Coil (Section 63.5080 - 63.5206 & Appendices)
89. Subpart TTTT - National Emission Standards for Leather Finishing Operations (Section 63.5280 - 63.5460 & Appendices)
90. Subpart UUUU - National Emission Standards for Cellulose Products Manufacturing (Section 63.5480 - 63.5610 & Appendices)
91. Subpart VVVV - National Emission Standards for Boat Manufacturing (Section 63.5680 - 63.5779 & Appendices)
92. Subpart WWWW - National Emission Standards for Reinforced Plastics Composites Production (Section 63.5780 - 63.5935 & Appendices)
93. Subpart XXXX - National Emission Standards for Tire Manufacturing (Section 63.5980 - 63.6015 & Appendices)
94. Subpart YYY Y--National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines (Section 63.6080 - 63.6175 & Appendices)
95. Subpart ZZZZ - Reserved
96. Subpart AAAAA--National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants (Section 63.7080 - 63.7143 & Appendices)
97. Subpart BBBB - National Emission Standards for Semiconductor Manufacturing (Section 63.7180 - 63.7195 & Appendices)
98. Subpart CCCC - National Emission Standards for Coke Oven: Pushing, Quenching and Battery Stacks (Section 63.7280 - 63.7352 & Appendix)
99. Subpart DDDDD - Reserved
100. Subpart EEEEE--National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries (Section 63.7680 - 63.7765 & Appendix)
101. Subpart FFFFF - National Emission Standards for Integrated Iron and Steel (Section 63.7780 - 63.7852 & Appendices)
102. Subpart GGGG--National Emission Standards for Hazardous Air Pollutants: Site Remediation (Section 63.7880 - 63.7957 & Appendices)
103. Subpart HHHHH--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing (Section 63.7980 - 63.8105 & Appendices)
104. Subpart IIII--National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants (Section 63.8180 - 63.8266 & Appendices)
105. Subpart JJJJ - National Emission Standards for Brick and Structural Clay Products Manufacturing (Section 63.8380 - 63.8515 & Appendices)
106. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (Section 63.8530 - 63.8665 & Appendices)
107. Subpart LLLL - National Emission Standards for Asphalt Roofing and Processing (Section 63.8680 - 63.8698 & Appendices)

- 108. Subpart MMMMM - National Emission Standards for Flexible Polyurethane Foam Fabrication Operation (Section 63.8780 - 63.8830 & Appendices)
  - 109. Subpart NNNNN--National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production (Section 63.8980 - 63.9075 & Appendices)
  - 110. Subpart OOOOO - Reserved
  - 111. Subpart PPPPP - National Emission Standards for Engine Test Cells/Stands (Section 63.9280 - 63.9375 & Appendices)
  - 112. Subpart QOOQQ - National Emission Standards for Friction Products Manufacturing (Section 63.9480 - 63.9579 & Appendix)
  - 113. Subpart RRRRR--National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing (Section 63.9580 - 63.9652 & Appendices)
  - 114. Subpart SSSSS - National Emission Standards for Refractory Products Manufacturing (Section 63.9780 - 63.9824 & Appendices)
  - 115. Subpart TTTTT--National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining (Section 63.9880 - 63.9942 & Appendices)
- C. When used in 40 CFR Part 61 or part 63, “Administrator” means the control officer except that the control officer shall not be authorized to approve alternate or equivalent test methods or alternate standards/work practices.
- D. From the general standards identified in subsection A of this section delete 40 CFR 61.04. All requests, reports, applications, submittals and other communications to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.
- E. The control officer shall not be delegated authority to deal with equivalency determinations that are nontransferable through section 112(e)(3) of the Act. (Ord. 2004- §, Ord. 1998-27 § 15, 1998; Ord. 1997-79 § 10, 1997; Ord. 1995-87 § 49, 1995; Ord. 1994-83 § 60, 1994; Ord. 1993-128 § 4 (part), 1993; Ord. 1991-136 § 14, 1991; Ord. 1988-117 § 1, 1988; Ord 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

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**17.16.700 Alternative Emission limitations.**

40 CFR 63 Subpart D, “Regulations governing compliance extensions for early reductions of hazardous air pollutants” and all accompanying appendices, adopted as of July 1, ~~1996-2004~~, and no future editions is adopted by reference. (Ord. 2004- §, Ord. 1997-79 § 11, 1997)

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SECTION 5. Chapter 17.28, Section 17.28.065, is hereby amended to read:

**Chapter 17.28  
VIOLATIONS AND CONDITIONAL ORDERS**

\*\*\*\*

**17.28.065 Excess Emissions.**

A.A.C. R18-2-310 and R18-2-310.01 as of February 15, 2001 ~~is~~ are hereby adopted in its entirety and ~~is~~ are incorporated herein by this reference, except that all references to the “Director” shall be to the “Control Officer”. (Ord. 2004- §, Ord. 1997-79 § 14, 1997)

**Table 17.16.040**  
**EMISSIONS-DISCHARGE OPACITY LIMITING STANDARDS**

Type of Source	Instantaneous Opacity Measurements			Maximum Allowable Average Opacity, %
	Required Number (For a Set)	Excluded Number (Highest Values)	Number to Use For Averaging	
Asbestos Containing Operation <sup>1</sup>	25	0	25	0
Cold Diesel Engines <sup>2</sup>	25	0	25	60
Loaded Diesel Engines <sup>3</sup>	26	1	25	60
Incinerators	27	2	25	20
Portland Cement Plants <sup>4</sup>	25	0	25	20
Other Sources <sup>5</sup>	25	0	25	<u>4020</u>

<sup>1</sup> An asbestos mill, manufacturing or fabrication operation which uses asbestos as a raw material, or spraying operation which sprays materials containing more than 1% asbestos by weight.

<sup>2</sup> Applicable to the first 10 consecutive minutes after starting up a diesel engine.

<sup>3</sup> Applicable to a diesel engine being accelerated under load.

<sup>4</sup> Applicable to kiln, clinker cooler, and other process equipment.

<sup>5</sup> Any source not otherwise specifically covered within this table, unless otherwise specifically covered in this chapter.

(Ord. 2004- § \_\_, Ord. 1993-128 § 4, 1993; Ord. 1979-93 (part), 1979)

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**SECTION 6.** If any of the provisions of this ordinance or the application thereof to any person or circumstance is invalid, the invalidity shall not effect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and do this end the provisions of this ordinance are severable.

**SECTION 7.** This ordinance shall become effective 31 days from the date of adoption.

**PASSED AND ADOPTED** by the Board of Supervisors, Pima County, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

**PIMA COUNTY BOARD OF  
SUPERVISORS**

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy County Attorney

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# COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

Because each county writes rules and regulations in its own unique style, County Notices published in the *Register* do not conform to the standards of the *Arizona Rulemaking Manual*. With the exception of minor formatting changes, the rules (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

## NOTICE OF FINAL RULEMAKING

### PIMA COUNTY AIR QUALITY CONTROL REGULATIONS

#### PIMA COUNTY CODE

#### TITLE 17 – AIR QUALITY CONTROL

#### CHAPTER 4 GENERAL PROVISIONS

#### CHAPTER 8 AMBIENT AIR QUALITY STANDARDS

#### CHAPTER 12 PERMIT AND PERMIT REVISIONS

#### CHAPTER 16 EMISSION LIMITING STANDARDS

#### CHAPTER 28 VIOLATIONS AND CONDITIONAL ORDERS

#### PREAMBLE

**1. Sections Affected**

PCC 17.04.070  
PCC 17.08.110  
PCC 17.08.130  
PCC 17.12.060  
PCC 17.12.070  
PCC 17.12.140  
PCC 17.12.160  
PCC 17.12.170  
PCC 17.12.180  
PCC 17.12.210  
PCC 17.12.365  
PCC 17.12.480  
PCC 17.12.490  
PCC 17.12.540  
PCC 17.16.130  
PCC 17.16.165  
PCC 17.16.430  
PCC 17.16.530  
PCC 17.16.700  
PCC 17.28.065  
Table 17.16.040

**Rulemaking Action**

Amend  
Amend

**2. Statutory authority for the rulemaking:**

A.R.S. § 49-112  
A.R.S. § 49-471.04  
A.R.S. § 49-471.08  
A.R.S. § 49-473  
A.R.S. § 49-479

**3. The effective date of the rules:**

November 18, 2004

**4. List of all previous notices appearing in the register addressing the proposed rule or ordinance and a concise explanatory statement.**

Notice of Expedited Rulemaking: 10 A.A.R., Volume 37, September 10, 2004 (page 3764 – 3792)

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jean Parkinson  
Program Coordinator  
Address: Pima County DEQ  
150 W. Congress  
Tucson, AZ 85701  
Telephone: (520) 740-3978  
Fax: (520) 882-7709  
E-mail: Jean.Parkinson@DEQ.CO.PIMA.AZ.US

**6. An explanation of the rule, including the Control Officer's reasons for initiating the rule:**

Summary: This rulemaking contains amendments to Pima County Code Title 17, which makes corrections to typographical errors; conforms to directly reflect federal and state rule or law, and incorporates by reference provisions of the Arizona Administrative Code and the U.S. Code of Federal Regulations.

Statutory Authority: A.R.S. § 49-471.08 – Expedited rule or Ordinance making – provides a statutory mechanism for a declaration of an expedited process if the rulemaking is a conforming change to directly reflect federal or state rule or law.

Background: Periodically the Pima County Department of Environmental Quality updates and conforms to the Arizona Administrative Code and the Code of Federal Regulations in an effort to achieve consistency and accuracy in Air Quality Regulations for Pima County. The last conforming changes to Title 17 were in 1999.

Section by Section Analysis

PCC 17.04.070	Amend	Updates Code of Federal Regulation references to 2004 version
PCC 17.08.110	Amend	Conforms to CFR part 81 § 81.303, designating Tucson planning area as Attainment for CO
PCC 17.08.130	Amend	Conforms to CFR part 81 § 81.303, designating Ajo planning area as Maintenance for SO <sub>2</sub>
PCC 17.12.060	Amend	Conforms to Arizona Administrative Code § R18-2-313, Existing Source Emission Monitoring
PCC 17.12.070	Amend	Adds subsection references to clarify the rule requirement
PCC 17.12.140	Amend	Conforms to Arizona Administrative Code § R18-2-302, Applicability; Classes of Permits
PCC 17.12.160	Amend	Removes an unnecessary subsection reference.
PCC 17.12.170	Amend	Conforms to Arizona Administrative Code § R18-2-305, Public Records; Confidentiality
PCC 17.12.180	Amend	Conforms to Arizona Administrative Code § R18-2-306, Permit Contents
PCC 17.12.210	Amend	Conforms to Arizona Administrative Code § R18-2-306, Compliance Plan Certification
PCC 17.12.365	Amend	Updated the reference date from July 1, 1996 to July 1, 2004
PCC 17.12.480	Amend	Conforms to Arizona Administrative Code § R18-2-602, Unlawful Open Burning
PCC 12.12.490	Repeal	Repeal Provision relating to standard permit requirements for open burning.
PCC 17.12.540	Amend	Removes outdated Activity Permit Fee Schedule from the code.
PCC 17.16.130	Amend	Conforms to Arizona Administrative Code § R18-2-702, General Provisions
PCC 17.16.165	Amend	Corrects an incorrect code reference within the provision.
PCC 17.16.430	Amend	Typographical error, adds a comma within a series
PCC 17.16.490	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Standards of Performance for New Stationary Sources (NSPS), pursuant to 40 CFR Part 60

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PCC 17.16.530	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Emissions Standards for Hazardous Pollutants, (NESHAP), pursuant to 40 CFR Part 61
PCC 17.16.700	Amend	Updates and renumbers incorporation by reference to 2004 version of Federal National Emission Standards for Hazardous Air Pollutants for Source Categories (NESHAP), pursuant to 40 CFR 63
PCC 17.28.065	Amend	Incorporates by reference Arizona Administrative Code § R18-2-310.01
TABLE 17.16.040	Amend	Conforms to Arizona Administrative Code § R18-2-702, General Provisions

**7. Reference to any study relevant to the rule that the Control Officer reviewed and either relied or did not rely on in its evaluation of or justification for the rule, where the public may review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No studies were reviewed in reference to this rulemaking action.

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

Not applicable

**9. The preliminary summary of the economic, small business, and consumer impact:**

Pima County is proposing to update its incorporations by reference of the following federal regulations: New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and Acid Rain. These revisions should not have an economic impact on businesses in Pima County, and should not impose additional costs on the regulated community, small businesses, political subdivisions, and members of the public beyond that already incurred by reason of Federal or State law. In addition, Pima County is updating rules to conform to the Arizona Administrative Code and recent rule amendments finalized by the Arizona Department of Environmental Quality. These revisions should not have an economic impact on Pima County businesses beyond that already incurred by reason of State law.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor technical and grammatical changes were made.

**11. A summary of the comments made regarding the rule and the agency response to them:**

None

**12. Any other matters prescribed by the statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

New incorporations by reference (subparts or larger):

<u>Incorporations by Reference updated to July 1, 2004 (may include new sections)</u>	<u>Location</u>
40 CFR Part 60, July 1, 2004 (NSPS)	17.16.490
40 CFR Part 61, July 1, 2004 (NESHAP)	17.16.530 (A)
40 CFR Part 63, July 1, 2004 (NESHAP)	17.16.530 (B)
40 CFR Part 63 Subpart D, July 1, 2004 (Alternative Emission Limitation)	17.16.700
40 CFR Part 72, July 1, 2004 (Acid Rain)	17.12.365
A.A.C. Rule 18-2-310 and Rule 18-2-310.01, February 15, 2001	17.28.065

**14. Were these rules previously made as emergency rules?**

No. These rules were previously published as "Expedited," in accordance with A.R.S. § 49-471.08 (A).

**15. The full text of the rule follows:**

**TITLE 17 OF THE PIMA COUNTY CODE**

**AIR QUALITY CONTROL**

**ORDINANCE 2004 - 97**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO THE ENVIRONMENT AND AIR QUALITY; AMENDING CHAPTERS 17.04; 17.08; 17.12; 17.16; 17.28 TO CONFORM**

**WITH CORRESPONDING STATE AND FEDERAL AIR QUALITY REGULATIONS.**

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:**

**SECTION 1.** Chapter 17.04, Section 17.04.070 is hereby amended to read:

**Chapter 17.04**

**GENERAL PROVISIONS**

\*\*\*\*

**17.04.070 Incorporated Materials.**

\*\*\*\*

3. All parts of the CFR referenced in this Title are amended as of July 1, ~~1996~~ 2004 unless specifically indicated otherwise.

\*\*\*\*

(Ord. 2004-97 § 1, Ord. 1997-79 § 1, 1997; Ord. 1995-87 § 2, 1995; Ord. 1993-128 § 1, 1993)

**SECTION 2.** Chapter 17.08 is hereby amended by amending, Sections 17.08.110 and 17.08.130 to read as follows:

**Chapter 17.08**

**AMBIENT AIR QUALITY STANDARDS**

\*\*\*\*

**17.08.110 Tucson CO ~~nonattainment~~ area**

A. An area defined by the following ~~geographic~~ Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an ~~nonattainment~~ area for CO:

**LATITUDELONGITUDE**

32°38.5'N111°24.0'W

32°26.5'N110°47.5'W

32°12.5'N110°32.5'W

31°49.5'N110°25.5'W

**LATITUDELONGITUDE**

31°42.0'N110°50.5'W

31°52.5'N111°12.5'W

32°24.5'N111°29.0'W

~~All portions of Coronado National Forest and Saguaro National Monument lying within the nonattainment area are excluded.~~

~~B. The Tucson nonattainment area for CO shall be a Class II attainment area for SO<sub>2</sub>, NO<sub>2</sub>, and O<sub>3</sub>, and unclassified for PM<sub>10</sub>.~~

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<u>Designated Area</u>	<u>Designation</u>		<u>Classification</u>	
	<u>Date</u>	<u>Type</u>	<u>Date</u>	<u>Type</u>
<u>Tucson Area:</u> <u>Pima County</u> <u>Township and Ranges as follows:</u> <u>T11-12S, R12-14E; T13-15S, R11-</u> <u>16E; and T16S, R12-16E Gila and</u> <u>Salt River Baseline and Meridian</u> <u>excluding portions of the Saguaro</u> <u>National Monument and the</u> <u>Coronado National Forest.</u>	<u>July 10, 2000</u>	<u>Attainment</u>		

(Ord. 2004-97 § 2, Ord. 1993-128 § 2, 1993; Ord. 1986-227 § 1 (part), 1986; Ord. 1985-183 (part), 1985; Ord. 1983-196 (part), 1983)

**17.08.130 Ajo nonattainment area.**

A. ~~An area encompassing Ajo and its immediate surroundings shall be a nonattainment area for SO<sub>2</sub>, defined by the following township/range/section coordinates:~~

~~T11S R6W, T11S R5W;  
T12S R6W, T12S R5W;  
T13S R6W.~~

A. An area defined by the following Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an attainment area for SO<sub>2</sub>:

<u>Designated Area</u>	<u>Does not meet primary standards</u>	<u>Does not meet secondary standards</u>	<u>Cannot be classified</u>	<u>Better than nations standards</u>
<u>Ajo (T11-13S, R5W-R6W)</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>X</u>

\*\*\*\*

(Ord. 2004-97 § 2, Ord. 1993-128 § 2, 1993; Ord. 1985-183 (part), 1985; Ord. 1983-196 (part), 1983)

**SECTION 3.** Chapter 17.12 is hereby amended by amending Sections 17.12.060, 17.12.070, 17.12.140, 17.12.160, 17.12.170, 17.12.180, 17.12.210 and 17.12.540 to read as follows:

**Chapter 17.12**

**PERMITS AND PERMIT REVISIONS**

\*\*\*\*

**17.12.060 Existing source emission monitoring.**

A. Every source subject to an existing source performance standard as specified in this title shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this Section for the applicable source category.

1. Applicability.

a. Fossil fuel-fired steam generators as specified in ~~subdivision 1 of subsection C~~ (C)(1) of this Section, shall be

- monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
- b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in ~~subdivision 4~~ of subsection ~~€ (C)(4)~~ of this Section, shall be monitored for opacity.
  - c. Sulfuric acid plants, as specified in ~~subdivision 3~~ of subsection ~~€ (C)(3)~~ of this Section, shall be monitored for sulfur dioxide emissions.
  - d. Nitric acid plants, as specified in ~~subdivision 2~~ of subsection ~~€ (C)(2)~~ of this Section, shall be monitored for nitrogen oxides emissions.
2. ~~Exemptions.~~
- a. Emission monitoring shall not be required when the source of emissions is not operating.
3. Variations.
- a. Unless otherwise prohibited by the Act, the control officer may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the control officer on a case-by-case basis and shall include as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Section. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1994-83 § 6, 1994: Ord. 1993-128 § 3 (part), 1993)

#### 17.12.070 Quality assurance.

Facilities subject to permit requirements of this chapter shall submit a quality assurance plan to the control officer that meets the requirements of 17.12.040(D)(3) within twelve months of the effective date of this section. Facilities subject to the requirements of 17.12.060 shall submit a quality assurance plan as specified in the permit. (Ord. 2004-97 § 3, Ord. 1995-87 § 10, 1995; Ord. 1994-83 § 7, 1994: Ord. 1993-128 § 3 (part), 1993)

\*\*\*\*

#### 17.12.140 Applicability; classes of permits.

\*\*\*\*

- B. There shall be two classes of permits as follows:
1. A Class I permit shall be required for a person to commence construction of or operate any of the following:
    - a. Any major source.
    - b. Solid waste incineration units required to obtain a permit pursuant to section 129 (e) of the Act (Solid Waste Combustion).
    - c. An affected source.
    - d. Any source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the control officer by rule.
  2. Unless a Class I permit is required, a Class II permit shall be required for:
    - a. A person to commence construction of or modify either of the following:
      - (i) ~~A source that emits with controls, or has the potential to emit with controls, ten (10) tons per year or more of any hazardous air pollutant listed under A.R.S. § 49-426.04 (A)(1) or twenty-five (25) tons per year of any combination of hazardous air pollutants.~~
      - (ii) ~~A source that is within a category designated pursuant to A.R.S. 49-426.05 and that emits, or has the potential to emit, with controls one (1) ton per year or more of a hazardous air pollutant or two and one-half (2½) tons per year of any combination of hazardous air pollutants.~~
    - b. ~~A person to commence construction of or operate any of the following:~~
      - (i) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act (Standards of Performance for New Stationary Sources).
      - (ii) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act.
      - (iii) Any source that emits, or has the potential to emit, without controls, significant quantities of regulated air pollutants.
      - (iv) Stationary rotating machinery of greater than 325 brake horsepower.
      - (v) Fuel-burning equipment which, at a location or property other than a one or two family residence, are fired at a sustained rate of more than one million BTU per hour for more than an eight hour period.

- e. ~~A person to make a modification to a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than those specified in items i and ii of paragraph a and item iii of paragraph b of this subdivision.~~
- b. A person to modify a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than or equal to those specified in subsection (B)(2)(a)(iii).

\*\*\*\*

- D. No person may construct or reconstruct any major source of hazardous air pollutants unless the control officer determines that maximum achievable control technology emission limitation (MACT) for new sources under section 112 of the Act will be met. ~~Where~~ 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 17.16.530.B. For purposes of this subsection, construction and reconstructing a major source shall have the meanings prescribed in 40 CFR 63.41. (Ord. 2004-97 § 3, Ord. 1998-27 § 3, 1998; Ord. 1995-87 § 11, 1995; Ord. 1994-83 § 11, 1994; Ord. 1993-128 § 3 (part), 1993)

\*\*\*\*

**17.12.160 Permit application processing procedures.**

\*\*\*\*

- C. Unless otherwise required by 17.12.150 ~~B. through F.~~, a timely application is:
1. For a source, other than a major source, applying for a permit for the first time, one that is submitted within 12 months after the source becomes subject to the permit program.
  2. For purposes of permit renewal, a timely application is one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.
  3. For initial phase II acid rain permits under Title IV of the Act and regulations incorporated pursuant to section 17.12.365, one that is submitted to the control officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.
  4. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1998-27 § 4, 1998; Ord. 1997-79 § 4, 1997; Ord. 1995-87 § 12, 1995; Ord. 1994-83 § 13, 1994; Ord. 1993-128 § 3 (part), 1993)

**17.12.170 Public records; confidentiality.**

\*\*\*\*

- B. Any records, reports or information obtained from any person under this title, including records, reports or information obtained or prepared by the control officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:
1. A showing, satisfactory to the control officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person. A request for confidentiality shall:
    - a. Precisely identify the information in the documents submitted which is considered confidential.
    - b. Contain sufficient supporting information to allow the control officer to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.
  2. A determination by the county attorney that disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this chapter in superior court.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1994-83 § 14, 1994; Ord. 1993-128 § 3 (part), 1993)

**17.12.180 Permit contents.**

- A. Each permit issued shall include the following elements:

\*\*\*\*

3. Each permit shall contain the following requirements with respect to monitoring:

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- a. ~~All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions), and including any monitoring and analysis procedures or test methods required pursuant to section 17.12.220;~~
- b. ~~Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported pursuant to subdivision A.4 of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required pursuant to section 17.12.220. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and~~
- e. ~~As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.~~
- 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 17.12.220.
- b. 40 CFR 64 as codified July 1, 2004, is incorporated by reference and on file with the control officer. 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 relevant 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 conventions consistent with the applicable requirement, and as otherwise required under 17.12.220. Recordkeeping 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.

\*\*\*\*

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 paragraph (B)(2) of this subsection, all terms and conditions in a Class I permit, including any provisions designed to limit a source's potential to emit.
  - b. Terms or conditions in a Class II permit setting forth federal applicable requirements,
  - c. Terms and conditions in any permit which are entered into voluntarily pursuant to section 17.12.220, as follows:
    - (i) Emissions limitations, controls or other requirements.
    - (ii) Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in ~~subdivision (i) of this subparagraph~~ in subsection (B)(1)(c)(i)
- 2. Notwithstanding ~~subparagraph subsection (B)(1)(a) of this subsection~~, the control officer 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 requirements.

\*\*\*\*

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, which situation requires immediate corrective action to restore normal operation and that causes the sources to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emission attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.
- 2. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of ~~subdivision 3 of this 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 that the permittee can identify the cause(s) of the emergency;
  - b. The permitted facility was at the time 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 control officer by certified mail or hand delivery within two (2) 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.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1998-27 § 5, 1998; Ord. 1995-87 § 13, 1995; Ord. 1994-83 § 15, 1994; Ord. 1993-128 § 3 (part), 1993)

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#### 17.12.210 Compliance plan; certification.

- A. All permits shall contain the following elements with respect to compliance:
1. The elements required by 17.12.180(A)(3), (4), and (5).
  2. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
    - a. The frequency for 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 the following:
      - (i) ~~The identification of each term or condition of the permit that is the basis of the certification;~~
      - (ii) ~~The compliance status;~~
      - (iii) ~~Whether compliance was continuous or intermittent;~~
      - (iv) ~~The method(s) used for determining the compliance status of the source, currently and over the reporting period; and~~
      - (v) ~~Other facts as the control officer may require to determine the compliance status of the source.~~
- The identification of each term or condition of the permit that is the basis of the certification;  
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 under 17.12.180(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 false certification or omitting material information;  
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 for consideration 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  
Other facts the control officer may require to determine the compliance status of the source.
- d. A requirement that permittees submit all compliance certifications ~~be submitted~~ to the control officer, ~~and for Class I permits, permittees shall also submit compliance certifications to the Administrator as well.~~
  - e. Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions) or pursuant to section 17.12.220.

\*\*\*\*

(Ord. 2004-97 § 3, Ord. 1998-27 § 7, 1998; Ord. 1995-87 § 14, 1995; Ord. 1994-83 § 17, 1994; Ord. 1993-128 § 3 (part), 1993)

\*\*\*\*

#### 17.12.365 Acid Rain

- A. The following subparts of 40 CFR Part 72, Permits Regulation, and all accompanying appendices, adopted as of July 1, ~~1996~~2004, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the

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Department, and shall be applied by the Department.

- C. If the provisions or requirements of the regulations incorporated pursuant to this section conflict with any of the remaining portions of the Title, the regulations incorporated pursuant to this section shall apply and take precedence. (Ord. 2004-97 § 3; Ord. 1997-79 § 7, 1997; Ord. 1995-87 § 19, 1995)

\*\*\*\*

**17.12.480 Open burning permits.**

- A. ~~A person who plans to ignite, allow, or maintain any outdoor fire except as specifically exempted herein shall obtain an open burning permit from the control officer before commencing the burning.~~
- B. ~~Specific types of open outdoor fires which require open burning permits, as well as those types of fires which do not require permits, are identified in Table 17.12.480. Any open burning not listed in Table 17.12.480 is prohibited.~~
- A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:
1. “Agricultural Burning” means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.
  2. “Air Curtain Destructor” means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
  3. “Approved waste burner” means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.
  4. “Class I Area” means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
  5. “Construction burning” means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
  6. “Dangerous material” means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
  7. “Emission reduction techniques” means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
  8. “Flue,” as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
  9. “Household waste” means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, demolition debris or prohibited materials.
  10. “Independent authority to permit fires” means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
  11. “Open outdoor fire or open burning” means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
  12. “Prescribed burning” means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning.
  13. “Prohibited materials” means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.
  14. “Residential burning” means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.
- B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.
- C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the control

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officer or a delegated authority:

1. Fires used only for:
    - a. Cooking of food.
    - b. Providing warmth for human beings.
    - c. Recreational purposes.
    - d. Branding of animals.
    - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
    - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
  2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
    - a. Control of an active wildfire; or
    - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
  3. Fire set by or permitted by the control officer of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
  4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions.
- D. Open outdoor fires requiring a permit.
1. The following open outdoor fires are allowed with an open burning permit from the control officer or a delegated authority:
    - a. Construction burning;
    - b. Agricultural burning;
    - c. Residential burning;
    - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under;
    - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
    - f. Open outdoor fires of dangerous material under subsection (E);
    - g. Open outdoor fires of household waste under subsection (F); and
    - h. Open outdoor fires that use an air curtain destructor, as defined in 17.12.480 (A)(2).
  2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an PDEQ-approved application form.
  3. Open outdoor fire permits issued under this Section shall include:
    - a. A list of the materials that the permittee may burn under the permit;
    - b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;
    - c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:
      - i. Year-round: ignite fire no earlier than one hour after sunrise; and
      - ii. Year-round: extinguish fire no later than two hours before sunset;
    - d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
      - i. Prevent dispersion of smoke into populated areas;
      - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
      - iii. Do not create a public nuisance or adversely affect public safety;
      - iv. Do not cause an adverse impact to visibility in a Class I area; and
      - v. Do not cause uncontrollable spreading of the fire;
    - e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions.;
    - f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:
      - i. The date of each burn;
      - ii. The type and quantity of fuel burned for each date open burning occurred;
      - iii. The fire type, such as pile or pit, for each date open burning occurred; and
      - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
    - g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire pro-

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tection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;

- h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
  - i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
  - j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;
  - k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;
  - l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
  - m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
  - n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared by ADEQ or PDEQ;
  - o. A statement that the control officer, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
  - p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.
4. The control officer or a delegated authority shall not issue an open burning permit under this Section:
- a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;
  - b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or
  - c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the control officer has not issued a variance under A.R.S. § 49-763.01.
- E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the control officer has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The control officer shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.
- F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the control officer or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:
- 1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or
  - 2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.
- G. The control officer shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.
- H. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.
- ¶. The term of any open burning permit shall be as specified by the control officer, subject to the following limitations:
- 1. The term of a temporary open burning permit shall not exceed three consecutive or non-consecutive days within a thirty-day period, and
  - 2. The term of an extended open burning permit shall expire as specified on the original application, and shall in no case exceed ninety days. (Ord. 2004-97 § 3; Ord. 1987-175 § 4, 14, 1987: Ord. 1981-12 (part), 1981: Ord. 1979-93 (part), 1979)

**17.12.490 Standard Permit Requirements.**

- A. A person granted an open burning permit must comply with the following:
- 1. Permissible burning hours are noon to four p.m. unless stated otherwise on the permit;
  - 2. Burning must be at a safe distance from structures;
  - 3. Burning must be constantly attended with reasonable control tools at hand;
  - 4. Burning may not be conducted on public land or on other land not owned or leased by the permittee without written permission from the owner or land manager;
  - 5. Fire must be dead out when left; and
  - 6. The burning of materials other than those specified by the permit is prohibited. (Ord. 1979-93 (part), 1979)

**17.12.540 Activity Permit Fees**

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<b>Table 17.12.540</b> <b>ACTIVITY PERMIT FEES SCHEDULE (effective until July 1, 2003)</b>			
S.S.1	ACTIVITY	RATE COMPONENTS	EXEMPTIONS
A	Landstripping and/or Earthmoving	1 to 5 acres \$89.28 plus \$8.93 per each additional acre or fraction thereof	< 1 acre
B	Trenching	300 feet of aggregate trenching \$17.86 base plus \$0.036 per each additional ft.	< 300 ft; trenching for landscaping
C	Road Construction	50 ft. of aggregate road construction \$17.86 base plus \$0.09 per each additional ft.	< 50 ft
D	Activity permit for NES-HAP facilities	\$420.00	See Exemption Note
E	Blasting	\$18.00 plus \$3.53 per day of blasting	None

Exemption Note:  
 < 260 linear feet on pipes;  
 < 160 square feet on other facility components;  
 < 35 cubic feet off facility components

Example Permit Fee Calculations

1. Permit for clearing 4 acres: \$89.28
2. Permit for earthmoving on 9 acres:
  - \_\_\_\_\_ First five acres = \$89.28
  - Remaining four acres =  $8.93 \times 4 = \$35.72$
  - \_\_\_\_\_ Total = \$125.00
3. Permit for trenching 500 feet:
  - \_\_\_\_\_ Base fee for the first 300 feet = \$17.86
  - Remaining 200 feet =  $200 \times 0.036 = \$7.20$
  - \_\_\_\_\_ Total = \$25.06

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1Sub-schedule for identification only.  
 (Ord. 1995-87 §26, 1995; Ord. 1994-83 §44, 1994; Ord. 1993-128 §3 (part), 1993; Ord. 1990-113 §16, 1990; Ord. 1989-165 §17 (part), 1989; Ord. 1987-175 §18, 1987)

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**SECTION 4.** Chapter 17.16, Sections 17.16.130, 17.16.165, 17.16.430, 17.16.430, and 17.16.700 are hereby amended to read:

**Chapter 17.16**

**EMISSION LIMITING STANDARDS**

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**17.16.130 Applicability.**

- A. This article shall apply only to ~~emissions which enter the atmosphere by passing through a vent, stack, flue, or other similar containing or restrictive device, or which by reasonable modification of the emissions source the emissions can be directed through such a device for testing purposes—a source that is all of the following:~~
1. An existing source, as defined in 17.04.340;
  2. A point source. For the purposes of this Section, “point source” means a source of air contaminants that has an iden-

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- tifiable plume or emissions point; and
3. A stationary source, as defined in 17.04.340.
- ~~B.~~ Where the nature of a process, operation, or activity allows more than one interpretation of a requirement in this Chapter, the more restrictive or most restrictive interpretation shall apply.
- ~~CB.~~ Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (a), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be: ~~Shall not be greater than 40 percent, and~~
1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the control officer as provided in subsection (D) and (E), after the effective date of this rule.
- ~~Shall be determined by reference Method 9 of the Arizona Testing Manual.~~
2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).
- ~~DC.~~ ~~Where~~ If the presence of uncombined water is the only reason for ~~the an~~ exceedance of any visible emissions requirement in this Article, ~~such the~~ exceedance shall not constitute a violation ~~of the applicable opacity limit.~~
- ~~ED.~~ A person owning or operating ~~an air pollution a~~ source may ~~ask~~ petition the control officer for ~~a determination on meeting the requirements of the an alternative applicable opacity standard limit.~~ The petition shall be submitted to PDEQ within ~~three months after the effective date of this rule.~~
- ~~The owner or operator shall submit the written reports of the results of the performance tests, the opacity observation results, and observer certification.~~
1. The petition shall contain:
- a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
- i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
- ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
- iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
- b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
- c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- ~~2.~~ ~~If the control officer finds that the facility is in compliance with all applicable standards for the performance test and still fails to meet the applicable opacity standard, he shall notify the owner or operator of the finding.~~
2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
- a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
- b. Evidence that the source conducted the stack tests according to 17.12.050, and that they were witnessed by the control officer or the control officer's agent or representative.
- c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
- ~~3.~~ ~~The owner or operator may petition the control officer within ten days of receipt of notification, asking the control officer to make an appropriate adjustment to the opacity standard for the facility.~~
3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
- a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
- b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.
- ~~4.~~ ~~The control officer may grant the petition after public notice and opportunity for public hearing takes place, and upon~~

- a demonstration by the owner or operator that:
- a. ~~The affected facility and the associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance test.~~
  - b. ~~The performance tests were performed under the conditions established by the control officer.~~
  - c. ~~The affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the opacity requirement.~~
5. ~~The control officer may establish an opacity standard for the affected facility based on the determination made in subdivision 4 of this subsection. The opacity standard shall be set at a level indicated by the performance and opacity tests, providing that the source will be able to meet the mass or concentration standard and the opacity standard at all times. Such opacity standard shall be incorporated as a condition of the permit for the affected facility.~~
  6. ~~The control officer shall publish the opacity standard once in one or more newspapers of general circulation in the county.~~
- F. ~~The process weight rate utilized in this Article shall be determined as follows:~~
1. ~~For continuous or long runs, steady state process sources, the process weight rate shall be the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.~~
  2. ~~For cyclical or batch process sources, the process weight rate shall be the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.~~
- E. If the control officer receives a petition under subsection (D) the control officer shall approve or deny the petition as provided below by October 15, 2004:
1. If the petition is approved under subsection (D)(1) or (D)(2), the control officer shall include an alternative opacity limit in a proposed significant permit revision for the source under 17.12.260 and 17.12.340. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
  2. If the petition is approved under subsection (D)(3), the control officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
  3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under 17.12.210(5)(c)(iii) by April 23, 2006.
  4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under 17.12.210(5)(c).
- F. The control officer, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:
1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
  2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period. (Ord. 2004-97 § 4, Ord. 1979-93 (part), 1979)

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**17.16.165 Standards of performance for fossil-fuel fired industrial and commercial equipment.**

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- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with ~~17.12.220~~ 17.12.040. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

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(Ord. 2004-97 § 4, Ord. 1994-83 § 54, 1994: Ord. 1993-128 § 4 (part), 1993)

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**17.16.430 Standards of performance for unclassified sources.**

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- G. Where a stack, vent or other outlet is at such a level that fumes, gas, mist, odor, smoke, vapor or any combination thereof constituting air pollution are discharged to adjoining property, the control officer may require the installation of abatement equipment or the alteration of such stack, vent or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.  
(Ord. 2004-97 § 4, Ord. 1994-83 § 58, 1994: Ord. 1993-128 § 4 (part), 1993)

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**17.16.490 Standards of performance for new stationary sources (NSPS).**

- A. Except as provided in subsections B, C and D of this section, and 17.16.500 through 17.16.520, the following subparts of 40 CFR Part 60, and accompanying appendices, the federal standards of performance for new stationary sources, adopted as of July 1, ~~1996~~2004 and no future editions are incorporated herein by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.
1. Subpart A - General Provisions. (Section 60.1 – Section 60.19)
  2. Subpart B – Excluded
  3. Subpart C – Excluded
  4. Subpart Ca - Reserved
  5. Subpart Cb – Excluded
  6. Subpart Cc – Excluded
  7. Subpart Cd – Excluded
  8. Subpart Ce – Excluded
  29. Subpart D - Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971. (Section 60.40 – 60.46)
  310. Subpart Da - Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978. (Section 60.40a – 60.49a)
  411. Subpart Db - Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40b – 60.49b)
  512. Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40c – 60.48c)
  613. Subpart E - Incinerators. (Section 60.50 – 60.54)
  714. Subpart Ea - Municipal Waste Combustors for which Construction is Commenced after December 20, 1989, and on or before September 20, 1994. (Section 60.50a – 60.59a)
  815. Subpart Eb - Municipal Waste Combustors for which Construction is Commenced after September 20, 1994. (Section 60.50b – 60.59b)
  16. Subpart Ec – Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996 (Section 60.50c – 60.58c & Tables)
  917. Subpart F - Portland Cement Plants. (Section 60.60 – 60.66)
  4018. Subpart G - Nitric Acid Plants. (Section 60.70 – 60.74)
  419. Subpart H - Sulfuric Acid Plants. (Section 60.80 – 60.85)
  4220. Subpart I - Hot Mix Asphalt Facilities. (Section 60.90 – 60.93)
  4321. Subpart J - Petroleum Refineries. (Section 60.100 – 60.109)
  4422. Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978. (Section 60.110 – 60.113)
  4523. Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984. (Section 60.110a – 60.115a)
  4624. Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984. (Section 60.110b – 60.117b)
  4725. Subpart L - Secondary Lead Smelters. (Section 60.120 – 60.123)
  4826. Subpart M - Secondary Brass and Bronze Ingot Production Plants. (Section 60.130 – 60.133)
  4927. Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973. (Section 60.140 – 60.144)
  2028. Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983. (Section 60.140a – 60.145a)
  2429. Subpart O - Sewage Treatment Plants. (Section 60.150 – 60.156)
  2230. Subpart P - Primary Copper Smelters. (Section 60.160 – 60.166)
  2331. Subpart Q - Primary Zinc Smelters. (Section 60.170 – 60.176)
  2432. Subpart R - Primary Lead Smelters. (Section 60.180 – 60.186)
  2533. Subpart S - Primary Aluminum Reduction Plants. (Section 60.190 – 60.195)
  2634. Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants. (Section 60.200 – 60.204)
  2735. Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants. (Section 60.210 – 60.214)
  2836. Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants. (Section 60.220 – 60.224)

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- 2937.Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants. (Section 60.230 – 60.234)
- 3038.Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities. (Section 60.240 – 60.244)
- 3139.Subpart Y - Coal Preparation Plants. (Section 60.250 – 60.254)
- 3240.Subpart Z - Ferroalloy Production Facilities. (Section 60.260 – 60.266)
- 3341.Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983. (Section 60.270 – 60.276)
- 3442.Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983. (Section 60.270a – 60.276a)
- 3543.Subpart BB - Kraft Pulp Mills. (Section 60.280 – 60.285)
- 3644.Subpart CC - Glass Manufacturing Plants. (Section 60.290 – 60.296)
- 3745.Subpart DD - Grain Elevators. (Section 60.300 – 60.304)
- 3846.Subpart EE - Surface Coating of Metal Furniture. (Section 60.310 – 60.316)
47. Subpart FF - Reserved
- 3948.Subpart GG - Stationary Gas Turbines. (Section 60.330 – 60.335)
- 4049.Subpart HH - Lime Manufacturing Plants. (Section 60.340 – 60.344)
- 4150.Subpart KK - Lead-Acid Battery Manufacturing Plants. (Section 60.370 – 60.374)
- 4251.Subpart LL - Metallic Mineral Processing Plants. (Section 60.380 – 60.388)
- 4352.Subpart MM - Automobile and Light Duty Truck Surface Coating Operations. (Section 60.390 – 60.398)
- 4453.Subpart NN - Phosphate Rock Plants. (Section 60.400 – 60.404)
- 4554.Subpart PP - Ammonium Sulfate Manufacture. (Section 60.420 – 60.424)
- 4655.Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing. (Section 60.430 – 60.435)
- 4756.Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations. (Section 60.440 – 60.447)
- 4857.Subpart SS - Industrial Surface Coating: Large Appliances. (Section 60.450 – 60.456)
- 4958.Subpart TT - Metal Coil Surface Coating. (Section 60.460 – 60.466)
- 5059.Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture. (Section 60.470 – 60.474)
- 5160.Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry. (Section 60.480 – 60.489)
- 5261.Subpart WW - Beverage Can Surface Coating Industry. (Section 60.490 – 60.496)
- 5362.Subpart XX - Bulk Gasoline Terminals. (Section 60.500 – 60.506)
- 5463.Subpart AAA - New Residential Wood Heaters. (Section 60.530 – 60.539b)
- 5564.Subpart BBB - Rubber Tire Manufacturing Industry. (Section 60.540 – 60.548)
65. Subpart CCC – Reserved
- 5666.Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry. (Section 60.560 – 60.566)
67. Subpart EEE - Reserved
- 5768.Subpart FFF - Flexible Vinyl and Urethane Coating and Printing. (Section 60.580 – 60.585)
- 5869.Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries. (Section 60.590 – 60.593)
- 5970.Subpart HHH - Synthetic Fiber Production Facilities. (Section 60.600 – 60.604)
- 6071.Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes. (Section 60.610 – 60.618)
- 6172.Subpart JJJ - Petroleum Dry Cleaners. (Section 60.620 – 60.625)
- 6273.Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. (Section 60.630 – 60.636)
- 6374.Subpart LLL - Onshore Natural Gas Processing; SO<sub>2</sub> Emissions. (Section 60.640 – 60.648)
75. Subpart MMM - Reserved
- 6476.Subpart NNN - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations. (Section 60.660 – 60.668)
- 6577.Subpart OOO - Nonmetallic Mineral Processing Plants. (Section 60.670 – 60.676)
- 6678.Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants. (Section 60.680 – 60.685)
- 6779.Subpart QQQ - VOC Emissions From Petroleum Refinery Wastewater Systems. (Section 60.690 – 60.699)
- 6880.Subpart RRR - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical manufacturing Industry (SOCMI) Reactor Processes. (Section 60.700 – 60.708)
- 6981.Subpart SSS - Magnetic Tape Coating Facilities. (Section 60.710 – 60.718)
- 7082.Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines. (Section 60.720 – 60.726)
- 7183.Subpart UUU - Calcines and Dryers in Mineral Industries. (Section 60.730 – 60.737)
- 7284.Subpart VVV - Polymeric Coating of Supporting Substrates Facilities. (Section 60.740 – 60.747)
- 7385.Subpart WWW - Municipal Solid Waste Landfills. (Section 60.750 – 60.759)
86. Subpart AAAA – Small Municipal Waste Combustion Unites for Which Construction is Commenced After August

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30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001. (Section 60.1000 – 60.1465 & Tables)

87. Subpart BBBB – Excluded

88. Subpart CCCC – Commercial and Industrial Solid Waste Incineration for Which Construction is Commenced after November 30, 1999, or for which Modification or Reconstruction is Commenced on or after June 1, 2001.

89. Subpart DDDD – Excluded

- B. As used in 40 CFR Part 60: “Administrator” means the control officer, except that the control officer shall not be empowered to approve alternate or equivalent test methods nor to deal with equivalency determinations or innovative technology waivers.
- C. From the general standards identified in subsection A, delete the following:
1. 40 CFR 60.4. All requests, reports, applications, submittals and other communication to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.
  2. 40 CFR 60.5, and 60.6.
- D. The control officer shall not be delegated authority to deal with equivalency determinations or innovative technology waivers as covered in sections 111(h)(3) and 111(j) of the Act. (Ord. 2004-97 § 4; Ord. 1997-79 § 9, 1997; Ord. 1994-83 § 59, 1994; Ord. 1993-128 § 4 (part), 1993); Ord. 1991-136 § 15, 1991; Ord. 1990-113 § 6, 1990; Ord. 1989-165 § 21, 1989; Ord. 1988-117 § 2, 1988; Ord. 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

**ARTICLE VII. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS**

**17.16.530 National Emissions Standards for Hazardous Air Pollutants (NESHAP).**

- A. Except as provided in subsections B, C, and D of this section, the following subparts of 40 CFR Part 61 (NESHAPs) and all accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.

Subpart A - General Provisions. (Section 61.01 – 61.19)

2. Subpart B – Excluded

23. Subpart C - Beryllium. (Section 61.20 – 61.26)

34. Subpart D - Beryllium Rocket Motor Firing. (Section 61.40 – 61.44)

45. Subpart E - Mercury. (Section 61.50 – 61.56)

56. Subpart F - Vinyl Chloride. (Section 61.60 – 61.71)

7. Subpart G - Reserved

8. Subpart H – Excluded

9. Subpart I – Excluded

610. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene. (Section 61.110 – 61.112)

11. Subpart K – Excluded

712. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants. (Section 61.130 – 61.139)

813. Subpart M - Asbestos. (Section 61.140 – 61.157 & Appendix A)

914. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants. (Section 61.160 – 61.165)

4015. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters. (Section 61.170 – 61.177)

416. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production. (Section 61.180 – 61.186)

17. Subpart Q - Excluded

18. Subpart R - Excluded

19. Subpart S - Reserved

20. Subpart T - Excluded

21. Subpart U - Reserved

422. Subpart V - Equipment Leaks (Fugitive Emission Sources). (Section 61.240 – 61.247 & Tables)

23. Subpart W – Excluded

24. Subpart X - Reserved

4325. Subpart Y - Benzene Emissions From Benzene Storage Vessels. (Section 61.270 – 61.277)

26. Subpart Z - Reserved

27. Subpart AA - Reserved

4428. Subpart BB - Benzene Emissions from Benzene Transfer Operations. (Section 61.300 – 61.306)

29. Subpart CC - Reserved

30. Subpart DD - Reserved

31. Subpart EE - Reserved

4532. Subpart FF - Benzene Waste Operations. (Section 61.340 – 61.359 & Appendices)

- B. Except as provided in subsection A, the following subparts of 40 CFR Part 63, NESHAPs for Source Categories and all

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accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

1. Subpart A - General Provisions (Section 63.1 - 63.15)
2. Subpart B - Requirements for Control Technology Determinations for major Sources in Accordance with Clean Air Act Sections 112(g) and 112(j) (Section 63.40 - 63.56)
3. Subpart C - Excluded
34. Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants. (Section 63.70 - 63.81)
5. Subpart E - Excluded
46. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (Section 63.100 - 63.107 & Tables)
57. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (Section 63.110 - 63.152 & Appendix)
68. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (Section 63.160 - 63.182 & Tables)
79. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (Section 63.190 - 63.193)
10. Subpart J - Reserved
11. Subpart K - Reserved
812. Subpart L - National Emission Standards for Coke Oven Batteries. (Section 63.300 - 63.313 & Appendix)
913. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities. (Section 63.320 - 63.325)
4014. Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. (Section 63.340 - 63.347 & Table)
4115. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities (Section 63.360 - 63.367)
16. Subpart P - Reserved
4217. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers (Section 63.400 - 63.406 & Table)
4318. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations). (Section 63.420 - 63.429 & Table)
19. Subpart S - National Emission Standards for Pulp and Paper (Section 63.440 - 63.459 & Table)
4420. Subpart T - National Emission Standards for Halogenated Solvent Cleaning. (Section 63.460 - 63.470 & Appendices)
4521. Subpart U - Group I Polymers and Resins (Section 63.480 - 63.506 & Tables)
22. Subpart V - Reserved
4523. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production. (Section 63.520 - 63.528 & Table)
4624. Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting (Section 63.541 - 63.550)
25. Subpart Y - Excluded
26. Subpart Z - Reserved
27. Subpart AA - National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing Plants (Section 63.600 - 63.610 & Appendix)
28. Subpart BB - National Emission Standards for Hazardous Air Pollutant for Phosphate Fertilizers Production Plants (Section 63.620 - 63.631 & Appendix)
4729. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (Section 63.640 - 63.679 & Appendix)
30. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations (Section 63.680 - 63.698 & Tables)
4831. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations. (Section 63.701 - 63.708 & Table)
32. Subpart FF - Reserved
4933. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities (Section 63.741 - 63.759 & Table & Appendix)
34. Subpart HH - National Emission Standards for Oil and Natural Gas Production Facilities (Section 63.760 - 63.779 & Appendix)
35. Subpart II - Excluded
2036. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations (Section 63.800 - 63.819 &

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- Tables)
2437. Subpart KK - National Emission Standards for the Printing and Publishing Industry (Section 63.820 - 63.839 & Tables)
  38. Subpart LL - National Emission Standards for Primary Aluminum Reduction Plants (Section 63.840 - 63.859 & Tables & Appendix)
  39. Subpart MM - Excluded
  40. Subpart OO - National Emission Standards for Tanks- Level 1 (Section 63.900 - 63.907)
  41. Subpart PP - National Emission Standards for Containers (Section 63.920 - 63.928)
  42. Subpart QQ - National Emission Standards for Surface Impoundments (Section 63.940 - 63.948)
  43. Subpart RR - National Emission Standards for Individual Drain Systems (Section 63.960 - 63.966)
  44. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Section 63.980 - 63.999)
  45. Subpart TT - National Emission Standards for Equipment Leaks -Control Level 1 (Section 63.1000 - 63.1018)
  46. Subpart UU - National Emission Standards for Equipment Leaks -Control Level 2 (Section 63.1019 - 63.1039 & Table)
  47. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators (Section 63.1040 - 63.1049)
  48. Subpart WW - National Emission Standards for Storage Vessels (Tanks) – Control Level 2 (Section 63.1060 - 63.1066)
  49. Subpart XX - Reserved
  50. Subpart YY - National Emission Standards for Generic MACT Standards (Section 63.1100 - 63.1113)
  51. Subpart ZZ – Reserved
  52. Subpart AAA – Reserved
  53. Subpart BBB - Reserved
  54. Subpart CCC - National Emission Standards for Steel Pickling (Section 63.1156 - 63.1174 & Table)
  55. Subpart DDD - National Emission Standards for Mineral Wool Production (Section 63.1175 - 63.1199 & Table & Appendix)
  56. Subpart EEE - National Emission Standards for Hazardous Waste Combustors (Section 63.1200 - 63.1213 & Table & Appendix)
  57. Subpart FFF - Reserved
  58. Subpart GGG - National Emission Standards for Pharmaceuticals Production (Section 63.1250 - 63.1261 & Tables)
  59. Subpart HHH - National Emission Standards for Natural Gas Transmission and Storage Facilities (Section 63.1270 - 63.1289 & Appendix)
  60. Subpart III - National Emission Standards for Flexible Polyurethane Foam Production (Section 63.1290 - 63.1309 & Appendix)
  61. Subpart JJJ - National Emission Standards for Group IV Polymers and Resins (Section 63.1310 - 63.1335 & Tables)
  62. Subpart KKK - Reserved
  63. Subpart LLL - National Emission Standards for Portland Cement Manufacturing Industry (Section 63.1340 - 63.1359 & Table)
  64. Subpart MMM - National Emission Standards for Pesticide Active Ingredient Production (Section 63.1360 - 63.1369 & Tables)
  65. Subpart NNN - National Emission Standards for Wool Fiberglass Manufacturing (Section 63.1380 - 63.1399 & Table & Appendices)
  66. Subpart OOO – National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins (Section 63.1400 - 63.1419 & Tables)
  67. Subpart PPP - National Emission Standards for Polyether Polyols Production (Section 63.1420 - 63.1439 & Tables)
  68. Subpart QQQ - National Emission Standards for Primary Copper Smelting (Section 63.1440 - 63.1459 & Table & Figure)
  69. Subpart RRR - National Emission Standards for Secondary Aluminum Production (Section 63.1500 - 63.1520 & Tables)
  70. Subpart SSS - Reserved
  71. Subpart TTT - National Emission Standards for Primary Lead Smelting (Section 63.1541- 63.1550)
  72. Subpart UUU - National Emission Standards for Petroleum Refineries: Catalytic Cracking, Catalytic Reforming, And Sulfur Plan Units (Section 63.1560 - 63.1579 & Tables)
  73. Subpart VVV--National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works (Section 63.1580 - 63.1595 & Table)
  74. Subpart WWW - Reserved
  75. Subpart XXX - National Emission Standards for Ferroalloys Production (Section 63.1620 - 63.1679)
  76. Subpart AAAA - National Emission Standards for Municipal Solid Waste Landfills (Section 63.1930 - 63.1990 &

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- Appendix
77. Subpart CCCC - National Emission Standards for Manufacturing of Nutritional Yeast (Section 63.2130 - 63.2192 & Appendices)
  78. Subpart DDDD - Reserved
  79. Subpart EEEE - National Emission Standards for Organic Liquids Distribution (Non-Gasoline) (Section 63.2330 - 63.2406 & Appendices)
  80. Subpart FFFF--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (Section 63.2430 - 63.2550 & Appendices)
  81. Subpart GGGG - National Emission Standards for Solvent Extraction for Vegetable Oil Production (Section 63.2830 - 63.2872)
  82. Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production (Section 63.2980 - 63.3079 & Appendices)
  83. Subpart JJJJ - National Emission Standards for Paper and Other Web Coating (Section 63.2130 - 63.2192 & Appendices)
  84. Subpart KKKK--National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans (Section 63.3480 - 63.3561 & Appendices)
  85. Subpart MMMM--National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products (Section 63.3880 - 63.3981 & Appendices)
  86. Subpart NNNN - National Emission Standards for Large Appliances (Section 63.4080 - 63.4181 & Appendices)
  87. Subpart OOOO--National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles (Section 63.4280 - 63.4371 & Appendices)
  88. Subpart QQQQ - National Emission Standards for Wood Building Products (Section 63.4680 - 63.4781 & Appendices)
  89. Subpart RRRR - National Emission Standards for Surface Coating of Metal Furniture (Section 63.4880 - 63.4981 & Appendices)
  90. Subpart SSSS - National Emission Standards for Surface Coating of Metal Coil (Section 63.5080 - 63.5206 & Appendices)
  91. Subpart TTTT - National Emission Standards for Leather Finishing Operations (Section 63.5280 - 63.5460 & Appendices)
  92. Subpart UUUU - National Emission Standards for Cellulose Products Manufacturing (Section 63.5480 - 63.5610 & Appendices)
  93. Subpart VVVV - National Emission Standards for Boat Manufacturing (Section 63.5680 - 63.5779 & Appendices)
  94. Subpart WWWW - National Emission Standards for Reinforced Plastics Composites Production (Section 63.5780 - 63.5935 & Appendices)
  95. Subpart XXXX - National Emission Standards for Tire Manufacturing (Section 63.5980 - 63.6015 & Appendices)
  96. Subpart YYY--National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines (Section 63.6080 - 63.6175 & Appendices)
  97. Subpart ZZZZ - Reserved
  98. Subpart AAAAA--National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants (Section 63.7080 - 63.7143 & Appendices)
  99. Subpart BBBB - National Emission Standards for Semiconductor Manufacturing (Section 63.7180 - 63.7195 & Appendices)
  100. Subpart CCCCC - National Emission Standards for Coke Oven: Pushing, Quenching and Battery Stacks (Section 63.7280 - 63.7352 & Appendix)
  101. Subpart DDDDD - Reserved
  102. Subpart EEEEE--National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries (Section 63.7680 - 63.7765 & Appendix)
  103. Subpart FFFFF - National Emission Standards for Integrated Iron and Steel (Section 63.7780 - 63.7852 & Appendices)
  104. Subpart GGGGG--National Emission Standards for Hazardous Air Pollutants: Site Remediation (Section 63.7880 - 63.7957 & Appendices)
  105. Subpart HHHHH--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing (Section 63.7980 - 63.8105 & Appendices)
  106. Subpart IIII--National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants (Section 63.8180 - 63.8266 & Appendices)
  107. Subpart JJJJ - National Emission Standards for Brick and Structural Clay Products Manufacturing (Section 63.8380 - 63.8515 & Appendices)
  108. Subpart KKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (Section 63.8530 - 63.8665 & Appendices)

109. Subpart LLLLL - National Emission Standards for Asphalt Roofing and Processing (Section 63.8680 - 63.8698 & Appendices)

110. Subpart MMMMM - National Emission Standards for Flexible Polyurethane Foam Fabrication Operation (Section 63.8780 - 63.8830 & Appendices)

111. Subpart NNNNN--National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production (Section 63.8980 - 63.9075 & Appendices)

112. Subpart OOOOO - Reserved

113. Subpart PPPPP - National Emission Standards for Engine Test Cells/Stands (Section 63.9280 - 63.9375 & Appendices)

114. Subpart QQQQQ - National Emission Standards for Friction Products Manufacturing (Section 63.9480 - 63.9579 & Appendix)

115. Subpart RRRRR--National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing (Section 63.9580 - 63.9652 & Appendices)

116. Subpart SSSSS - National Emission Standards for Refractory Products Manufacturing (Section 63.9780 - 63.9824 & Appendices)

117. Subpart TTTTT--National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining (Section 63.9880 - 63.9942 & Appendices)

- C. When used in 40 CFR Part 61 or part 63, “Administrator” means the control officer except that the control officer shall not be authorized to approve alternate or equivalent test methods or alternate standards/work practices.
- D. From the general standards identified in subsection A of this section delete 40 CFR 61.04. All requests, reports, applications, submittals and other communications to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.
- E. The control officer shall not be delegated authority to deal with equivalency determinations that are nontransferable through section 112(e)(3) of the Act. (Ord. 2004-97 § 4, Ord. 1998-27 § 15, 1998; Ord. 1997-79 § 10, 1997; Ord. 1995-87 § 49, 1995; Ord. 1994-83 § 60, 1994; Ord. 1993-128 § 4 (part), 1993; Ord. 1991-136 § 14, 1991; Ord. 1988-117 § 1, 1988; Ord 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

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**17.16.700 Alternative Emission limitations.**

40 CFR 63 Subpart D, “Regulations governing compliance extensions for early reductions of hazardous air pollutants” and all accompanying appendices, adopted as of July 1, 1996-2004, and no future editions is adopted by reference. (Ord. 2004-97 § 4, Ord. 1997-79 § 11, 1997)

**SECTION 5.** Chapter 17.28, Section 17.28.065, is hereby amended to read:

Chapter 17.28

**VIOLATIONS AND CONDITIONAL ORDERS**

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**17.28.065 Excess Emissions.**

A.A.C. R18-2-310 and R18-2-310.01 as of February 15, 2001 ~~is~~ are hereby adopted in its entirety and ~~is~~ are incorporated herein by this reference, except that all references to the “Director” shall be to the “Control Officer”. (Ord. 2004-97 § 5, Ord. 1997-79 § 14, 1997)

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<b>Table 17.16.040 EMISSIONS-DISCHARGE OPACITY LIMITING STANDARDS</b>				
<b>Type of Source</b>	<b>Instantaneous Opacity Measurements</b>			<b>Maximum Allowable Average Opacity, %</b>
	<b>Required Number (For a Set)</b>	<b>Excluded Number (Highest Values)</b>	<b>Number to Use For Averaging</b>	
Asbestos Containing Operation <sup>1</sup>	25	0	25	0
Cold Diesel Engines <sup>2</sup>	25	0	25	60
Loaded Diesel Engines <sup>3</sup>	26	1	25	60
Incinerators	27	2	25	20
Portland Cement Plants <sup>4</sup>	25	0	25	20
Other Sources <sup>5</sup>	25	0	25	<del>40</del> 20

<sup>1</sup> An asbestos mill, manufacturing or fabrication operation which uses asbestos as a raw material, or spraying operation which sprays materials containing more than 1% asbestos by weight.  
<sup>2</sup> Applicable to the first 10 consecutive minutes after starting up a diesel engine.  
<sup>3</sup> Applicable to a diesel engine being accelerated under load.  
<sup>4</sup> Applicable to kiln, clinker cooler, and other process equipment.  
<sup>5</sup> Any source not otherwise specifically covered within this table, unless otherwise specifically covered in this chapter.  
 (Ord. 2004-97 § 5; Ord. 1993-128 § 4, 1993; Ord. 1979-93 (part), 1979)

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**SECTION 6.** If any of the provisions of this ordinance or the application thereof to any person or circumstance is invalid, the invalidity shall not effect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and do this end the provisions of this ordinance are severable.

**SECTION 7.** This ordinance shall become effective 31 days from the date of adoption.

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**AGENDA, BOARD OF SUPERVISORS' MEETING**

**BOARD OF SUPERVISORS' HEARING ROOM**

**130 W. CONGRESS, 1ST FLOOR**

**OCTOBER 19, 2004 9:00 A.M.**

1. **ROLL CALL**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE**

**... EXECUTIVE SESSION**

(**CLERK'S NOTE**: As of the posting date of 10/13/04, no executive session item has been placed on the regular agenda. However, this is subject to any addendum.)

**BOARD OF SUPERVISORS SITTING AS OTHER BOARDS**

**... FLOOD CONTROL DISTRICT BOARD**

Agreement, Contract and/or Amendment

Shetland Properties Co., L.L.C., and Arran Real Properties Co., L.L.C., to provide an acquisition agreement for a 38,035 square foot right-of-way (fee purchase) and 14,125 square foot drainage easement located at the Ina Road Bridge at the Santa Cruz River, Tax Parcel Nos. 226-32-011F and 226-35-006C, Sections 35 and 36, T12S, R12E, Capital Improvement Bond Fund, contract amount not to exceed \$6,000.00 including closing costs (22-64-S-135165-1004) Real Property

**BOARD OF SUPERVISORS SITTING IN REGULAR SESSION**

4. **CONSENT CALENDAR**: For consideration and approval
  - A. Call to the Public
  - B. Approval of Consent Calendar

5. PROCUREMENT**UNFINISHED BUSINESS**

(RM 5/11/04, RM 5/25/04, RM 6/15/04,  
RM 8/3/04, RM 9/7/04 and RM 10/12/04)

A. Special Needs Transportation

Staff requests consideration of the following regarding Contract No. 11-04-A-133875-0204 with A&K Transportation, Inc., for special needs transportation services:

1. Determine that lack of a performance bond is an informality, waive the bonding requirement and accept a letter of credit in lieu of the performance bond;

**OR**

2. Terminate the contract, cancel the award of RFP No. 70553 to A&K Transportation, Inc., and award the contract to the second highest scoring proposal, American Pony Express, Inc.

**NEW BUSINESS**B. Awards of Contract - Facilities Management

Job Order Contracts - electrical contracting services. Staff recommends award to the following in the amount of \$250,000.00 each, General Fund:

<u>Vendor</u>	<u>Corporate Headquarters</u>
Gilbert Electric Co., Inc.	Tucson, AZ
Sabino Electric, Inc.	Tucson, AZ
Sturgeon Electric, Inc.	Rolling Meadows, IL

C. Award of Contract - Natural Resources, Parks and Recreation

Picture Rocks District Park Improvements. Staff recommends M. Anderson Construction, Corp. (Corporate Headquarters: Tucson, AZ) in an amount not to exceed \$825,000.00: 1997 Bond Fund, \$730,000.00; and 2004 Bond Fund, \$195,000.00.

**PUBLIC WORKS - DEVELOPMENT SERVICES**6. **FINAL PLAT WITH ASSURANCES**

P1203-134, Sycamore Canyon, Lots 1-485, Blocks A and B and Common Areas A-1 to A-24, B-1 to B-56 and C-1. (District 4)

**\* \* \* HEARINGS \* \* \***

**FRANCHISES/LICENSES/PERMITS****LIQUOR LICENSES**

7. 04-27-8758, Terry Lee Taggart, d.b.a. Old Spanish Trail Steak House, 5400 S. Old Spanish Trail, Series 12, Restaurant License, New License.
8. 04-28-8759, Terry Lee Taggart, d.b.a. Old Spanish Trail Steak House, 5400 S. Old Spanish Trail, Series 07, Beer and Wine Bar, Person Transfer.
- \* (CLERK'S NOTE:** Applicant must satisfy the requirements of Section 18.43.030(G) of the Pima County Zoning Code which requires a Type I Conditional Use Permit.)
- \*9. 04-30-8761, Manuel Solorzano, d.b.a. Manuel's Restaurant, 121 W. Duval Mine Road, Green Valley, Series 12, Restaurant License, New License.
- \* (CLERK'S NOTE:** Applicant must satisfy the requirements of Section 18.43.030(G) of the Pima County Zoning Code which requires a Type I Conditional Use Permit.)
- \*10. 04-31-8762, Robert Brian McMahon, d.b.a. Charro Grill, 100 W. Orange Grove Road, Series 12, Restaurant License, New License.
11. 04-32-8763, Atul Jain, d.b.a. Wild Noodles, 7475 N. La Cholla Blvd., No. 400, Series 07, Beer and Wine Bar, Person and Location Transfer.

**EXTENSION OF PREMISES/PATIO PERMIT**

12. James Counts, d.b.a. Nimbus Brewing Co., L.L.C., 3850 E. 44th Street, Temporary Extension of Premises Permit for Saturday, October 23, 2004 and Saturday, November 6, 2004.

**FIREWORKS PERMIT**

13. Jan Tuttle, Voyager RV Park, 8701 S. Kolb Road, Space Nos. 1-280, October 31, 2004 at approximately 7:00 p.m.

**HEALTH DEPARTMENT****PIMA COUNTY CODE TEXT AMENDMENT**

14. ORDINANCE NO. 2004-96, of the Board of Supervisors of Pima County, Arizona, relating to immunizations; amending Pima County Code Chapter 8.12, Immunization.

**PUBLIC WORKS****ENVIRONMENTAL QUALITY****PIMA COUNTY CODE TEXT AMENDMENT**

15. ORDINANCE NO. 2004-97, of the Board of Supervisors of Pima County, Arizona, relating to the environment and air quality; amending Chapters 17.04; 17.08; 17.12; 17.16; and 17.28, to conform with corresponding State and Federal Air Quality Regulations.

**DEVELOPMENT SERVICES****UNFINISHED BUSINESS****REZONING**

(RM 9/21/04)

16. Co9-03-23, TNR&S ACQUISITIONS, INC., ET. AL. - LA CHOLLA BOULEVARD REZONING  
Request of TNR&S Acquisitions, Inc., represented by Tetra Tech, Inc., for a rezoning of a total of approximately 65.01 acres from SR (Suburban Ranch) to CR-5 (Multiple Residence) consisting of approximately 13.6 acres located at the northeast

corner of Shannon Road and Club Drive; CR-5 (Multiple Residence) Small Lot Option consisting of approximately 17.9 acres located on the west side of La Cholla Boulevard approximately 400 feet south of the Hardy Road alignment; and CR-1 (Single Residence) consisting of approximately 33.4 acres located west of La Cholla Boulevard north of the intersection of La Cholla Boulevard and the north alignment of Magee Road. The proposed rezoning conforms to the Pima County Comprehensive Plan, Co7-00-20. On motion, the Planning and Zoning Commission voted 5-3 (Commissioners Hirsch, Gungle and Staples voted NAY) to recommend **APPROVAL WITH CONDITIONS**. Staff recommends **APPROVAL WITH CONDITIONS** and standard and special requirements. (District 1)

### NEW BUSINESS

#### SPECIFIC PLAN REZONING

#### 17. Co23-04-01, SWAN/SOUTHLANDS SPECIFIC PLAN

Request of South Wilmot Land Investors, L.L.C., Pima County, and Southland Investors, L.L.C., represented by LVA Urban Design Studio, L.L.C., to rezone approximately 3,200 acres from RH (Rural Homestead) to SP (Specific Plans, Swan Southlands Specific Plan), located generally between S. Swan and Wilmot Roads, approximately 1 mile south of Old Vail Connection Road. The request lies within and conforms to the Pima County Comprehensive Plan Co7-00-20.

On motion, the Planning and Zoning Commission voted 5-3 (Commissioners Gungle, Poulos, and Smith voted NAY; Commissioner Spendiarian was absent) to recommend **APPROVAL OF THE SPECIFIC PLAN WITH CONDITIONS, AS REVISED** and standard and special requirements.

On motion, the Planning and Zoning Commission voted 6-2 (Commissioners Gungle and Staples voted NAY; Commissioner Spendiarian was absent) to recommend **APPROVAL OF THE SPECIFIC PLAN REGULATIONS THAT SUPERCEDE ADOPTED COUNTY ZONING REGULATIONS, AS REVISED**.

Staff recommends **APPROVAL WITH CONDITIONS, AS REVISED**. (District 2)

**ZONING CODE TEXT AMENDMENTS**18. Co19-04-01, TUCSON/MARANA/PIMA COUNTY OUTDOOR LIGHTING CODE AMENDMENT

An ordinance of the Board of Supervisors of Pima County, Arizona; relating to building and construction; amending the Tucson/Marana/Pima County Outdoor Lighting Code, Exhibit A to Ordinance No. 2000-63, as amended by Ordinance No. 2001-138; by amending Section 4, Definitions; Section 5, Total Outdoor Light Output and Shielding Requirements; Section 6, Outdoor Advertising Signs; Section 7, Special Uses; and Section 8, Submission of Evidence of Compliance with Code. On motion, the Planning and Zoning Commission voted 8-0 (Commissioner Smith was absent) to recommend **APPROVAL**. Staff recommends **APPROVAL**. (All Districts)

If approved, pass and adopt:

ORDINANCE NO. 2004- 98

19. Co19-04-02, INTERNATIONAL URBAN-WILDLAND INTERFACE CODE AMENDMENT

An ordinance of the Board of Supervisors of Pima County, Arizona; relating to building and construction; amending Ordinance No. 2003-70, by amending Exhibit A, Pima County Local Amendments to the International Urban-Wildland Interface Code, and amending Section 15.04.020 of the Pima County Code. On motion, the Planning and Zoning Commission voted 8-0 (Commissioner Smith was absent) to recommend **APPROVAL**. Staff recommends **APPROVAL**. (All Districts)

If approved, pass and adopt:

ORDINANCE NO. 2004- 99

**COMPREHENSIVE PLAN AMENDMENTS**20. Co7-04-04, OSBORNE - N. CAMINO DE OESTE PLAN AMENDMENT

Request of Linda Osborne, represented by Laidlaw Consulting, L.L.C., to amend the Pima County Comprehensive Plan from Low Intensity Urban 0.3 (LIU 0.3) to Low Intensity Urban 0.5 (LIU 0.5). The subject property is approximately 4.25 acres and is located on the west side of N. Camino de Oeste, half a mile north of Camino del Cerro in Section 13, T13S, R12E, in the Tucson Mountains/Avra Valley Subregion. On motion, the Planning and Zoning Commission voted 8-0 (Commissioner Spendiarian was absent) to recommend **APPROVAL**. Staff recommends **APPROVAL**. (District 5)

21. Co7-04-05, DALRYMPLE REVOCABLE TRUST - W. RUDASILL ROAD PLAN AMENDMENT

Request of Debra Barnes of the Dalrymple Revocable Trust, to amend the Pima County Comprehensive Plan from Low Intensity Urban 1.2 (LIU 1.2) to Medium Intensity Urban (MIU). The subject property is 7.065 acres and is located on the south side of Rudasill Road, approximately 800 feet east of Shannon Road, in the Northwest Subregion. On motion, the Planning and Zoning Commission voted 5-3 (Commissioners Membrila, Smith and Matter voted NAY, Commissioner Spendarian was absent) to recommend **DENIAL**. Staff recommends **APPROVAL**. (District 3)

22. Co7-04-07, MENDEZ - S. VAHALLA ROAD PLAN AMENDMENT

Request of Ernest and Amanda Mendez, represented by John Bravo, to amend the Pima County Comprehensive Plan from Low Intensity Rural (LIR) to Medium Intensity Rural (MIR). The subject property is approximately 4.34 acres and is located on the southeast corner of W. Zorro Road and S. Vahalla Road in Section 21, T15S, R12E, in the Southwest Subregion. On motion, the Planning and Zoning Commission voted 5-3 (Commissioners Cuyugan, Membrila and Smith voted NAY; Commissioner Spendiarian was absent) to recommend **DENIAL**. Staff recommends **APPROVAL, SUBJECT TO THE SPECIAL AREA POLICY**. (District 3)

23. Co7-04-14, REID, ET. AL. - W. ORANGE GROVE ROAD PLAN AMENDMENT  
Request of the Naomi E. Reid Irrevocable Trust, et. al., to amend the Pima County Comprehensive Plan from Low Intensity Urban 1.2 (LIU 1.2) to Medium Intensity Urban (MIU). The subject property is approximately 1.63 acres and is located on the southeast corner of Orange Grove Road and La Cañada Drive, in the Northwest Subregion. On motion, the Planning and Zoning Commission voted 8-0 (Commissioner Spendiarian was absent) to recommend **APPROVAL WITH CONDITIONS**. Staff recommends **APPROVAL**. (District 1)
24. REZONING ORDINANCES - Unadvertised Hearings
- A. ORDINANCE NO. 2004-100, Co9-03-30, Martinez - La Canada Drive Rezoning. Owner: Ralph and Leonore Martinez. (District 1)
- B. ORDINANCE NO. 2004-101, Co9-03-34, Price - Pima Farms Road Rezoning. Owner: Audrey Price. (District 3)
- C. ORDINANCE NO. 2004-102, Co9-03-37, St. Mary's Second Century Foundation - La Canada Drive Rezoning. Owner: St. Mary's Second Century Foundation. (District 4)
25. REZONING RESOLUTIONS
- A. RESOLUTION NO. 2004 - 286, Co9-90-33, Maguey Limited No. 2, et. al. - Thornydale Road No. 2 Rezoning. Owner: Title Security of Arizona, Trust No. 731. (District 3)
- B. RESOLUTION NO. 2004 - 287, Co9-94-55, Walker/Lawyers Title Trust No. 5587 - Sunset Road Rezoning. Owner: Fidelity National Title, Trust No. 60143. (District 3)
- C. RESOLUTION NO. 2004 - 288, Co9-98-40, Valenzuela - Oracle Road Rezoning. Owner: DM Federal Credit Union. (District 3)

**TRANSPORTATION**

26. ROAD ESTABLISHMENTS

- A. RESOLUTION NO. 2004 - 289, providing for the establishment of a County highway lying within Section 12, T17S, R18E, Pima County, Arizona, under Proceeding No. 2980, for a portion of the Tucson-Benson Interstate Highway. (District 4)
  
- B. RESOLUTION NO. 2004 - 290, providing for the establishment of County highway, lying within Sections 25 and 26, T12S, R12E, Pima County, Arizona, under Proceeding No. 2968, for a portion of Cortaro Farms Road within the incorporated limits of the Town of Marana. (Districts 1 and 3)

27. CALL TO THE PUBLIC

28. ADJOURNMENT

**CLERK'S NOTE:**

- A. Public discussion and action may occur on any executive or regular agenda item; and,
- B. Any backup material will be available for review twenty-four (24) hours before the meeting at the Clerk of the Board's Office.

POSTED: Levels A & B, 1st and 5th Floors, Pima County Administration Building.

DATE POSTED: 10/13/04

TIME POSTED: 5:00 P.M.

CONSENT CALENDAR, OCTOBER 19, 2004

1. PROCUREMENT

AGREEMENTS, CONTRACTS AND/OR AMENDMENTS

- A. RESOLUTION NO. 2004 - 284, approving an Intergovernmental Agreement with the City of Tucson, to provide for eviction prevention/emergency homeless housing assistance to low-income City residents, Arizona Department of Housing Grant Fund, contract amount not to exceed \$50,000.00 (01-69-T-135166-0704) Community Services
- B. RESOLUTION NO. 2004 - 285, approving an Intergovernmental Agreement with the Drexel Heights Fire District, Golder Ranch Fire District, Green Valley Fire District, Northwest Fire/Rescue District and the City of Tucson Fire Department, to provide mutual aid response for hazardous materials incidents, no cost (01-01-D-135183-1004) Health Department

\* \* \*

- C. Catholic Community Services of Southern Arizona, Inc., d.b.a. Pio Decimo, Amendment No. 5, to provide workforce development services and amend contractual language, YO and RYA Grant Funds, contract amount \$58,976.00; General Fund contract amount \$3,104.00 (11-39-C-130846-0602) Community Services
- D. Tucson Airport Authority (TAA), to provide for the TAA-PDEQ South Side Private Well Monitoring Program, Tucson Airport Authority Fund, contract amount \$17,513.00 Revenue (11-51-T-135171-1004) Environmental Quality
- E. Otis Elevator Company, Amendment No. 6, to provide for the Superior Court Elevator Modernization Project and amend contractual language, Bond Fund, contract amount \$157,000.00 (03-13-A-125581-1198) Facilities Management

- E-1. Advanced Controls Corporation, Amendment No. 6, to provide energy management and temperature control system services and extend contract term to 11/5/05, General Fund, contract amount not to exceed \$200,000.00 (10-13-A-130147-1101) Facilities Management
- E-2. Goel Enterprises, Inc., d.b.a. AAA-1 Flooring, Amendment No. 2, to provide floor covering and installation services and extend contract term to 12/16/05, General Fund, no cost (11-13-G-131848-1202) Facilities Management
- F. Arizona Department of Health Services, Amendment No. 4, to provide breast and cervical cancer screening services, extend contract term to 6/30/05 and amend scope of work, Well Woman Healthcheck Grant Fund, contract amount \$470,500.00 Revenue (01-01-A-131795-0103) Health Department
- F-1. Arizona Board of Regents, University of Arizona, Southwest Institute of Research for Women and Adolescents, Amendment No. 1, to provide substance abuse and HIV/AIDS services, extend contract term to 9/29/05 and amend contractual language, Eon Capacity Enhancement Grant Fund, contract amount \$100,592.00 (07-01-A-133889-0903) Health Department
- G. Northwest Obstetrics and Gynecology, P.C., Amendment No. 3, to provide OB/GYN services, extend contract term to 11/30/04 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-L-129980-1201) Pima Health System
- G-1. Marana Health Center, Inc., Amendment No. 5, to provide primary care physician, dental, radiology and OB services, extend contract term to 12/31/05 and amend contractual language, PHCS Enterprise Fund, contract amount \$300,000.00 (18-15-M-130059-1201) Pima Health System

- G-2. A & K Transportation, Inc., Amendment No. 1, to provide non-emergent medical transportation services and amend contractual language, PHCS Enterprise Fund, no cost (11-15-A-134244-0504) Pima Health System
  - G-3. Kord's Metro Service, Inc., Amendment No. 1, to provide non-emergent medical transportation services and amend contractual language, PHCS Enterprise Fund, no cost (11-15-K-134247-0504) Pima Health System
  - H. Castro Engineering, Inc., Amendment No. 3, to provide roadway design engineering for the River Road: Campbell Avenue to Alvernon Way Project and amend scope of work, Capital Improvement Bond Fund, contract amount \$86,150.00 (16-04-C-131556-1002) Transportation
  - I. Kennedy/Jenks Consultants, Amendment No. 1, to provide for the Randolph Park WRF Restoration Oversight Project and amend contractual language, Contractor's Builder Risk Insurance Fund, contract amount \$742,586.00 (07-03-K-134387-0604) Wastewater Management
2. RATIFICATION OF CHANGE ORDERS EXECUTED PURSUANT TO THE PIMA COUNTY PROCUREMENT CODE
- A. Sandpiper Construction, Inc., Change Order No. 5, to provide for the Posada Del Sol Health Care Center ADA Modifications Project and amend scope of work, Capital Improvement Bond Fund, contract amount \$20,143.00 (03-13-S-133808-1203) Facilities Management
  - B. The Ashton Company, Inc., Change Order No. 1, to provide asphaltic concrete overlay services and reflect as-built final quantities, HURF Fund, contract amount \$73,813.11 (03-04-A-133972-0304) Transportation

B-1. Hunter Contracting Company, Change Order No. 3, to provide for the Veterans Memorial Overpass Demonstration Project and amend scope of work, Federal STP and Urban/County HURF Funds, contract amount \$50,500.00 decrease (03-04-H-133980-0304) Transportation

3. BOARD OF SUPERVISORS

Approval of the Board of Supervisors' Meeting Schedule for the period January through May, 2005.

4. DIVISION OF ELECTIONS

Pursuant to A.R.S. §16-821B, approval of Precinct Committeemen Appointments:

<u>APPOINTMENT</u>	<u>PRECINCT</u>	<u>PARTY</u>
Harn, Ora Mae	006	REP
Hershberger, Freddy	012	REP
Elliott, Melva I.	017	REP
Niemi, Mikki	028	REP
Niemi, Dorothy	028	REP
Perolla, Lori Ann	128	REP
Garcia, Richard	145	REP
Blackwell, Bonnie	149	REP
Williams, Vic	202	REP
James, Cecil	202	REP
Chewning, Gene	233	REP
Pereira, Sylvania	237	REP
Wilke, William	266	REP
Bowler, William	280	REP
Scrivener, Judy	342	REP
Ekrom, Evalyn	345	REP
Beckley, Edwin	388	REP

5. BOARDS, COMMISSIONS AND/OR COMMITTEES

A. Air Quality Hearing Board

Reappointment of Caryl S. Brailsford, M.D.  
Term expiration: 9/30/07. (Staff recommendation)

B. Pima County Bond Advisory Committee

Ratification of appointment: Kelly Gomez,  
Pascua Yaqui Tribe representative. Term  
expiration: 4/30/10. (Jurisdictional  
recommendation)

6. SPECIAL EVENT LIQUOR LICENSES APPROVED PURSUANT TO  
RESOLUTION NO. 2002-273

A. Jesusita Moreno, Mano Amiga, Tucson Bargain  
Center, 3750 E. Irvington Road, Tucson,  
October 22, 2004.

B. Jesusita Moreno, Mano Amiga, Tucson Bargain  
Center, 3750 E. Irvington Road, Tucson,  
October 29, 2004.

F. ANN RODRIGUEZ, RECORDER  
RECORDED BY: JLW  
DEPUTY RECORDER  
1541 AS1

P0230  
PIMA CO CLERK OF THE BOARD  
PICKUP



DOCKET: 12412  
PAGE: 1640  
NO. OF PAGES: 35  
SEQUENCE: 20042040524  
.10/21/2004  
ORDIN 15:17  
PICKUP  
AMOUNT PAID \$ 0.00

ORDINANCE 2004- 97

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO THE ENVIRONMENT AND AIR QUALITY; AMENDING CHAPTERS 17.04; 17.08; 17.12; 17.16; 17.28 TO CONFORM WITH CORRESPONDING STATE AND FEDERAL AIR QUALITY REGULATIONS.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. Chapter 17.04, Section 17.04.070 is hereby amended to read:

Chapter 17.04  
GENERAL PROVISIONS

\*\*\*\*

17.04.070 Incorporated Materials.

\*\*\*\*

3. All parts of the CFR referenced in this Title are amended as of July 1, 1996 2004 unless specifically indicated otherwise.

\*\*\*\*

(Ord. 2004- §     , Ord. 1997-79 § 1, 1997; Ord. 1995-87 § 2, 1995; Ord. 1993-128 § 1, 1993)

SECTION 2. Chapter 17.08 is hereby amended by amending, Sections 17.08.110 and 17.08.130 to read as follows:

Chapter 17.08  
AMBIENT AIR QUALITY STANDARDS

\*\*\*\*

17.08.110 Tucson CO ~~non~~attainment area

- A. An area defined by the following geographic Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an an ~~non~~attainment area for CO:

LATITUDE — LONGITUDE  
32°38.5'N — 111°24.0'W

423 10/1/04 10:10 AM

35

32°26.5'N — 110°47.5'W  
 32°12.5'N — 110°32.5'W  
 31°49.5'N — 110°25.5'W

LATITUDE — LONGITUDE  
 31°42.0'N — 110°50.5'W  
 31°52.5'N — 111°12.5'W  
 32°24.5'N — 111°29.0'W

~~All portions of Coronado National Forest and Saguaro National Monument lying within the nonattainment area are excluded.~~

B. The Tucson nonattainment area for CO shall be a Class II attainment area for SO<sub>2</sub>, NO<sub>2</sub>, and O<sub>3</sub>, and unclassified for PM<sub>10</sub>.

Designated Area	Designation		Classification	
	Date	Type	Date	Type
<u>Tucson Area:</u> <u>Pima County</u> <u>Township and Ranges as follows: T11-12S, R12-14E; T13-15S, R11-16E; and T16S, R12-16E Gila and Salt River Baseline and Meridian excluding portions of the Saguaro National Monument and the Coronado National Forest.</u>	<u>July 10,</u> <u>2000</u>	<u>Attainment</u>		

(Ord. 2004- § , Ord. 1993-128 § 2, 1993; Ord. 1986-227 § 1 (part), 1986: Ord. 1985-183 (part), 1985: Ord. 1983-196 (part), 1983)

**17.08.130 Ajo nonattainment area.**

A. ~~An area encompassing Ajo and its immediate surroundings shall be a nonattainment area for SO<sub>2</sub>, defined by the following township/range/section coordinates:~~

T11S R6W, T11S R5W;  
 T12S R6W, T12S R5W;  
 T13S R6W.

A. An area defined by the following Township/Range/Section coordinates, as listed in 40 CFR 81.303, shall be an attainment area for SO<sub>2</sub>:

4-4-18-17-04-023 4-2-18-17-04-024

<u>Designated Area</u>	<u>Does not meet primary standards</u>	<u>Does not meet secondary standards</u>	<u>Cannot be classified</u>	<u>Better than nations standards</u>
Ajo (T11-13S, R5W-R6W)	--	--	--	<u>X</u>

\*\*\*\*

(Ord. 2004- § , Ord. 1993-128 § 2, 1993; Ord. 1985-183 (part), 1985; Ord. 1983-196 (part), 1983)

**SECTION 3.** Chapter 17.12 is hereby amended by amending Sections 17.12.060, 17.12.070, 17.12.140, 17.12.160, 17.12.170, 17.12.180, 17.12.210 and 17.12.540 to read as follows:

**Chapter 17.12  
PERMITS AND PERMIT REVISIONS**

\*\*\*\*

**17.12.060 Existing source emission monitoring.**

A. Every source subject to an existing source performance standard as specified in this title shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this Section for the applicable source category.

1. **Applicability.**

- a. Fossil fuel-fired steam generators as specified in ~~subdivision 1 of subsection C (C)(1)~~ of this Section, shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
- b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in ~~subdivision 4 of subsection C (C)(4)~~ of this Section, shall be monitored for opacity.
- c. Sulfuric acid plants, as specified in ~~subdivision 3 of subsection C (C)(3)~~ of this Section, shall be monitored for sulfur dioxide emissions.
- d. Nitric acid plants, as specified in ~~subdivision 2 of subsection C (C)(2)~~ of this Section, shall be monitored for nitrogen oxides emissions.

2. **Exemptions:**

- a. Emission monitoring shall not be required when the source of emissions is not operating.

3. **Variations.**

- a. Unless otherwise prohibited by the Act, the control officer may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the

installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the control officer on a case-by-case basis and shall include as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Section. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.

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(Ord. 2004- § \_\_, Ord. 1994-83 § 6, 1994: Ord. 1993-128 § 3 (part), 1993)

#### 17.12.070 Quality assurance.

Facilities subject to permit requirements of this chapter shall submit a quality assurance plan to the control officer that meets the requirements of 17.12.040(D)(3) within twelve months of the effective date of this section. Facilities subject to the requirements of 17.12.060 shall submit a quality assurance plan as specified in the permit. (Ord. 2004- § \_\_, Ord. 1995-87 § 10, 1995; Ord. 1994-83 § 7, 1994: Ord. 1993-128 § 3 (part), 1993)

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#### 17.12.140 Applicability; classes of permits.

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B. There shall be two classes of permits as follows:

1. A Class I permit shall be required for a person to commence construction of or operate any of the following:
  - a. Any major source.
  - b. Solid waste incineration units required to obtain a permit pursuant to section 129 (e) of the Act (Solid Waste Combustion).
  - c. An affected source.
  - d. Any source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the control officer by rule.
2. Unless a Class I permit is required, a Class II permit shall be required for:
  - a. A person to commence construction of or modify either of the following:
    - (i) ~~A source that emits with controls, or has the potential to emit with controls, ten (10) tons per year or more of any hazardous air pollutant listed under A.R.S. § 49-426.04 (A)(1) or twenty-five (25) tons per year of any combination of hazardous air pollutants.~~

- (ii) ~~A source that is within a category designated pursuant to A.R.S. 49-426.05 and that emits, or has the potential to emit, with controls one (1) ton per year or more of a hazardous air pollutant or two and one half (2½) tons per year of any combination of hazardous air pollutants.~~
- b. ~~A person to commence construction of or operate any of the following:~~
  - (i) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act (Standards of Performance for New Stationary Sources).
  - (ii) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act.
  - (iii) Any source that emits, or has the potential to emit, without controls, significant quantities of regulated air pollutants.
  - (iv) Stationary rotating machinery of greater than 325 brake horsepower.
  - (v) Fuel-burning equipment which, at a location or property other than a one or two family residence, are fired at a sustained rate of more than one million BTU per hour for more than an eight hour period.
- e. ~~A person to make a modification to a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than those specified in items i and ii of paragraph a and item iii of paragraph b of this subdivision.~~
- b. A person to modify a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than or equal to those specified in subsection (B)(2)(a)(iii).

\*\*\*\*

- D. No person may construct or reconstruct any major source of hazardous air pollutants unless the control officer determines that maximum achievable control technology emission limitation (MACT) for new sources under section 112 of the Act will be met. ~~Where~~ 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 17.16.530.B. For purposes of this subsection, construction and reconstructing a major source shall have the meanings prescribed in 40 CFR 63.41. (~~Ord. 2004- §~~, Ord. 1998-27 § 3, 1998; Ord. 1995-87 § 11, 1995; Ord. 1994-83 § 11, 1994; Ord. 1993-128 § 3 (part), 1993)

\*\*\*\*

### 17.12.160 Permit application processing procedures.

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C. Unless otherwise required by 17.12.150 ~~B. through F.~~, a timely application is:

1. For a source, other than a major source, applying for a permit for the first time, one that is submitted within 12 months after the source becomes subject to the permit program.
2. For purposes of permit renewal, a timely application is one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.
3. For initial phase II acid rain permits under Title IV of the Act and regulation incorporated pursuant to section 17.12.365, one that is submitted to the control officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.
4. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act (Hazardous Air Pollutants) shall, within twelve 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.

\*\*\*\*

(Ord. 2004- § , Ord. 1998-27 § 4, 1998; Ord. 1997-79 § 4, 1997; Ord. 1995-87 § 12, 1995; Ord. 1994-83 § 13, 1994; Ord. 1993-128 § 3 (part), 1993)

#### 17.12.170 Public records; confidentiality.

\*\*\*\*

B. Any records, reports or information obtained from any person under this title, including records, reports or information obtained or prepared by the control officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:

1. A showing, satisfactory to the control officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person. A request for confidentiality shall:
  - a. Precisely identify the information in the documents submitted which is considered confidential.
  - b. Contain sufficient supporting information to allow the control officer to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.
2. A determination by the county attorney that disclosure of the information or a particular part of the information would be detrimental to an

ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this chapter in superior court.

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(Ord. 2004- § , Ord. 1994-83 § 14, 1994: Ord.1993-128 § 3 (part), 1993)

#### 17.12.180 Permit contents.

A. Each permit issued shall include the following elements:

\*\*\*\*

3. Each permit shall contain the following requirements with respect to monitoring:

~~a. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions), and including any monitoring and analysis procedures or test methods required pursuant to section 17.12.220;~~

~~b. Where the applicable requirement does not require periodic testing or instrumental or non instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported pursuant to subdivision A.4 of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required pursuant to section 17.12.220. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and~~

~~e. As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.~~

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 17.12.220.

b. 40 CFR 64 as codified July 1, 2004, is incorporated by reference and on file with the control officer. 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

17.12.180-17

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 relevant 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 conventions consistent with the applicable requirement, and as otherwise required under 17.12.220. Recordkeeping 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.

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#### 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 paragraph (B)(2) of this subsection, all terms and conditions in a Class I permit, including any provisions designed to limit a source's potential to emit.
  - b. Terms or conditions in a Class II permit setting forth federal applicable requirements,
  - c. Terms and conditions in any permit which are entered into voluntarily pursuant to section 17.12.220, as follows:
    - (i) Emissions limitations, controls or other requirements.
    - (ii) Monitoring, recordkeeping and reporting requirements associated with the emissions limitations, controls or other requirements in ~~subdivision (i) of this subparagraph in~~ subsection (B)(1)(c)(i)
2. Notwithstanding ~~subparagraph subsection (B)(1)(a) of this subsection,~~ the control officer 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 requirements.

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#### 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, which situation requires immediate corrective

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action to restore normal operation and that causes the sources to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emission attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

2. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of ~~subdivision 3 of this 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 that the permittee can identify the cause(s) of the emergency;
  - b. The permitted facility was at the time 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 control officer by certified mail or hand delivery within two (2) 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.

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(Ord. 2004- § \_\_, Ord. 1998-27 § 5, 1998; Ord. 1995-87 § 13, 1995; Ord. 1994-83 § 15, 1994; Ord. 1993-128 § 3 (part), 1993)

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#### 17.12.210 Compliance plan; certification.

- A. All permits shall contain the following elements with respect to compliance:
  1. The elements required by 17.12.180(A)(3), (4), and (5).
  2. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
    - a. The frequency for 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 the following:
- (i) ~~The identification of each term or condition of the permit that is the basis of the certification;~~
  - (ii) ~~The compliance status;~~
  - (iii) ~~Whether compliance was continuous or intermittent;~~
  - (iv) ~~The method(s) used for determining the compliance status of the source, currently and over the reporting period; and~~
  - (v) ~~Other facts as the control officer may require to determine the compliance status of the source.~~
- 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 under 17.12.180(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 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 for consideration 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 control officer may require to determine the compliance status of the source.
- d. A requirement that permittees submit all compliance certifications be submitted to the control officer, and for Class I permits, permittees shall also submit compliance certifications to the Administrator as well.
- e. Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act (Inspections, Monitoring and Entry or Permit Requirements and Conditions) or pursuant to section 17.12.220.

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(Ord. 2004- § , Ord. 1998-27 § 7, 1998; Ord. 1995-87 § 14, 1995; Ord. 1994-83 § 17, 1994; Ord. 1993-128 § 3 (part), 1993)

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#### 17.12.365 Acid Rain

- A. The following subparts of 40 CFR Part 72, Permits Regulation, and all accompanying appendices, adopted as of July 1, ~~1996~~2004, are incorporated by reference. These standards are to file with the Office of the Secretary of State and with the Department, and shall be applied by the Department.
- C. If the provisions or requirements of the regulations incorporated pursuant to this section conflict with any of the remaining portions of the Title, the regulations incorporated pursuant to this section shall apply and take precedence. (Ord. 2004- § ; Ord. 1997-79 § 7, 1997; Ord. 1995-87 § 19, 1995)

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#### 17.12.480 Open burning permits.

- A. ~~A person who plans to ignite, allow, or maintain any outdoor fire—except as specifically exempted herein—shall obtain an open burning permit from the control officer before commencing the burning.~~
- B. ~~Specific types of open outdoor fires which require open burning permits, as well as those types of fires which do not require permits, are identified in Table 17.12.480. Any open burning not listed in Table 17.12.480 is prohibited.~~
- A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:
  - 1. “Agricultural Burning” means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.
  - 2. “Air Curtain Destructor” means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.

3. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.
4. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
5. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
6. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
7. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
8. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
9. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, demolition debris or prohibited materials.
10. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
11. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
12. "Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning.
13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents.

stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.

14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.

B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.

C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the control officer or a delegated authority:

1. Fires used only for:
  - a. Cooking of food.
  - b. Providing warmth for human beings.
  - c. Recreational purposes.
  - d. Branding of animals.
  - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
  - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
  - a. Control of an active wildfire; or
  - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
3. Fire set by or permitted by the control officer of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions.

D. Open outdoor fires requiring a permit.

1. The following open outdoor fires are allowed with an open burning permit from the control officer or a delegated authority:
  - a. Construction burning;
  - b. Agricultural burning;
  - c. Residential burning;
  - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under;
  - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed

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abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3):

- f. Open outdoor fires of dangerous material under subsection (E):
- g. Open outdoor fires of household waste under subsection (F); and
- h. Open outdoor fires that use an air curtain destructor, as defined in 17.12.480 (A)(2).

2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an PDEQ-approved application form.

3. Open outdoor fire permits issued under this Section shall include:

- a. A list of the materials that the permittee may burn under the permit;
- b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;
- c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:
  - i. Year-round: ignite fire no earlier than one hour after sunrise; and
  - ii. Year-round: extinguish fire no later than two hours before sunset;
- d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
  - i. Prevent dispersion of smoke into populated areas;
  - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
  - iii. Do not create a public nuisance or adversely affect public safety;
  - iv. Do not cause an adverse impact to visibility in a Class I area; and
  - v. Do not cause uncontrollable spreading of the fire;
- e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions.;
- f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:
  - i. The date of each burn;
  - ii. The type and quantity of fuel burned for each date open burning occurred;
  - iii. The fire type, such as pile or pit, for each date open burning occurred; and
  - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
- g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the

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- service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;
- h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
  - i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
  - j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;
  - k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;
  - l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
  - m. A requirement that the permittee not conduct open burning when an a stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
  - n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared by ADEQ or PDEQ;
  - o. A statement that the control officer, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
  - p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.
4. The control officer or a delegated authority shall not issue an open burning permit under this Section:
- a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;
  - b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or
  - c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the control officer has not issued a variance under A.R.S. § 49-763.01.
- E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the control officer has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The control officer shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not

result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.

- F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the control officer or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:
1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or
  2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.
- G. The control officer shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.
- H. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.
- EJ. The term of any open burning permit shall be as specified by the control officer, subject to the following limitations:
1. The term of a temporary open burning permit shall not exceed three consecutive or non-consecutive days within a thirty-day period, and
  2. The term of an extended open burning permit shall expire as specified on the original application, and shall in no case exceed ninety days. (Ord. 1987-175 § 4, 14, 1987; Ord. 1981-12 (part), 1981; Ord. 1979-93 (part), 1979)

#### ~~17.12.490 Standard Permit Requirements.~~

- A. ~~A person granted an open burning permit must comply with the following:~~
1. ~~Permissible burning hours are noon to four p.m. unless stated otherwise on the permit;~~
  2. ~~Burning must be at a safe distance from structures;~~
  3. ~~Burning must be constantly attended with reasonable control tools at hand;~~
  4. ~~Burning may not be conducted on public land or on other land not owned or leased by the permittee without written permission from the owner or land manager;~~
  5. ~~Fire must be dead out when left; and~~
  6. ~~The burning of materials other than those specified by the permit is prohibited. (Ord. 1979-93 (part), 1979)~~

17.12.540 Activity Permit Fees

**Table 17.12.540**  
**ACTIVITY PERMIT FEES SCHEDULE (effective until July 1, 2003)**

S.S. <sup>†</sup>	ACTIVITY	RATE COMPONENTS	EXEMPTIONS
-A	Landstripping and/or Earthmoving	1 to 5 acres \$89.28 plus \$8.93 per each additional acre or fraction thereof	< 1 acre
-B	Trenching	300 feet of aggregate trenching \$17.86 base plus \$0.036 per each additional ft.	< 300 ft; trenching for landscaping
-C	Road Construction	50 ft. of aggregate road construction \$17.86 base plus \$0.09 per each additional ft.	< 50 ft
-D	Activity permit for NESHAP facilities	\$420.00	See Exemption Note
-E	Blasting	\$18.00 plus \$3.53 per day of blasting	None

**Exemption Note:**

- < 260 linear feet on pipes;
- < 160 square feet on other facility components;
- < 35 cubic feet off facility components

**Example Permit Fee Calculations**

1. Permit for clearing 4 acres: \$89.28
2. Permit for earthmoving on 9 acres:
  - \_\_\_\_\_ First five acres = \$ 89.28
  - \_\_\_\_\_ Remaining four acres = \$8.93 x 4 = \$ 35.72
  - \_\_\_\_\_ Total = \$125.00
3. Permit for trenching 500 feet:
  - \_\_\_\_\_ Base fee for the first 300 feet = \$ 17.86
  - \_\_\_\_\_ Remaining 200 feet = 200 x 0.036 = \$ 7.20
  - \_\_\_\_\_ Total = \$ 25.06

<sup>†</sup>Sub-schedule for identification only.

(Ord. 1995-87 §26, 1995; Ord. 1994-83 §44, 1994; Ord. 1993-128 §3 (part), 1993; Ord. 1990-113 §16, 1990; Ord. 1989-165 §17 (part), 1989; Ord. 1987-175 §18, 1987)

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SECTION 4. Chapter 17.16, Sections 17.16.130, 17.16.165, 17.16.430, 17.16.430, and 17.16.700 are hereby amended to read:

**Chapter 17.16**  
**EMISSION LIMITING STANDARDS**

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**17.16.130 Applicability.**

- A. ~~This article shall apply only to emissions which enter the atmosphere by passing through a vent, stack, flue, or other similar containing or restrictive device, or which by reasonable modification of the emissions source the emissions can be directed through such a device for testing purposes. a source that is all of the following:~~
1. An existing source, as defined in 17.04.340;
  2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
  3. A stationary source, as defined in 17.04.340.
- B. ~~Where the nature of a process, operation, or activity allows more than one interpretation of a requirement in this Chapter, the more restrictive or most restrictive interpretation shall apply.~~
- CB. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (a), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:
1. ~~Shall not be greater than 40 percent, and~~
  1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the control officer as provided in subsection (D) and (E), after the effective date of this rule.
  2. ~~Shall be determined by reference Method 9 of the Arizona Testing Manual.~~
  2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
  3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).

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~~DC.~~ Where If the presence of uncombined water is the only reason for the an exceedance of any visible emissions requirement in this Article, such the exceedance shall not constitute a violation of the applicable opacity limit.

~~ED.~~ A person owning or operating an air pollution a source may ask petition the control officer for a determination on meeting the requirements of the an alternative applicable opacity standard limit. The petition shall be submitted to PDEQ within three months after the effective date of this rule.

~~1.~~ The owner or operator shall submit the written reports of the results of the performance tests, the opacity observation results, and observer certification.

~~1.~~ The petition shall contain:

~~a.~~ Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:

~~i.~~ Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;

~~ii.~~ A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and

~~iii.~~ An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.

~~b.~~ If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.

~~c.~~ A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

~~2.~~ If the control officer finds that the facility is in compliance with all applicable standards for the performance test and still fails to meet the applicable opacity standard, he shall notify the owner or operator of the finding.

~~2.~~ If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:

~~a.~~ Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least



~~6. The control officer shall publish the opacity standard once in one or more newspapers of general circulation in the county.~~

~~F. The process weight rate utilized in this Article shall be determined as follows:~~

~~1. For continuous or long runs, steady state process sources, the process weight rate shall be the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.~~

~~2. For cyclical or batch process sources, the process weight rate shall be the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.~~

E. If the control officer receives a petition under subsection (D) the control officer shall approve or deny the petition as provided below by October 15, 2004:

1. If the petition is approved under subsection (D)(1) or (D)(2), the control officer shall include an alternative opacity limit in a proposed significant permit revision for the source under 17.12.260 and 17.12.340. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.

2. If the petition is approved under subsection (D)(3), the control officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.

3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under 17.12.210(5)(c)(iii) by April 23, 2006.

4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under 17.12.210(5)(c).

F. The control officer, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:

1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period. (Ord. 2004- § \_\_, Ord. 1979-93 (part), 1979)

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**17.16.165 Standards of performance for fossil-fuel fired industrial and commercial equipment.**

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- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with ~~17.12.220~~ 17.12.040. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

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(Ord. 2004- § \_\_, Ord. 1994-83 § 54, 1994: Ord. 1993-128 § 4 (part), 1993)

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**17.16.430 Standards of performance for unclassified sources.**

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- G. Where a stack, vent or other outlet is at such a level that fumes, gas, mist, odor, smoke, vapor or any combination thereof constituting air pollution are discharged to adjoining property, the control officer may require the installation of abatement equipment or the alteration of such stack, vent or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.

(Ord. 2004- § \_\_, Ord. 1994-83 § 58, 1994: Ord. 1993-128 § 4 (part), 1993)

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**17.16.490 Standards of performance for new stationary sources (NSPS).**

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A. Except as provided in subsections B, C and D of this section, and 17.16.500 through 17.16.520, the following subparts of 40 CFR Part 60, and accompanying appendices, the federal standards of performance for new stationary sources, adopted as of July 1, 1996~~2004~~ and no future editions are incorporated herein by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

1. Subpart A - General Provisions. (Section 60.1 – Section 60.19)
- ~~2.~~ Subpart B – Excluded
- ~~3.~~ Subpart C – Excluded
4. Subpart Ca – Reserved
5. Subpart Cb – Excluded
6. Subpart Cc – Excluded
7. Subpart Cd – Excluded
8. Subpart Ce – Excluded
- ~~29.~~ Subpart D - Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971. (Section 60.40 – 60.46)
- ~~310.~~ Subpart Da - Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978. (Section 60.40a – 60.49a)
- ~~411.~~ Subpart Db - Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40b – 60.49b)
- ~~512.~~ Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units. (Section 60.40c – 60.48c)
- ~~613.~~ Subpart E - Incinerators. (Section 60.50 – 60.54)
- ~~714.~~ Subpart Ea - Municipal Waste Combustors for which Construction is Commenced after December 20, 1989, and on or before September 20, 1994. (Section 60.50a – 60.59a)
- ~~815.~~ Subpart Eb - Municipal Waste Combustors for which Construction is Commenced after September 20, 1994. (Section 60.50b – 60.59b)
16. Subpart Ec – Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996 (Section 60.50c – 60.58c & Tables)
- ~~917.~~ Subpart F - Portland Cement Plants. (Section 60.60 – 60.66)
- ~~1018.~~ Subpart G - Nitric Acid Plants. (Section 60.70 – 60.74)
- ~~1119.~~ Subpart H - Sulfuric Acid Plants. (Section 60.80 – 60.85)
- ~~1220.~~ Subpart I - Hot Mix Asphalt Facilities. (Section 60.90 – 60.93)
- ~~1321.~~ Subpart J - Petroleum Refineries. (Section 60.100 – 60.109)
- ~~1422.~~ Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978. (Section 60.110 – 60.113)
- ~~1523.~~ Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984. (Section 60.110a – 60.115a)

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- 1624. Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984. (Section 60.110b – 60.117b)
- 1725. Subpart L - Secondary Lead Smelters. (Section 60.120 – 60.123)
- 1826. Subpart M - Secondary Brass and Bronze Ingot Production Plants. (Section 60.130 – 60.133)
- 1927. Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973. (Section 60.140 – 60.144)
- 2028. Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983. (Section 60.140a – 60.145a)
- 2129. Subpart O - Sewage Treatment Plants. (Section 60.150 – 60.156)
- 2230. Subpart P - Primary Copper Smelters. (Section 60.160 – 60.166)
- 2331. Subpart Q - Primary Zinc Smelters. (Section 60.170 – 60.176)
- 2432. Subpart R - Primary Lead Smelters. (Section 60.180 – 60.186)
- 2533. Subpart S - Primary Aluminum Reduction Plants. (Section 60.190 – 60.195)
- 2634. Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants. (Section 60.200 – 60.204)
- 2735. Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants. (Section 60.210 – 60.214)
- 2836. Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants. (Section 60.220 – 60.224)
- 2937. Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants. (Section 60.230 – 60.234)
- 3038. Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities. (Section 60.240 – 60.244)
- 3139. Subpart Y - Coal Preparation Plants. (Section 60.250 – 60.254)
- 3240. Subpart Z - Ferroalloy Production Facilities. (Section 60.260 – 60.266)
- 3341. Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983. (Section 60.270 – 60.276)
- 3442. Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983. (Section 60.270a – 60.276a)
- 3543. Subpart BB - Kraft Pulp Mills. (Section 60.280 – 60.285)
- 3644. Subpart CC - Glass Manufacturing Plants. (Section 60.290 – 60.296)
- 3745. Subpart DD - Grain Elevators. (Section 60.300 – 60.304)
- 3846. Subpart EE - Surface Coating of Metal Furniture. (Section 60.310 – 60.316)
- 47. Subpart FF - Reserved
- 3948. Subpart GG - Stationary Gas Turbines. (Section 60.330 – 60.335)
- 4049. Subpart HH - Lime Manufacturing Plants. (Section 60.340 – 60.344)
- 4150. Subpart KK - Lead-Acid Battery Manufacturing Plants. (Section 60.370 – 60.374)
- 4251. Subpart LL - Metallic Mineral Processing Plants. (Section 60.380 – 60.388)
- 4352. Subpart MM - Automobile and Light Duty Truck Surface Coating Operations. (Section 60.390 – 60.398)

4453. Subpart NN - Phosphate Rock Plants. (Section 60.400 – 60.404)
4554. Subpart PP - Ammonium Sulfate Manufacture. (Section 60.420 – 60.424)
4655. Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing. (Section 60.430 – 60.435)
4756. Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations. (Section 60.440 – 60.447)
4857. Subpart SS - Industrial Surface Coating: Large Appliances. (Section 60.450 – 60.456)
4958. Subpart TT - Metal Coil Surface Coating. (Section 60.460 – 60.466)
5059. Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture. (Section 60.470 – 60.474)
5160. Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry. (Section 60.480 – 60.489)
5261. Subpart WW - Beverage Can Surface Coating Industry. (Section 60.490 – 60.496)
5362. Subpart XX - Bulk Gasoline Terminals. (Section 60.500 – 60.506)
5463. Subpart AAA - New Residential Wood Heaters. (Section 60.530 – 60.539b)
5564. Subpart BBB - Rubber Tire Manufacturing Industry. (Section 60.540 – 60.548)
65. Subpart CCC – Reserved
5666. Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry. (Section 60.560 – 60.566)
67. Subpart EEE – Reserved
5768. Subpart FFF - Flexible Vinyl and Urethane Coating and Printing. (Section 60.580 – 60.585)
5869. Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries. (Section 60.590 – 60.593)
5970. Subpart HHH - Synthetic Fiber Production Facilities. (Section 60.600 – 60.604)
6071. Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes. (Section 60.610 – 60.618)
6172. Subpart JJJ - Petroleum Dry Cleaners. (Section 60.620 – 60.625)
6273. Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. (Section 60.630 – 60.636)
6374. Subpart LLL - Onshore Natural Gas Processing; SO<sub>2</sub> Emissions. (Section 60.640 – 60.648)
75. Subpart MMM – Reserved
6476. Subpart NNN - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations. (Section 60.660 – 60.668)
6577. Subpart OOO - Nonmetallic Mineral Processing Plants. (Section 60.670 – 60.676)
6678. Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants. (Section 60.680 – 60.685)

- ~~6779.~~ Subpart QQQ - VOC Emissions From Petroleum Refinery Wastewater Systems. (Section 60.690 – 60.699)
- ~~6880.~~ Subpart RRR - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical manufacturing Industry (SOEMI) Reactor Processes. (Section 60.700 – 60.708)
- ~~6981.~~ Subpart SSS - Magnetic Tape Coating Facilities. (Section 60.710 – 60.718)
- ~~7082.~~ Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines. (Section 60.720 – 60.726)
- ~~7183.~~ Subpart UUU - Calcines and Dryers in Mineral Industries. (Section 60.730 – 60.737)
- ~~7284.~~ Subpart VVV - Polymeric Coating of Supporting Substrates Facilities. (Section 60.740 – 60.747)
- ~~7385.~~ Subpart WWW - Municipal Solid Waste Landfills. (Section 60.750 – 60.759)
- 86. Subpart AAAA – Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001. (Section 60.1000 – 60.1465 & Tables)
- 87. Subpart BBBB – Excluded
- 88. Subpart CCCC – Commercial and Industrial Solid Waste Incineration for Which Construction is Commenced after November 30, 1999, or for which Modification or Reconstruction is Commenced on or after June 1, 2001.
- 89. Subpart DDDD – Excluded

B. As used in 40 CFR Part 60: "Administrator" means the control officer, except that the control officer shall not be empowered to approve alternate or equivalent test methods nor to deal with equivalency determinations or innovative technology waivers.

C. From the general standards identified in subsection A, delete the following:

1. 40 CFR 60.4. All requests, reports, applications, submittals and other communication to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.
2. 40 CFR 60.5, and 60.6.

D. The control officer shall not be delegated authority to deal with equivalency determinations or innovative technology waivers as covered in sections 111(h)(3) and 111(j) of the Act. (Ord. 2004- §, Ord. 1997-79 § 9, 1997; Ord. 1994-83 § 59, 1994; Ord. 1993-128 § 4 (part), 1993); Ord. 1991-136 § 15, 1991; Ord. 1990-113 § 6, 1990; Ord. 1989-165 § 21, 1989; Ord. 1988-117 § 2, 1988; Ord. 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

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## Article VII. National Emission Standards for Hazardous Air Pollutants

### 17.16.530 National Emissions Standards for Hazardous Air Pollutants (NESHAP).

A. Except as provided in subsections B, C, and D of this section, the following subparts of 40 CFR Part 61 (NESHAPs) and all accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.

1. Subpart A - General Provisions. (Section 61.01 – 61.19)
2. Subpart B – Excluded
23. Subpart C - Beryllium. (Section 61.20 – 61.26)
34. Subpart D - Beryllium Rocket Motor Firing. (Section 61.40 – 61.44)
45. Subpart E - Mercury. (Section 61.50 – 61.56)
56. Subpart F - Vinyl Chloride. (Section 61.60 – 61.71)
7. Subpart G - Reserved
8. Subpart H – Excluded
9. Subpart I – Excluded
69. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene. (Section 61.110 – 61.112)
10. Subpart K – Excluded
711. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants. (Section 61.130 – 61.139)
812. Subpart M - Asbestos. (Section 61.140 – 61.157 & Appendix A)
913. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants. (Section 61.160 – 61.165)
1014. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters. (Section 61.170 – 61.177)
1115. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production. (Section 61.180 – 61.186)
16. Subpart Q - Excluded
17. Subpart R - Excluded
18. Subpart S - Reserved
19. Subpart T - Excluded
20. Subpart U - Reserved
1221. Subpart V - Equipment Leaks (Fugitive Emission Sources). (Section 61.240 – 61.247 & Tables)
22. Subpart W – Excluded
23. Subpart X - Reserved
1324. Subpart Y - Benzene Emissions From Benzene Storage Vessels. (Section 61.270 – 61.277)
25. Subpart Z - Reserved
26. Subpart AA - Reserved

- 1427. Subpart BB - Benzene Emissions from Benzene Transfer Operations. (Section 61.300 - 61.306)
- 28. Subpart CC - Reserved
- 29. Subpart DD - Reserved
- 30. Subpart EE - Reserved
- 1531. Subpart FF - Benzene Waste Operations. (Section 61.340 - 61.359 & Appendices)

B. Except as provided in subsection A, the following subparts of 40 CFR Part 63, NESHAPs for Source Categories and all accompanying appendices, adopted as of July 1, 2004 and no future editions are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

- 1. Subpart A - General Provisions (Section 63.1 - 63.15)
- 2. Subpart B - Requirements for Control Technology Determinations for major Sources in Accordance with Clean Air Act Sections 112(g) and 112(j) (Section 63.40 - 63.56)
- 3. Subpart C - Excluded
- 34. Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants. (Section 63.70 - 63.81)
- 5. Subpart E - Excluded
- 46. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (Section 63.100 - 63.107 & Tables)
- 57. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (Section 63.110 - 63.152 & Appendix)
- 68. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (Section 63.160 - 63.182 & Tables)
- 79. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (Section 63.190 - 63.193)
- 10. Subpart J - Reserved
- 11. Subpart K - Reserved
- 812. Subpart L - National Emission Standards for Coke Oven Batteries. (Section 63.300 - 63.313 & Appendix)
- 913. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities. (Section 63.320 - 63.325)
- 1014. Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. (Section 63.340 - 63.347 & Table)
- 1115. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities (Section 63.360 - 63.367)
- 16. Subpart P - Reserved

- 1217. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers (Section 63.400 - 63.406 & Table)
- 1318. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations). (Section 63.420 - 63.429 & Table)
- 19. Subpart S - National Emission Standards for Pulp and Paper (Section 63.440 - 63.459 & Table)
- 1420. Subpart T - National Emission Standards for Halogenated Solvent Cleaning. (Section 63.460 - 63.470 & Appendices)
- 1521. Subpart U - Group I Polymers and Resins (Section 63.480 - 63.506 & Tables)
- 22. Subpart V - Reserved
- 1523. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production. (Section 63.520 - 63.528 & Table)
- 1624. Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting (Section 63.541 - 63.550)
- 25. Subpart Y - Excluded
- 26. Subpart Z - Reserved
- 27. Subpart AA - National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing Plants (Section 63.600 - 63.610 & Appendix)
- 28. Subpart BB - National Emission Standards for Hazardous Air Pollutant for Phosphate Fertilizers Production Plants (Section 63.620 - 63.631 & Appendix)
- 1729. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (Section 63.640 - 63.679 & Appendix)
- 30. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations (Section 63.680 - 63.698 & Tables)
- 1831. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations. (Section 63.701 - 63.708 & Table)
- 32. Subpart FF - Reserved
- 1933. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities (Section 63.741 - 63.759 & Table & Appendix)
- 34. Subpart HH - National Emission Standards for Oil and Natural Gas Production Facilities (Section 63.760 - 63.779 & Appendix)
- 35. Subpart II - Excluded
- 2036. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations (Section 63.800 - 63.819 & Tables)
- 2437. Subpart KK - National Emission Standards for the Printing and Publishing Industry (Section 63.820 - 63.839 & Tables)
- 38. Subpart LL - National Emission Standards for Primary Aluminum Reduction Plants (Section 63.840 - 63.859 & Tables & Appendix)
- 39. Subpart MM - Excluded

40. Subpart OO - National Emission Standards for Tanks- Level 1 (Section 63.900 - 63.907)
41. Subpart PP - National Emission Standards for Containers (Section 63.920 - 63.928)
42. Subpart QQ - National Emission Standards for Surface Impoundments (Section 63.940 - 63.948)
43. Subpart RR - National Emission Standards for Individual Drain Systems (Section 63.960 - 63.966)
44. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Section 63.980 - 63.999)
45. Subpart TT - National Emission Standards for Equipment Leaks -Control Level 1 (Section 63.1000 - 63.1018)
46. Subpart UU - National Emission Standards for Equipment Leaks -Control Level 2 (Section 63.1019 - 63.1039 & Table)
47. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators (Section 63.1040 - 63.1049)
48. Subpart WW - National Emission Standards for Storage Vessels (Tanks) - Control Level 2 (Section 63.1060 - 63.1066)
49. Subpart XX - Reserved
50. Subpart YY - National Emission Standards for Generic MACT Standards (Section 63.1100 - 63.1113)
51. Subpart ZZ - Reserved
52. Subpart AAA - Reserved
53. Subpart BBB - Reserved
54. Subpart CCC - National Emission Standards for Steel Pickling (Section 63.1156 - 63.1174 & Table)
55. Subpart DDD - National Emission Standards for Mineral Wool Production (Section 63.1175 - 63.1199 & Table & Appendix)
56. Subpart EEE - National Emission Standards for Hazardous Waste Combustors (Section 63.1200 - 63.1213 & Table & Appendix)
57. Subpart FFF - Reserved
58. Subpart GGG - National Emission Standards for Pharmaceuticals Production (Section 63.1250 - 63.1261 & Tables)
59. Subpart HHH - National Emission Standards for Natural Gas Transmission and Storage Facilities (Section 63.1270 - 63.1289 & Appendix)
60. Subpart III - National Emission Standards for Flexible Polyurethane Foam Production (Section 63.1290 - 63.1309 & Appendix)
61. Subpart JJJ - National Emission Standards for Group IV Polymers and Resins (Section 63.1310 - 63.1335 & Tables)
62. Subpart KKK - Reserved
63. Subpart LLL - National Emission Standards for Portland Cement Manufacturing Industry (Section 63.1340 - 63.1359 & Table)
64. Subpart MMM - National Emission Standards for Pesticide Active Ingredient Production (Section 63.1360 - 63.1369 & Tables)

65. Subpart NNN - National Emission Standards for Wool Fiberglass Manufacturing (Section 63.1380 - 63.1399 & Table & Appendices)
66. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins (Section 63.1400 - 63.1419 & Tables)
67. Subpart PPP - National Emission Standards for Polyether Polyols Production (Section 63.1420 - 63.1439 & Tables)
68. Subpart QQQ - National Emission Standards for Primary Copper Smelting (Section 63.1440 - 63.1459 & Table & Figure)
69. Subpart RRR - National Emission Standards for Secondary Aluminum Production (Section 63.1500 - 63.1520 & Tables)
70. Subpart SSS - Reserved
71. Subpart TTT - National Emission Standards for Primary Lead Smelting (Section 63.1541- 63.1550)
72. Subpart UUU - National Emission Standards for Petroleum Refineries: Catalytic Cracking, Catalytic Reforming, And Sulfur Plan Units (Section 63.1560 - 63.1579 & Tables)
73. Subpart VVV--National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works (Section 63.1580 - 63.1595 & Table)
74. Subpart WWW - Reserved
75. Subpart XXX - National Emission Standards for Ferroalloys Production (Section 63.1620 - 63.1679)
76. Subpart AAAA - National Emission Standards for Municipal Solid Waste Landfills (Section 63.1930 - 63.1990 & Appendix)
77. Subpart CCCC - National Emission Standards for Manufacturing of Nutritional Yeast (Section 63.2130 - 63.2192 & Appendices)
78. Subpart DDDD - Reserved
79. Subpart EEEE - National Emission Standards for Organic Liquids Distribution (Non-Gasoline) (Section 63.2330 - 63.2406 & Appendices)
80. Subpart FFFF--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (Section 63.2430 - 63.2550 & Appendices)
81. Subpart GGGG - National Emission Standards for Solvent Extraction for Vegetable Oil Production (Section 63.2830 - 63.2872)
82. Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production (Section 63.2980 - 63.3079 & Appendices)
83. Subpart JJJJ - National Emission Standards for Paper and Other Web Coating (Section 63.2130 - 63.2192 & Appendices)
84. Subpart KKKK--National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans (Section 63.3480 - 63.3561 & Appendices)
85. Subpart MMMM--National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products (Section 63.3880 - 63.3981 & Appendices)
86. Subpart NNNN - National Emission Standards for Large Appliances (Section 63.4080 - 63.4181 & Appendices)

87. Subpart OOOO--National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles (Section 63.4280 - 63.4371 & Appendices)
88. Subpart QQQQ - National Emission Standards for Wood Building Products (Section 63.4680 - 63.4781 & Appendices)
89. Subpart RRRR - National Emission Standards for Surface Coating of Metal Furniture (Section 63.4880 - 63.4981 & Appendices)
90. Subpart SSSS - National Emission Standards for Surface Coating of Metal Coil (Section 63.5080 - 63.5206 & Appendices)
91. Subpart TTTT - National Emission Standards for Leather Finishing Operations (Section 63.5280 - 63.5460 & Appendices)
92. Subpart UUUU - National Emission Standards for Cellulose Products Manufacturing (Section 63.5480 - 63.5610 & Appendices)
93. Subpart VVVV - National Emission Standards for Boat Manufacturing (Section 63.5680 - 63.5779 & Appendices)
94. Subpart WWWW - National Emission Standards for Reinforced Plastics Composites Production (Section 63.5780 - 63.5935 & Appendices)
95. Subpart XXXX - National Emission Standards for Tire Manufacturing (Section 63.5980 - 63.6015 & Appendices)
96. Subpart YYYY--National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines (Section 63.6080 - 63.6175 & Appendices)
97. Subpart ZZZZ - Reserved
98. Subpart AAAAA--National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants (Section 63.7080 - 63.7143 & Appendices)
99. Subpart BBBB - National Emission Standards for Semiconductor Manufacturing (Section 63.7180 - 63.7195 & Appendices)
100. Subpart CCCCC - National Emission Standards for Coke Oven: Pushing, Quenching and Battery Stacks (Section 63.7280 - 63.7352 & Appendix)
101. Subpart DDDDD - Reserved
102. Subpart EEEEE--National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries (Section 63.7680 - 63.7765 & Appendix)
103. Subpart FFFFF - National Emission Standards for Integrated Iron and Steel (Section 63.7780 - 63.7852 & Appendices)
104. Subpart GGGG--National Emission Standards for Hazardous Air Pollutants: Site Remediation (Section 63.7880 - 63.7957 & Appendices)
105. Subpart HHHHH--National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing (Section 63.7980 - 63.8105 & Appendices)
106. Subpart IIII--National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants (Section 63.8180 - 63.8266 & Appendices)
107. Subpart JJJJ - National Emission Standards for Brick and Structural Clay Products Manufacturing (Section 63.8380 - 63.8515 & Appendices)

- 108. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (Section 63.8530 - 63.8665 & Appendices)
- 109. Subpart LLLLL - National Emission Standards for Asphalt Roofing and Processing (Section 63.8680 - 63.8698 & Appendices)
- 110. Subpart MMMMM - National Emission Standards for Flexible Polyurethane Foam Fabrication Operation (Section 63.8780 - 63.8830 & Appendices)
- 111. Subpart NNNNN--National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production (Section 63.8980 - 63.9075 & Appendices)
- 112. Subpart OOOOO - Reserved
- 113. Subpart PPPPP - National Emission Standards for Engine Test Cells/Stands (Section 63.9280 - 63.9375 & Appendices)
- 114. Subpart QQQQQ - National Emission Standards for Friction Products Manufacturing (Section 63.9480 - 63.9579 & Appendix)
- 115. Subpart RRRRR--National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing (Section 63.9580 - 63.9652 & Appendices)
- 116. Subpart SSSSS - National Emission Standards for Refractory Products Manufacturing (Section 63.9780 - 63.9824 & Appendices)
- 117. Subpart TTTTT--National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining (Section 63.9880 - 63.9942 & Appendices)

C. When used in 40 CFR Part 61 or part 63, "Administrator" means the control officer except that the control officer shall not be authorized to approve alternate or equivalent test methods or alternate standards/work practices.

D. From the general standards identified in subsection A of this section delete 40 CFR 61.04. All requests, reports, applications, submittals and other communications to the control officer pursuant to this article shall be submitted to the Pima County Department of Environmental Quality, 1350 W. Congress, Tucson, AZ 85701.

E. The control officer shall not be delegated authority to deal with equivalency determinations that are nontransferable through section 112(e)(3) of the Act. (Ord. 2004- § \_\_, Ord. 1998-27 § 15, 1998; Ord. 1997-79 § 10, 1997; Ord. 1995-87 § 49, 1995; Ord. 1994-83 § 60, 1994; Ord. 1993-128 § 4 (part), 1993; Ord. 1991-136 § 14, 1991; Ord. 1988-117 § 1, 1988; Ord 1986-227 § 1 (part), 1986; Ord. 1985-126 (part), 1985; Ord. 1983-196 (part), 1983)

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**17.16.700 Alternative Emission limitations.**

40 CFR 63 Subpart D, "Regulations governing compliance extensions for early reductions of hazardous air pollutants" and all accompanying appendices, adopted as of July 1, 1996-2004, and no future editions is adopted by reference. (Ord. 2004- § \_\_, Ord. 1997-79 § 11, 1997)

**SECTION 5.** Chapter 17.28, Section 17.28.065, is hereby amended to read:

A2-3774-029 A21-4284214

Chapter 17.28  
**VIOLATIONS AND CONDITIONAL ORDERS**  
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**17.28.065 Excess Emissions.**

A.A.C. R18-2-310 and R18-2-310.01 as of February 15, 2001 is are hereby adopted in its entirety and is are incorporated herein by this reference, except that all references to the "Director" shall be to the "Control Officer". (Ord. 2004-   §   , Ord. 1997-79 § 14, 1997)

**Table 17.16.040**  
**EMISSIONS-DISCHARGE OPACITY LIMITING STANDARDS**

Type of Source	Instantaneous Opacity Measurements			Maximum Allowable Average Opacity, %
	Required Number (For a Set)	Excluded Number (Highest Values)	Number to Use For Averaging	
Asbestos Containing Operation <sup>1</sup>	25	0	25	0
Cold Diesel Engines <sup>2</sup>	25	0	25	60
Loaded Diesel Engines <sup>3</sup>	26	1	25	60
Incinerators	27	2	25	20
Portland Cement Plants <sup>4</sup>	25	0	25	20
Other Sources <sup>5</sup>	25	0	25	4020

<sup>1</sup> An asbestos mill, manufacturing or fabrication operation which uses asbestos as a raw material, or spraying operation which sprays materials containing more than 1% asbestos by weight.

<sup>2</sup> Applicable to the first 10 consecutive minutes after starting up a diesel engine.

<sup>3</sup> Applicable to a diesel engine being accelerated under load.

<sup>4</sup> Applicable to kiln, clinker cooler, and other process equipment.

<sup>5</sup> Any source not otherwise specifically covered within this table, unless otherwise specifically covered in this chapter.

(Ord. 2004-   §   , Ord. 1993-128 § 4, 1993; Ord. 1979-93 (part), 1979)

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SECTION 6. If any of the provisions of this ordinance or the application thereof to any person or circumstance is invalid, the invalidity shall not effect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and do this end the provisions of this ordinance are severable.

SECTION 7. This ordinance shall become effective 31 days from the date of adoption.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona  
this 19th day of OCTOBER, 2004.

PIMA COUNTY BOARD OF  
SUPERVISORS

Shawn Bronson  
Chair, Board of Supervisors

OCT 19 2004  
Date

ATTEST:

Yvonne Godwin  
Clerk of the Board

APPROVED AS TO FORM:

Nancy Davis  
Deputy County Attorney

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MINUTES, BOARD OF SUPERVISORS MEETING

OCTOBER 19, 2004

The Pima County Board of Supervisors met in Regular Session at the regular meeting place of the Pima County Board of Supervisors on the First Floor of the Administration Building of the Governmental Center, Tucson, Arizona, at 9:00 a.m. on Tuesday, October 19, 2004. Upon roll call, those present and absent were as follows:

Present: Sharon Bronson, Chair  
Richard Elías, Vice Chair  
Ray Carroll, Member  
Ann Day, Member  
Ramón Valadez, Member  
Lori Godoshian, Clerk

Absent: None

**REGULAR AGENDA**

1. **INVOCATION**

The invocation was given by Reverend John Ross of Valley Presbyterian Church.

2. **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

**ADDENDUM**

... **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Day, seconded by Supervisor Carroll, and unanimously carried by a five to zero vote, that the Board convene to Executive Session at 9:15 a.m. relating to:

Pursuant to A.R.S. §38-431.03 (A)(3) and (4), for legal advice and direction regarding a proposed settlement with the Arizona Board of Pharmacy in Case No. 2004-23-PHR, in the matter of Kino Hospital Pharmacy, Holder of Permit No. 125 in the State of Arizona.

3. **RECONVENE**

The Board of Supervisors meeting reconvened at 9:32 a.m. All members were present.

18. HEALTH DEPARTMENT: PIMA COUNTY CODE TEXT AMENDMENT

ORDINANCE NO. 2004-96, of the Board of Supervisors of Pima County, Arizona, relating to immunizations; amending Pima County Code Chapter 8.12, Immunization

On consideration, it was moved by Chair Bronson, seconded by Supervisor Day, and unanimously carried by a five to zero vote, to close the public hearing and pass and adopt Ordinance No. 2004 - 96.

19. ENVIRONMENTAL QUALITY: PIMA COUNTY CODE TEXT AMENDMENT

ORDINANCE NO. 2004-97, of the Board of Supervisors of Pima County, Arizona, relating to the environment and air quality; amending Chapters 17.04; 17.08; 17.12; 17.16; and 17.28, to conform with corresponding State and Federal Air Quality Regulations.

On consideration, it was moved by Chair Bronson, seconded by Supervisor Elías, and unanimously carried by a five to zero vote, to close the public hearing and pass and adopt Ordinance No. 2004 - 97.

20. DEVELOPMENT SERVICES: ZONING CODE TEXT AMENDMENT

Co19-04-01, TUCSON/MARANA/PIMA COUNTY OUTDOOR LIGHTING CODE AMENDMENT

An ordinance of the Board of Supervisors of Pima County, Arizona; relating to building and construction; amending the Tucson/Marana/Pima County Outdoor Lighting Code, Exhibit A to Ordinance No. 2000-63, as amended by Ordinance No. 2001-138; by amending Section 4, Definitions; Section 5, Total Outdoor Light Output and Shielding Requirements; Section 6, Outdoor Advertising Signs; Section 7, Special Uses; and Section 8, Submission of Evidence of Compliance with Code. On motion, the Planning and Zoning Commission voted 8-0 (Commissioner Smith was absent) to recommend **APPROVAL**. Staff recommends **APPROVAL**. (All Districts)

If approved, pass and adopt:

ORDINANCE NO. 2004-98

Bill Jones, Chief Building Official, stated on July 28, 2004, the Planning and Zoning Commission recommended approval of the modifications to the Outdoor Lighting Code. Staff also recommended approval of the modifications.

33. ADJOURNMENT

As there was no further business to come before the Board, the meeting was adjourned at 10:30 a.m.

*Sharon Bronson*

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CHAIR

ATTEST:

*Lou Godschian*

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CLERK

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**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
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**Tucson, Arizona 85701-1317**  
**(520) 740-3340**  
**FAX (520) 882-7709**

December 31, 2004

**RE: Pima County Regional Haze Submittal Pursuant to CAA §§ 169A**

To whom it may concern:

The undersigned hereby affirms based upon personal knowledge that a notice of an expedited rulemaking process and a public hearing thereon, was mailed out on August 24, 2004, by first class mail to each of the individuals or entities identified on the accompanying mailing list.

Sincerely,

Jean Parkinson  
Program Coordinator

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**PUBLIC COMMENTS**

**RE: Pima County Regional Haze Submittal Pursuant to CAA §169A**

December 31, 2004

This section is not applicable with regard to the subject SIP submittal. This document is being presented simply to affirm that the lack of substantive comments reflects actual activities, rather than an inadvertent omission of such a document.

The Board of Supervisors "Minutes" from the October 19, 2004 meeting, which are included in Section VII, indicates that there were no comments received at the public hearing.

In addition, there were no written comments received by PDEQ prior to the Public Hearing on October 19, 2004.

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## SIP SUBMITTAL CHECKLIST

**RE: Pima County Regional Haze Submittal Pursuant to CAA §§ 169A**

December 31, 2004

Pursuant to 40 CFR Subpart 51, Appendix V, this checklist is provided for the Pima County Code revisions of October 19, 2004.

*Note: The "Section" references in this document refer to the sections of the Regional Haze SIP submittal package as conveyed to the designee of the Governor of the State of Arizona, which package the Department anticipates will be transferred to the Region IX EPA Administrator. This submittal reflects rule changes adopted by the Pima County Board of Supervisors on October 19, 2004. Materials included within the submittal package are identified in **BOLD** type.*

### Administrative Materials:

1. Formal letter – **see Section I**
2. Evidence of adoption – Ordinance No. 2004-97
3. Evidence of Legal Authority – **see Section II**
4. Copy of the rule –
  - a. **See Section III, which includes:** Ordinance No. 2004-97, a clean copy of the affected provision of the Pima County Code Chapter 17.12.480.
  - b. **See Section IV, which includes:** Ordinance No. 2004-97, adopting by references the changes embodied in the redline/strikeout copy of the affected provisions of the Pima County Code Chapter 17.12.480.
5. Evidence of conformity with procedures under state law, such as notice and hearing requirements under Arizona Revised Statutes §§49-112 and 49-479.
6. Evidence of Public Hearing - Copy of public notices – **see Section V**
7. Public Comments and agency response:
  - a. Board of Supervisors agenda and minutes of the October 19, 2004 hearing (**Section VII**).
  - b. Compilation of comments – no comments received; see Board of Supervisors' minutes of the October 19, 2004 hearing (**Section VII**).
8. Identification of Pollutants regulated by rule:



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- a. Sulfur dioxide
  - b. Oxides of Nitrogen
  - c. Volatile Organic Compounds
  - d. Particulate Matter
  - e. Carbon Monoxide
9. Identification of sources/attainment status:  
Not Applicable
10. Written Summary of Rule/Rule Change:  
  
**See Section III** – Pima County Code 17.12.480, Open Burning Permits (Clean)
11. Rule Changes indicated by underlining and cross-outs:  
  
**See Section IV** – Pima County Code 17.12.480, Open Burning Permits (Draft)
12. Rules' effect on emissions:  
  
The rules will cause a reduction of emissions causing impairment to visibility; specifically, reductions of emissions from open burning (carbon monoxide, particulate matter, volatile organic compounds, and nitrogen oxides).
13. Demonstration that NAAQS, PSD Increments, and RFP are protected:  
Not Applicable
14. Evidence that emissions limitations are based on continuous emission reduction technology:  
Not Applicable
15. Modeling Support:  
Not Applicable
16. Identification of rule sections containing emission limits, work practice standards, and/or record keeping and reporting requirements:  
  
**See Section III** – Pima County Code 17.12.480, Open Burning Permits (Clean)
16. Compliance/Enforcement Strategies:  
  
No Applicable



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17. Economic and technical justification for deviation from EPA policies:

No known deviation from EPA policy.

PDEQ has deviated from the ADEQ rules regarding the Air Curtain Destructor. The inclusion of an air curtain destructor as an “open burn permittee” has been redacted due to a conflict with another Pima County Code rule. Please see **Section VII – Evidence of Legal Authority**.

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**SIP ENFORCEABILITY CHECKLIST**

**RE: Pima County Regional Haze Submittal Pursuant to CAA §169A**

December 31, 2004

Based on information and belief, the "SIP Enforceability Checklist" is not applicable with regard to the subject SIP submittal. This document is being presented simply to affirm that the lack of a substantive "Checklist" reflects design, rather than an inadvertent omission of such a document.

The "SIP Enforceability Checklist" pertains to source-specific, or "prohibitory" rules.

In contrast, to the extent that these changes involve revisions to the Regional Haze SIP, the changes involve the Department's open burning rules and permit program.

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## **Enclosure 6**

**Pinal County Open Burn Rule**  
(Pinal County Code, §§3-8-700 and 3-8-710)

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**\*\* PLEASE NOTE \*\***

**For the purposes of this Regional Haze SIP Revision, we are asking for the consideration of revisions to Pinal County Code Sections 3-8-700 and 3-8-710 only.**

**At this time, the Notice of Final Rulemaking (NFRM) as published in the December 17, 2004, *Arizona Administrative Register*, is the only available copy of revised PCC Section 3-8-700 and 3-8-710. The code became effective October 27, 2004, but will not be codified (clean copy) until 2005.**

**The NFRM has been highlighted in the electronic version to facilitate locating Section 3-8-700 and 3-8-710. Please note that in the Pinal County NFRM preamble, section A, the “Section Affected” list shows the revised code sections as 3-7-800 and 3-7-810. This is an error and has been brought to the attention of Pinal County. A codified version of Pinal County Code Sections 3-8-700 and 3-8-710, along with supporting adoption documentation, will be sent upon its availability.**

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## COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

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### NOTICE OF FINAL RULEMAKING

PURSUANT TO A.R.S. §§ 49-112 AND 49-471.01 *ET SEQ.*

#### PINAL COUNTY AIR QUALITY CONTROL DISTRICT

##### 1. Preamble

- A. The District proposed that the Board of Supervisors adopt or amend certain rules under authority of A.R.S. §§ 49-479 and 49-480, which respectively authorized the Board to adopt rules to control air pollution and to adopt a stationary source permit program. Affected rules are identified, and corresponding changes discussed in subsection B of this preamble, and include the following sections:

Section Affected	Rulemaking Action
§1-1-105	Amend
§1-1-107	Amend
§1-2-100	Amend
§1-2-140	Amend
§1-3-140	Amend
§3-1-030	Amend
§3-1-040	Amend
§3-1-050	Amend
§3-1-084	Amend
§3-1-087	Amend
§3-1-102	Amend
§3-1-103	Amend
§3-5-490	Amend
§3-7-580	Amend
§3-7-590	Amend
§3-7-600	Amend
§3-7-610	Amend
§3-7-800	Amend
§3-7-810	Amend
§4-2-040	Amend
§4-2-050	Amend
§4-3-060	Amend
§4-3-070	Amend
§4-3-080	Amend
§4-3-090	Amend
§8-1-060	Amend
Appendix B	Amend

- B. The revisions include the following:

##### 1. Open Burning Permit Revisions

§§3-7-800 and 3-7-810, the open burning permit rules, are extensively revised. A single substantive change simply requires that a burn permit application indicate what, if any, emission reduction techniques the applicant will employ. In addition, those two rules are reformatted to improve readability, correct grammatical errors and eliminate redundancies. Code §1-1-105 will also be amended to reflect that those rules, as revised by this proposal, are intended to constitute elements of the Arizona State Implementation Plan generally, and the Regional Haze SIP in particular. The proposed changes be effective upon approval, and effectiveness will not be condi-

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tioned upon a prior SIP-revision approval by the EPA.

2. Permit Rule/Permit Fee Revisions
  - a. Special Applicability Provision for Publicly Operated Wood Waste Incinerators

§3-1-040 is revised to designate as a Class III source a small wood-waste incinerator operated on a non-profit basis by a political subdivision of the State Arizona. Such a facility will still be obligated to comply with both local and federally adopted performance standards, and will be limited by permit to emissions not exceeding 90% of relevant major source thresholds. The principal benefit to the operator will be the reduced permit fee available to Class III sources, which will reduce the burden on affected sources.
  - b. Streamlining Definition of “Actual Emissions” for Fee Purposes

§3-7-590 and Appendix B, Section C.2, are revised to eliminate a redundant definition of “actual emissions” for emission fee purposes, as well as to conform the remaining definition to ADEQ’s definition. See A.A.C. R18-2-326(C)(2).
3. Additional Changes to Conform to ADEQ Air Quality Rules

§1-3-140.89, defining non-precursor compounds that do not constitute volatile organic compounds, is revised to conform to A.A.C. R18-2-101.126 (Supp. 04-1). That change will reduce the regulatory burden on affected facilities.

§4-2-040, defining standards applicable to non-point sources of fugitive dust, are expanded to include subparagraphs J. and K., respectively addressed to off-road vehicle use and mineral tailings piles. Both changes conform to ADEQ’s corresponding rules, A.A.C. R18-2-604(C) and R18-2-608. The changes are required to conform to the “at least as stringent” mandate of A.R.S. §49-479(A).

§4-2-050, defining the relevant opacity standard and monitoring method for non-point sources of fugitive dust, is revised to conform to ADEQ’s corresponding rule, A.A.C. R18-2-612. Given that the County’s existing rule contains limiting conditions not found in ADEQ’s rule, the change is required in order to conform to the “at least as stringent” mandate of A.R.S. §49-479(A).
4. Class III Source Application Deposit

§3-7-580 is revised to require an application deposit when filing a Class III application.
5. EPA Requested Changes

§1-1-105 is revised to exclude as proposed SIP elements the whole of Chapter 3, Article 5, dealing with county-issuance and administration of ADEQ-issued general permits. This change was requested on May 26, 2004, by Emmanuelle Rapicavoli, Permits Section, Air Division, EPA Region IX.
6. Typographical, Grammatical and Clarifying Corrections

§1-1-105, defining which rules should comprise the locally adopted elements of the Arizona SIP, is revised to:

  - Exclude §1-2-110, dealing with adopted documents, which the EPA has already rejected;
  - Exclude §1-3-130, dealing with adopted documents, which the EPA has already rejected;
  - Exclude §3-1-020, dealing with adopted documents, which the EPA has already rejected;
  - Based on irrelevance, exclude §3-1-080, dealing with appeals to the hearing board;
  - Expressly identify current revisions to §§3-7-800 and 3-7-810, regulating open burning, as proposed elements of the Arizona State Implementation Plan, including the Regional Haze SIP;
  - Exclude §4-1-010, dealing with adopted documents, which the EPA has already rejected;

§1-1-107, defining which rules should comprise the local Title V program, is revised to:

  - Correct the revision date for §2-5-160;
  - Eliminate an incorrect revision date for §3-1-060;
  - Delete §3-1-080, dealing with appeals to the hearing board, which EPA has previously indicated should not be a Title V program element;
  - Delete §3-1-085, dealing with notices from Building Departments, which EPA has previously indicated should not be a Title V program element;
  - Delete §3-1-100, dealing with posting of permits, which EPA has previously indicated should not be a Title V program element;
  - Eliminate an incorrect revision date for §3-1-109;
  - Add a correct revision date for §3-1-160;

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- Add a correct revision date for §3-6-565
- Eliminate an incorrect revision date for §3-7-591;
- Delete §3-7-600, dealing with Class II, non-Title V, permit fees, as a proposed Title V program element;
- Delete §3-7-612, an already repealed rule dealing with general permit fees for Class II, non-Title V sources, as a proposed Title V program element;
- Based on irrelevance, delete §3-7-660, dealing with hearing board appeal fees, as a proposed Title V program element;
- Based on irrelevance, delete §§4-3-060 and 4-3-080, dealing with fugitive dust on construction sites, as proposed Title V program elements;
- Based on irrelevance, delete §5-31-2022, dealing with emission standards for lime manufacturing facilities, as a proposed Title V program element;
- Based on irrelevance, delete §6-1-030, locally adopting EPA-promulgated New Source Performance Standards, as a proposed Title V program element;
- Based on irrelevance, delete Appendix C, defining a fee schedule for open burning and earthmoving activity, as a proposed Title V program element.

§1-2-110.7 is revised to reflect the latest amendment date of the Arizona Administrative Code.

§1-3-140.58 is revised to reflect the change in nomenclature from Class A/B permits to Class I/II permits, as well as applicability to Class III permits.

§3-1-030.16 is revised to reflect the change in nomenclature from Class A/B permits to Class I/II permits.  
§3-1-040.B.3.b, dealing with Class III permit applicability, is revised to correct a rule reference and a grammatical error.

§3-1-050 is revised to correct the paragraph numbering and the change in nomenclature from Class A/B permits to Class I/II permits.

§3-1-087 is revised to reflect the change in nomenclature from Class A/B permits to Class I/II permits.

§3-1-102 is revised to reflect the change in nomenclature from Class A/B permits to Class I/II permits.

§3-1-103 is revised to reflect the change in nomenclature from Class A/B permits to Class I/II permits, and to allow Class III sources the same reporting requirement relaxation that Class II sources may receive.

§3-5-490.C.2 is revised to correct a grammatical error.

§3-7-590, dealing with Class I permit fees, is partially renumbered to establish internal consistency.

§3-7-600, dealing with Class II permit fees, is revised to correct cross references to Appendix B and §3-1-084, and to eliminate a now-irrelevant reference to inspection fees.

§3-7-610, dealing with general permit fees, is revised to correct a grammatical error.

§4-3-070, dealing with definitions for the construction site dust registration program, ratify the renumbering of §4-3-060.C as §4-3-070, eliminate redundant definitions, correct the definition of “earthmoving activity,” and corresponding renumber the section.

§4-3-080, dealing with dust registration requirements, ratify the renumbering of §4-3-060.D as §4-3-080, and correct a typographical error.

§4-3-090, dealing with dust registration requirements, correct a mis-spelling and correct and ratify the renumbering of §4-3-060.E as §4-3-090.

§8-1-060 is revised to address dates in the 21st century, rather than the 20th century.

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Appendix B, Section E, dealing with Class II Non-Title V fees, is revised to provide reference links pertaining to small and medium spray operations.

Appendix B, Section F, dealing with Class III fees, is revised to clarify applicability to Class III fees, and to provide a cross-reference to relevant definitions and applicability rules pertaining to Class III sources.

- C. There were no specific studies relied upon to justify the proposed changes.  
D. Economic, small business and consumer impact statement

A significant portion of the proposed revisions are ministerial revisions of form rather than substantive in nature, adopted with the objective making these rules internally consistent and readily understandable. As such, the changes should reduce, rather than increase, burdens on affected businesses, consumers and county staff.

Given the “at least as stringent” mandate of A.R.S. §49-479, the District has not attempted to assess any added costs associated with the conforming changes discussed in 1.B.3 above.

Specific rules worthy of mention as reducing burdens include:

- Revision of §1-3-140.89 as discussed in 1.B.3 above, regarding the change in definition of non-precursor compound.
- Revision of §3-1-040 as discussed in 1.B.2.a above, allowing an additional source category to be regulated as a Class III rather than a Class II source. That will lower the permit cost for that source category.
- Clarification of §3-7-590 and Appendix B, as discussed in 1.B.2.b above, clarifying that certain fugitive emissions are not subject to emission fees, which will reduce fees for affected facilities.

- E. In accord with A.R.S. §49-471.07(F), the proposed changes took effect upon approval by the Board of Supervisors.  
F. Compliance With the Fee-limitations of A.R.S. §49-112 (A) or (B).

Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

1. Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable. To the extent the County's program affects certain sources that ADEQ either does not regulate or does not charge, these proposed changes do not impose any additional fees on those sources.

2. Based on a review of the operating costs of the Pinal County Air Quality Control District, and any reasonable projection of total of revenues resulting from the fees and other charges that would be assessed under any or all of the rule revisions proposed above, the Control Officer finds that there is no real risk that revenues will exceed the cost of program administration. The continuing fee-cap, defined by ADEQ's fee rates, continues to implicitly assure the reasonableness of the County's fees for Class I and Class II sources. With respect to Class III sources, sources affected by a dust registration requirement, and open burning permit fees, the Control Officer finds that projected revenues from existing fees reasonably reflect the anticipated costs of administering those programs. Thus, implementation of any or all of the rule changes proposed above will still not violate the fee-limitations of either A.R.S. §§49-112(A)(3) or 49-112(B).

- G. A Notice of Proposed Rulemaking for this action was published at 10 A.A.R. 3667, September 3, 2004.

- H. Concise Explanatory Statement in Accord with A.R.S. §49-471.05(9).

1. As proposed for final adoption by the Board of Supervisors, the only change to the revision proposal as published in the AAR Notice constituted a separation of the proposal into two resolutions.

One resolution dealt specifically with changes to the open burning rules, including the SIP-inclusion of the rule as revised.

The second resolution addressed all other changes, including the creation of a special permit applicability provision and corresponding fee classification for the Oracle Fire Department's wood waste incinerator.

That “change” constituted a mere matter of form, and does not represent any substantive change from the proposed revisions as published in the AAR Notice.

2. Summaries of the arguments for or against the rule revisions, and a corresponding response, follow. The summaries respectively address the changes proposed in the two resolutions presented for consideration by the Board of Supervisors:

**A. Open Burning Rules - Resolution No. 102704-AQ1**

At the Oral Proceeding, only one commenter raised questions pertaining to the proposed open burning rule revisions.

• **Comment**

The only current substantive revision to the open burning rules involves addition of an option to identify “emission

reduction techniques” when completing an open burning permit application form.

Mr. Brian Betcher from the Midway Stanfield Irrigation and Drainage District asked for confirmation of his understanding that large-scale agricultural permits would essentially be unaffected by this proposal.

Mr. Betcher also asked whether “emission reduction techniques” would be obligatory, and whether there was a defined list of “emission reduction techniques” already available.

- **Response**

Mr. Gabrielson indicated that the County was following ADEQ’s lead, and the designation of “emission reduction techniques” would be permissive, not mandatory.

Mr. Gabrielson also indicated that Pinal County would investigate what “emission reduction techniques” might be available, and provide a public disclosure of that information. Mr. Gabrielson also noted that there might not be a lot of techniques that would pertain to reducing emissions when using fire to remove relatively sparse vegetation along ditch banks.

However, that investigation and disclosure will both constitute administrative actions that do not affect this rule-adoption proceeding.

## **B. Other Rule Changes - Resolution No. 102704-AQ2**

### **1. Fee Reduction for Publicly-operated, Non-profit Wood-waste Incinerators**

- **Comments**

Under Pinal County rules, incinerators have been specifically subject to permit requirement since at least 1975. Under current rules, a wood-waste incinerator of any size would require a Class II permit, with a corresponding annual fee of \$3,250.

Based on concerns raised in the Oracle area, the current revision proposals included creation of a special permit classification for publicly operated, non-profit wood-waste incinerators, provided that permit-allowed emissions do not exceed 90% of the major source threshold for any pollutant. That special classification designates such a source as a Class III source, which also allows for a total annual fee of \$250. That fee represents a 92% reduction relative to the fee under the existing rules.

Six written comments, signed by ten different individuals, were received, all pertaining to “excessive permit fees.”

One writer asked for “reducing excessive permit fees,” which seems to support the proposal to create the special classification under this proposal.

One writer asked concurred in a reduction to a \$250 fee, but additionally asked that that reduced fee be offset by using other open burning fees to pay for the Oracle Fire Department permit.

Four letters, reflecting the thoughts of seven writers, simply objected to any fee, and asked that the fees be waived for the Oracle Fire Department.

In addition, at the Oral Proceeding, Pat Hardin, Jean Schricker and Joe Corona all commented on the difficulty and high cost associated with trying to dispose of trees and brush as solid waste.

Mr. Brian Betcher asked if there might be a way for the Oracle Fire Department to provide in-kind services to the county that would provide an offset for any permit fee.

Mr. Ole Solberg objected to the reduction of the fee to the \$250 level, noting that in view of the relatively high emissions allowed and the fees charged to other permit holders in the county, such a fee reduction was not fair to those other businesses that pay higher fees to emit less.

- **Response**

Mr. Gabrielson noted that the proposed \$250 fee reflected the lowest fee that was available to any of the other sources regulated under the county’s industrial permit program.

In response to Mr. Gabrielson’s question, Mr. Southard explained that the Oracle Fire Department has an annual budget on the order of \$400,000. Chief Ortiz indicated that there are about 1700 taxpayers in the district. The annual levy falls between \$1.69 and \$2.25 per hundred dollars of assessed valuation, which is well below the \$3.00 per hundred statutory limitation.

Mr. Gabrielson observed that even if an air quality permit and testing cost \$2000 per year, that would only average

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out to about \$1.00 per taxpayer. At \$1000 per year, that would only be about \$0.50 per taxpayer.

Mr. Corona concurred that \$0.50 or \$1.00 per year would not be too much to pay. Ms. Hardin also concurred. Mr. Southard acknowledged that the permit fee really wasn't objectionable.

Notwithstanding the apparent modest *per capita* cost, as a matter of principle, Chief Ortiz continued to object to the Oracle Fire Department having to pay any fee.

Based on the comments received, the District does not recommend any change in the proposal, for the following reasons:

- Since at least 1975, all incinerators in Pinal County have been subject to a permit requirement. See PCAQCD Rule §3-1-040.B.2.a.vi (2/11/04); PGCAQCD Reg. 7-1-2.1 (3/31/75).
- ARS §49-480.D.2 requires that for such a source, “the board of supervisors shall determine a permit fee based on all reasonable direct and indirect costs required to administer the permit,” and that the “board of supervisors shall establish an annual inspection fee, not to exceed the average cost of services.”
- Since the “direct and indirect costs” associated with permits include not only processing an application and inspecting the source, but monitoring, planning and compliance tracking, the relevant costs clearly exceed the “zero” cost suggested by some.
- No other sources in the county have a “no cost” permit. In fact, Coolidge, Kearny and Superior have all obtained \$250-per-year industrial permits to cover the small-scale burning of vegetative materials. Under those circumstances, it would be inequitable to provide the Oracle Fire Department with a complete fee waiver.
- While an “in kind” contribution to the county sounds interesting, PCAQCD finds that the administrative complications associated with defining and tracking a \$250 “in kind” contribution would outweigh the value of any benefit actually received.

Accordingly, PCAQCD recommended that the Board of Supervisors adopt the permit applicability classification change as proposed.

**2. Other changes**

No comments were received pertaining to the other changes as proposed, and PCAQCD recommended that the Board of Supervisors adopt those other changes as proposed.

**2. The full text of the proposed changes, in underline/strike-through format, follows:**

**1-1-105. SIP list**

A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

1. Chapter 1

- a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
- b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
- c. Article 3. (As amended 5/14/97 and 5/27/98, except for §1-3-130 and the definition in §1-3-140.81 (10/12/95) of “maximum achievable control technology.”)

2. Chapter 2

- a. Article 1. (As amended 10/12/95).
- b. Article 2. (As amended 5/14/97).
- c. Article 3. (As amended 10/12/95).
- d. Article 4. (As amended 10/12/95).
- e. Article 5. (As amended 10/12/95).
- f. Article 6. (As amended 10/12/95).
- g. Article 7. (As amended 10/12/95).

3. Chapter 3

- a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
  - i. §3-1-020



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16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*
20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*
21. §5-24-1040 (2/22/95) *Carbon Monoxide Emissions - Industrial Processes*
22. §5-24-1045 (2/22/95) *Sulfite Pulp Mills - Sulfur Compound Emissions*
23. §5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions - Default Limitation*
24. §5-24-1055 (2/22/95) *Pumps and Compressors - Organic Compound Emissions*

**1-1-107. Title V Program Content**

Those provisions approved by the EPA are shown in regular type; those provisions or amendments still awaiting EPA approval are shown in *italicized bold*.

* * *		
2-5-160.	Ambient air increment ceilings	Adopted June 29, 1993 Amended February 22, 1995 <b><i>Amended October 12, 1957 1995</i></b>
* * *		
3-1-045.	Transition from installation and operating permit program	<del>Adopted November 3, 1993</del> <del>Amended February 22, 1995</del> <b><i>Amended May 30, 2001</i></b> <b><i>Amended August 13, 2003</i></b>
* * *		
3-1-080.	Appeals to the Hearing Board	<del>Adopted June 29, 1993</del> <del>Amended November 3, 1993</del> <del>Amended February 22, 1995</del>
* * *		
3-1-085.	Notice by building permit agencies	<del>Adopted November 3, 1993</del>
* * *		

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3-1-100:	Permit posting	Adopted June 29, 1993 Amended <del>November 3,</del> 1993 Amended <del>February 22,</del> 1995
* * *		
3-7-600:	Class II permit and inspection fees	Adopted <del>November 3,</del> 1993 Amended <del>February 22,</del> 1995 <del>Amended <i>October 12,</i></del> <del>1995</del> <del>Amended <i>June 20, 1996</i></del> <del>Amended <i>August 13, 2003</i></del>
* * *		
3-7-612:	General permit fees - Class II sources	Adopted <del>February 22,</del> 1995 <del>Amended <i>October 12,</i></del> <del>1995</del> <del>Amended <i>June 20, 1996</i></del> <del>Amended <i>August 13, 2003</i></del>
* * *		
3-7-660:	Hearing Board appeal fee	Adopted <del>November 3,</del> 1993 Amended <del>February 22,</del> 1995
4-3-060	<del>Emissions from Existing and New Non-Point Sources, Article 3- Construction Sites - Fugitive Dust</del>	<del>Adopted <i>December 13,</i></del> <del>2000</del> <del>Amended <i>December 4,</i></del> <del>2002</del>
4-3-080	Registration Requirements	<del>Amended <i>December 3,</i></del> <del>2003</del>
5-31-2022	Lime Manufacturing Facilities - Performance Standards	<del>Amended <i>May 30, 2001</i></del>
6-1-030	Performance Standards	<del>Adopted/amended <i>Decem-</i></del> <del><i>ber 3, 2003</i></del>
* * *		
Appendix €	Appendix C. <del>Controlled Open Burning and Earthmoving Fee Schedule</del>	<del>Amended <i>December 13,</i></del> <del>2000</del> <del>Amended <i>August 13, 2003</i></del>

**1-2-110. Adopted document(s)**

The following documents are incorporated herein by reference:

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1. The Arizona Department of Environmental Quality's "Arizona Testing Manual for Air Pollutant Emissions", amended as of March 1992.
2. All ASTM test methods referenced in this Code are those adopted as of the date specified.
3. All parts of the C.F.R. referenced in this Code, unless otherwise indicated, as amended as of July 1, 1998.
4. The U.S. Government Printing Office's "Standard Industrial Classification Manual, 1987".
5. The following test methods and protocols as adopted by the EPA Administrator, but, unless otherwise specifically designated in a particular provision of this Code, as amended as of July 1, 1998:
  - a. 40 CFR Part 51, Appendix M.
  - b. 40 CFR Part 58, all appendixes.
  - c. 40 CFR Part 60, all appendixes.
  - d. 40 CFR Part 61, all appendixes.
  - e. 40 CFR Part 63, all appendixes.
  - f. 40 CFR Part 75, all appendixes.
6. All sections of the Arizona Administrative Code expressly incorporated elsewhere in this Code, and unless expressly designated otherwise, as amended as of September 30, 1999;
7. The following appendixes to Arizona Administrative Code, Title 18, Chapter 2, as amended as of ~~July 1, 1996~~ September 30, 1999:
  - a. Appendix 9 - Monitoring Requirements.
  - b. Appendix 10 - Evaluation of Air Quality Data.

**1-3-140. Definitions**

Definitions used in this Code shall have the following meanings except where any narrative portion specifically indicates otherwise:

\* \* \*

58. FEDERAL APPLICABLE REQUIREMENT - Any of the following as they apply to emissions units covered by a Class ~~A-I~~ II or ~~B-III~~ permit (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 Clean Air Act (1990) that implements the relevant requirements of the Clean Air Act (1990), including any revisions to that plan promulgated in 40 C.F.R. Part 52 (1992);
  - 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 Clean Air Act (1990);
  - c. Any standard or other requirement under §111 of the Clean Air Act (1990), including §111(d);
  - d. Any standard or other requirement under §112 of the Clean Air Act (1990), including any requirement concerning accident prevention under §112(r)(7) of the Clean Air Act (1990);
  - e. Any standard or other requirement of the acid rain program under Title IV of the Clean Air Act (1990) or the regulations promulgated thereunder and incorporated pursuant to §3-6-565;
  - f. Any requirements established pursuant to §504(b) or §114(a)(3) of the Clean Air Act (1990);
  - g. Any standard or other requirement governing solid waste incineration, under §129 of the Clean Air Act (1990);
  - h. Any standard or other requirement for consumer and commercial products, under §183(e) of the Clean Air Act (1990);
  - i. Any standard or other requirement for tank vessels under §183(f) of the Clean Air Act (1990);
  - j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under §328 of the Clean Air Act (1990);
  - k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Clean Air Act (1990), unless the Administrator has determined that such requirements need not be contained in a Title V permit; and
  - l. Any national ambient air quality standard or increment or visibility requirement under Part C of Title

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I of the Clean Air Act (1990), but only as it would apply to temporary sources permitted pursuant to §504(e) of the Clean Air Act (1990).

\* \* \*

89. NON-PRECURSOR ORGANIC COMPOUND - Those organic compounds which have negligible photochemical reactivity, namely:

- a. Methane.
- b. Ethane.
- c. Methylene chloride (dichloromethane).
- d. 1,1,1-trichloroethane (methyl chloroform).
- e. 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113).
- f. Trichlorofluoromethane (CFC-11).
- g. Dichlorodifluoromethane (CFC-12).
- h. Chlorodifluoromethane (CFC-22).
- i. Trifluoromethane (FC-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-134A).
- n. 1,1-dichloro-1-fluoroethane (HCFC-141B).
- o. 1-chloro-1,1-difluoroethane (HCFC-142B).
- 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-143A).
- t. 1,1-difluoroethane (HFC-152A).
- ~~u.~~ perfluorocarbon compounds which fall into these classes:
  - i. Cyclic, branched, or linear, completely fluorinated alkanes;
  - ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
  - iii. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations;  
and
  - iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- v. Volatile methyl siloxanes, also known as "VMS".
- ~~w.~~ u. Parachlorobenzotrifluoride, also known as "PCBTF".
- v. Cyclic, branched, or linear completely methylated siloxanes.
- ~~x.~~ w. Acetone.
- ~~y.~~ x. Perchloroethylene.
- y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC 225ca)
- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC 225cb)
  - aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 4310mee)
  - bb. Difluoromethane (HFC-32)
  - cc. Ethylfluoride (HFC-161)
  - dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
  - ee. 1,1,2,2,3-pentafluoropropane (HFC-245ca)
  - ff. 1,1,2,3,3-pentafluoropropane (HFC-245ea)
  - gg. 1,1,1,2,3-pentafluoropropane (HFC-245eb)
  - hh. 1,1,1,3,3-pentafluoropropane (HFC-245fa)
  - ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
  - jj. 1,1,1,3,3-pentafluorobutane (HFC-365mfc)
  - kk. Chlorofluoromethane (HCFC-31)

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- ll. 1 chloro-1-fluoroethane (HCFC-151a)
- mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
- nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>)
- oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OCH<sub>3</sub>)
- pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>)
- qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>)
- rr. Methyl acetate; and
- ss. perfluorocarbon compounds which fall into these classes:
  - i. Cyclic, branched, or linear, completely fluorinated alkanes;
  - ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
  - iii. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations;  
and
  - iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

\* \* \*

**3-1-030. Definitions**

For the purpose of this chapter, the following definitions shall apply:

\* \* \*

16. PROPOSED FINAL PERMIT - The version of a Class ~~A-I~~ permit that the District proposes to issue and forwards to the Administrator for review in compliance with §3-1-065.A.

\* \* \*

**3-1-040. Applicability and classes of permits**

- A. Except as otherwise provided in this chapter, no person shall commence construction of, operate, or make a modification to any source subject to regulation under this chapter, without first obtaining a permit or permit revision from the Control Officer.
- B. There shall be three classes of permits as follows:
1. Class I permits shall be required for persons proposing to commence construction of or operate any of the following sources:
    - a. Any major source.
    - b. Any source, including an area source, subject to a standard, limitation, or other requirement under §111 of the Clean Air Act (1990) that has been adopted as an element of this Code, provided that the obligation under this subparagraph does not extend to any source which has been exempted by the Administrator from a Title V permit requirement or for which the Administrator has allowed a deferral of a Title V permit requirement, but then only for the duration of the allowable deferral period.
    - c. Any source, including an area source, subject to a standard or other requirement under §112 of the Clean Air Act (1990) that has been adopted as an element of this Code, provided that the obligation under this subparagraph does not extend to any source which has been exempted by the Administrator from a Title V permit requirement or for which the Administrator has allowed a deferral of a Title V permit requirement, but then only for the duration of the allowable deferral period, and further provided that a source is not required to obtain a permit solely because it is subject to regulations or requirements under §112(r) of the Clean Air Act (1990).
    - d. An affected source.
    - e. Solid waste incineration units required to obtain a permit pursuant to §129(e) of the Clean Air Act (1990).
    - f. Any source in a source category designated by the Administrator and adopted by the Control Officer by rule.
  2. Unless a Class I permit is required, Class II permits shall be required for:
    - a. A person to commence construction of or operate any of the following:

- i. Any source that has the potential to emit greater than *de minimis* amounts of regulated air pollutants.
  - ii. Any source, including an area source, subject to a standard, limitation, or other requirement under §111 of the Clean Air Act (1990).
  - iii. Any source, including an area source, subject to a standard or other requirement under §112 of the Clean Air Act (1990), further provided that a source is not required to obtain a permit solely because it is subject to regulations or requirements under §112(r) of the Clean Air Act (1990).
  - iv. Any source subject to a standard of performance under Chapter 5 of this Code.
  - v. Any source burning used oil, used oil fuel, hazardous waste or hazardous waste fuel.
  - vi. Incinerators.
  - vii. Fuel burning equipment, other than incinerators, fired with a fuel other than commercial natural gas or propane, and rated at more than 500,000 Btu per hour.
  - viii. Fuel burning equipment fired with commercial natural gas or propane, and rated at more than 2,500,000 BTU per hour.
- b. A person to make a modification to a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than those specified in Paragraph a.i. of this subdivision, unless such modification is authorized by other provisions of this Code.
3. A Class III or “minor screening” permit shall be required for:
    - a. Facilities or sources that require a permit under Code §3-1-040, but which do not have an uncontrolled potential to emit that exceeds the significant emissions rates defined in §1-3-140.121.
    - b. Facilities or sources that have an uncontrolled potential to emit in excess of the “de minimis” amount of emissions as defined in ~~§3-1-140(37)~~ §1-3-140(37) but do not qualify for the requirements of a Class I or Class II permits as defined in §3-1-040.B (1) and (2).
  4. Notwithstanding any other applicability provision of this rule, a political subdivision of the State of Arizona that operates a small municipal waste incinerator, that does not charge a fee for disposing of materials, that allows burning only clean wood and yard waste, that obtains an enforceable permit limiting emissions to not more than 90% of any relevant major source threshold, and that complies with all applicable standards under both Code Chapter 5 and Clean Air Act Sections 111 or 112, shall be entitled to elect fee-treatment as a Class III source.

C. Exemptions

1. Unless the source is a major source, or unless operation without a permit would result in a violation of the Clean Air Act (1990), the provisions of this chapter shall not apply to the following sources:
  - a. Sources subject to 40 CFR Part 60, Subpart AAA, “Standards of Performance for New Residential Wood Heaters”.
  - b. Sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR §61.145.
  - c. Agricultural equipment used in normal farm operations. “Agricultural equipment used in normal farm operations” does not include equipment that would be classified as a source that would require a permit under Title V of the Clean Air Act (1990), or would be subject to a standard under 40 CFR Parts 60 or 61, or any other applicable requirement.
- D. No person may construct or reconstruct any major source of hazardous air pollutants, unless the control officer determines that maximum achievable control technology limitation (MACT) for new sources under section 112 of the Act will be met. Where 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 Code §7-1-030.B. For purposes of this subsection, constructing and reconstructing a major source shall have the meanings prescribed in 40 CFR §63.41.

**3-1-050. Permit application requirements**

- A. Unless otherwise noted, this section applies to each source requiring a Class I or II permit or permit revision.
- B. To apply for a Class I permit, applicants shall complete the “Permit Application Form” and supply all information required by the “Filing Instructions” as shown in Appendix A.

- C. Unless otherwise required by §3-1-045, a timely application is:
1. For a source, other than a major source, applying for a permit for the first time, one that is submitted within 12 months after the source becomes subject to the permit program.
  2. ~~For an existing source that is initially not required to obtain a Class A-I permit but becomes subject to Class A-I permit applicability criteria, one that is submitted within 12 months after the source becomes subject to obtaining a Class A-I permit.~~
  3. For purposes of a Class I permit renewal, a timely application is one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.
  4. For purposes of a Class II permit renewal, a timely application is one that is submitted at least 3 months, but not greater than 12 months prior to the date of permit expiration.
  5. For initial Phase II acid rain permits required pursuant to §3-6-565, one that is submitted to the Control Officer by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.
  6. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to §112(d) of the Clean Air Act (1990) shall, within twelve 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.
- D. If an applicable implementation plan allows the determination of an alternate emission limit, a source may, in its application, propose 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.
- E. Permit applications need not provide emissions data regarding insignificant activities. Activities which are insignificant pursuant to §1-3-140 need only be listed in Class I permit applications.
- F. 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 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 enforceable.
- G. A source that has submitted information with a Class I permit application under a claim of confidentiality pursuant to A.R.S. §49-487 (1992) and §3-1-120 of this Code shall submit a copy of such claim and such information directly to the Administrator.
- H. 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 supplementary 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 permit.

**3-1-087. Permit reopenings, reissuance and termination**

- A. Reopening for Cause
1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
    - a. Additional applicable requirements under the Clean Air Act (1990) become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to §3-1-089.C. Any permit revision required pursuant to this section shall comply with provisions in §3-1-089 for permit renewal and shall reset the permit term.
    - b. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the Class A-I permit.
    - c. The Control Officer or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

- d. The Control Officer or the Administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.
  2. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
  3. Reopenings under Subdivision A.1. of this section shall not be initiated before a notice of such intent is provided to the source by the Control Officer at least 30 days in advance of the date that the permit is to be reopened, except that the Control Officer may provide a shorter time period in the case of an emergency.
  4. When a permit is reopened and revised pursuant to this section, the Control Officer may make appropriate revisions to the permit shield established pursuant to §3-1-102.
- B. Within 10 days of receipt of notice from the Administrator that cause exists to reopen a Class ~~A-I~~ permit, the Control Officer shall notify the source. The source shall have 30 days to respond. Within 90 days of receipt of notice from the Administrator that cause exists to reopen a permit, the Control Officer shall forward to the Administrator and the source a proposed determination of termination, revision, revocation or reissuance of the permit. Within 90 days of an EPA objection to the Control Officer's proposal, the Control Officer shall resolve the objection and act on the permit.

**3-1-102. Permit shields**

- A. Each Class ~~A-I~~ or ~~B-II~~ permit issued under this chapter shall specifically identify all federal, State, and local air pollution control requirements applicable to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed compliance with any applicable requirement as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Control Officer may include in a permit determinations that other requirements specifically identified are not applicable. Any permit under this chapter that does not expressly state that a permit shield exists shall not provide such a shield.
- B. Nothing in this section or in any permit shall alter or affect the following:
1. The provisions of §303 of the Clean Air Act (1990) (emergency orders), including the authority of the Administrator under that section.
  2. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.
  3. The applicable requirements of the acid rain program, consistent with §408(a) of the Clean Air Act (1990).
  4. The ability of the Administrator or the Control Officer to obtain information from a source pursuant to §114 of the Clean Air Act (1990), or any provision of state law.
  5. The authority of the Control Officer to require compliance with new applicable requirements adopted after the permit is issued.
- C. In addition to the provisions of §3-1-087, a permit may be reopened by the Control Officer and the permit shield revised when it is determined that standards or conditions in the permit are based on incorrect information provided by the applicant.

**3-1-103. Annual emissions inventory questionnaire**

- A. Every source subject to a permit requirement under this chapter, or who obtains an authorization to operate under this chapter, shall complete and submit to the Control Officer an annual emissions inventory questionnaire. The questionnaire is due by March 31 or ninety days after the Control Officer makes the inventory form available, whichever occurs later, and shall include emission information for the previous calendar year. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.
- B. The questionnaire shall be on a form provided by the Control Officer and shall include the following information:
1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
  2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.
  3. The actual annual quantity of emissions, including documentation of the method of measurement, calculation or estimation, of:
    - a. Any single regulated air pollutant in a quantity greater than one ton.
    - b. Any combination of regulated air pollutants in a quantity greater than 2 1/2 tons.

- C. The Control Officer may waive a requirement that specific information or data be submitted in the annual emissions inventory questionnaire for sources requiring Class ~~B-II~~ or Class III permits if the Control Officer determines that the submission or data would be unnecessary or unreasonable for a particular source or category of sources and instead may require alternative information from which emissions may be determined.

**3-5-490. Application for coverage under general permit**

- A. Any source within the jurisdiction of the District, which source is a member of the class of facilities covered by a general permit issued by the ADEQ Director, may apply to the Control Officer for authority to operate under such general permit. Applicants shall complete and submit the specific application form adopted by the ADEQ Director in conjunction with the issuance of the general permit, or if none has been adopted, the standard application form contained in Appendix A. to this Code. Any application shall, at a minimum, include the following:
1. Information identifying and describing the source, its processes and operating conditions in sufficient detail to allow the Control Officer to determine qualification for coverage under, and to assure compliance with, the general permit.
  2. A compliance plan that meets the requirements of §3-1-083.
- B. For sources required to obtain a permit under Title V of the Clean Air Act (1990), the Control Officer shall provide the Administrator with a permit application summary form and any relevant portion of the permit application and compliance plan. To the extent possible, this information shall be provided in computer readable format compatible with the Administrator's national database management system.
- C. The Control Officer shall act on the application for coverage under the general permit as expeditiously as possible, but a final decision shall be reached within 180 days.
1. Subject to the requirements of §3-1-089.C, an existing source that has filed a timely and complete application seeking coverage under a general permit, either as a renewal of authorization under the general permit or as an alternative to renewing an individual permit shall continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the Control Officer issues or denies the authorization to operate under the general permit. The authority to operate under this subsection shall terminate 180 days after the application is filed if the Control Officer is unable to reach a timely final decision on the application due to the applicant's failure to submit information required or requested to process the application.
  2. If the application from an existing source seeking coverage as an alternative to renewing an individual permit is denied, the source shall continue to comply with the terms and conditions of its individual source permit. The source shall apply for an individual permit within 180 days of receipt of notification from the Control Officer that coverage under the general permit has been denied. Provided that a timely and complete ~~complete~~ individual permit application is filed in accordance with §§3-1-050 and 3-1-055, prior to the expiration of the source's current individual permit and within 180 days of receipt of notification that it must apply for an individual permit, the source shall retain authority to continue operations. The Control Officer may defer acting on an application under this subsection if the ADEQ Director has provided notice of intent to renew or not renew the permit.

**3-7-580. Application filing deposit fee for new sources**

A deposit fee for processing a Class I ~~or~~ Class II or Class III permit application shall be assessed upon receipt of the application. The fee shall be not less than \$500.00 and shall not exceed \$4000.00 for new sources required to obtain a Class I permit pursuant to §3-1-040.B.1. For new sources required to obtain a Class II permit pursuant to §3-1-040.B.2., the fee shall be not less than \$100.00 and shall not exceed \$500.00. For a Class III application, the filing deposit for a new source shall be \$100.00. The application filing deposit fee shall be based on the estimated time to process the application of a Class I or Class II permit and shall be credited ~~to~~ against the permit processing fee, reflecting the amount due for the total actual time spent on processing the application. For a Class III source, the deposit shall be credited against the initial administrative fee. All application filing deposit fees required by this section shall be nonrefundable.

**3-7-590. Class I permit fees**

- A. For a billable permit action, Class I sources shall pay a permit processing fee as defined in Appendix B, Section B. For a significant revision, the maximum permit processing fee shall be \$25,000. For a minor permit revision, the maximum permit processing fee shall be \$10,000.
- B. Beginning on the anniversary date of the initial permit issuance, Class I sources shall annually pay an administrative fee and an emission-based fee as defined in Appendix B, Section C. For fee purposes, actual emissions shall be quantified on

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the basis of subsection C of this rule.

C. For purposes of this rule:

a. ~~Actual~~ Actual emissions means the actual quantity of regulated pollutants emitted, including fugitive emissions, over the calendar year ending immediately prior to the date on which the annual fee is calculated, or any other period determined by the Control Officer to be representative of normal source operations, determined as follows:

1. Emissions quantities reported pursuant to §3-1-103, or pursuant to an emissions inventory required prior to the effective date of §3-1-103, shall be used for purposes of calculating the permit fee to the extent they are calculated in a manner consistent with this paragraph. Acceptable methods for calculating actual emissions pursuant to §3-1-103 include the following:
  - a. Emissions estimates calculated from continuous emissions monitors certified pursuant to 40 C.F.R. Part 75, Subpart C and referenced appendices, as published in the Federal Register on January 11, 1993 which is incorporated herein by reference, and is on file with the District, or data quality assured pursuant to Appendix F of 40 C.F.R. Part 60.
  - b. Emissions estimates calculated from source performance test data.
  - c. Emissions estimates calculated from material balance using engineering knowledge of process.
  - d. Emissions estimates calculated using AP-42 emissions factors.
  - e. Emissions estimates calculated by equivalent methods approved by the Control Officer. The Control Officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in Subparagraphs a. through d. of this paragraph.
2. Actual emissions shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.
3. The first annual permit fee for new Class I sources that have not been required to report emission quantities pursuant to §3-1-103 shall be based on the emissions estimate listed in the permit application.

~~b-4.~~ For purposes of this section, regulated pollutants consist of the following:

- ~~1-a.~~ Nitrogen oxides or any volatile organic compounds.
- ~~2-b.~~ Conventional air pollutants, except carbon monoxide.
- ~~3-c.~~ Any pollutant that is subject to any standard promulgated under §111 of the Clean Air Act (1990), including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur and reduced sulfur compounds.
- ~~4-d.~~ Any federally listed hazardous air pollutant that is subject to a standard promulgated by the Administrator under §112 of the Clean Air Act (1990) or other requirement established under §112 of the Clean Air Act (1990), including §§112(g) and (j) of the Clean Air Act (1990). Federally listed hazardous air pollutants subject to requirements established under §112 of the Clean Air Act (1990) include the following:
  - ~~a-i.~~ Any pollutant subject to requirements under §112(j) of the Clean Air Act (1990). If the Administrator fails to promulgate a standard by the date established pursuant to §112(e) of the Clean Air Act (1990), any pollutant for which a source would be considered major under §112(a)(1) of the Clean Air Act (1990) shall be considered to be regulated on the date eighteen months after the applicable date established pursuant to §112(e) of the Clean Air Act (1990).
  - ~~b-ii.~~ Any pollutant for which the requirements of §112(g)(2) of the Clean Air Act (1990) have been met, but only with respect to the individual source subject to §112(g)(2) requirements.

~~e-5.~~ The following emissions of regulated pollutants shall be excluded from a source's actual emissions for purposes of setting fees:

- ~~1-a.~~ Emissions of a regulated pollutant from the source in excess of 4,000 tons per year.
- ~~2-b.~~ Emissions of any regulated pollutant that are already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM<sub>10</sub>.
- ~~3-c.~~ Emissions from insignificant activities excluded from the permit for the source pursuant to §3-1-050.E.
- d. Fugitive emissions of PM<sub>10</sub> from activities other than crushing, belt transfers, screening or stacking.
- e. Fugitive emissions of VOC from solution-extraction units.

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- D. Each Class I source applying for a permit revision pursuant to §§3-2-190 or 3-2-195 shall remit to the District at the time the request or application is submitted, a fee deposit as follows:
1. \$10,000.00 for a significant permit revision that is a result of a major modification.
  2. \$1000.00 for any other significant permit revision not covered in Subsection 1 above.
  3. \$500.00 for a minor permit revision.
- E. Notwithstanding any other provision of this section, the combination of fees payable annually to the District by a Class I source, shall not exceed 100% of the administrative fees, annual emissions fees, annual inspection fees, or annual test fees, for which the source would be liable if subject to regulation by ADEQ.

**3-7-600. Class II permit ~~and inspection~~ fees**

- A. For a billable permit action, Class II sources shall pay a permit processing fee as defined in Appendix B, Section B. The maximum permit processing fee shall not exceed \$25,000, and for a minor permit revision, the maximum permit processing fee shall not exceed \$10,000.
- B. Beginning on the anniversary date of initial permit issuance, and annually thereafter, Class II sources shall pay an administrative fee as defined in Appendix B, Sections ~~C, D,~~ and E.
1. Class II Title V sources shall pay an administrative fee as defined in Appendix B, Section ~~C D.~~ Class II Title V sources shall include those sources that do require a permit but do not require a Class I permit, and are actually regulated under a standard promulgated under §§111 or 112 of the CAA.
  2. Other Class II sources, also known as Class II Non-Title V sources, shall pay an administrative fee as defined in Appendix B, ~~Section D.~~ Section E.
  3. As provided in Appendix B, Section ~~C and D,~~ Class II “synthetic minor sources” shall pay an administrative fee as defined in Appendix B, Section ~~B C.~~ For purposes of this fee rule requirement, “synthetic minor sources” shall include only those source that have accepted voluntary permit limitations under ~~§2-1-084~~ §3-1-084, and have permit-allowable emissions that exceed 50% of the major source threshold for at least one regulated pollutant.
- C. Notwithstanding any other provision of this section, the total annual administrative fee for a Class II source shall not exceed 100% of the fees that would apply if the source was subject to regulation by ADEQ.

**3-7-610. General permit fees - Class I and Class II sources**

- A. Permit Processing Fee. The owner or operator of a source that falls subject to a county jurisdiction and applies for authority to operate under a general permit shall pay to the District \$500 with the submittal of the application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal.
- B. Administrative Fee. The owner or operator of a source subject to county jurisdiction and having authority to operate under a general permit shall pay, ~~of~~ each calendar year, the applicable administrative fee from the table below, by March 31, or 60 days after the Control Officer mails the invoice, whichever is later.

General Permit Source Category	Administrative Fee
1. Class I Title V General Permits	Administrative Fee from Appendix B, Section C
2. Class II Title V Small Source	\$500.00
3. Other Class II Title V General Permits	Administrative fee of \$3,000.00
4. Class II Non-Title V Gasoline Service Station	\$500.00
5. Class II Non-Title V Crematories	\$1,000.00
6. Other Class II Non-Title V General Permits	\$2,000.00

**3-8-700. General provisions**

A. ~~Applicability~~ General Prohibition.

1. General Prohibition

Notwithstanding the provisions of any other rule in this Chapter, and subject to the exemptions set forth in this section, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow or maintain any open outdoor fire.

2. Conditional Statutory Exemptions

Provided a public officer, as defined in the subsections below, gives permission in writing for a fire, and immediately transmits a copy of such written permission to the Director of the Department of Environmental Quality and to the

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Control Officer, and further provided that the setting of any such fire shall be conducted in a manner and at such time as approved by the Control Officer, unless doing so would defeat the purpose of the exemption, the following fires are exempt from this Article:

- a. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.
- b. Fires set by or permitted by the state entomologist or county agricultural agents of the county for the purpose of disease and pest prevention.
- c. Fires set by or permitted by the state or any of its agencies, departments or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.

3. Other Statutory Exemptions

The following fires are exempt from regulation under this Article:

- a. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals. For purposes of this exemption, a "recreational purpose" fire is an outdoor fire, which burns material other than household waste or prohibited materials, and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height.
- b. Fires set by or permitted by the federal government or any of its departments, agencies or agents.

4. Regulatory Exemptions

For the purposes of this rule and article, the following shall neither be regarded as nor deemed open burning:

- a. The subterranean detonation of explosives.
- b. The display of fireworks for recreational purposes or pyrotechnics for musical or cinematic/theatrical functions, provided any person detonating such fireworks or pyrotechnics has a permit approved by the Pinal County Board of Supervisors
- c. Fires for the ceremonial destruction of flags.

5. Default Emission Rate Assumption

Unless specifically authorized under the preceding definitions of permit-authorized fires, fires set for the disposal of materials shall be presumed to have a potential to emit greater than "de minimis amounts" of regulated air pollutants and shall require a stationary source permit as specified under §3-1-040.

B. Definitions.

"Agricultural Burning" means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for a profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.

"Air curtain destructor" means an incineration device which operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs.

"Approved waste burner" means an incinerator constructed of fire resistant material with a top cover or screen, which is closed when in use having opening in the sides or top no greater than one inch in diameter.

"Class I Area" means any one of the Arizona mandatory Federal Class I Areas defined in A.R.S. §49-401.01.

"Control Officer" has the same meaning as in A.R.S. §49-471.

"Date of Issuance" the actual date that the open burning application is signed by the Control Officer or his/her representative.

"Dangerous material" is any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed or otherwise disposed of in a safe and controlled manner.

"Delegated authority" means any of the following:

1. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R.S. §49-501(E); or
2. A private fire protection service provider that has been assigned authority to issue open burning permits by one of the authorities listed in the preceding subsection of this definition ~~(a)~~.

"De Minimis amount" is the lesser of: the potential of a source to emit 1 ton per year of any air pollutant; or the potential of a source to emit 5.5 lbs/day of any air pollutant.

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“Director” means the Director of the Department of Environmental Quality, or his/her designee.

“Effective date of Permit” is the actual date that open burning operations may commence, which will be no later than ~~3-10~~ days after the “Date of Issuance.”

“Emission reduction techniques” are techniques for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit ~~of~~ area burned.

“Household waste” means any solid waste including garbage, rubbish and sanitary waste from septic tanks that is generated from households including single and multiple family residences, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas, not including construction debris, landscaping rubble or demolition debris.

“Open outdoor fire”, as used in this rule, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. “Flue”, as used in this rule, means any duct or passage for air, gases or the like, such as a stack or chimney. Open outdoor fires can include agricultural, residential, commercial, and prescribed burning. Purposes for fires can include prevention of a fire hazard, instruction in the methods of fighting fires, watershed rehabilitation, disease and pest prevention.

“Prescribed burning” means the burning of vegetative material in predominantly undeveloped land to improve forested, open range or watershed condition.

“Prohibited materials” means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products; such as waste crankcase oil, transmission oil and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners, and solvents, stains and varnishes and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.

“Residential burning” means open burning of vegetative materials that is generated only from that property and conducted by or for the occupants of residential dwellings, but does not include the burning of household waste or prohibited materials.

**C.** The following fires are excepted from the provisions of this rule:

1. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals. A Recreational purpose fire is an outdoor fire, which burns material other than household waste or prohibited materials. The fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914 millimeters) or less in diameter and 2 feet (710 millimeters) or less in height for religious (sweat lodges), ceremonial (flag burning), cooking, or warmth.
2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.
3. Fires set by or permitted by the state entomologist or county agricultural agents of the county for the purpose of disease and pest prevention.
4. Fires set by or permitted by the federal government or any of its departments, agencies or agents.
5. Fires set by or permitted by the state or any of its agencies, departments or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.

**D.** Required notifications:

Permission for the setting of any fire given by a public officer in the performance of official duty under paragraphs (2), (3), or (5) of subsection (C) shall be given in writing, and a copy of such written permission shall be transmitted immediately to the Director of the Department of Environmental Quality and to the Control Officer. The setting of any such fire shall be conducted in a manner and at such time as approved by the Control Officer, unless doing so would defeat the purpose of the exemption.

**E.C.** Permit-authorized fires.

Provided a permit is first obtained from the Control Officer, no prohibited wastes or household wastes are burned unless otherwise specified, and a site map of the burn site is provided, the following fires are allowed under this Section:

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1. Permitted residential fires:
  - a. Generally Allowable Combustible Materials: Residential fires set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Residential burning must be conducted on a single contiguous property designed for and used exclusively as a private residence.
  - b. Conditional Approval to Burn Domestic Household Waste  
Fires set in an approved waste burner for the disposal of those portions of domestic household waste generated at a private residence, when the waste is generated from that property. Such fires are allowed:
    - i. ~~On~~ farms and ranches of 40 acres or more where no refuse collection and disposal service is available; or
    - ii. ~~For or fires set for~~ household waste generated on-site, where no household waste collection and disposal service is available, and where the nearest other dwelling unit is at least 500 feet away.  
Unless a permit is specifically endorsed by the Control Officer to verify that waste pickup service is not available, and to expressly allow burning of domestic household waste, burning of such waste is **PROHIBITED**.
  - c. Small Scale Residential Permit: Under a "small scale" residential open burning permit, the quantity of material that may be burned during the one-month permit shall not exceed 10 cubic yards of non-compacted material. A "small scale" residential permit may be renewed on a month-to-month basis, without limitation.
  - d. Large Scale Residential permit: Under a "large scale" residential open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" residential permit may only be issued for a single location, defined by an assessor's parcel number, twice in a calendar year.
  - e. ~~Other Residential Fires: Residential fires involving volumes of material or frequencies beyond that specified in subsection (E)(1) shall be presumed to have a potential to emit air pollutants in excess of the "de minimis amount," and shall require a Class II permit in accordance with the provisions in §3-1-040.B.2.~~  
i.
2. Permitted commercial fires:
  - a. Generally Allowable Combustible Materials: Commercial Fires may be set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Commercial burning must be conducted on a single contiguous property designed for and used exclusively as a single business.
  - b. Small Scale Commercial Permit: Under a "small scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 10 cubic yards of non-compacted material. A "small scale" commercial permit may be renewed on a month-to-month basis, without limitation.
  - c. Large Scale Commercial Permit: Under "large scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" commercial permit may only be issued for a single location, defined by assessor's parcel number, twice in a calendar year.
  - d. Commercial Land Clearing Permit:
    1. Open burning activities which include one-time land-clearing operations that involve non-compacted vegetative materials greater than those allowed above in section 2.a. through 2.c.)
    2. ~~and Land~~ clearing burns may be authorized by written permission from the Control Officer ~~is-if~~ the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or ~~a-to~~ a violation of any air quality standard.
      - (a) The applicant shall submit a non-refundable application fee, as specified in Appendix C.
      - (b) The applicant shall also pay an additional non-refundable per-acre fee, as also specified in Appendix C.
- ~~iii-3.~~ Authorization for the land clearing burn may be revoked by the Control Officer if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.
- ~~iv-4.~~ If the permittee wishes to use an air curtain destructor for land clearing, such device should be operated pursuant to

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the manufacturer's specifications and the following limitations:

- (a) Air curtain destructors shall not be operated closer than 500 feet from the nearest dwelling.
- (b) Air curtain destructors must also comply with the applicable requirements of 40 C.F.R. Section 60.2245 to 60.2260.

~~e. Other Commercial Fires:~~

~~Commercial fires involving volumes of material or frequencies beyond that specified in subsection 2. above shall be presumed to have a potential to emit air pollutants in excess of the "de minimis amount," and shall require a Class II permit in accordance with the provisions of §3-1-040.B.2.~~

3. Permitted agricultural fires:

- a. Fires set for weed control or abatement, clearing fields or ditches of vegetation, or the disposal of other naturally grown products of horticulture, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned.

4. Permitted training exercise fires (non-governmental agencies/companies):

Fires set for the instruction of fire fighting methods.

5. Permitted building-demolition, or building-material demolition, fires:

Fires set for the disposal of abandoned buildings or building materials, provided that no such permit shall be issued until after an on-site inspection by the District. Building demolition burns may be authorized by written permission from the Control Officer if there is no practical alternative, and if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.

- (a) The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.
- (b) The applicant shall pay an additional permit issuance fee, as also specified in Appendix C.

6. Permitted fires for the destruction of dangerous materials:

Fires set for the destruction of dangerous or hazardous materials are allowed when the materials are too dangerous to store and transport, provided that no such permit shall be issued until after an on-site inspection by the District. Fires set for the destruction of dangerous materials shall only be allowed where there is no safe alternative method of disposal, and when the burning of such materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.

- (a) The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.
- (b) The applicant shall pay an additional permit issuance fee, as also specified in Appendix C.

7. ~~Unless specifically authorized under the preceding definitions of permit authorized fires, fires set for the disposal of materials shall be presumed to have a potential to emit greater than "de minimis amounts" of regulated air pollutants and shall require a Class II permit as specified under §3-1-040.B.2.~~

~~8-7. Bonfire Permits:~~

~~Provided no prohibited materials or household wastes, as defined in §3-8-700.B., are burned: a city, town, county statutory districts, or other political subdivision established by statute may obtain a no-cost bonfire permit for a community or civic event.~~

- a. A written request from the public entity is required.
- b. The quantity of material that may be burned during the permit term shall not exceed 20 cubic yards of non-compacted material.

~~F.D. Permit conditions.~~

~~All permits shall include the following:~~

~~1. Contact Information~~

~~A means of contacting the permittee.~~

~~2. Permit term~~

~~The term of the temporary open burning permit, which shall:~~

- a. For a residential or commercial permit, not exceed one month from the effective date;
- b. For an agricultural permit, not exceed one year from the effective date;
- c. For a demolition permit or a destruction of hazardous materials permit, not exceed sixty (60) days from the effective date;
- d. Not, regardless of term, authorize any violation of any burning ban that a local fire department/district may

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impose for purposes of public safety or other purposes.

e. For a training exercise permit, not exceed a permit specified 7-day period from the effective date.

f. For a commercial land clearing burn permit, not exceed sixty (60) days from the effective date, provided that the permittee may, upon application but without cost, be allowed one sixty (60) day extension of such a land clearing permit.

g. For a bonfire, not exceed a 3-day period, which dates shall be specified in the permit.

h. No person affected by a "no burn" restriction or permit suspension shall be entitled to an extension of the burn permit term.

4.3. Permits subject to suspension orders.

All permits shall contain conditions limiting the manner and the time of the setting of such fires as specified in the and shall contain a provision note that all burning be extinguished at the discretion of the Control Officer or his authorized representative during periods of inadequate atmospheric smoke dispersion, including: periods of excessive visibility impairment which could adversely affect public safety, or periods when smoke is blown into populated areas so as to create a public nuisance.

a. When an air stagnation advisory is issued by the Director of ADEQ or the National Weather Service;

b. When an air pollution emergency episode alert, warning, or emergency as required by §§2-7-230 to 2-7-720 is declared;

c. During periods of excessive visibility impairment which could adversely affect public safety or impair visibility in Class I areas; or

d. During periods of extreme fire danger, or during periods when smoke is blown into populated areas so as to create or threaten to create a public nuisance.

4. Emission Reduction Techniques

The permit applicant shall note on the permit application/permit form the types of emission reduction techniques that the permittee will use to minimize fire emissions.

2.5. Burn Management Provisions

All permits shall also contain the following conditions:

a. Materials that may be burned.

a.b. Allowable burn times are:

8:00 a.m. to 4:00 p.m. April 1 through September 30

9:00 a.m. to 4:30 p.m. October 1 through March 31

b.c. Wind speed while burning shall not be less than 5 miles per hour (mph) or greater than 15 mph. If the wind increases during burning, all fires/smoke must be extinguished completely until the wind speed is again in the range of 5 mph to 15 mph.

e.d. The fire must be constantly attended, with reasonable control tools (water or dirt) on hand at all times, and the person conducting the burn must have a copy of the burn permit on-site during open burning.

d.e. When the burn is completed, the fire must be completely extinguished. All burning must cease by the times noted above.

e.f. A requirement that each open burn be started using items that do not cause the production of black smoke.

f.g. A requirement that the burning pit, burning pile, or approved waste burner be at least 500-50 feet from the nearest other dwelling unit.

f.h. The person conducting the open burning must notify the local fire-fighting agency, fire district or municipal fire department, or if none in existence, the state forester, prior to commencement of open burning.

h.i. Open burning shall be conducted only during atmospheric conditions which:

i. Prevent dispersion of smoke into populated areas;

ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;

iii. Do not create a public nuisance or adversely affect public safety;

iv. Do not cause any adverse impact to visibility in a Class I area; and

v. Do not cause uncontrollable spreading of the fire.

i. The permittee shall not conduct open burning when:

i. The National Weather Service has issued an air stagnation advisory for the affected area:

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- ii. During periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas; or
- iii. When any stage air pollution episode is declared under Code §§2-7-230 to 2-7-720.
- ~~iv.k.~~ The permit shall include a copy of the activities prohibited and the criminal penalties for reckless burning included in A.R.S. §13-1706.

~~G.E.~~ Permit Reporting Requirements

The following information shall be provided to the PCAQCD Director/Control Officer for each date open burning occurred, either on a daily basis on the day of the fire, or after the burn permit period ends, or in an annual report prior to April 1, the PCAQCD Director/Control Officer or delegated authority. The report shall be submitted in a format provided by the Director or Control Officer and include:

- ~~i.1.~~ The date of the burn;
- ~~ii.2.~~ The type and quantity of fuel burned for each date open burning occurred;
- ~~iii.3.~~ The fire type, such as pile or windrow, for each date open burning occurred;
- ~~iv.4.~~ For each date open burning occurred, the legal location, to the nearest township, range and section; or latitude and longitude, to the nearest degree minute; or street address; or parcel number.

~~H.F.~~ Permissible delegation of authority

- 1. The Control Officer may delegate the authority for the issuance of allowable open burning permits to responsible delegated authorities as defined in §3-8-700.B. Anyone delegated the authority for issuance of open burning permits shall maintain a copy of all currently effective permits issued including a means of contacting the person authorized by the permit to set an open fire in the event that an order for extinguishing of open burning is issued. This includes a no burn restriction when monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded in Area A, as defined in A.R.S. 49-541, and Chapter 4, Article 3, 4-3-060.C of the Pinal County Air Quality Control District (PCAQCD) Code of Regulations.

~~G.~~ Open Burn Permit Suspensions

- ~~2.1.~~ A “no burn” restriction shall be imposed with respect to open burning regulated by Pinal County, whenever monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded. Such a “no burn” restriction applies to all burning regulated under this Code, even including burning by persons who may hold an otherwise valid open burning permit issued by Pinal County.
- ~~3.2.~~ That “no burn” restriction shall arise by operation of law whenever the Maricopa County Environmental Services or ADEQ declares such a “no burn” restriction in neighboring Maricopa County. ~~No person affected by such a “no burn” restriction shall be entitled to a refund of any monies paid for an open burning permit that may be suspended by virtue of imposition of such a “no burn” restriction or an extension of the burn permits time period.~~

~~I.H.~~ Violations

Failure to obtain a permit, or failure to comply with the conditions of a permit, shall be subject to civil and/or criminal penalties in any of the following statutes: A.R.S. §§13-1706, 49-502, 49-511, 49-512, 49-513, or 49-514.

~~J.I.~~ Limited scope of rule.

Nothing in this rule shall authorize or permit any practice, which is a violation of any statute, ordinance, rule or regulation.

**3-8-710. Permit provisions and administration**

A. Burn permit fees

1. Required fees

A fee shall be charged for a Temporary Open Burning permit according to the fee schedules found in Appendix C.

2. No Refunds

No person affected by a permit suspension or “no burn” restriction as allowed under these rules shall be entitled to a refund of any monies paid for an open burning permit.

B. Signature and acknowledgement

Every open burning permit shall be signed by the person obtaining the permit, and that signature shall constitute an acknowledgement that:

- 1. The person obtaining the permit bears responsibility for any failure to properly and adequately control any fire set pursuant to the permit;

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2. The issuance by the Control Officer of a Temporary Open Burning Permit does not release the permittee from any of the requirements of a fire department/district having jurisdiction, and a permit so issued must be validated by said fire department/district to be effective. The permittee is solely responsible for complying with such fire department/district requirements or restrictions.
  3. Even though burning may be separately restricted by a fire department/district, all fees paid are non-refundable, and burn permits will not be extended due to an open burning restriction.
  4. Open burning at a time or in a manner contrary to the terms of the permit or an order from the Control Officer shall constitute a pursuant to A.R.S. §49-501.I. and one or more violations as set forth in §3-8-700.
- C. The District shall maintain a copy of all currently effective Temporary Open Burning Permits issued including a means of contacting the person authorized in the permit to set an open fire in the event that an order of extinguishing of open burning is issued. This includes a no burn restriction when monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded in Area A, as defined in A.R.S. Section 49-541.
1. A “no burn” restriction shall be imposed with respect to open burning regulated by Pinal County under A.R.S. §49-501, whenever monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded. Such a “no burn” restriction applies to all burning regulated under A.R.S. §49-501, even including burning by persons who may hold an otherwise valid open burning permit issued by Pinal County.
  2. That “no burn” restriction shall arise by operation of law whenever the Maricopa County of Environmental Services declares such a “no burn” restriction in neighboring Maricopa County. No person affected by such a “no burn” restriction shall be entitled to a refund of any monies paid for an open burning permit that may be suspended by virtue of imposition of such a “no burn” restriction or an extension of the burn permit time period.
- D. The term of a temporary open burning permit shall:
1. For a residential or commercial permit, not exceed one month from the date of issuance;
  2. For an agricultural permit, not exceed one year from the date of issuance;
  3. For a demolition permit or a destruction of hazardous materials permit, not exceed sixty (60) days;
  4. Not, regardless of term, authorize any violation of any burning ban that a local fire department/district may impose for purposes of public safety or other purposes.
  5. For a training exercise permit, not exceed a permit specified 3-day period.
  6. For a commercial land clearing burn permit, not exceed one month from the date of issuance.
  7. For a bonfire, not exceed a permit specified 3-day period.
- E. For the purposes of this article, the following shall neither be regarded as nor deemed open burning:
1. The subterranean detonation of explosives.
  2. The display of fireworks for recreational purposes or pyrotechnics for musical or cinematic/theatrical functions, provided any person detonating such fireworks or pyrotechnics has a permit by the Pinal County Board of Supervisors.
- F.C. Storage of materials prone to spontaneous combustion  
Outdoor disposal or deposition of any non-agricultural materials (100 cubic yards or greater) capable of igniting spontaneously, with the exception of fossil fuels (coal), shall not be allowed, without providing adequate fire-fighting materials, such as sand, dirt, or water.

**4-2-040. Standards**

- A. No person shall cause, suffer, allow, or permit a building or its appurtenances, subdivision site, driveway, parking area, vacant lot or sales lot, or an urban or suburban open area to be constructed, used, altered, repaired, demolished, cleared, or leveled, or the earth to be moved or excavated, or fill dirt to be deposited, without taking reasonable precautions to effectively prevent fugitive dust from becoming airborne.
- B. No person shall cause, suffer, allow, or permit a vacant lot, or an urban or suburban open area, to be driven over or used by motor vehicles, such as but not limited to all-terrain vehicles, trucks, cars, cycles, bikes, or buggies, without taking reasonable precautions to effectively prevent fugitive dust from becoming airborne.
- C. No person shall cause, suffer, allow or permit the performance of agricultural practices including but not limited to tilling of land and application of fertilizers without taking reasonable precautions to prevent particulate matter from becoming airborne.
- D. No person shall disturb or remove soil or natural cover from any area without taking reasonable precautions to effectively prevent fugitive dust from becoming airborne.

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- E. No person shall crush, screen, handle or convey materials or cause, suffer, allow or permit material to be stacked, piled or otherwise stored without taking reasonable precautions to effectively prevent fugitive dust from becoming airborne.
- F. Stacking and reclaiming machinery utilized at storage piles shall be operated at all times with a minimum fall of material and in such manner, or with the use of spray bars and wetting agents, as to prevent excessive amounts of particulate matter from becoming airborne. Other reasonable precautions shall be taken, as necessary, to effectively prevent fugitive dust from becoming airborne.
- G. No person shall cause, suffer, allow or permit transportation of materials likely to give rise to fugitive dust without taking reasonable precautions to prevent fugitive dust from becoming airborne. Earth and other material that is tracked out or transported by trucking and earth moving equipment on paved streets shall be removed by the party or person responsible for such deposits. Removal of earth from paved streets shall not violate the visibility standard in Chapter 2.
- H. No person shall operate, maintain, use or permit the use of any commercial feedlot or commercial livestock area for purposes of feeding or displaying animals, or engage in other activity such as racing and exercising, without taking reasonable precautions to effectively prevent fugitive dust from becoming airborne.
- I. No person shall cause, suffer, allow, or permit the use, repair, construction or reconstruction of any road or alley without taking every reasonable precaution to effectively prevent fugitive dust from becoming airborne.
- J. No person shall operate a motor vehicle for recreational purposes in a dry wash, riverbed or open area in such a way as to cause or contribute to visible dust emissions which then cross property lines into a residential, recreational, institutional, educational, retail sales, hotel or business premises. For purposes of this subsection "motor vehicles" shall include, but not be limited to trucks, cars, cycles, bikes, buggies and 3-wheelers. Any person who violates the provisions of this subsection shall be subject to prosecution under A.R.S. §49-513.
- K. No person shall cause, suffer, allow, or permit construction of mineral tailing piles without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. For purposes of controlling emissions from mineral tailings piles, reasonable precautions shall mean wetting, chemical stabilization, revegetation or such other measures as may be approved by the Control Officer.

**4-2-050. Monitoring and records**

- A. ~~The adequacy of the precautions set forth in Sources subject to §4-2-040. shall be determined by reference also be subject to the visible opacity limitations in Chapter 2, Article 8. Opacity observations shall not be made or additional preventive measures required when the wind speed instantaneously exceeds 25 mph or when the average wind speed is greater than 15 mph.~~
- B. Opacity observations for visible emissions of fugitive dust shall be conducted in accordance with techniques specified in Reference Method 9 in the Arizona Testing Manual for Air Pollutant Emissions.
- C. ~~The average wind speed determination shall be on a 60 minute average from the nearest Air Quality Control District monitoring station or by a wind instrument located at the site being checked.~~

**4-3-070. Definitions**

See Article 3 (General Provisions and Definitions) of this code for definitions of terms that are used but not specifically defined in this rule.

- 1. "Affected Area" as used in this rule, means a job or construction site which is greater than 0.1 acres and where affected activities associated with land development disturb the surface of the earth in Pinal County.
- 2. ~~"Affected Activities" as used in this rule includes land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development which results in a disturbed surface area or dust generating operations, shall all constitute "affected activities," if the area to be disturbed is greater than 0.1 acre.~~
- 3. ~~"Affected parties" as used in this rule is the land owner, general contractor or subcontractor.~~
- 4. "Bulk material" as used in this rule, means any material including but not limited to earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter, dirt, mud, demolition debris, trash, cinders, pumice, saw dust, and dry concrete, which are capable of producing fugitive dust at an industrial, institutional, commercial, governmental, construction and/or demolition site.
- 5. "Bulk material handling, storage and/or transporting operation" as used in this rule, means the use of equipment, haul trucks, and/or motor vehicles, such as but not limited to, the loading, unloading, conveying, transporting, piling, stacking, screening, grading, or moving of bulk materials, which are capable of producing fugitive dust at an industrial, institutional, commercial, governmental, construction and/or demolition site.

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trial, institutional, commercial, governmental, construction, and/or demolition site.

6-4. “Carry-out/trackout” as used in this rule means, any and all bulk materials that adhere to and agglomerate on the exterior surface of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen onto a paved roadway.

7-5. “Control measure” as used in this rule means, a preemptive or concurrent technique, practice, or procedure used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust. Control measures include the following:

<b>Control Measure</b>	<b>Description</b>
a. Watering (pre-wetting)	Application of water by means of trucks, hoses, and/or sprinklers prior to conducting any land clearing. This will increase the moisture content of the soils and increase stability of the soil.
b. Watering (operational control)	In active earth-moving areas water should be applied at sufficient intervals and quantity to prevent visible emissions from extending more than 100 feet from the site's boundaries, as noted on the plot plan.
c. Watering (site stabilization)	Wind erosion control for inactive sites where there is no activity for seven (7) days or more.
d. Chemical stabilizers/dust suppressants	Effective in areas which are not subject to daily disturbances. Vendors can supply information on application methods and concentrations.
e. Wind barriers	Three to five-foot barriers (with 50% or less porosity), berms or equipment located adjacent to roadways or urban areas to reduce the amount of windblown material that leaves the site. Wind barriers must be implemented with watering or dust suppressants.
f. Cover haul vehicles	Entire surface area of hauled bulk materials should be covered with an anchored tarp, plastic or other material when the cargo container is empty or full.
g. Reduce speed limits	15 miles per hour maximum.
h. Gravel pad	A layer of washed gravel, rock, or crushed rock which is at least one inch or larger in diameter, maintained at the point of the intersection of a paved public roadway and a work site entrance to dislodge mud, dirt, and/or debris from the tires of motor vehicles, and/or haul trucks, prior to leaving the work site.
i. Grizzly	A device (i.e. rails, pipes, or grates) used to dislodge mud, dirt, and/or debris from the tires and undercarriage of motor vehicles and/or haul trucks prior to leaving the work site.

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j. Wind sheltering	Enclose storage piles in silos or protected three sided barriers equal to bulk material height; line work site boundaries adjacent to roadways or urban areas with wind barriers.
k. Altering load-in/load-out procedures	Confine load-in-load out procedures to downwind side of the material and mist material with water prior to loading. Empty loader slowly and keep bucket close to the truck while dumping.
l. Other measures as proposed by registrant	Specific measures that are adequate to address nuisance issues at the earth moving activity site.

~~8-6.~~ “Disturbed Surface Area” as used in this rule, means any portion of the earth's surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition, thereby increasing the potential for emission of fugitive dust.

- a. For trenches that are less than four feet in depth, it is assumed that a six (6) foot wide path of surface material will be disturbed as the trench is dug. Once the trench exceeds a length of 726 feet, 0.1 acres of surface area has been disturbed. For trenches that are four feet or greater in depth, it is assumed that a twelve (12) foot wide path of surface material will be disturbed as the trench is dug. once the trench exceeds a length of 363 feet, 0.1 acres of surface area has been disturbed. If the registrant identifies situations in which the amount of surface area should be calculated differently, a case-by-case determination would be made.
- b. For calculations of disturbed surface areas for land clearing or earthmoving activities, 25 feet will be added to each dimension of all structures, driveways, concrete pads, and other construction projects being built on the site to allow for an equipment utilization zone. If this final figures exceeds 4,356 square feet, a dust registration is required for the site.

~~9-7.~~ “Dust generating operation” as used in this rule, means any activity capable of generating fugitive dust, including but not limited to, land clearing, earthmoving, weed abatement by discing or blading, excavating, construction, demolition, material handling, storage and/or transporting operations, vehicle use and movement, the operation of any outdoor equipment, or unpaved parking lots. For the purpose of this rule, landscape maintenance and/or playing on a ballfield shall not be considered a dust generating operation. However, landscape maintenance shall not include grading, trenching, nor any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.

~~10-8.~~ “Dust suppressant” as used in this rule, means water, hygroscopic material, solution of water and chemical surfactant foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U.S. Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing fugitive dust emissions.

~~11-9.~~ “Earthmoving activity” as used in this rule, means any land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development ~~show where the~~ objective is to disturb the surface of the earth, which shall all constitute “affected activities” if the job site is greater than 0.1 acre. (See 4.3.600.A.4 - General Provisions)

~~12-10.~~ “Earthmoving operation” as used in this rule, means the use of any equipment for an activity which may generate fugitive dust, such as but not limited to cutting and filling, grading, leveling, excavating, trenching, loading or unloading bulk material, demolishing, blasting, drilling, adding to or removing bulk materials from open storage piles, back filling, soil mulching, landfill operations, or weed abatement by discing or blading.

~~13-11.~~ “Freeboard” as used in this rule, means the vertical distance between the top edge of a cargo container and the highest point at which the bulk material contacts the sides, front, and back of the container.

~~14-12.~~ “Fugitive dust” as used in this rule, means the regulated particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, such as but not

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limited to, movement of soils, vehicles, equipment, blasting, and wind. For the purpose of this rule, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, and from piledrivers.

- ~~15-13.~~ “Gravel pad” as used in this rule, means a layer of washed gravel, rock, or crushed rock which is at least one inch or larger in diameter, maintained at the point of intersection of a paved public roadway and a work site or source entrance to dislodge mud, dirt, and/or debris from the tire of the motor vehicles or haul trucks prior to leaving the work site.
- ~~16-14.~~ “Grizzly” as used in this rule, means a device maintained at the point of intersection of a paved public roadway and a work site or source entrance to dislodge mud, dirt and/or debris from the tires of the motor vehicles or haul trucks prior to leaving the work site.
- ~~17-15.~~ “Haul truck” as used in this rule, is any fully or partially open-bodied self-propelled vehicle including any non-motorized attachments, such as but not limited to, trailers or other conveyances, which are connected to or propelled by the actual motorized portion of the vehicle used for transporting bulk materials.
- ~~18-16.~~ “Motor vehicle” as used in this rule, is a self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments, such as but not limited to, trailers and other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
- ~~19-17.~~ “Nuisance” as used in this rule, means to discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are to may tend to be injurious or to adversely affect human health or welfare, animal life, vegetables, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.
- ~~20-18.~~ “Off-road vehicle” as used in this rule, is any self-propelled conveyance specifically designed for off-road use, including but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motorbuggies.
- ~~21-19.~~ “Opacity” as used in this rule, means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
- ~~22-20.~~ “Owner, general contractor, and/or subcontractor” as used in this rule, is any person who owns, leases, operates, controls, or supervises a dust generating operation subject to the requirements of this rule.
- ~~23-21.~~ “Public roadway” as used in this rule, means any roadways that are open to public travel.
- ~~24-22.~~ “Road Construction” as used in this rule, means the use of any equipment for the paving or new construction of a road surface, street or highway.
- ~~25-23.~~ “Road Maintenance” as used in this rule, means the use of any equipment for the repair and preservation of an old road surface, street or highway.
- ~~26-24.~~ “Sensitive area” as used in this rule, means a neighborhood with man-made structures utilized for human residence or business.
- ~~27-25.~~ “Source” as used in this rule, mans the construction site which is under common control or ownership, and all fixed or moveable objects on such site, which is a potential point of origin of fugitive dust.
- ~~28-26.~~ “Stockpile” as used in this rule, is an open accumulation of bulk material with a 5% or greater silt content which in any one point attains a quantity greater than 10 cubic yards and is located on a disturbed surface area that is greater than 0.1 acres. Silt content shall be assumed to be 5% or greater unless the affected party can show, by testing in accordance with ASTM method C136-96a or other equivalent method approved in writing by the Control Officer and the EPA Administrator, that the silt content is less than 5%.
- ~~29-27.~~ “Trackout control device” as used in this rule, means a gravel pad, grizzly, wheel wash system, or a paved area, located at the point of intersection of an unpaved area and a paved roadway, that controls or prevents vehicular track-out.
- ~~30-28.~~ “Traffic hazard” as used in this rule, means a discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials, which cause or have a tendency to cause interference with normal road use.
- ~~31-29.~~ “Trench” as used in this rule, mans a long, narrow excavation dug in the earth (as for drainage).
- ~~32-30.~~ “Unpaved haul/access road” as used in this rule, means any on-site unpaved road used by commercial, industrial,

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institutional, and/or governmental traffic.

- ~~33-31.~~ “Unpaved parking lot” as used in this rule, means any area larger than 5,000 square feet that is not paved and that is used for parking, maneuvering, or storing motor vehicles.
- ~~34-32.~~ “Unpaved road” as used in this rule, means any road or equipment path that is not paved. For the purpose of this rule, an unpaved road is not a horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by motor vehicles.
- ~~35-33.~~ “Visible emissions” as used in this rule, means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
- ~~36-34.~~ “Visibility impairment” as used in this rule, means any humanly perceptible change in visibility from that which would have existed under natural conditions.
- ~~37-35.~~ “Wind barrier” as used in this rule, means any structure put up along a source's boundaries to reduce the amount of wind blown dust leaving the site. Creating a wind barrier includes but is not limited to installing wind fencing, construction of berms, or parking on-site equipment so that it blocks the wind.
- ~~38-36.~~ “Wind-blown dust” as used in this rule, means visible emissions from any disturbed surface area, which are generated by wind action alone.
- ~~39-37.~~ “Wind event” as used in this rule, means when the 60-minute average time and wind speed is greater or equal to 20 miles per hour, or such other wind speed/duration exemption threshold as may apply under Pinal County's Natural Events Action Plan (NEAP) dated November 25, 1997:
1. An 8-hour average wind speed in excess of 20 miles per hour (m.p.h.)
  2. A 1-1/2 hour average wind speed in excess of 22 m.p.h.
  3. A 1-hour average wind speed in excess of 25 m.p.h.
  4. A 15 minute average wind speed in excess of 30 m.p.h.
- ~~40-38.~~ “Wind fencing” as used in this rule, means a 3 to 5 foot barrier with 50% or less porosity located adjacent to roadways or urban areas.
- ~~41-39.~~ “Work site” as used in this rule, means any property upon which dust generating operations and/or earthmoving operations occur.
- ~~42-40.~~ “Work practices” as used in this rule, means a technique or operational procedure used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust. Work practices include the following:

<b>Specific Activity</b>	<b>Work Practice</b>
Bulk Material Hauling off-site onto paved public roadway	1. Load all trucks such that the freeboard is not less than three inches; and prevent spillage or loss of bulk material from holes or other openings in the conveyance; cover all haul trucks (empty or full) with a tarp or other suitable anchored material.
Bulk material hauling on-site (within work site)	2. Limit the vehicle speed to less than 15 mph; or apply water to the top of the load; or cover the hauled material.
Spillage, carry-out, erosion, and/or trackout	3. Install a suitable trackout control device from all work sites with a disturbed area of 5 acres or more and from all work sites where 100 cubic yards of bulk materials are hauled on/or off site per day.
Cleanup spillage, carry-out, erosion and/or trackout on the following schedule:	4. Immediately, when spillage, carry-out, and/or trackout extend a cumulative distance of 50 linear feet or more; or at the end of the work day.

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Unpaved easements, right-of-way, and access roads	5. Inside PM <sub>10</sub> nonattainment area, restrict vehicular speeds to 15 miles per hour.
Open storage piles	6. During stacking, loading and unloading operations, apply water as necessary and/or construct and maintain wind barriers, storage silos, or a three-sided enclosure to surround pile and whose height is equal to the pile.
Weed abatement by discing or blading	7. Apply water before and during weed abatement.
Other work activities as provided by the registrant	8. Specific work practices that are adequate to address nuisance issues at the earth moving activity site.

**4-3-080. Registration Requirements**

Prior to engaging in affected activities on a job site, at least one affected party shall file a registration form with the Control Officer, pay the appropriate fee, and receive a registration notice from the Control Officer.

1. Registration Form:
  - a. The applicant shall present a registration on a form approved by the Control Officer, and shall include all essential identification information as specified on that form. A separate registration form is required for each site location not contiguous to the location on the original registration form, unless an annual block registration is approved.
  - b. Each registration shall also include a plot plan with linear dimensions in feet. The plot plan must be on 8-1/2 by 11 inch paper, and may be on one or more sheets. The plan should identify the parcel, the street address, the direction north, the total area to be disturbed and indicates the sources of fugitive dust emission on the plot plan (delivery, transport and storage areas).
  - c. Using the options on the registration form or in the applicant's own words, each registration application shall contain an explanation of how the applicant will demonstrate compliance with this rule, by demonstrating after-the-fact that the control measures and work practices proposed in the registration were in fact utilized on the project. A demonstration of compliance would typically include a daily written log at the work site, or the maintenance of invoices and/or payments reflecting the cost of control measures.
  - d. Annual Block Registration: The land owner, contractor, or subcontractor operating on the job site may submit to the Control Officer one Earthmoving Registration application for more than one earthmoving operation at which construction will commence within 12 months of registration issuance. The earthmoving operations must consist of routine operations: the expansion or extension of utilities, paved roads, unpaved roads, road shoulders, and/or alleys, and public right-of-ways at non-contiguous sites.
    - i. An annual block registration must include all the requirements listed above in this subsection (1 a. through 1 c.) and a description of each site and type of earthmoving activity to be conducted.
    - ii. For any project not listed in the Earthmoving Annual Block Registration Application, the applicant must notify the Control Officer in writing at least three working days prior to commencing the earthmoving activity. Such notification must include the site location, size, and type of earthmoving activity, and start date.
  - e. Registration Renewal: The first registration obtained for an affected project must cover a contiguous area (unless it is an "annual block registration") and it is valid for one year from the date of issue. If the project has not been ~~completed~~ completed at the end of the one-year period, the dust registration must be renewed. Upon renewal, the total acreage covered by the dust registration does not have to be contiguous, although all acreage covered by the renewed dust registration must have been included in the original dust registration.
2. Registration acknowledgment:
  - a. The registration acknowledgment from the control officer will contain the universal performance standard and

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conditions regarding the necessary control measures and work practices specific to the applicable project as proposed by the registrant.

- b. The registration acknowledgment shall contain a provision that all registrants keep records documenting the actual application or implementation of the control measures delineated in the registration application for at least 30 days following the termination of the registration acknowledgment.
- c. The registration acknowledgment shall be valid for a period of not more than one year from the date of issue, and may be renewed by providing the Control Officer a new registration application and payment of the appropriate fee.
- d. Registrants shall notify the Control Officer within five working days of the start and completion of the project.
- e. At all sites that are five acres or larger, registrants shall erect a project information sign at the main entrance that is visible to the public or at each end of the road construction project site. The sign shall be a minimum of 24 inches tall by 30 inches wide, have a white background, and have the words "DUST CONTROL" shown in black block lettering which is at least four inches high, and shall contain the following information in legible fashion."
  - i. Project Name
  - ii. Name and phone number of person(s) responsible for conducting project
  - iii. Text stating: "Dust Complaints? Call Pinal County Air Quality Control District at (520) 866-6929."

~~4-3-080~~ **4-3-090. Universal Performance Standard**

1. Within the affected area, a landowner or contractor shall not conduct or allow dust generating operations:
  - a. in a manner such that an unreasonable amount of dust is blown into sensitive areas so as to create a public nuisance;
  - b. in a manner such that opacity of the dust leaving the property exceeds twenty percent (20%) or greater as measured using Test Method 9 (40 CFR 60, Appendix A) or an equivalent test method approved by the Control Officer and the EPA Administrator;
  - c. in a manner that will produce visibility impairment that could threaten public safety.
2. Failure to comply with these requirements shall presumptively constitute cause for the Control Officer or his authorized representative to order a halt to the offending activity. Failure by an owner, contractor or facility operator to respond to such an order from the Control Officer shall constitute a violation of this rule.
3. Violations: Generally any land owner, contractor, or subcontractor operating on the job site, who violates any Pinal County Air Quality Control District rule ~~any~~ may be subject to an order of abatement, a civil action for injunctive relief or civil penalties, or may be found guilty of a Class I Misdemeanor.
4. Violation Exemptions:
  - a. Wind Event: exceedances of the opacity limit that occur due to a wind event shall be exempted from enforcement action if the owner/general contractor demonstrates all of the following conditions:
    - i. All control measures required in the registration acknowledgment were followed and one or more of the work practices were applied and maintained;
    - ii. The 20% opacity exceedance could not have been prevented by better application, implementation, operation or maintenance of the control measures;
    - iii. The occurrence of a wind event on the day(s) in question is documented by records of the Pinal County Air Quality Control District monitoring station in the affected area, from any other certified meteorological station, or by a wind instrument that is calibrated to the manufacturer's standards and that is located at the site being investigated.
  - b. No opacity violation shall apply to emergency maintenance of flood control channels and water retention basins, provided that control measures were being implemented.
5. Limited scope of rule  
Nothing in this rule shall authorize or permit any practice which is in violation of any statute, ordinance, rule or regulation.

**8-1-060. Special inspection warrant**

- A. The Control Officer and his deputies charged under this chapter with powers or duties involving inspection of real or personal property including buildings, building premises and building contents for the purpose of air pollution control shall

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**County Notices Pursuant to A.R.S. § 49-112**

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be authorized to present themselves before a magistrate and apply for, obtain and execute special inspection warrants. Such inspections shall be limited to property other than the interior of structures used as private residences.

- B. Upon showing by the affidavit of the Control Officer or his deputies that consent to entry for inspection purposes has been refused or circumstances justify the failure to seek such consent, special inspection warrants may be issued by a magistrate for inspection of public or private, real or personal properties. Such warrants shall not be necessary in the case of an emergency where there is an imminent and substantial endangerment to the health of persons.
- C. The warrant shall be in substantially the following form:

“County of Pinal, state of Arizona to any Control Officer or Deputy Control Officer in the county of proof by affidavit having been this day made before me by (person or persons whose affidavit has been taken) that in and upon certain premises in the (city, town or county) of \_\_\_\_\_ and more particularly described as follows: (describe the premises with reasonable particularity) there now exists a reasonable governmental interest to determine if said premises comply with (section \_\_\_\_\_ of the Arizona Revised Statutes) or (section \_\_\_\_\_ of the PCAQCD Regulations), you are therefore commanded in the day time (or during reasonable business hours), to make an inspection of said premises as soon as practicable.

Date, signature and title of office.”

The endorsement on the warrant shall be in substantially the following form:

“Received by me \_\_\_\_\_, ~~19~~ 20\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_\_ (name of Control Officer or Deputy Control Officer).”

The return of officer shall be in substantially the following form:

“I hereby certify that by virtue of the within warrant I searched the named premises and found the following things (describe findings).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, ~~19~~ 20\_\_\_\_

(name of Control Officer or Deputy Control Officer).”

- D. The warrant may be served by the Control Officer or his deputies mentioned in its directions, but by no other person except in aid of the Control Officer or his deputies, on his requiring it, the Control Officer or his deputies being present and acting in its execution.
- E. A warrant shall be executed and returned to the magistrate who issued it within ten days after its date. After the expiration of that time, the warrant shall unless executed be void.
- F. Any person who knowingly refuses to permit an inspection lawfully authorized by warrant issued pursuant to this Code is guilty of a petty offense.

**APPENDIX B. FEES RELATED TO INDIVIDUAL PERMITS**

- A. Source Categories. The owner or operator of a source required to have an air quality permit from the Director shall pay the fees described in this appendix.
- B. Fees for Permit Actions. The owner or operator of a Class I Title V Source, Class II Title V Source, or Class II Non-Title V source shall pay to the Control Officer \$66 per hour, adjusted annually under §3-7-585, for all permit processing time required for a billable permit action (does not include permit transfers). Upon completion of permit processing activities but before the issuance or denial of the permit or permit revision, the Control Officer shall send notice of the decision to the applicant along with a final bill. The maximum fee for a billable permit action for a qualifying general source seeking a Class II permit shall be \$500.00 The maximum fee for any other billable permit action for a non-title V source is \$25,000. Except as provided in §3-1-080, the Control Officer shall not issue a permit or permit revision until the final bill is paid.
- C. Class I Title V Fees. The owner or operator of a Class I Title V Source that has undergone initial startup by January 1, shall annually pay to the Control Officer and administrative fee plus an emissions-based fee as follows:

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1. The applicable administrative fee from the table below, as adjusted annually under §3-7-585. The fee is due in accordance with §3-7-620.

Class I Title V Source Category	Administrative Fee
Aerospace	\$ 12,900
Cement Plants	\$ 39,500
Combustion/Boilers	\$ 9,600
Compressor Stations	\$ 7,900
Electronics	\$ 12,700
Expandable Foam	\$ 9,100
Foundries	\$ 12,100
Landfills	\$ 9,900
Lime Plants	\$ 37,000
Copper & Nickel Mines	\$ 9,300
Gold Mines	\$ 9,300
Mobile Home Manufacturing	\$ 9,200
Paper Mills	\$ 12,700
Paper Coaters	\$ 9,600
Petroleum Products Terminal Facilities	\$ 14,100
Polymeric Fabric Coaters	\$ 12,700
Reinforced Plastics	\$ 9,600
Semiconductor Fabrication	\$ 16,700
Copper Smelters	\$ 39,500
Utilities - Natural Gas	\$ 10,200
Utilities - Fossil Fuel Except Natural Gas	\$ 20,200
Vitamin/Pharmaceutical Manufacturing	\$ 9,800
Wood Furniture	\$ 9,600
Others	\$ 9,900
Others with Continuous Emission Monitoring	\$ 12,700

2. An emissions-based fee of \$11.75 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under §3-7-585, and due in accordance with §3-7-620.

a. For purposes of this section, “actual emissions” means the quantity of all regulated pollutants emitted

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- during the calendar year, and determined by the annual emissions inventory under §3-1-103.
- b. For purposes of this section, “regulated pollutants” consist of the following:
    - i. Nitrogen oxides and any volatile organic compounds;
    - ii. Conventional air pollutants, except carbon monoxide and ozone;
    - iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reducing sulfur compound; and
    - iv. Any federally listed hazardous air pollutant.
  - e. For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:
    - i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
    - ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM10;
    - iii. Emissions from insignificant activities listed in the permit application for the source under §3-1-050.
    - iv. Fugitive emissions of PM10 from activities other than crushing, belt transfers, screening, or stacking; and
    - v. Fugitive emissions of VOC from solution extraction units.

D. Class II Title V Fees. The owner or operator of a Class II Title V Source that has undergone initial startup by January 1, shall pay the applicable administrative fee from the table below, adjusted under §3-7-585 and §3-7-578, and due in accordance with §3-7-620.

Class II Title V Source Category	Administrative Fee
Synthetic Minor Sources (except Portable Sources) at greater than 50% of Threshold Permit Allowable Emissions	Administrative Fee from Class I Title V Table for Category - C(1)
Stationary Sources not otherwise classified	\$ 5,000
Qualifying General Source as defined in §3-1-030(16a)	\$ 3,000
Small Source as defined in §3-1-030(20) (For example, perchloroethylene dry cleaners)	\$ 500

E. Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V Source or authority to operate under a general permit that has undergone initial startup by January 1, shall pay the applicable administrative fee from the table below, adjusted under §3-7-585 and §3-7-578, and due in accordance with §3-7-620.

Class II Non-Title V Source Category	Administrative Fee
Stationary Sources not otherwise classified	\$ 3,250
Cotton Gins with a permitted capacity of less than 20,000 bales per year	\$ 1,625
Portable Sources	\$ 3,250
Qualifying General Source as defined in §3-1-030(16a)	\$ 2,000
Crematories that qualify for an ADEQ General Permit	\$ 1,000

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Gasoline Dispensing Operations that qualify for a ADEQ General Permit as defined in A.A.C. R18-2-501 through 511 (with at least 18 nozzles)	\$ 500
Spray Operations (Medium) ( <u>See §3-1-030 for definition</u> )	\$ 1,600
Spray Operations (Small) ( <u>See §3-1-030 for definition</u> )	\$ 400

F. ~~Class II Non-Title V Fees or Minor Screening III~~ Sources. The owner or operator of a Class III "Minor Screening Source" shall pay the applicable administrative fee from the table below:

Class III Non-Title V or Minor Screening Source Category	Administrative Fee
Minor Screening Source ( <u>See §3-1-030.B.3 and.4 for Class III applicability definitions; for example, typically including sources with PTE below significance levels such as auto body shops, solvent dry cleaners, and gasoline dispensing operations with less than 18 nozzles</u> )	\$ 250

G. Fees Related to General Permits. The owner or operator of a source that applies for authority to operate under a general permit per A.A.C. R18-2-501 through 511, shall pay to the Control Officer \$500 with the submittal of the application. This fee also applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal.

## **Enclosure 7**

**Maricopa County Open Burn Rule**  
(Rule 314, Outdoor Open Burns)

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**\*\* PLEASE NOTE \*\***

**At this time, the Notice of Final Rulemaking (NFRM) for the revised Maricopa County Rule 314 will not be published in the *Arizona Administrative Register* until January 14, 2005. The rule became effective December 15, 2004.**

**A codified version of revised Maricopa County Rule 314, along with supporting adoption documentation, will be sent upon its availability.**

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**NOTICE OF FINAL RULEMAKING**  
**MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS**  
**RULE 314 – OPEN OUTDOOR FIRES**

**PREAMBLE**

<b><u>1. Sections affected</u></b>	<b><u>Rulemaking Action</u></b>
Rule 314	Amend

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing Statutes: Arizona Revised Statutes (A.R.S.) § 49-112, § 49-479, and § 49-501.

Implementing Statute: Arizona Revised Statutes (A.R.S.) § 49-479.

**3. The effective date of the rule:**

December 15, 2004

**4. A list of all previous notices appearing in the register addressing the rule:**

Notice Of Rulemaking Docket Opening: Arizona Administrative Register (A.R.S.)

Volume #10, Issue #23, June 4, 2004.

Notice of Proposed Rulemaking Arizona Administrative Register (A.R.S.)

Volume #10, Issue #35, August 27, 2004.

**5. Name and address of department personnel with whom persons may communicate regarding the rulemaking:**

Name: Patricia P. Nelson or Jo Crumbaker, Air Quality Division

Address: 1001 N. Central Ave. Suite 695, Phoenix, Arizona 85012

Telephone: (602) 506-6709 or (602) 506-6705

Fax: (602) 506- 6179

E-Mail: [pnelson@mail.maricopa.gov](mailto:pnelson@mail.maricopa.gov) or [jcrumbak@mail.maricopa.gov](mailto:jcrumbak@mail.maricopa.gov)

**6. An explanation of the rule, including the department's reasons for initiating the rule:**

The rule will amend Maricopa County's existing open burning rule to make it conform to EPA's requirements for the state of Arizona's Regional Haze State Implementation Plan (SIP). The Arizona Department of Environmental Quality's final rule, which amended Arizona's existing open burning and prescribed burning rules to conform to Regional Haze SIP requirements, was effective March 16, 2004. Any revisions to Maricopa County's existing open burning rule must also continue to

implement best available control measures (BACM) as required by the Clean Air Act for serious PM-10 nonattainment areas.

The major revisions to the rule add recordkeeping requirements. The revisions also include technical changes to improve the rule's clarity. The rule includes new definitions such as orchard heaters and emission reduction techniques and also expands on some other selected definitions for clarity.

**7. A reference to any study relevant to the rule that the department reviewed and either relied on in its evaluation of or justification for the rule 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:**

No studies were used.

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

Not applicable.

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

Maricopa County Environmental Services Department (MCESD) expects the rule to create minimal actual economic impact on the regulated communities and the County, such as the costs associated with recordkeeping, documentation, and reporting requirements. No comments were received concerning the economic analysis.

**10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):**

No changes were made.

**11. A summary of the comments made regarding the rule and the agency response to them:**

No comments were received.

**12. Any other matters prescribed by statute that are applicable to the specific department or to any specific rule or class of rules:**

Not applicable.

**13. Incorporations by reference and their location in the rule:**

There are no incorporations by reference in the rule.

**14. The full text of the rule follows:**

**REGULATION III - CONTROL OF AIR CONTAMINANTS**

**RULE 314  
OPEN OUTDOOR FIRES**

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**APPENDIX TO RULE 314**

AIR CURTAIN DESTRUCTOR AND BURN PIT PROCEDURES

MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III - CONTROL OF AIR CONTAMINANTS

RULE 314

OPEN OUTDOOR FIRES

SECTION 100 - GENERAL

- 101 **PURPOSE:** To limit the emissions of air contaminants produced from open burning.
- 102 **APPLICABILITY:** Rule 314 is applicable to any open outdoor fire that is conducted within Maricopa County.

**SECTION 200 - DEFINITIONS:** See Rule 100(General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

- 201 **AIR CURTAIN DESTRUCTOR** - A device designed to form a curtain of air over a pit in which combustion occurs that aids in more complete combustion through increases in turbulence and combustion time.
- 202 **DANGEROUS MATERIAL** - Any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
- 203 **DITCHBANK** - A lateral area not to exceed two and one half feet on either side of a ditch.
- 204 ~~**FENCE ROW** - A lateral area not to exceed two and one half feet on either side of the centerline of a fence.~~ **EMISSION REDUCTION TECHNIQUES (ERTS)** - Methods for controlling emissions from outdoor fires to minimize the amount of emissions output per unit of area burned. Types of ERTS include minimizing the material to be burned, preventing fire from spreading by lining the area and applying fire retardant foam or water, allowing the material to dry before burning, extinguishing the smoldering burns, burning in piles, burning in the opposite direction of the wind, using a back fire when grass is burned, burning before litter falls and burning prior to precipitation.
- 205 ~~**OPEN OUTDOOR FIRE** - Any combustion of any type of material outdoors, where the products of combustion are not directed through a flue.~~ **FENCE ROW** - A lateral area not to exceed two and one half feet on either side of the centerline of a fence.
- 206 ~~**PUBLIC OFFICER** - Any elected or appointed officer of a public agency established by charter, ordinance, resolution, state constitution or statute, but excluding member of the legislature.~~ **FLUE** - Any duct or passage for air or combustion gases, such as a stack or chimney.
- 207 ~~**RESTRICTED-BURN PERIOD** - A condition declared by the Control Officer whenever meteorological conditions are conducive to an accumulation of carbon monoxide (CO) and/or particulate matter in exceedance of the standards or when air quality reaches other limits established by the Control Officer.~~ **OPEN OUTDOOR FIRE OR OPEN**

**BURNING** - Any combustion of any type of material outdoors, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed and construction burning. Purposes for fires can include prevention of a fire hazard, instruction in the methods of fighting fires, watershed rehabilitation, disease and pest prevention.

**208** **ORCHARD HEATERS** – A device which helps prevent frost damage to fruit trees by heating. An orchard heater consists of a pipeline heater system operated from a central control from which fuel is distributed by a piping system from a centrally located tank.

**209** **PUBLIC OFFICER** – Any elected or appointed officer of a public agency established by charter, ordinance, resolution, state constitution or statute, but excluding ~~member~~ members of the legislature.

**210** **RESTRICTED-BURN PERIOD** – A condition declared by the Control Officer whenever meteorological conditions are conducive to an accumulation of carbon monoxide (CO) and/or particulate matter in exceedance of the standards or when air quality reaches other limits established by the Control Officer.

## SECTION 300 - STANDARDS

**301** **PROHIBITION - OPEN OUTDOOR FIRES:** It shall be unlawful for any person to ignite, cause or permit to be ignited, allow, maintain any open outdoor fire within the limits of Maricopa County, except as provided in Section 302 of this rule and in Section 303 of this rule.

**302** **BURN PERMIT:** A person shall first obtain a Burn Permit from the Control Officer before igniting, causing or permitting to be ignited, allowing, or maintaining the open outdoor fires described in ~~subsections~~ Sections 302.1 through 302.8 of this rule. Before a person to whom a Burn Permit has been issued begins burning, such person shall call, for permission to burn, the fire department having jurisdiction and the Control Officer, who must base his decision to approve or deny permission to burn on National Weather Service forecasts or other meteorological analyses. If a person has obtained a Title V Permit, a Non-Title V Permit, or a General Permit under Regulation II (Permits And Fees) of these rules that includes condition(s) regarding open outdoor fires, then such person shall not be required to obtain a Burn Permit from the Control Officer. See Section 402 of this rule for requirements regarding Burn Permit applications and see Section 403 of this rule for requirements regarding Burn Permit conditions.

**302.1** Open outdoor fires that are declared necessary by the County Agricultural Agent, when such fires have been determined as essential for the purposes of disease and/or pest prevention and certified by actual investigations by the County Agricultural Agent.

**302.2** Open outdoor fires for the control of weeds for the prevention of fire hazards, when such fires are declared necessary by a public officer in the performance of his official duties.

**302.3** Open outdoor fires for fire fighting training. See ~~subsection~~ Section 303.10 of this rule for an exemption to this requirement.

**302.4** Open outdoor fires for the burning of agricultural ditchbanks and fence rows where other reasonable mechanical, chemical, or other ~~methods~~ methods of removal are not available.

- a. A high temperature mechanical burner must be used to burn ditchbanks, canal laterals, and/or fence rows.
- b. Burning ditchbanks and/or fence rows is not allowed during a restricted-burn period from October 1 through February 29, unless such fires are required in the performance of an official duty of any public office, or such fires are necessary to thwart or prevent a hazard that cannot be properly managed by any other means, or are necessary for the protection of public health.
- c. An on-site inspection must be conducted to verify that only ~~agricultural~~ vegetative materials will be burned.
- d. After an initial on-site inspection has been completed, a Burn Permit may be issued for the same location(s) without having to conduct additional initial on-site inspections. However, periodic, unscheduled, on-site inspections may be conducted on days when such burning has been authorized by the Burn Permit.

**302.5** Open outdoor fires for the destruction of tumbleweeds in cases where other reasonable methods are not available.

- a. Tumbleweeds must be cut, piled, and dried before burning.
- b. A high temperature mechanical burner may be used to burn un-dried tumbleweeds in situations where it is not feasible to allow natural drying.
- c. A high temperature mechanical burner must be used to burn tumbleweeds growing along canal laterals and fence rows.

**302.6** Open outdoor fires for the burning of indigenous scrub vegetation cleared for the purpose of construction or agricultural operations in non-urban areas of low population where other reasonable methods are not available.

- a. The Control Officer shall issue such Burn Permit only once per geographical location.
- b. An air curtain destructor must be used (see Appendix To Rule 314) for the burning of certain vegetative materials greater than 6 inches in diameter and an on-site inspection must be conducted before burning.
- c. An on-site inspection must be conducted to determine removal of all other materials (e.g. wood, rubber, and metal) before the issuance of the Burn Permit.

**302.7** Open outdoor fires using an air curtain destructor for the burning of certain material, including but not limited to citrus trees or other types of vegetation. Air curtain destructors shall not be operated closer than 500 feet from the nearest dwelling. See Appendix To Rule 314 for procedures for air curtain destructors and burn pits.

**302.8** Open outdoor fires declared necessary by the Federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.

**303 EXEMPTIONS:** A person shall not be required to obtain a Burn Permit in order to conduct open outdoor fires described in ~~subsections~~ Sections 303.1 through ~~303.10-303.11~~ of this rule.

- 303.1** Domestic cooking for immediate human consumption.
- 303.2** Warmth for human beings.
- 303.3** Recreational purposes, where the combustible material is clean, dry wood, or charcoal.
- 303.4** Branding animals.
- 303.5** Orchard heaters for frost protection in farming or nursery operations.
- 303.6** Disposal of dangerous material.
  - a.** Disposal of dangerous material must be conducted in compliance with the Department of Environmental Quality's (ADEQ's) regulations.
  - b.** Before a person conducts an open outdoor fire to dispose of dangerous material, such person shall call the Control Officer to determine if a restricted-burn period has been declared and obtain permission to burn.
- 303.7** Fire extinguisher training. This exemption applies only when the training is limited to using a small amount of flammable liquid and a small container (i.e., a wastepaper basket or a flat pan).
- 303.8** Testing potentially explosive-containing, flammable, or combustible products (e.g., automotive airbags, rocket motors, gas generators, and vehicular assemblies) in accordance with Department of Transportation (DOT) or Department of Defense guidelines.
  - a.** This exemption refers to testing of hazard classification, packaging performance, propagation, and/or mass fire, but only when testing area is controlled, is relatively small, and when testing is not considered to be nor is associated with the disposal of dangerous material.
  - b.** Before a person conducts an open outdoor fire for testing potentially explosive-containing, flammable, or combustible products for hazard classification, packaging performance, propagation, and/or mass fire, such person shall call the Control Officer to determine if a restricted-burn period has been declared and obtain permission to burn.
- 303.9** Testing potentially explosive-containing products for commercial, military, and law enforcement uses.
  - a.** This exemption applies only when the testing is controlled, is relatively small, and is not considered to be nor is associated with the disposal of dangerous material.
  - b.** Before a person conducts an open outdoor fire for testing potentially explosive-containing products for commercial, military, and law enforcement uses, such person shall call the Control Officer to determine if a restricted-burn period has been declared and obtain permission to burn.

- 303.10** Fire fighting training areas and training structures.
- a. This exemption applies only if the sole source of flame is a burner fueled by either liquefied petroleum gas or natural gas, with a British Thermal Unit (BTU) input per hour rating of less than 2,000,000 BTUs.
  - b. Before a person conducts an open outdoor fire for fire fighting training areas and training structures, such person shall call the Control Officer to determine if a restricted-burn period has been declared and obtain permission to burn.
- 303.11** Proper disposal of flags under 4 United States Code 8.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

- 401 FEES REQUIRED:** A fee shall be charged for a Burn Permit as set forth in Rule 280 (Fees) of these rules.
- 402 BURN PERMIT APPLICATION:** A person shall file with the Control Officer, on a form prescribed by the Control Officer, a Burn Permit application and the complete application fee as described in Rule 280 (Fees) of these rules. The Control Officer shall act on a Burn Permit application and shall notify the applicant within 14 calendar days of the filing of the completed application.
- 402.1** A separate Burn Permit application is required for each burn site location not contiguous to the location on the original Burn Permit application.
- 402.2** The Control Officer shall conduct an on-site inspection before issuing the Burn Permit.
- 402.3** The issuance of a Burn Permit does not relieve the permittee from any of the requirements of a fire department having jurisdiction, including but not limited to having the Burn Permit validated by such fire department.
- 402.4** Maricopa County shall not issue permits for its own burning activities. Authority for issuance of permits to the County shall be retained by Arizona Department of Environmental Quality.
- 403 BURN PERMIT CONDITIONS:** The Control Officer may impose any permit conditions that are necessary to ensure compliance with Federal laws, State laws, or these rules. Burn Permit condition(s) may include, but are not limited to, burning hours, notification of intent to burn, and Burn Permit posting.
- 404 BURN PERMIT DENIAL:** The Control Officer shall deny a Burn Permit application if the material or operations do not meet the criteria described in this rule.
- 405 BURN PERMIT ~~TERM~~-TERMS:** A Burn Permit shall be issued for the following terms:
- |                         |                               |
|-------------------------|-------------------------------|
| Air Curtain Destructor  | 30 days from date of issuance |
| Disease/Pest Prevention | 30 days from date of issuance |
| Fire Hazard             | 30 days from date of issuance |
| Land Clearance          | 30 days from date of issuance |
| Tumbleweeds             | 30 days from date of issuance |

Ditchbank/Fence Row	1 year from date of issuance
Fire Fighting Training/Structures	1 year from date of issuance

**500 MONITORING AND RECORDS (~~NOT APPLICABLE~~)**

**501 RECORDKEEPING AND REPORTING:**

- 501.1** The following information shall be provided to the Control Officer for each time that open burning occurs for persons and operations subject to Sections 302, 303.6, 303.8, 303.9, and 303.10. This information shall be provided on a daily basis either by writing, fax, or electronically and shall include:
- a. The date of the burn; and
  - b. The type and quantity of fuel burned for each date open outdoor burning occurs; and
  - c. The fire type such as a pile or windrow for each date that open outdoor burning occurs; and
  - d. The legal location, to the nearest township, range and section, or latitude and longitude, to the nearest degree minute; street address; or parcel number.

**502 RECORDS RETENTION:**

- 502.1** Maricopa County shall retain permits issued for open burning available for inspection by the Arizona Department of Environmental Quality (ADEQ) for five years.
- 502.2** For each permit issued, Maricopa County shall have a means of contacting the person authorized by the permit to set an open fire, if an order to extinguish open burning is issued by either the County or ADEQ. Therefore the permit application must contain the name of a contact person and shall list a means of contacting that person.
- 502.3** Maricopa County shall hold or attend an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.
- 502.4** Maricopa County shall annually submit to ADEQ a record of daily burn activity by May 15 of each calendar year.

**APPENDIX TO RULE 314**

**AIR CURTAIN DESTRUCTOR AND BURN PIT PROCEDURES**

**A. Burn Pit Requirements**

The following must be complied with prior to approval of a pit for burning purposes:

1. The pit must not exceed the length of the plenum.
2. The width of the pit must not exceed 8 feet.
3. The depth of the pit must be a minimum of 15 feet.
4. The maximum erosion width must not exceed 12 feet nor must the pit result in excessive emissions at any time due to erosion, regardless of the width.
5. The pit must have 4 stable, vertical sides such as, but not limited to, mineral, soil, metal curtain, and masonry.



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