Report to the Board of Supervisors

Prepared by the Maricopa County Air Quality Department

Board of Health Meeting Date:	July 27, 2015
Board Hearing Date:	February 3, 2016 (Continued from December 9, 2015)
Case #/Title:	AQ-2013-005-New Source Review
Agenda Item:	C-85-16-004-M-00
Supervisor Districts:	All Districts

Applicant: Staff

Request: Approve amendments to Maricopa County Air Pollution Control Regulations regarding New Source Review (NSR) and approve submitting the amended rules as a revision to the (Arizona) State Implementation Plan (SIP).

The purpose of this rulemaking is to update the Maricopa County Air Quality Department's NSR rules in order to secure their approval as part of the SIP under the federal Clean Air Act. The update will be consistent with revisions the Arizona Department of Environmental Quality (ADEQ) and the U.S. Environmental Protection Agency (EPA) made to the NSR Program required by the federal Clean Air Act.

NSR is a long-standing Clean Air Act permitting program that requires businesses to get an air pollution control permit before they start construction or make major modifications to their business. NSR must ensure that air quality is not significantly degraded from the addition of new or modified businesses, while also providing flexibility to businesses to improve or modernize their operations. Air quality permits must include an air quality analysis to demonstrate that new emissions emitted from the business will not cause or contribute to a violation of a National Ambient Air Quality Standard. Permit fees are not changing due to this rulemaking.

Support/Opposition: To date, the department has received written comments from one Stakeholder (the Salt River Project Agricultural Improvement and Power District (SRP)) via the Enhanced Regulatory Outreach Program (EROP). SRP submitted eight (8) comments on August 31, 2015 and 20 comments on November 9, 2015. SRP stated that they "…fully support the department's proposal…These changes will improve implementation of the major NSR provisions and update the regulations to match major NSR programs implemented throughout the United States." SRP also "…offer[ed] limited, but important, comments on the proposed changes…to improve implementation and clarity of the final rules."

SRP's comments and the department's responses are summarized below. Copies of SRP's comments are attached to this report and the department's responses to SRP's most recent comments are provided in Item 13 in the Draft Notice of Final Rulemaking, which is attached to this report.

The department met with SRP to discuss responses to their comments submitted on November 9, 2015, which addressed the following categories:

- Definitions: The department is proposing to revise seven definitions mainly to provide clarity and eliminate potential conflict with ADEQ NSR rules.
- Permitting thresholds: The department is proposing to increase the minor NSR modification thresholds to match ADEQ; this will allow sources within Maricopa County that are below the thresholds to avoid triggering NSR requirements (modeling and permit revisions). The department is also proposing to clarify which activities are exempt from obtaining a permit (insignificant activities). This change may actually reduce not increase the number of permits issued by the department.
- Permitting process: The department is proposing to retain the licensing time frames that define action on permit applications, to provide an application shield to general permit applicants, and to follow EPA guidance when granting construction extensions. These revisions provide sources certainty that the department will take timely action on their permit applications.
- Minor NSR program: The department is proposing to clarify the types of facility modifications that are regulated by Rule 241 (Minor New Source Review (NSR)) and to retain the language in Rule 241 that requires best available control technology (BACT) to address emissions from the sources being modified. These clarifications will assist sources in determining if a permit revision is required.

In conclusion, SRP appreciated the interaction with the department and the additional review and consideration of their comments. In addition, other sources have made statements supporting the NSR rules revisions, as they will provide enhanced offset capabilities to expanding industries.

Staff Recommendation: **Approve**

Board of Health Recommendation: **Approve** per Staff recommended language

Additional Comments: This regulatory change is following the Enhanced Regulatory Outreach Program (EROP) Policy and workflow process. The County Manager briefed the Board of Supervisors regarding this rulemaking in January 2013. In accordance with the Maricopa County Resolution "Moratorium

on Increased Regulatory Burdens", the County Manager authorized the department to proceed with this rulemaking in July 2013. On April 27, 2015, the Board of Health approved initiation of this regulatory change and on July 27, 2015, the Board of Health approved making a recommendation to the Board of Supervisors to approve this regulatory change.

Presented By: Philip A. McNeely, R.G., Director

Prepared By: Kathleen Sommer, Planner

Attachments:

Summary of the proposed regulatory change (See Item 6 of the Draft Notice of Final Rulemaking)

Analysis of input received during the process and how that input was responded to (See Item 13 of the Draft Notice of Final Rulemaking)

Language of proposed regulatory change or amendment (See Item 17 of the Draft Notice of Final Rulemaking)

Preamble required by Arizona Revised Statutes (A.R.S.) § 49-471.05 (See Draft Notice of Final Rulemaking)

Minutes from Board of Health meeting

Copies of all written and electronic Stakeholder input

Signed copy of the Maricopa County Resolution "Moratorium on Increased Regulatory Burdens

DRAFT NOTICE OF FINAL RULEMAKING

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MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

PREAMBLE

AQ-2013-005-NEW SOURCE REVIEW (NSR)

1.	**Rules affected**	**Rulemaking action**
Rule 100:	General Provisions and Definitions	Amend
Rule 200:	Permit Requirements	Amend
Rule 210:	Title V Permit Provisions	Amend
Rule 220:	Non-Title V Permit Provisions	Amend
Rule 230:	General Permits	Amend
Rule 240:	Permit Requirements For New Major Sources and Major Modifications to Existing Sources	Amend
Rule 241:	Permits for New Sources and Modifications to Existing Sources	Amend
Rule 500:	Attainment Area Classification	Repeal
Rule 510:	Air Quality Standards	Amend
Rule 600:	Emergency Episodes	Amend
Appendix D:	List of Insignificant Activities	Repeal
Appendix E:	List of Trivial Activities	Repeal

2. Statutory authority for the rulemaking:

Authorizing statutes: C.F.R. 4825-1, January 2, 1994 (F.R Doc. 94-802 Filed 01-11-94)

A.R.S. §§ 49-474, 49-479, and 49-480

Implementing statute: A.R.S. § 49-112

3. The effective date of the rule:

Tentative date of adoption: February 3, 2016

4. List of all previous notices appearing in the Register addressing this rulemaking:

Notice of Proposed Rulemaking: 21 A.A.R. 1302, July 31, 2015

Notice of Supplemental Proposed Rulemaking: 21 A.A.R. 2124, October 2, 2015

Notice of Supplemental Proposed Rulemaking: 21 A.A.R., [Page Number], December 18, 2015

5. The department's contact person who can answer questions about the rulemaking:

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6. Explanation of the rule, including the department's reasons for initiating the rulemaking:

Summary:

The purpose of this rulemaking is to update the Maricopa County Air Quality Department's (department's) New Source Review (NSR) rules in order to secure their approval as part of the state implementation plan (SIP) under the federal Clean Air Act. The update will be consistent with revisions the Arizona Department of Environmental Quality (ADEQ) and the U.S. Environmental Protection Agency (EPA) made to the NSR Program required by the federal Clean Air Act (CAA).

The proposed amendments included in the rulemaking consist of extensive revisions to the county's major NSR program as well as new NSR requirements for minor sources and minor modifications designed to protect the national ambient air quality standards (NAAQS). (Whether a source or modification is major or minor depends on the level of emissions, as described in greater detail below.)

There is currently a significant discrepancy, known as the "SIP gap," between the NSR rules as set forth in the Maricopa County Air Pollution Control Regulations and the rules that have been approved by the EPA into the Maricopa County portion of the Arizona SIP. Once approved, the amended rules will eliminate the SIP gap.

This rulemaking also includes proposed conforming and technical changes to rules related to NSR, such as requirements for the general permit program.

Background:

Clean Air Act NSR Requirements

Section 110(a)(2)(C) of the federal Clean Air Act (the "Act" or "CAA"), 42 U.S.C. 7410(a)(2)(C), requires SIPs to:

> include a program to provide for the … regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter… .

Because regulations adopted under this section apply to newly constructed and modified, as opposed to existing, sources they are commonly referred to as "new source review" programs.

Part C of title I of the Act, 42 U.S.C. 7470-7492, establishes the NSR requirements for major sources that are constructed or modified in areas that have attained the NAAQS for one or more criteria pollutants (ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, PM_{10}, $PM_{2.5}$ and lead). Sources that belong to the list of categories set forth in section 169(1) of the Act, 42 U.S.C. 7479(1), are major if they emit or have the potential to emit 100 or more tons per year of a regulated air pollutant. Other sources are subject to a 250 tons per year threshold.

The program required by Part C is known as "Prevention of Significant Deterioration" (PSD) because its purpose is to prevent air quality in attainment areas from deteriorating to the level of the NAAQS. See CAA § 160. PSD, therefore, establishes or requires EPA to establish maximum allowable increases, known as "increments," over existing concentrations of criteria pollutants and requires permit applicants subject to PSD to demonstrate that a new source or modification's emissions will not result in a violation of the increments or the NAAQS. PSD also requires the installation of the Best Available Control Technology (BACT), defined as "the maximum degree of reduction of each pollutant subject to regulation under this chapter emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility." 42 U.S.C. 7479(3).

Part D of Title I establishes NSR requirements for major sources and modifications in nonattainment areas. Under Subpart 1 of Part D, 42 U.S.C. 7501-7509a, a major source is defined as any source that emits or has the potential to emit 100 tons per year or more of a pollutant for which an area has been designated

nonattainment. Subpart 2, 3, and 4 of Part D, 42 U.S.C. 7511-7511f, establishes lower major source thresholds for certain ozone, carbon monoxide and PM_{10} nonattainment areas.

Permit applicants subject to Part D must demonstrate that a major source or modification will comply with the lowest achievable emission rate (LAER) and that reductions in emissions from the same source or other sources will offset any emissions increases from the source or modification.

In addition to requiring compliance with the specific major NSR requirements of Parts C and D, section 110(a)(2)(C), 7410(a)(2)(C), requires "regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved." EPA refers to 110(a)(2)(C) programs that apply to non-major sources and to minor modifications to major sources as "minor NSR." 76 Fed. Reg. 38748, 38752 (July 1, 2011).

EPA NSR Regulations

EPA has promulgated regulations establishing the elements a state program must contain to satisfy section 110(a)(2)(C) at 40 CFR 51, Subpart I (§§ 51.160-51.166) and federal implementation plans at 40 CFR 52 § 52.21 and 40 CFR 51, Appendix S.

Sections 51.165 and 51.166 establish the requirements for nonattainment NSR and PSD programs, respectively. These rules are highly detailed and restrictive. States seeking approval of major NSR programs must either strictly conform to these rules or demonstrate that any deviations are at least as stringent as EPA's program.

Both § 51.165 and 51.166 limit the applicability of major NSR to the construction of a new major source or a "major modification" to a major source. A major modification is defined as a physical or operational change that will result in both a significant increase and a significant net increase in the emissions of a regulated NSR pollutant at an existing major source.

For criteria pollutants and their precursors, "significant" is defined as:

Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Volatile organic compounds	40 tpy
Lead	0.6 tpy
PM10	15 tpy
PM2.5	10 tpy

As EPA has noted, the "Federal regulations for minor source programs [at 40 CFR 51.160-164] are considerably less detailed than the requirements for major sources." 71 Fed. Reg. 48696, 48700 (Aug. 21, 2006). Under the minor NSR regulations, a state program must contain "legally enforceable procedures" to prevent the construction or modification of a minor source if it will "result in a violation of applicable portions of the control strategy" for compliance with the NAAQS or "interfere with the attainment or maintenance of a" NAAQS. 40 CFR 51.160.

A minor NSR program need not apply to all new and modified sources, but it must "identify types and sizes of facilities, buildings, structures, or installations which will be subject to" minor NSR and "discuss the basis for determining which facilities will be subject to review." 40 CFR 51.161(e). As EPA has noted:

> Applicability thresholds are proper in [a minor NSR program] provided that the sources and modifications with emissions below the thresholds are inconsequential to attainment and maintenance of the NAAQS. 71 Fed. Reg. 48701.

The appropriate threshold levels for NSR applicability are often referred to as "de minimis" levels. The program must allow a minimum 30-day period to comment on the applicant's minor NSR application and the agency's proposed decision. 40 CFR 51.161.

Maricopa County's NSR SIP and Current NSR Rules

Before the department's creation in 2004, Maricopa County's Bureau of Air Pollution Control was responsible for administering Maricopa County's air quality program and the Board of Supervisors adopted its original major and minor NSR rules. Maricopa County implemented NSR through an installation permit program, which required owners or operators to obtain an installation permit before beginning construction of a new source or a modification to an existing source. See former Maricopa County Bureau of Air Pollution Control Regulation Rule 21, which, along with other rules cited in this discussion, can be found at EPA Region 9's web site at: http://www2.epa.gov/aboutepa/epa-region-9-pacific-southwest. A separate operating permit was required before the owner or operator was allowed to begin operation of the source or modification. See former Rule 220 Permits to Operate.

In 1988, EPA approved the Maricopa County nonattainment NSR provisions into the SIP. 53 Fed. Reg. 30220 (Aug. 10, 1988). Effective November 22,1993, EPA delegated PSD authority to Maricopa County via a PSD Delegation Agreement. 59 FR 1730 (January 12, 1994).

The SIP Gap

EPA last approved revisions to the Maricopa County NSR SIP in 1988. See 53 Fed. Reg. 30220 (Aug. 10, 1988). Since the amendments last approved by EPA were adopted, the county has re-organized forming the Maricopa County Air Quality Department and has made substantial revisions to the program.

Most significantly, in 1992 through 1993, the Arizona State adopted legislation, followed by conforming rule amendments, to move from the old installation and operating permit program to a "unitary" program that authorizes both construction and operation in a single permit. NSR requirements for new sources are now enforced as part of the issuance of a single permit that also ensures compliance with all other applicable requirements of state and federal air quality laws. For major sources, these permits are designed to comply with title V of the Act, as well as Parts C and D of title I. Major modifications subject to major NSR now require a significant revision to the permit for an existing source, rather than a new installation permit. Other modifications that formerly required an installation permit may now proceed under either a significant or minor permit revision.

In addition to adopting the unitary permit program, Maricopa County also has updated its NSR rules to incorporate:

- the PM_{10} and $PM_{2.5}$ NAAQS,
- the PM_{10} increments,
- the nitrogen dioxide increments,
- the 1997 eight-hour ozone NAAQS,
- the "WEPCO" rule redefining the method for determining whether a modification to an electric generating unit is major, and
- various technical amendments.

None of these changes are included in the approved NSR SIP for Maricopa County.

Under federal law, Maricopa County remains obligated to continue enforcing the old NSR program until EPA approves the new one. Fortunately, the new program is in most cases more stringent than the old, so that compliance with current rules is largely sufficient to assure compliance with the approved NSR SIP. There are a few instances, however, in which the old rules require review procedures that go beyond the current program. Maricopa County has had to issue guidance explaining that in these cases the department will apply the approved SIP, rather than the current rules.

It would obviously be preferable for the requirements of the SIP and the current rules to match. Maricopa County is, therefore, seeking through these proposed rule amendments to eliminate the SIP gap for the permit program.

EPA Amendments to Major NSR

Maricopa County has attempted to secure EPA approval of prior versions of its NSR rules, but so far without success. Since Maricopa County last updated its NSR rules, EPA has adopted substantial revisions

to the major NSR program, making additional amendments necessary before approval by EPA can be secured.

Most significantly, on December 31, 2002, EPA promulgated comprehensive amendments, known as "NSR reform," to the regulatory methods for determining whether a major modification has occurred. 67 Fed. Reg. 80186. On June 24, 2005, the United States Court of Appeals for the D.C. Circuit vacated some of the rule changes, including exemptions for modifications to certain "clean units" and modifications that qualify as "pollution control projects." New York v. EPA, 413 F.3d 3 (D.C. Cir 2005). The remaining rules, which remain in effect, consist of changes to the method for calculating the emissions increase from a modification to an existing emissions unit and provisions for "Plantwide Applicability Limits" (PALs).

The determination of whether a modification to an existing unit will result in a significant emissions increase entails a comparison between "baseline" (i.e. existing) emissions and future emissions after the modification is complete. (The installation of a new unit is generally deemed to result in an increase equal to the unit's potential to emit.) NSR reform established a new method for determining baseline emissions and a new option for determining future emissions for modifications to existing units.

Under pre-NSR Reform rules, baseline emissions were generally calculated using the actual emissions for the two-year period immediately preceding the proposed change. 67 Fed. Reg. 80188. As EPA has noted, regulated industries complained that this method provided only "limited ability to consider the operational fluctuations associated with normal business cycles." 67 Fed. Reg. 80191. The NSR Reform amendments therefore allow the use of any consecutive 24-month period during the ten-year period prior to the change to establish baseline actual emissions. (A five- year period is used for EGUs.)

Before NSR Reform, an existing unit's future, post-modification emissions were normally deemed to equal the unit's potential to emit (PTE). The definition of PTE assumes that a unit "will operate at its full capacity year round," unless the source's permit includes "enforceable restrictions on the unit's operation." This was problematic, because "using PTE as a measure of post-change emissions automatically attributes all possible emissions increases to the change." In many cases, however, the unit might "function essentially as it did before the change" and produce no increase or a less-than-significant increase in actual emissions. 67 Fed. Reg. 80193-94.

After NSR Reform, a source's owner or operator may now elect to use an existing unit's "projected actual emissions," rather than its PTE, to determine future emissions. Unlike PTE, a unit's projected actual emissions take into account historical operational data and exclude emissions that could have been accommodated before the modification.

According to EPA, this new test for calculating the emissions increase from a modification to an existing unit, known as the "actual-to-projected-actual" test, will produce benefits for regulated industries, the environment and state and local agencies:

> By allowing you [i.e., regulated entities] to use today's new version of the actual-to-projected-actual applicability test to evaluate modified existing emissions units, we expect that fewer projects will trigger the major NSR permitting requirements. Nonetheless, we believe that the environment will not be adversely affected by these changes and in some respects will benefit from these changes. The new test will remove disincentives that discourage sources from making the types of changes that improve operating efficiency, implement pollution prevention projects, and result in other environmentally beneficial changes. Moreover, the end result is that State and local reviewing authorities can appropriately focus their limited resources on those activities that could cause real and significant increases in pollution. 67 Fed. Reg. 80192.

The NSR Reform rule also provides that if there is a "reasonable possibility" that modifications to existing emissions units will produce a significant emissions increase of a regulated NSR pollutant, and the owner or operator elects to use the actual-to-projected-actual test, the modifications will be subject to monitoring, recordkeeping and reporting obligations.

The initial NSR Reform rule did not define "reasonable possibility." The court in New York v. EPA held that without a definition or other clarification, the rule failed to provide regulated entities or agencies

adequate notice of when these obligations are triggered. In response, EPA issued amendments to its major NSR rules defining the term. 72 Fed. Reg. 72607 (Dec. 12, 2007). Although EPA subsequently granted a petition to reconsider the definition, it did not stay the provision, which therefore remains in effect.

The other major element of NSR Reform is the PAL, which allows major sources to avoid major NSR by accepting and complying with a source-wide cap on emissions. PALs are set for each regulated NSR pollutant at a level equal to baseline actual emissions plus the significant level for the pollutant. Baseline actual emissions are calculated in the same way as described above for calculating emission increases from modifications to existing emission units. A source may generally make any changes it wants without triggering major NSR, so long as plantwide emissions after the change remain below the PAL. PALs last for ten years and are renewable.

EPA believes that regulated entities "will benefit from the PAL option because [they] will have increased operational flexibility and regulatory certainty, a simpler NSR applicability approach, and fewer administrative burdens." 67 Fed. Reg. 80206. Based on a review of six flexible permit pilot projects, EPA concluded that the environment would also benefit. According to the agency, "PALs will over time tend to shift growth in emissions to cleaner units, because the growth will have to be accommodated under the PAL cap." 67 Fed. Reg. 80207.

Since the last Maricopa County update, EPA also has made numerous revisions to the NAAQS. The NAAQS are not technically part of EPA's NSR regulations, but in order to be approvable, a state NSR program must allow for enforcement of the current version of these standards. See, e.g., 40 CFR 51.166(k)(1). Maricopa County must also update Rule 510 to reflect the revised NAAQS.

Finally, EPA has made numerous other revisions that must be included in the Maricopa County program, such as the adoption of $PM_{2.5}$ increments and significant impact levels and significant monitoring concentrations for $PM_{2.5}$.

Discussion About This Rulemaking

Consistent with the Maricopa County obligation under A.R.S. § 49-480(B), the department is proposing to adopt NSR amendments that are substantially identical to the ADEQ and EPA NSR programs for major sources and amendments that generally impose no greater procedural burden than ADEQ's procedures for minor sources. However, due to long-standing nonattainment area federal requirements, Maricopa County's permitting thresholds are lower than ADEQ's permitting thresholds. Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by ADEQ for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112. Under § 49-112(A), the county may adopt a rule that is more stringent than or in addition to a provision of A.R.S. Title 49 or an ADEQ rule under specific conditions including peculiar local conditions, necessary to prevent a significant threat to public health or environment, or required under a federal statute or regulation.

Revisions to Maricopa County Major NSR Program

EPA's major NSR regulations are quite detailed and restrictive. They establish a specific body of "corresponding federal law that addresses the same subject matter" as the major NSR amendments. The amendments included in the ADEQ NSR rulemaking consisted of those required under HB 2617[1] and ensured that the major NSR program amendments were consistent with and no more stringent than the corresponding EPA regulations. Consistent with that obligation, Maricopa County is proposing to adopt major NSR amendments that incorporate by reference most of the federal rules. Incorporation by reference will result in rules substantially identical to the ADEQ rulemaking described above. Specifically, these proposed provisions will eliminate a provision from the existing definition of major source because it was more stringent than the corresponding federal definition. In addition, the incorporation by reference of the

[1] HB 2617 which became law on July 29, 2010, required that ADEQ as set forth in A.R.S. § 49-104(A):
17. Unless specifically authorized by the legislature, [the department shall] ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This provision shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.
Laws 2010, Ch. 309, § 14.

federal definitions would be substantially identical to the sense, meaning, and effect of ADEQ's definitions as required by A.R.S. § 49-471.08(B).

In Rule 240, the department is proposing to incorporate by reference 40 CFR 51.155(a)(1), which includes the definition of "net emissions increase". In the incorporated definition of "net emissions increase", the department is proposing to replace "reasonable period" with "between the date five years before construction on the date the particular change commences, and the date that the increase from the particular change occurs." The current proposed change is consistent with ADEQ's NSR rules R18-2-101(88) (Definition of "Net Emissions Increase"). At the request of Stakeholders, the department is also soliciting comments on two other options for defining "reasonable period" in the definition of "net emissions increase". First, the language in Rule 240, Section 304.1(a)(3) would define the term "reasonable period" to read "between the date five (5) years before submitting a permit application or commencing construction of the particular major modification, whichever is sooner, and the date that the increase from the particular major modification occurs". Second, the language in Rule 240, Section 304.1(a)(3) would define the term "reasonable period" to read "between the date seven years before construction on the date the particular change commences, and the date that the increase from the particular change occurs."

In addition, Maricopa County nonattainment area plans do not rely upon the major source NSR program as a control measure to achieve emission reductions and reach attainment as expeditiously as practicable and thus a change in the NSR program will not interfere with any applicable requirement concerning attainment and reasonable further progress. See EPA's approval of the Maintenance Plan and Redesignation Requests for the 8-hour carbon monoxide standard (70 FR 11553, March 9, 2005),1-hour ozone standard (70 FR 34362, June 14, 2005) and 1997 8-hour ozone standard (79 FR 55645, September 17, 2014). Further, major or minor sources that propose to become major remain subject to the "source obligation" provisions of 40 C.F.R. § 52.21(r)(4) incorporated by reference in Rule 240, Sections 305.1 and 304.7.

Stakeholders and EPA have asked the department to clarify how requests for major NSR permit extensions are treated and how the department will implement 40 CFR 51.307 regarding visibility. Regarding action on applications and notification requirements, the department intends to implement provisions consistent with the EPA's "Guidance on Extension of Prevention of Significant Deterioration (PSD) Permits Under 40 CFR 52.21(r)(2)", January 31, 2014. Regarding visibility, significant portions of the Maricopa County's urbanized area lie within 100 kilometers (km) of the four mandatory Federal Class I areas: Superstition, Mazatzal, Sierra Ancha and Pine Mountain Wilderness areas. Consistent with Rule 240, the department provides the federal land manager (FLM) written notification of all proposed new major sources or major modifications within 30 days of receipt of and at least 60 days prior to a public hearing by the department on the application for a permit to construct. This notice includes the visibility analysis submitted as required under Rule 240 Sections 302.3, 304.18, and 305.1(b) and (d). In accordance with EPA and FLM guidance documents, the process for determining whether a new major source or major modification that "may affect" visibility will cause an "adverse impact on visibility" involves two separate determinations. Initially, a source must determine whether the source would cause "visibility impairment" based on how visibility would change from what would have existed in absence of any human-caused pollution. For this initial determination, the above guidance allows a source located or proposing to locate greater than 50 km from a Class I area to choose to utilize the $Q/D \leq 10$ initial screening criteria in accordance with the FLA 2010 guidance document to determine whether further visibility analysis is required. The second determination considers whether the source that causes "visibility impairment" will have an adverse impact on visibility. This determination requires a more holistic evaluation of various factors affecting visibility, potentially including current visibility conditions and whether the State is on track toward improving visibility.

Maricopa County Minor NSR Requirements

The proposed rule amendments relating to minor NSR included in this rulemaking are designed to address a lack of explicit procedures designed "to assure that national ambient air quality standards are achieved," as required by CAA § 110(a)(2)(C). Maricopa County's current minor source permitting rules require the inclusion of "[e]nforceable emission limitations and standards, including operational requirements and limitations that ensure compliance with all applicable requirements." Rule 220, Section 302.2. They therefore satisfy the requirement in EPA's minor NSR rules to assure that minor sources do not violate "applicable portions of the control strategy." The proposed rule amendments specifically include

requirements to conduct an ambient air quality assessment if the Control Officer determines the source may interfere with attainment or maintenance of the NAAQS and for the Control Officer to deny the permit if the assessment demonstrates that the source will interfere with attainment or maintenance of the NAAQS. Another proposed rule amendment adds procedures related to stack heights, including good engineering practice (GEP) stack height provisions as required by 40 CFR 51.164 in Rule 200. The department does not believe that many, if any, minor sources will trigger the stack height requirements.

Maricopa County's permit rules for minor NSR impose no greater procedural burden than procedures for the review, issuance, revision and administration of permits issued by the State. However, Maricopa County's rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source's proximity to the PM_{10} and ozone nonattainment areas, specific atmospheric and geographical conditions found at the source's location, control technology provisions required by the CAA for nonattainment areas, and other control measures adopted into various nonattainment SIPs for Maricopa County. Specifically, various SIPs for Maricopa County have required the adoption of reasonably available control technology (RACT), best available control technology (BACT), and most stringent measures (MSM) as required by CAA §§ 172, 182, 188, and 189.

As a result of long-standing nonattainment classifications for ozone and particulates, Maricopa County has existing permitting thresholds that are lower than ADEQ's in order to address the emissions sources specific to the county that contribute to nonattainment and are subject to the county's numerous source-specific emission control rules. Based on an analysis of 2011 Periodic Emission Inventories (see "2014 Analysis of 2011 Periodic Emissions Inventory to Support Permitting Thresholds in NSR Rulemaking"), the department estimates the contribution from permitted area sources as a percentage of total emissions has been reduced to 2.7% for PM_{10}, 10% for VOC, 4.6% for NO_x and 0.5% for CO. In this action, the county proposes to retain the current permitting threshold of total uncontrolled emissions of less than three pounds VOC or PM_{10} per day and less than 5.5 pounds of any other regulated air pollutant per day but convert all thresholds from pounds per day to tons per year. The permitting thresholds are proposed to be:

~~Pollutant~~	~~Maximum Capacity To Emit Emission Rate In Tons Per Year (TPY)~~
~~$PM_{2.5}$ (primary emissions only; levels for precursors are set below)~~	~~0.5~~
~~PM_{10}~~	~~0.5~~
~~SO_2~~	~~1.0~~
~~NO_x~~	~~1.0~~
~~VOC~~	~~0.5~~
~~CO~~	~~1.0~~
~~Pb~~	~~0.3~~
~~Single HAP (other than Pb)~~	~~0.5~~
~~Total HAPs~~	~~1.0~~
~~Any other regulated air pollutant~~	~~1.0~~

Given the lower permitting thresholds and the number of source-specific emission control rules in place to address county nonattainment areas, Maricopa County also proposes to define permitting thresholds that would trigger minor NSR modifications as follows:

~~Pollutant~~	~~Maximum Capacity To Emit Emission Rate In Tons Per Year (TPY)~~
~~$PM_{2.5}$ (primary emissions only; levels for precursors are set below)~~	~~7.5~~
~~PM_{10}~~	~~7.5~~
~~SO_2~~	~~20~~
~~NO_x~~	~~20~~
~~VOC~~	~~20~~
~~CO~~	~~50~~
~~Pb~~	~~0.3~~

The county also has different existing public review procedures than ADEQ due to these circumstances. The county procedures were adopted in March, 2000 following a Stakeholder process with input from both regulated sources and non-governmental organizations. The county procedures require the following:

- Posting the receipt of all applications on the department's website once a week as they are received,
- Allowing the public to request a public hearing on any application posted to the website at any time after the initial post,
- Providing a formal 30-day public notice published in the newspaper and posted online for larger, more environmentally significant sources, and
- Once a month, publishing in a newspaper and posting online a list of permits issued that month.

In this rulemaking, the department also proposes to convert the public participation thresholds to the following tons per year thresholds from the current triggers that rely on Rule 280 fee tables:

~~Pollutant~~	~~Public Notice Threshold TPY (New Or Permit Renewals PTE)~~	~~Public Notice Threshold TPY (PTE To PTE Emission Increase)~~
~~VOC~~	~~25~~	~~25~~
~~NO_x~~	~~25~~	~~25~~
~~SO_2~~	~~25~~	~~25~~
~~PM_{10}~~	~~7.5~~	~~7.5~~
~~$PM_{2.5}$ (primary emissions only; levels for precursors are set above)~~	~~5.0~~	~~5.0~~
~~CO~~	~~50~~	~~50~~
~~Pb~~	~~0.3~~	~~0.3~~
~~Any Single HAP~~	~~5.0~~	~~5.0~~
~~Total HAPs~~	~~12.5~~	~~12.5~~

The public notice thresholds are approximately equivalent to the existing source type specific thresholds and are less than half of the major sources thresholds except for carbon monoxide. Based on the current profile of permits (see "2014 Public Participation Thresholds Justification"), the department estimates approximately 73.1% of area source individual and general permits will undergo public notice. The remaining small area sources that will not be subject to public notice are less environmentally significant and account for less than 2% of the total emissions inventory for each pollutant.

Proposed Amendments to Match Rule Language Found In ADEQ's NSR Rules

The department is proposing amendments in the following rules to match rule language found in ADEQ's NSR rules: Rule 210 (Title V Permit Provisions), Rule 220 (Non-Title V Permit Provisions), Rule 241 (proposed new title: Minor New Source Review (NSR)), Rule 500 (Attainment Area Classification) and Rule 510 (Air Quality Standards).

The following sections in Rule 210 are proposed to be revised:

- Section 200 (Definitions-Introductory Statement): To clarify the applicability of definitions specific to Rule 210 and to Rule 100 (General Provisions And Definitions).
- Section 301.2 (Standard Application Procesisng Procedures): To delete text re: a timely application for the initial Phase II acid rain requirement in response to Stakeholder and EPA concerns.
- Sections 301.8(b)(3) and (5) (Action on Application): To add timeframe for EPA (the Administrator) to act on a permit application that is required to be submitted to the EPA (the Administrator) in response to Stakeholder and EPA concerns.
- Sections 301.8(f) and (h) (Action on Application): To delete text re: the acid rain program in response to Stakeholder and EPA concerns. To delete text re: the publishing of a proposed permit decision within nine months of receipt of a complete application in response to Stakeholder and EPA concerns.

- Section 301.9 (Requirement for a Permit): To add text re: the source's obligation to obtain a permit revision before making a modification to the source in response to Stakeholder and EPA concerns.
- Section 403.1 (Source Changes Allowed Without Permit Revisions): To add additional gatekeeper for changes eligible for minor permit revision.
- Section 403.8 (Source Changes Allowed Without Permit Revisions): To delete text re: the Control Officer requiring a permit to be revised (outdated provision); is addressed in Section 405.8.
- Section 406.6 (Significant Permit Revisions): To delete text re: the Control Officer processing the majority of significant permit revision applications within nine months of receipt (outdated provision).
- Sections 408.2 and 408.7 (Public Participation): To add text re: the Control Officer providing public notice of receipt of complete applications for major modifications to major sources. To add text re: the Control Officer providing at least 30 days from the date of the first notice for public comment to receive comments and requests for a hearing. To add text re: the Control Officer making available responses at the time a final proposed permit is submitted to the EPA.

The following sections in Rule 220 are proposed to be revised:

- Sections 301.3(a) and (b) (A Timely Permit Application): To clarify what a timely permit application is for a source that becomes subject to the permit program as a result of a change in the regulation in response to Stakeholder and EPA concerns.
- Section 301.6(b)(4) (Action on Application): To add timeframe for EPA (the Administrator) to act on a permit application that is required to be submitted to the EPA (the Administrator) in response to Stakeholder and EPA concerns.
- Section 301.7 (Permit Application Processing Procedures): To add text re: the source's obligation to obtain a permit revision before making a modification to the source in response to Stakeholder and EPA concerns.
- Sections 407.1, 407.2, and 407.3 (Public Participation): To clarify when the Control Officer must provide public notice and an opportunity for public comment and what permit applications must be published on the Internet and what permit applications must be published in a newspaper.
- Section 407.7 (Public Participation): The department already satisfies this requirement of providing notice for changes requiring non-minor permit revisions to make a change in fuel, to make a change that relaxes monitoring, and to make a change that will require case-by-case determinations for a monitoring requirement by publishing a notice in the newspaper and on the department's website.

The following sections in Rule 241 are proposed to be revised:

- Section 304 (BACT Required): To delete lbs/day threshold limits
- Section 305 (RACT Required): To delete lbs/day threshold limits

The following section in Rule 500 is proposed to be revised:

- Rule 500 is proposed to be repealed, because the information in the rule is being incorporated by reference in Rule 240.

The following sections in Rule 510 are proposed to be revised:

- Section 200 (Definitions-Introductory Statement): To clarify the applicability of definitions specific to Rule 510 and to Rule 100 (General Provisions And Definitions).
- Section 301 (Standards-Particulate Matter-2.5 Microns or Less ($PM_{2.5}$)): To update particulate matter ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 302 (Standards-Particulate Matter-10 Microns or Less (PM_{10})): To update particulate matter ambient air quality standards to reflect latest ADEQ and EPA revisions. To delete annual PM_{10} standard to reflect latest ADEQ revisions, which were made as required by House Bill 2617.

- Sections 303.1(c) and (d) (Sulfur Oxides (Sulfur Dioxide)): To update sulfur dioxide ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 304 (Ozone): To update ozone ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 306 (Nitrogen Oxides (Nitrogen Dioxide)): To update nitrogen dioxide ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 307 (Lead): To update lead ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 308 (Pollutant Concentration Determinations): To update pollutant concentration measurement methods.

Major NSR:

The department is proposing to incorporate portions of the federal nonattainment NSR rule requirements into Maricopa County Air Pollution Control Regulations Rule 240 by incorporating the federal requirements by reference. The proposed amendments to the department's major NSR program include:

- The determination of whether a modification to an existing unit will result in a significant emissions increase, which entails a comparison between "baseline", i.e., existing emissions and future emissions after the modification is complete.
- The allowance of the use of any consecutive 24-month period during the ten-year period prior to the change to establish baseline actual emissions (a five-year period for electric generating units).
- The allowance to use an existing unit's "projected actual emissions," rather than its potential to emit (PTE), to determine future emissions. Unlike PTE, a unit's projected actual emissions take into account historical operational data and exclude emissions that could have been accommodated before the modification. This new test for calculating the emissions increase from a modification to an existing unit, known as the "actual-to-projected" test, will produce benefits for regulated industries, the environment and state and local agencies. If there is a "reasonable possibility" that modifications to existing emissions units will produce a significant emissions increase of a regulated NSR pollutant and the owner or operator elects to use the actual-to-projected-actual test, the modifications will be subject to monitoring, recordkeeping and reporting obligations.
- Plantwide applicability limitations (PALs). PALs allow major sources to avoid major NSR by accepting and complying with a source-wide cap on emissions. PALs are set for each regulated NSR pollutant at a level equal to baseline actual emissions plus the significant level for the pollutant. A source may generally make any change it wants without triggering major NSR, so long as plantwide emissions after the change remain below the PAL. PALs last for ten years and are renewable.
- The allowance of limited interpollutant emission offsets for precursor pollutants on a case by case basis, except for PM_{10} and $PM_{2.5}$. Any interpollutant emission offsets used at a major stationary source must receive written approval by EPA. As EPA has approved a demonstration that PM_{10} precursors do not contribute significantly to PM_{10} violations in Maricopa County (67 FR 48734, July 25, 2002), interpollutant offsets are not allowed between PM_{10} and PM_{10} precursors. In addition, interpollutant offsets between $PM_{2.5}$ and $PM_{2.5}$ precursors are not allowed unless modeling has been used to demonstrate appropriate $PM_{2.5}$ interpollutant offset ratios as approved in a $PM_{2.5}$ Attainment Plan.

Minor NSR:

The department is proposing amendments in the following rules to address Minor NSR: Rule 200 (Permit Requirements), Rule 220 (Non-Title V Permit Provisions), Rule 230 (General Permits), Rule 241 (proposed new title: Minor New Source Review (NSR)), Appendix D (List Of Insignificant Activities), and Appendix E (List Of Trivial Activities). The amendments include the following:

- Retention of existing permitting exemption thresholds but conversion of default emission-based provision from lbs/day to an annual quantity.
- Use the emission-based thresholds for minor NSR modification threshold.

- Current permitting thresholds are proposed to be retained. Current permitting thresholds are for any regulated air pollutant: CO, NO_x, SO_x (measured as SO_2), ozone, VOC, particulates, air contaminant subject to New Source Performance Standard (NSPS)), and HAPs. Current permitting thresholds are: VOC-0.5 tons per year (tpy); CO-1.0 tpy; NO_2 or NO_x-1.0 tpy; SO_2-1.0 tpy; lead (Pb)-0.3tpy; PM_{10}-0.5 tpy.

– Definitions are proposed to be added to Rule 100:

  – "Minor NSR modification" is a new term and is similar to ADEQ's definition of "permitting exemption threshold". (The definition of "modification" is proposed to be revised to be consistent with ADEQ's NRS rules R18-2-101(80) and the definition of "major modification" is proposed to be revised to be consistent with ADEQ's NSR rules R18-2-101(74). The definition of "modification" defines activities differently from the definition of "major modification" and the definition of "minor NSR modification" because the definition of "modification" applies to Title V and operating permit rules. The term "modification" as used in Rule 241 refers specifically to minor NSR modification.)

  – "Permitting threshold" is a new term but includes the current permitting thresholds.

  – "Public notice threshold" is a new term; thresholds are lower than significance levels.

  – "Regulated minor NSR pollutant" and "Regulated NSR pollutant" are new terms and are similar to ADEQ's terms/definitions.

- Retention of Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) control technology requirements in Rule 241.

- Requirement of an air quality impact assessment if there is reason to believe emissions resulting from a new or modified source undergoing Minor NSR might cause or contribute to an exceedance of the NAAQS.

- Retention of the current alternative forms of public participation for smaller minor sources and small modifications that will not require formal publication of a notice in a newspaper.

The amendments proposed by this rulemaking update the department's NSR rules, clarify requirements, and provide compliance with the Federal NSR program Section 110(a) (2) (C) of the federal Clean Air Act (CAA).

7. Demonstration of compliance with A.R.S. § 49-112:

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition.

2. There is credible evidence that the rule, ordinance or other regulation is either;

   (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.

   (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulation.

3. Any fee or tax adopted under the rule, ordinance or other regulation will not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or other regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or other regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

Maricopa County fails to meet the National Ambient Air Quality Standards for both ozone and particulates. While currently classified as a "marginal" ozone nonattainment area, the county recently failed to meet 2008 8-hour ozone standard by the marginal area attainment date and anticipates EPA will issue a notice proposing to re-classify the area to "moderate". Further, a portion of the county was classified as a serious ozone nonattainment area under the previous 1-hour ozone standard requiring the county to continue to maintain the measures and requirements that allowed the county to attain that standard. Currently, a portion of Maricopa County and Apache Junction in Pinal County is designated serious nonattainment for the PM_{10} 24-hour standard. This is the only serious PM_{10} nonattainment area in Arizona. Maricopa County's permit rules for these programs are substantially identical to or impose no greater procedural burden than procedures for the review, issuance, revision and administration of permits issued by the State. However, Maricopa County's rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source's proximity to the PM_{10} and ozone nonattainment areas and specific atmospheric, geographical conditions found at the source's location, and control technology provisions required by the CAA for nonattainment areas, and other control measures adopted into various nonattainment SIPs for Maricopa County. Specifically, various SIPs for Maricopa County have required the adoption of reasonably available control technology (RACT), best available control technology (BACT), and most stringent measures (MSM) as required by CAA §§ 172, 182, 188, and 189.

The department complies with A.R.S. § 49-112 in that the proposed amendments to 1) the department's major source NSR rules are not more stringent than or in addition to a provision of Title 49 or rule adopted by the director or any board or commission authorized to adopt rules pursuant to Title 49, 2) the department's minor source rules address the peculiar local conditions in Maricopa County and address long-standing federal requirements for nonattainments areas, and 3) the proposed amendments to the department's NSR rules are authorized under A.R.S. Title 49, Chapter 3, Article 3 and consequently are not in lieu of a state program.

8. Reference to any study relevant to the rule that the department reviewed and either proposes to 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:

"2014 Analysis of 2011 Periodic Emissions Inventory to Support Permitting Thresholds in NSR Rulemaking"

"2014 Public Participation Thresholds Justification"

Documents are available at the Maricopa County Air Quality Department, 1001 North Central Avenue, Suite #125, Phoenix, Arizona 85004

9. 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:

Not applicable

10. Summary of the economic, small business, and consumer impact:

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement (ESBCIS) as required by A.R.S. § 49-471.05 and prescribed in A.R.S. § 41-1055, subsections A, B and C.

An identification of the rulemaking.

The rulemaking addressed by this ESBCIS is the adoption of amendments designed to bring the department's NSR rules into conformance with federal requirements for minor NSR and incorporate recent changes to EPA's major NSR regulations. In particular, this ESBCIS covers amendments to the following existing rules and appendices: Rules 100, 200, 210, 220, 230, 240, 241, 500, 510, 600, and Appendices D and E. These rule changes are described in detail in Item 6 of this Draft Notice of Final Rulemaking.

Two specific elements of the NSR amendments are addressed in the ESBCIS:

1. New and amended ambient standards that EPA has adopted since the department last amended Rule 510 and that may need to be addressed in New Source Review (NSR) and Prevention of Significant (PSD) applications and permitting decisions. Specifically: the more stringent annual and 24-hour National Ambient Air Quality Standards (NAAQS) for $PM_{2.5}$, $PM_{2.5}$ increments, the more stringent eight-hour NAAQS for ozone, the new one-hour NAAQS for sulfur dioxide and nitrogen dioxide. These changes may result in increased compliance costs for sources and minor increased administrative costs for the department.
2. NSR reform amendments. These changes will reduce compliance costs and will have a mixed effect on the department's administrative costs.

The remaining changes to major NSR are technical in nature and should have little, if any, economic impact on the agency, businesses or consumers.

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

In general terms, the persons who will be directly affected by and bear the costs of the proposed rulemaking will be businesses that construct or modify stationary sources that are subject to major or minor NSR. The emissions thresholds for sources and modifications subject to major and minor NSR are described in detail in Item 6 of this Draft Notice of Final Rulemaking.

The types of business operations subject to the department's major NSR program typically include natural gas-fueled power plants, petroleum products terminals, landfills, metal processing, and manufacturers of reinforced plastics, expandable foam, wood furniture, steel products, and aircraft engine and parts. Major sources tend to be large facilities operated by publicly owned corporations and employing hundreds or thousands of employees.

As discussed in Item 6 of this Draft Notice of Final Rulemaking, major sources are potentially subject to minor as well as major NSR. Minor NSR may also apply to smaller business operations or operations that, although substantial in scale, tend to have emissions below the major source thresholds. These include rock quarrying and crushing operations, concrete batch plants, asphalt plants, semiconductor manufacturers, chemical manufacturers, crematories, dry cleaners, landfills, wood product manufacturers, commercial printers and publicly owned waste water treatment facilities.

The above list is not exhaustive. Any business that engages in pollutant emitting activities is potentially subject to NSR. Typical pollutant-emitting activities include fuel combustion to produce energy or as part of a process, the use of solvents, the application of surface coatings (such as paints and varnishes), the storage of fuels and other organic liquids and the handling of materials likely to give rise to airborne dust. Tailpipe emissions from mobile sources are not considered in determining NSR applicability.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.

As required by A.R.S. § 49-480(D), the hourly rate for billable permit actions under Rule 280 (Fees) Sections 301.1 and 302.1 has been set to reflect the department's cost of processing permit applications (14 A.A.R. 1767, May 9, 2008). Therefore, in assessing the costs to the department of conducting the permitting and administrative activities required by this rule, the department has assumed that the cost per additional hour of employee time is equal to the current hourly rate of $150.00.

Major NSR

The department's costs of implementing the additional major NSR requirements will likely be minimal. In fact implementation of NSR reform may result in a net cost savings for the department.

One element of the major NSR amendments that will increase the department's costs of administering the air quality permit program is the incorporation of the new ambient standards: the $PM_{2.5}$ NAAQS and $PM_{2.5}$ increments, the one-hour sulfur dioxide NAAQS and the one-hour nitrogen dioxide NAAQS. The air quality impact analysis for major NSR permit applications addressing these pollutants will be somewhat longer and more complex than under current rules and will therefore require additional review time by the department's permit engineers. The ozone and lead NAAQS amendments, on the other hand, constitute an increase in the stringency of existing standards and should not result in any modeling or review time beyond that already required. The department has received and processed three major NSR applications in the past eight years. Most major NSR permit applications will require an air quality analysis for the new ambient standards. The department's Permit Engineering Division estimates that the additional review time will range from five to ten hours. The total annual cost to the agency per year for the additional major NSR requirements will therefore range from $750.00 to $1,500.00 ($150.00 X 5 hours; $150.00 × 10 hours). Under Rule 280 (Fees), Section 301.1, the permit applicant will ultimately be required to reimburse the department for this cost as part of its permit fee.

The impact of NSR reform on the department's air quality permitting costs is difficult to gauge. NSR reform includes elements that could either increase or reduce the costs of administering the major NSR program. The department believes that on balance, the cost savings of NSR reform will outweigh whatever additional costs will be imposed. This is consistent with EPA's conclusion that NSR reform would allow state permitting authorities to "focus their limited resources on those activities that could cause real and significant increases in pollution." 67 Fed. Reg. 80186, 80192 (2002).

Minor NSR

The department's Minor NSR program as proposed would apply to all new sources with the potential to emit any regulated minor NSR pollutant in an amount equal to or greater than the permitting threshold defined in Rule 100 and not subject to major source requirements under Rule 240 and any existing permitted source that increases its potential to emit any regulated minor NSR pollutant in an amount equal to or greater than the minor NSR modification threshold (defined in Rule 100).

As discussed in Item 6 of this Draft Notice of Final Rulemaking, the proposed amendments to change from daily to annual permitting threshold limits will enable less burdensome and streamlined record keeping requirements. The change to annual threshold limits from per day limits reduces the record keeping burden, particularly for small sources, who would be more likely than larger sources to have emissions that fall near the threshold limits and would be required to maintain documentation of emissions levels.

Based on experience in administering the existing permit program, the department's Permit Engineering Division estimates that it will process approximately 75 applications for permits or permit revisions subject to minor NSR per year. The Permit Engineering Division also estimates that on average the additional time for processing the minor NSR components (applicability and air quality impact analyses) of a permit or permit revision application will be 2 hours per application for screening model for ambient air quality assessment and 5 hours per application for reviewing refined modeling performed by the source. The Permit Engineering Division further estimates that the department will perform a screening model for the air quality impact assessment on approximately 5% of the permit applications and will review the refined modeling performed by the source on approximately 1% of the permit applications. Therefore, the department estimates the additional annual cost to the department for the minor NSR components of a permit or permit revision will be approximately $4,300.00 (4 applications × 2 hours × $150.00 per hour = $1,200.00) + (2 applications × 7 hours × $150.00 per hour = $3,100.00).

Additional Cost to the Department for NSR Amendments:

The estimated additional annual cost to the department for the NSR amendments is approximately $35,000.00:

$750.00 to $1,500.00 for additional major NSR costs + $33,750.00 for minor NSR costs = $34,500.00 to $35,250.00

Under Rule 280 (Fees), Sections 301.1 and 302.1, the permit applicant will ultimately be required to reimburse the department for this cost as part of its permit fee.

Other Agencies

Eighty-seven sources operated by state agencies require permits under the current program. They represent approximately 2% of all department-permitted sources. All of these state-operated sources will bear the same costs of compliance described in section (c) below for privately owned businesses.

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

Four-hundred forty sources operated by political subdivisions require permits under the current program. They represent approximately 10% of all department-permitted sources. All of these sources will bear the same costs of compliance described in section (c) below for privately owned businesses.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.

Major NSR

As discussed in Item 6 of this Draft Notice of Final Rulemaking, the amendments to the department's major NSR rules are the minimum necessary to comply with federal requirements for the program. Even if the department failed to adopt these amendments, they would ultimately apply to major sources in Maricopa County either through the adoption of a federal implementation plan (FIP) by EPA under section 110(c) of the Clean Air Act (in the case of PSD) or the application of 40 CFR 51, Appendix S (in the case of nonattainment NSR). At best, a decision by the department not to adopt the major NSR amendments would result in a temporary delay in their application to sources in Maricopa County, Arizona. A discussion of the additional costs and benefits of the amended requirements at the county-level nevertheless follows.

The new and amended ambient standards incorporated by this rule may result in the imposition of three types of additional costs on applicants for major NSR permits.

First, a new major source or major modification with significant emissions of any of the pollutants subject to a new ambient standard (the $PM_{2.5}$ increments and $PM_{2.5}$ NAAQS or the one-hour sulfur dioxide or nitrogen dioxide NAAQS) will be required to conduct additional modeling to demonstrate compliance with these standards. The department estimates that one additional model run for each major NSR application~~s~~ will be required. The Arizona Department of Environmental Quality (ADEQ) estimated in their NSR Notice of Final Rulemaking (18 A.A.R. 1542, July 6, 2012) based on information received from an environmental consultant, that the cost of adding one model run to a refined model would be approximately $8,000.00.

Second, applicants will be responsible for paying permit fees equal to the additional permit processing costs noted above due to the major NSR amendments. As noted above, the estimated additional processing costs for major NSR will range from $750.00 to $1,500.00.

Third, when modeling demonstrates an ambient impact resulting in non-compliance with an ambient standard (NAAQS or increments), mitigation beyond the level of control technology already required by major NSR is necessary. The cost of mitigation can be substantial but is highly dependent on the nature of the particular project and cannot be reliably estimated for purposes of the ESBCIS. Moreover, because major NSR automatically requires a very stringent level of control (BACT or LAER), mitigation is rarely necessary. Mitigation necessary to address non-compliance with any of the new standards imposed in the major NSR amendments will be an even rarer occurrence. Thus, the major NSR amendments are unlikely to result in additional mitigation costs.

The total estimated annual costs to sources subject to major NSR as a result of the rule amendments will range from $8,750.00 to $9,500.00 ($8,000.00 + $750.00 to $1,500.00) plus the costs of mitigation, in the unlikely event it is required.

NSR reform, on the other hand, is likely to generate substantial savings for existing major sources that are potentially subject to major NSR. The revised method for determining baseline emissions and the actual-to-projected-actual alternative for determining the level of future emissions will make it easier for sources to demonstrate the inapplicability of major NSR. Sources that obtain PALs will essentially be able to avoid subsequent major NSR for a 10-year period. The savings from these reforms are difficult to estimate, but the department believes they will at least offset the additional costs described above.

Minor NSR

As noted above, the department estimates that approximately 75 minor and major sources requiring permits or permit revisions each year will be subject to minor NSR.

The minor NSR amendments may result in the imposition of three types of additional costs on applicants for major NSR permits:

First, ADEQ estimated based on experience with contractors performing accelerated permitting services that the cost of preparing the minor NSR components of a permit or permit revision application would average $4,000.00 (18 A.A.R. 1542, July 6, 2012). The department's Permit Engineering Division agrees with that estimate and therefore estimates annual application preparation costs attributable to minor NSR at: 75 applications × $4,000.00 per application = $300,000.00.

Second, applicants will be responsible for paying permit fees equal to the additional permit processing costs as noted above related to the minor NSR requirement for an air quality impact assessment. The department estimates above that screening model may result in $300.00 of additional costs (2 hours × $150.00) and reviewing refined modeling performed by the source may result in $1,050.00 of additional costs (7 hours × $150). Therefore, the department estimates annual additional permit processing costs attributable to minor NSR at: 4 applications × $150 + 2 applications × $1,050 = $2,700.

Third, based on estimates provide by environmental consultants, ADEQ projected that the cost of running a refined model to comply with minor NSR will be approximately $7,000 to $12,000 (18 A.A.R. 1542, July 6, 2012). The department's Permit Engineering Division agrees with that estimate and estimated above that 1% of minor NSR applicants will need to perform refined modeling for the ambient air quality assessment. Therefore, the department estimates the additional annual cost attributable to performing a refined model by the source ranges between $14,000 and $24,000 (2 applications × $7,000 vs. 2 applications × $12,000).

Lastly, the department anticipates no additional control costs will be incurred by sources as a result of minor NSR BACT or RACT requirements because BACT or RACT is required under the department's current permitting program. The minor NSR amendments do have a new requirement for BACT or RACT for $PM_{2.5}$ and lead; however, most sources that emit $PM_{2.5}$ or lead also emit other pollutants such as NO_x, CO or PM_{10} and these pollutants (NO_x, CO or PM_{10}) will trigger the BACT or RACT analysis and generally the controls for these pollutants will also limit $PM_{2.5}$ and lead. Currently, the department does not have any lead sources that will trigger the requirement for a BACT or RACT determination for lead.

Permits issued by the department are valid for five years; therefore, the department estimates annual minor NSR permit related costs for a source by dividing the total estimated cost by five years.

The department estimates the annual minor NSR costs for a source electing to have the department perform a screening model at: $860.00. Whereas, the annual minor NSR costs for a source electing to perform a refined model is estimated to range between $2,410.00 and $3,410.00.

- Annual minor NSR costs for source electing to have MCAQD perform a screening model:

  $860 = (($4,000 permit application + $300 permit processing costs)/5 yrs.)

- Annual minor NSR costs for source electing to perform a refined model:

  $2,410 = (($4,000 permit application prep + $1,050 permit processing + $7,000 refined modeling cost)/5 yrs.)

  $3,410 = (($4,000 permit application prep + $1,050 permit processing + $12,000 refined modeling)/5 yrs.)

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

The department does not believe that the additional costs to businesses subject to the amended NSR requirements, as described above, will be substantial enough to deter the construction or expansion of business operations. Accordingly, there should be no impact on private employment or on the employment of any political subdivisions subject to NSR.

The department estimates that approximately one new full-time employee will be needed to implement the additional workload that will result from implementing minor NSR. A more precise estimate of the employment impact of minor NSR will be included in the ESBCIS for the upcoming permit fee rule.

The amendments to major NSR include elements that will both reduce (NSR reform) and increase (new ambient standards) agency workload. The department estimates that the net effect of the major NSR amendments on the agency's employment needs will be zero.

A statement of the probable impact of the rulemaking on small businesses.

(a) An identification of the small businesses subject to the rulemaking.

Under A.R.S. § 49-101(20):

"Small business" means a concern, including its affiliates, which is [1*] independently owned and operated, which is* [2] *not dominant in its field and which* [3] *employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year*. (Emphasis added.)

The department does not anticipate that this rulemaking will increase the number of sources subject to the department's NSR program.

(b) The administrative and other costs required for compliance with the rulemaking.

Small businesses will primarily incur the business costs described above for the minor NSR program.

(c) A description of the methods that the agency may use to reduce the impact on small businesses.

Establishing less costly compliance requirements in the rulemaking for small businesses.

The department's existing general permit program which falls under its minor NSR program is a less costly alternative currently available to many small businesses (e.g. dry cleaners, gas stations, surface coating operations, auto body shops, etc.). The general permits are designed specifically with small businesses in mind. General permitted sources will not incur the cost of an ambient air quality assessment as this would be done up front when the general permit is established rather than when an authorization to operate is issued. Many small businesses currently required to obtain permits are eligible for a general permit and are not required to get a Non-Title V permit. Thus, for some small businesses, the general permit program is an existing and less costly alternative to the Non-Title V permit.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.

Some businesses may pass some of the additional costs estimated above on to consumers. Because the amendments will not substantially increase existing air quality compliance costs, the department anticipates that the impact will be negligible.

A statement of the probable effect on state revenues.

Since the costs of the amendments will be recoverable through air quality permit fees, there will be no net effect on state revenues.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

As discussed above in Item 6 of this Draft Notice of Final Rulemaking, the department has adopted amendments that the department believes to be the minimum necessary to comply with federal NSR requirements. No less intrusive or costly alternatives are available.

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:	Kathleen Sommer
	Maricopa County Air Quality Department
	Planning and Analysis Division
Address:	1001 N Central Avenue, Suite 125
	Phoenix, Arizona 85004
Telephone:	(602) 506-6010
Fax:	(602) 506-6179
E-Mail:	aqplanning@mail.maricopa.gov

12. Description of the changes between the proposed rules, including supplemental notices and final rules:

Since the Notice of Supplemental Proposed Rulemaking was published on October 2, 2015 (21 A.A.R. 2124), the department is proposing the following additional amendments:

- Rule 100, Section 200.50 (Definition of "Existing Source"): In response to the Salt River Project Agricultural Improvement and Power District's (SRP's) comments submitted on November 9, 2015, to change the definition of "existing source" to "any source that is not a new source"
- Rule 100, Sections 200.64(c)(5) and (c)(6) (Definition of "Major Modification"): In response to the Salt River Project Agricultural Improvement and Power District's (SRP's) comments submitted on November 9, 2015, to change the definition of "major modification" so it is consistent with ADEQ's NSR rules R18-2-101(74)
- Rule 100, Section 200.71(a)(2) (Definition Of "Minor NSR Modification"): To change "emissions" to "potential to emit" in the phrase "Results in the potential to emit of a regulated minor NSR pollutant…"
- Rule 100, Section 200.71(c) (Definition of "Minor NSR Modification"): In response to SRP's comments submitted on November 9, 2015, to change "minor NSR threshold" to "minor NSR modification threshold"
- Rule 100, Section 200.71(f) (Definition of "Minor NSR Modification"): In response to SRP's comments submitted on November 9, 2015, to change the minor NSR modification thresholds to ½ significance levels
- Rule 100, Section 200.76 (Definition of "New Source"): In response to SRP's comments submitted on November 9, 2015, to change the definition of "new source" to "a source for which construction has not commenced before the effective date of an applicable rule or standard to which a source is subject"
- Rule 100, Section 200.79 (Definition of "Physical Change"): In response to SRP's comments submitted on November 9, 2015, to delete the definition of "physical change"
- Rule 100, Section 200.85 (Definition of "Owner And/Or Operator"): To change the term to "owner or operator"; to change the term throughout all other rules in this rulemaking
- Rule 100, Section 200.106 (Definition of "Regulated NSR Pollutant"): In response to SRP's comments submitted on November 9, 2015, to change the definition to reference the reader to Rule 240 (Federal Major New Source Review (NSR)); "regulated NSR pollutant" is defined in Rule 240 and is covered under the definition of "regulated minor NSR pollutant" (defined in Rule 100, Section 200.105)
- Rule 100, Section 200.114(a) (Definition of "Significant"): To add "significant" before the phrase "net emissions increase"

- Rule 100, Section 200.114(a)(2) (Definition of "Significant"): In the first colum of the last row in the table, to delete "regulated NSR" and to add "subject to regulation" in the phrase "Any pollutant subject to regulations not specifically listed…"
- Rule 200, Section 303.1 (Non-Title V Permit): To change "regulated NSR pollutants" to "regulated air pollutants". By definition, a hazardous air pollutant (HAP) is not a regulated NSR pollutant. Since HAPs are included as one of the pollutants for which a Non-Title V permit is required, a Non-Title V permit is required for "regulated air pollutants" not "regulated NSR pollutants"
- Rule 200, Section 303.2(a) (Non-Title V Permit): To add "solely" to the phrase "to obtain a permit soley because…" so it is consistent with the text in Section 303.2(b)
- Rule 200, Sections 303.2(a) and (b) (Non-Title V Permit): In response to SRP's comments submitted on November 9, 2015, to add text from proposed new Section 305.2 (Exemptions) and Section 305.3 (Exemptions) to clarify thresholds for exemptions from obtaining a permit and thresholds for insignificant activities
- Rule 200, Section 305 (Exemptions): To restore an emissions limit above which any single or combination of activities is required to obtain a permit; text is substantially identical to the sense, meaning, and effect of ADEQ's NSR rules R18-2-302(C)(1)

  In the Notice of Proposed Rulemaking (21 A.A.R. 1302, July 31, 2015), the department proposed to add Rule 200, Section 305.4, which stated "The following sources shall be exempt from obtaining a permit…Insignificant activities, provided any single or combination of insignificant activities have total uncontrolled emissions less than the permitting thresholds as defined in Rule 100 of these rules." The permitting thresholds were proposed to be: VOC-0.5 tons per year (tpy); CO-1.0 tpy; NO_2 or NO_x-1.0 tpy; SO_2-1.0 tpy; lead (Pb)-0.3tpy; PM_{10}-0.5 tpy. The definition of "insignificant activity" was proposed as: "Any of the following activities: (a) Any activity, process, or emissions unit that is not subject to a source-specific applicable requirement that emits no more than two tons per year of a regulated air pollutant…" and (b) through (i) were the insignificant activities that were listed in Appendix D-List of Insignificant Activities and that were listed in Rule 200, Section 303.3(c)-activities that were exempt from obtaining a Non-Title V permit.

  On August 31, 2015, the department received written comments from the Salt River Project Agricultural Improvement and Power District (SRP). SRP's comments included; "The proposed [permitting] thresholds are inconsistent with the current MCAQD thresholds in Rule 100, Section 200.58 (proposed definition of "insignificant activity"), which states the following: Insignificant Activity: For the purpose of this rule, an insignificant activity shall be any activity, process, or emissions unit that is not subject to a source-specific applicable requirement, that emits no more than 0.5 ton per year of hazardous air pollutants (HAPs) and no more than two tons per year of a regulated air pollutant, and this is either included in Appendix D-List of Insignificant Activities of these rules or is approved as an insignificant activity under Rule 200-Permit Requirements of these rules."

  In response to SRP's comment regarding permitting thresholds, the department proposed (in a Notice of Supplemental Proposed Rulemaking (21 A.A.R. 2124, October 2, 2015)) to de-couple the permitting thresholds from the definition of "insignificant activity". The department proposed to retain the original definition of "insignificant activity" as written in Rule 100, Section 200.58 (new Section 200.63) with the deletion of "and that is either included in Appendix D-List of Insignificant Activities of these rules". In addition, in Rule 200, Section 305.4 (Exemptions), the department proposed to delete (as an exemption from needing to obtain a permit) the text "Insignificant activities, provided any single or combination of insignificant activities have total uncontrolled emissions less than the permitting thresholds as defined in Rule 100 of these rules". In addition, the department proposed to simply list the activities, processes, or emissions units that match those listed in the definition of "insignificant activity".

  Realizing the department inadvertently deleted a restriction on the quantity of emissions that may be exempted from permit, the department is proposing to restore an emissions limit (two tons per year of a regulated air pollutant) above which any single or combination of activities is required to obtain a permit (in Rule 200, Section 305). As ADEQ's rules contained a restriction on the number of categorically

exempt activities, the text in Rule 200, Section 305 is substantially identical to the sense, meaning, and effect of ADEQ's NSR rules R18-2-302(C)(1).

- Rule 200, Section 305 (Exemptions): In response to SRP's comments submitted on November 9, 2015, to change the first sentence to specifically designate the activities listed in Sections 305.1 through 305.10 as being exempt from obtaining a permit. Added a second sentence describing emission limits for any single or combination of activities above which a permit is required
- Rule 200, Section 305.2 (Exemptions): In response to SRP's comments submitted on November 9, 2015, to move proposed new Section 305.2 to Section 303.2(a) (Non-Title V Permit)
- Rule 200, Section 305.3 (Exemptions): In response to SRP's comments submitted on November 9, 2015, to move proposed new Section 305.3 to Section 303.2(b) (Non-Title V Permit)
- Rule 200, Section 310.1 (Permit Conditions): To change reference from "Section 310.3 of these rules" to "Section 310.5 of these rules"
- Rule 200, Section 310.4 (Permit Conditions): To delete "or a permit renewal application" and to add "permit" in the phrase "or for permit denial" in the second to-the-last sentence in the section. Permit non-compliance is not grounds for a permit renewal application
- Rule 200, Section 401.1 (Approval Or Denial Of Permit Or Permit Revision): To add "or applicable State Implementation Plan (SIP) plan requirements" to the end of the sentence
- Rule 210, Sections 301.8(f) and (h) (Action On Application): In response to SRP's comments submitted on November 9, 2015, to remove the propsed deletion of these sections. The department proposes to retain the original text of Rule 210, Sections 301.8(f) and (h)
- Rule 220, Section 301.3(c) (Permit Application Processing Procedures-A Timely Permit Application): To add "If such standard requires the source to obtain a Title V permit, then the" to the beginning of the first sentence
- Rule 220, Section 301.6(b)(4) (Permit Application Processing Procedures-Action On Application): To change "an application" to "a proposed permit" in the first sentence; a permit application is not required to be submitted to the EPA
- Rule 220, Section 405.3(c) (Permit Revisions-Non-Minor Permit Revisions): To delete "not" from the proposed phrase "A change that is not a minor NSR modification…". Section 405.3(c) is proposed to read "A change that is a minor NSR modification for which public participation is required under Rule 241 of these rules". Rule 220, Section 405.2(a)(1) (Permit Revisions-Minor Permit Revisions) is not proposed to be changed; it is proposed to read "The change is not a minor NSR modification for which public participation is required under Rule 241 of these rules"
- Rule 230, Section 306.3 (General Permit Renewal): In response to SRP's comments submitted on November 9, 2015, to delete the proposed sentences "Until such time that a timely application is submitted, the source shall continue to comply with the previously issued general permit coverage. Upon submittal of a timely application, the source shall comply with the renewed permit" and to add "If a source submits a timely and complete application for a permit renewal, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied"
- Rule 240, Section 301 (Perimt Or Permit Revision Required): To change "shall meet those requirements" to "shall meet the requirements of this rule" at the end of the sentence
- Rule 240, Section 302.5 (Application Completeness): To add "to satisfy BACT or LAER, as applicable" to the end of the first sentence
- Rule 240, Section 303.2(d)(1) (Application On Application And Notification Requirements): To delete "The Control Officer for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located". Since the department is a county agency, the department does not need to send a notice requesting public hearing to itself

- Rule 240, Section 303.5(d) (Application On Application And Notification Requirements): To add "That the new or modified source has met the BACT or LAER control technology requirements as applicable in Sections 304 and 305 of this rule" to ensure that Control Officer determines that the control technology requirements are met prior to issuance of a preliminary decision to issue a permit or permit revision
- Rule 240, Section 304 (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): To change introductory text so it is consistent with introductory text in Rule 240, Section 305
- Rule 240, Section 304.3 (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas-Emission Offsets): To change "source or modification is classified as major" to "proposed project will result in a new major stationary source or a major modification" at the end of the first sentence and to add "offset" before "ratio" in the second sentence
- Rule 240, Section 304.13 (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): To change text to be consistent with EPA's intent that such sources not even be major sources and to be consistent with ADEQ's NSR rules R18-2-403(E)
- Rule 240, Section 305.1(d)(1) (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): In response to SRP's comments submitted on November 9, 2015, to remove (i) from the list of cited 40 CFR 52.21 paragraphs
- Rule 240, Section 305.2 (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): Per EPA directive, to delete "additional" from the section heading
- Rule 240, Section 305.2(a) (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): Per EPA directive, to change "an increase in ambient concentrations" to "a violation of a NAAQS"
- Rule 240, Section 305.2(b) (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): Per EPA directive, to change the reference from "51.165(a)(11)(b)(2)" to "51.165(b)(2)"
- Rule 240, Section 305.2(c) (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): Per EPA directive, to delete "to a major source" after "major modification" in the first sentence
- Rule 240, Section 305.2(d) (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): In response to SRP's comments submitted on November 9, 2015, to delete "as" from the phrase "designated nonattainment areas"
- Rule 240, Section 305.2(e) (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas): Per EPA directive, to delete "required" after "the demonstration" in the first sentence
- Rule 240, Section 306.3(b) (Stack Height Dispersion Techniques): To delete "Coal fired steam electric generating units, subject to the provisions of Section 118 of the Clean Air Act which commenced operation before July 1, 1957, and whose stacks constructed under a construction contract awarded before February 8, 1974". Maricopa County does not have any such sources
- Rule 241, Section 102 (Applicability): In response to SRP's comments submitted on November 9, 2015, to clarify the types of construction and minor NSR modification that are regulated by Rule 241; to include the language in Sections 102.1 and 102.2 in the opening paragraph of Section 102 and to add the word "when" to introduce Sections 102.3 and 102.4 (and to re-number Sections 102.3 and 102.4 to 102.1 and 102.2); in the previously numbered Section 102.4 (now numbered Section 102.2), to change the phrase "potential to emit" to "maximum capacity to emit"
- Rule 241, Section 102.2 (Applicability): To change "source's potential to emit" to "source's maximum capacity to emit"

- Rule 241, Section 304.2 (BACT Required): To change "increase in emissions" to "increase in the source's maximum capacity to emit"
- Rule 241, Section 306.4 (BACT Determinations): In response to SRP's comments submitted on November 9, 2015, to change the phrase "the control of each emission point for the subject pollutant at a facility or the affected area" to "the source or group of sources being modified"
- Rule 241, Section 308 (NAAQS Compliance Assessment): To change "a standard imposed in" to "any national ambient air quality standard" at the end of the sentence
- Rule 241, Section 308.1 (NAAQS Compliance Assessment): To change "a standard imposed in" to "any national ambient air quality standard"
- Rule 241, Section 308.2(a) (NAAQS Compliance Assessment): To change "the violation of a standard imposed in" to "a violation of any national ambient air quality standard"
- Rule 241, Section 309.1 (Application Denial): To change "a standard imposed in" to "of any national ambient air quality standard"
- Rule 241, Section 310 (Public Notice): To change "each" to "any one" in the phrase in the first sentence "…if the emissions for any one pollutant are equal to or greater than…"

Return to the list of Attachments

13. Summary of the comments made regarding the rules and the department response to them:

After the Notice of Proposed Rulemaking was published on July 31, 2015 (21 A.A.R. 1302), the Salt River Project Agricultural Improvement and Power District (SRP) submitted comments on August 31, 2015. The comments and the department's responses are included in the Draft Notice of Final Rulemaking that was submitted to the Board of Supervisors on October 9, 2015 and posted on the Enhanced Regulatory Outreach Program (EROP) website on November 3, 2015.

A Notice of Supplemental Proposed Rulemaking was published in the Arizona Administrative Register (A.A.R.) on October 2, 2015 (21 A.A.R. 2124). The notice included rule amendments based on SRP's comments submitted on August 31, 2015. After the Notice of Supplemental Proposed Rulemaking was published on October 2, 2015 (21 A.A.R. 2124), SRP submitted comments to the department on November 9, 2015 (the last day of the 30-day comment period). A Notice of Supplemental Proposed Rulemaking is scheduled to be published in the Arizona Administrative Register on December 18, 2015. The notice will include rule amendments based on SRP's comments submitted on November 9, 2015.

SRP's comments submitted on November 9, 2015 addressed the following categories:

- Definitions: The department is proposing to revise seven definitions mainly to provide clarity and eliminate potential conflict with ADEQ NSR rules.
- Permitting thresholds: The department is proposing to increase the minor NSR modification thresholds to match ADEQ; this will allow sources within Maricopa County that are below the thresholds to avoid triggering NSR requirements (modeling and permit revisions). The department is also proposing to clarify which activities are exempt from obtaining a permit (insignificant activities). This change may actually reduce not increase the number of permits issued by the department.
- Permitting process: The department is proposing to retain the licensing time frames that define action on permit applications, to provide an application shield to general permit applicants, and to follow EPA guidance when granting construction extensions. These revisions provide sources certainty that the department will take timely action on their permit applications.
- Minor NSR program: The department is proposing to clarify the types of facility modifications that are regulated by Rule 241 (Minor New Source Review (NSR)) and to retain the language in Rule 241 that requires best available control technology (BACT) to address emissions from the sources being modified. These clarifications will assist sources in determining if a permit revision is required.

SRP's comments submitted on November 9, 2015 and the department's responses are provided below.

Comment #1 NSPRM: ADEQ's Minor NSR Thresholds are Appropriate for Many Source Categories and Criteria Pollutants in Maricopa County

On July 6, 2012, the Arizona Department of Environmental Quality (ADEQ) adopted changes to its permitting regulations that implement major and minor NSR. These changes included adopting minor NSR thresholds between 0.3 and 50 tons per year (tpy) for criteria pollutants. Under this proposal, MCAQD structured its proposed minor NSR rule to apply to all stationary source categories that would emit above the proposed applicability thresholds whether the stationary source is located in an attainment area or nonattainment area for that pollutant. However, MCAQD's proposed applicability thresholds are lower than the thresholds adopted by ADEQ in its recent NSR rule revisions. When compared to ADEQ's rules, these lower thresholds result in not only a more stringent minor NSR program, but they also increase the stringency of the Title V permit revision procedures by defining more changes as significant modifications. Under Arizona Revised Statutes (A.R.S.) §49-112, MCAQD may not adopt regulations that are more stringent than ADEQ's rules unless MCAQD provides technical and economic analyses to justify adopting more stringent standards than ADEQ's. MCAQD's public notice contains no technical information to support its assertion that a more stringent minor NSR program is necessary for Maricopa County to achieve attainment. MCAQD's justification contains no analysis comparing its proposed thresholds with the levels adopted by ADEQ to explain the difference in the amount of emissions and cost that results from applying one program versus the other, or how applying ADEQ's thresholds would prevent ADEQ from achieving or maintaining compliance with each National Ambient Air Quality Standard (NAAQS). This analysis is necessary both to justify MCAQD's assertion that it requires a more stringent NSR program and to justify MCAQD's minor NSR modification and public participation thresholds for inclusion in the state implementation plan (SIP). It is critical for continued economic development and the sustainability of existing industry in Maricopa County that MCAQD establish minor NSR applicability thresholds that are technically-based and appropriate for the air quality needs of the County. In this regard, SRP suggests that MCAQD proceed cautiously, in a stepwise approach, in regulation of minor NSR under the SIP. If MCAQD adopts ADEQ's applicability thresholds and then determines that additional regulation is required, MCAQD can strengthen the regulations through an additional regulatory action. A reverse scenario is not easily corrected. If EPA approves the changes into the SIP, and then MCAQD determines that its regulations are overly stringent, the anti-backsliding provisions in the Clean Air Act (CAA) prohibit EPA from revising the regulations applicable in some nonattainment areas, and requires extensive technical analysis to justify a revision in other areas. Accordingly, SRP cannot overstate the importance of establishing the correct thresholds in the first instance before adding the requirements to the SIP. Across-the board regulations that are more stringent than ADEQ's are unwarranted. MCAQD should consider a more tailored approach that evaluates each pollutant and the types of stationary sources it should regulate to achieve or maintain NAAQS compliance. MCAQD should also expand the costs benefits analysis so that it contains a full economic analysis, including the cost of emissions controls consistent with the requirement under A.R.S § 49-112. Ultimately, when MCAQD conducts the required analysis to determine which sources it should regulate under its minor NSR program to achieve the NAAQS, it likely will find that the levels adopted by ADEQ for its statewide NSR program are appropriate for many source categories in Maricopa County, and for all attainment or unclassifiable areas.

Response #1 NSPRM: ADEQ's Minor NSR Thresholds are Appropriate for Many Source Categories and Criteria Pollutants in Maricopa County

SRP questions why the county's permit exemption threshold and minor NSR modification threshold need to be more stringent than ADEQ's permit exemption threshold. The comment further states that MCAQD's public notice did not contain sufficient technical justification support the county's existing program as necessary for achieving and maintaining attainment or to demonstrate that the county's program needs to be more stringent than the state's permit program under A.R.S. § 49-112.

Maricopa County's Proposed NSR Thresholds: As explained in the preamble, Maricopa County has been designated as nonattainment for ozone, particulates and carbon monoxide. Further, the county monitoring network has recorded levels of the annual standard $PM_{2.5}$ standard just under the national standard at several monitoring sites. In addition, Maricopa County has received a clean data determination for PM_{10} and has been re-designated to attainment subject to a maintenance plan for two older ozone standards and the carbon monoxide standard. Under a maintenance plan, the region must continue to implement all the control measures that brought the area into attainment. The state implementation plan for Maricopa County for all pollutants contains an extensive number of control measures from prior SIP submittals and nonattainment area plans that apply at thresholds significantly below ADEQ's permit exemption thresholds.

Both the ozone portion of the SIP (as directed by A.R.S. 11-873) and the PM_{10} portion of the SIP also contain a number of control measures designed to improve rule effectiveness. Further, unlike ADEQ, Maricopa County's nonattainment problems aren't attributed to a single very large source. The county's large metropolitan area contains over half of the state's population and has a very different profile of sources types and sizes than the rest of the state. Specifically, Maricopa County's nonattainment challenges arise from the large number of small sources (called area sources), on-road mobile sources and non-road mobile sources.

EPA's minor source regulations require a permitting authority to make two determinations before issuing a permit. This comment has focused on the second required determination while overlooking the first required determination. In the Code of Federal Regulations, EPA has established requirements that apply to minor NSR programs in 40 CFR § 51.160 through 51.164. Specifically, 40 CFR § 51.160(a) states, "Each plan must set forth legally enforceable procedures that enable the State or local agency to determine whether the construction or modification of a facility, building, structure or installation, or combination of these will result in—(1) A violation of applicable portions of the control strategy; or (2) Interference with attainment or maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring State." The county's minor source permit program has historically been utilized as the compliance and enforcement mechanism to prevent violations of the applicable portions of control strategy and preconstruction review is a critical element of that program. Maricopa County Air Pollution Control Regulation III contains numerous source-specific rules that implement the control technology and control measures submitted and approved into the State Implementation Plan (SIP). These rules include applicability criteria significantly below ADEQ's permit exemption threshold ranging from equipment sizes to size of disturbed surface area to emission thresholds of 15 pounds per day (2 tons per year) for example.

The proposed rules include two distinct thresholds for the minor NSR program. The permit exemption threshold establishes when a permit is required, while the minor NSR modification threshold establishes when an existing source initiating a modification will trigger the requirement of Rule 241 (Minor New Source Review). The permit exemption threshold is a key mechanism for ensuring that facilities and activities do not violate applicable portions of the control strategy and no change has been made. However, there is some flexibility in establishing the minor NSR modification threshold that applies once a source obtains a permit. As noted in the preamble, the department has reviewed past permit modification actions and estimates approximately 5% of all applications may need to perform an air quality assessment to determine if the applicant could interfere with attainment or maintenance of the NAAQS. As a result, the department has reconsidered, conducted a further review of permit modeling results, and now believes that ADEQ's thresholds should be sufficient to assure changes and modifications that may need to conduct a source specific air quality assessment are processed under the Rule 241. In the event an unforeseen modification is proposed, the department has general authority to request an air quality impact assessment under Rule 200, Section 310 or may simply conduct the assessment during the permit review process. The department has revised the proposed minor NSR modification thresholds to match ADEQ's permit exemption threshold and will update the economic analysis to reflect the revised estimates for modeling.

As for ensuring that changes below the minor NSR modification thresholds will not violate the control strategy, existing sources holding permits are subject to Rules 210 and 220, as well as, the proposed provision in Rule 241, Section 313 which requires any modifications to NSR permit conditions to be modified under to Rule 241 or 240. These rule provisions will be sufficient to prevent violations of the control strategy. Those rules contain specific criteria for various levels of permit revision (e.g. minor, significant) that apply regardless of whether the minor NSR modification threshold applicability in Rule 241 is triggered. In addition, Rule 200, Sections 401.1 and 401.2 contain additional administrative requirements for approval or denial of permit or permit revisions. Specifically, Rule 200, Section 401.2 requires the Control Officer to deny a permit or revision if the applicant does not demonstrate that every such source for which a permit or permit revision is sought is so designed, controlled, or equipped with such air pollution control equipment that the source may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of these rules. Under Rule 200, Section 401.2, the Control Officer may require the applicant to provide and maintain such devices and procedures as are necessary for sampling and for testing purposes in order to secure information that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere from the source

described in the application. In the event of such a requirement, the Control Officer shall notify the applicant in writing of the type and characteristics of such devices and procedures.

SRP also raised concern with the Clean Air Act (CAA) anti-backsliding provisions and stated the county should propose to match ADEQ's permit exemption thresholds and then lower them if disapproved. However, Maricopa County's minor NSR program has a long history and has already been approved into Arizona's applicable State Implementation Plan for Maricopa County beginning in May 1972 with thresholds significantly lower than the ADEQ permit exemption thresholds. As a result the anti-backsliding provisions in the CAA that prohibit EPA from revising the regulations applicable in nonattainment areas, and requires extensive technical analysis to justify a revision in other areas, already applies to Maricopa County's NSR rulemaking. (See CAA Sections 110(l) and 172(e), 42 U.S.C. §7410 and §7502.)

Technical Demonstration: The department has conducted technical demonstrations for the permit exemption threshold and the public notice thresholds. While the full study and spreadsheets were not repeated in the preamble, the studies were mentioned and a summary of their results included in the discussions on the permit exemptions thresholds and the public notice thresholds. SRP did not ask to review the county's studies and instead included its technical demonstration. However, that demonstration relied upon only a partial list of sources under permit in Maricopa County and, as a result, does not accurately portray the inventory in the county. While it is true that on-road mobile, non-road mobile and biogenic (naturally-occurring) sources contribute significantly to the region's nonattainment problems, the point (major) and area (minor) source contributions are large enough to also be significant in nonattainment area plans. In addition, stationary source were determined to be a significant contributor (of greater than 5 $\mu g/m^3$ of PM_{10}) to PM_{10} exceedances that occurred during stagnant conditions in the 2004 Salt River SIP Revision. Further, the projections for the emission inventory contained in the approved maintenance plans for ozone indicate that the contribution from point and area sources will increase in 2025 as the contributions from both types of mobile sources decrease as a result of fleet turnover and federal clean fuel requirements become effective. The department has added more descriptive text to the preamble text for the second supplemental notice of proposed rulemaking.

A.R.S. § 49-112 Demonstration: SRP questions the county's A.R.S. § 49-112 demonstration. Specifically, SRP does not believe a more stringent permit threshold is required by federal law or by Maricopa County's peculiar local conditions under A.R.S. § 49-112.A and further discusses the costs analysis required by A.R.S. § 49-112.B for programs in lieu of a state program. As described in the first response above, the rules and control measures addressing the specific source contributions and profiles contained in the Maricopa County portion of the SIP do necessitate a lower permitting threshold than ADEQ to prevent violation of the control strategies contained in various nonattainment plans. Second, the Maricopa County air quality permit program is authorized under its original jurisdiction contained in A.R.S. Title 49, Chapter 3, Article 3 and is not implemented in lieu of a state program. The department has conducted process improvements that include external stakeholders to streamline the permit review process and endeavors to operate a timely, cost-effective permit program within the constraints of the applicable SIP.

Comment #2 NSPRM: MCAQD Should Retain Authority to Implement the Existing SIP-Approved Program Until EPA Fully Approves MCAQD's SIP Submittal

The Arizona SIP currently contains a fully-approved NSR program applicable in Maricopa County. EPA has not formally instituted a SIP call for that portion of the State Plan. This was also true for ADEQ's NSR rules that applied in other parts of the State. Yet, in acting on ADEQ's NSR SIP submission, EPA asserted its authority to disapprove the submittal using a limited approval/limited disapproval mechanism. This mechanism triggers SIP sanctions and an obligation for EPA to impose a federal implementation plan (FIP) if the State does not correct the alleged deficiencies in the specified time period. In responding to SRP's comments questioning EPA's legal authority to replace a fully approved SIP using a mechanism that triggers SIP sanctions and a FIP, EPA responded that ADEQ had not opted to retain the current SIP-approved program. In light of EPA's response, and to avoid the potential for EPA to act on MCAQD's NSR SIP submission in a similar manner, MCAQD should include a provision in its final rules that retains authority for MCAQD to implement the current version of the approved SIP for any source, or any part of its jurisdiction, for which EPA fails to approve the SIP submission. As long as MCAQD still has State authority to implement the approved SIP, EPA should not have legal authority to impose SIP sanctions or a

FIP without first undertaking a SIP call. Such an approach for processing the SIP submittal would avoid the unfortunate consequence of removing a fully approved program from the SIP and replacing it with one which contains any aspect that EPA believes would trigger SIP sanctions and a FIP if not corrected.

Response #2 NSPRM: MCAQD Should Retain Authority to Implement the Existing SIP-Approved Program Until EPA Fully Approves MCAQD's SIP Submittal

The EPA last approved revisions to the Maricopa County NSR SIP in 1988. See 53 Fed. Reg. 30220 (Aug. 10, 1988). Since the amendments last approved by EPA were adopted, the county has re-organized forming the Maricopa County Air Quality Department and has made substantial revisions to the program. Most significantly, in 1992 through 1993, the Arizona State adopted legislation, followed by conforming rule amendments, to move from the old installation and operating permit program to a "unitary" program that authorizes both construction and operation in a single permit. NSR requirements for new sources are now enforced as part of the issuance of a single permit that also ensures compliance with all other applicable requirements of state and federal air quality laws. For major sources, these permits are designed to comply with title V of the Act, as well as Parts C and D of title I. Major modifications subject to major NSR now require a significant revision to the permit for an existing source, rather than a new installation permit. Other modifications that formerly required an installation permit may now proceed under either a significant or minor permit revision. In addition to adopting the unitary permit program, Maricopa County also has updated its NSR rules to incorporate, e.g., the PM_{10} and $PM_{2.5}$ NAAQS, the PM_{10} increments, and the "WEPCO" rule redefining the method for determining whether a modification to an electric generating unit is major. None of these changes are included in the approved NSR SIP for Maricopa County. Under federal law, Maricopa County remains obligated to continue enforcing the old NSR program until EPA approves the new one. Fortunately, the new program is in most cases more stringent than the old, so that compliance with current rules is largely sufficient to assure compliance with the approved NSR SIP. There are a few instances, however, in which the old rules require review procedures that go beyond the current program. Maricopa County has had to issue guidance explaining that in these cases the department will apply the approved SIP, rather than the current rules. It would obviously be preferable for the requirements of the SIP and the current rules to match. Maricopa County is, therefore, seeking through these rule amendments to eliminate the SIP gap for the permit program.

Comment #3 NSPRM: MCAQD Must Clarify that it Does Not Intend to Regulate Ammonia Emissions as a Precursor to $PM_{2.5}$ in Any of MCAQD's Permitting Programs

Under Rule 100, Section 200.107, MCAQD proposes to include ammonia, as a precursor to particulate matter nominally less than 2.5 microns ($PM_{2.5}$), in the definition of a "regulated NSR pollutant" in nonattainment areas. Under Rule 240, MCAQD proposes to incorporate by reference the definitions in the Federal Prevention of Significant Deterioration (PSD) regulations at 40 CFR §52.21(b) and §51.165(a)(1) and states that, to the extent there are conflicts in the definitions of this rule and MCAQD's rules, the definition in this rule applies. This suggests that MCAQD intends for the Federal definitions to apply for purposes of major NSR in lieu of the definition in Rule 100. However, the preamble states, "under NRDC decision… and EPA proposal, ammonia must be treated as a precursor for PM2.5". The preamble then explains that the definition of regulated NSR pollutant is revised so that ammonia is not a regulated NSR pollutant for PSD. This leaves the reader with the implication that ammonia is a regulated NSR pollutant for nonattainment areas, and generally calls into question how the definitions in Rule 100 interact with the definitions incorporated by reference in Rule 240, since the Rule 100 definitions seem to address many major NSR concepts. Moreover, even if the Federal definitions apply for purposes of major NSR, defining ammonia as a regulated NSR pollutant has permitting implications elsewhere in the rule. For example, Rule 200, Section 303.1 requires non-Title V permits for certain changes that increase emissions of a regulated NSR pollutant. It appears that ammonia would be a "regulated NSR pollutant" in this context, but there is no threshold defined. This raises the question as to whether ammonia is regulated, but has a threshold of zero, or whether it is not regulated under that provision. MCAQD proposes to regulate ammonia as a precursor to $PM_{2.5}$ in nonattainment areas before EPA or ADEQ have determined that such treatment of ammonia is appropriate. Until both EPA and ADEQ finalize their position on treating ammonia as a precursor, it is inappropriate for MCAQD to define ammonia as a precursor in nonattainment areas for any purpose without justifying the action under A.R.S. § 49-112. MCAQD's current administrative record lacks such a showing. If MCAQD includes ammonia as a $PM_{2.5}$ precursor, it must concurrently establish a

significant emissions rate; otherwise the current regulations would require "any" increase in ammonia to go through permitting.

Response #3 NSPRM: MCAQD Must Clarify that it Does Not Intend to Regulate Ammonia Emissions as a Precursor to $PM_{2.5}$ in Any of MCAQD's Permitting Programs

SRP is correct in that there is a conflict regarding how "regulated NSR pollutant" is proposed to be defined in Rule 100 and how it is proposed to be defined in Rule 240. Consequently, the department is proposing to change the definition of "regulated NSR pollutant" in Rule 100, Section 200.106 to reference the reader to Rule 240 (Federal Major New Source Review (NSR)); "regulated NSR pollutant" is defined in Rule 240 and is covered under the definition of "regulated minor NSR pollutant" (defined in Rule 100, Section 200.105).

Comment #4 NSPRM: MCAQD Must Provide a Technical Justification for the Public Participation Threshold

Under the CAA and EPA's implementing regulations at 40 CFR § 51.160(e), a reviewing authority may define the type and size of stationary source it will regulate under its minor NSR program. A reviewing authority should determine the scope of its minor NSR program based on whether it is necessary to regulate such sources "to assure that national ambient air quality standards are achieved". Once a reviewing authority defines this scope, EPA policy requires all of these identified stationary sources to meet the minimum minor NSR program requirements in 40 CFR §51.160-164, including public review. EPA's most extensive discussion of this relationship between 40 CFR §51.160(e) and public review requirements is contained in a supplemental proposal for Title V permit programs: "Application of public participation procedures to new and modified sources under minor NSR programs must be consistent with the statutory and regulatory purposes of those programs, and EPA believes that tailoring this application to the environmental significance of new or modified sources on a categorical or individual basis is consistent with these purposes." Although EPA presented this interpretation in a proposed rule that it never finalized, Regional Offices based approval of tailored public participation requirements in other State minor NSR programs on this interpretation. To be clear, EPA's interpretation does not provide that a State show that public participation has no environmental significance, but that the modification falls below thresholds that would require full regulation under the State's minor NSR program. Accordingly, once MCAQD concludes that a source must be regulated under its minor NSR program, it has no authority to exclude that source from any part of the substantive program requirements, including public participation. Under MCAQD's proposed permitting thresholds, EPA's policy would require MCAQD to subject all the permit applications it expects to receive each year to public notice. For a new source, this could mean a source emitting as little as 0.5 tpy VOC could not receive a permit until a proposed permit undergoes public review. Moreover, MCAQD's current cost assessment contains assumptions that seemingly support public participation requirements for all permits, in that MCAQD estimated that it will require 95% of applicants to conduct SCREEN modeling and 5% of applicants to conduct refined modeling. A Control Officer may request modeling only if there is a reason to believe that a source may interfere with attainment or maintenance of the NAAQS. By projecting that MCAQD will require 100% of minor NSR permit applicants to conduct modeling, MCAQD undermines a contention that public review is not necessary for some of these applications. Importantly, however, MCAQD's cost analysis makes no attempt to first determine whether emissions from these applicants need to be regulated under the County's minor NSR program to achieve attainment. To prevent unwarranted delays in processing permit applications for de minimis emissions increases (i.e., those with little to no possibility of preventing the County from achieving attainment), MCAQD must undertake a quantitative or qualitative analysis to identify which sources MCAQD needs to regulate through its minor NSR program (if any) to achieve attainment. MCAQD may determine that it is not necessary to regulate certain types of sources because existing MCAQD regulations already assure that such sources will not cause or contribute to a NAAQS violation. In a recent Advanced Notice of Proposed Rulemaking, EPA requested comment on promulgating a regulation for minor sources in the oil and gas industry in lieu of regulating such sources under the Federal minor NSR Indian Country preconstruction permit rule. Similarly, MCAQD already promulgated numerous control technology regulations for certain source categories. These control requirements reduce the likelihood that these sources could cause or contribute to a NAAQS violation, and the public already had an opportunity to comment on the rule. Therefore, exempting such sources from additional public participation requirements is appropriate. Once MCAQD identifies the sources that are necessary to include in the minor NSR program, EPA will allow

MCAQD to regulate additional stationary sources under its SIP for other reasons. For example, ADEQ's Registration Program provides a "back stop" by screening exempt sources to assure accountability in the source's emissions estimates, and to confirm the non-applicability of minor NSR. Indiana, Texas, and New Mexico adopted similar tiered regulatory structures for sources undertaking changes that increase emissions below the significant emissions rates based on a finding that full regulation of some categories or size of sources is not necessary for attainment. Similarly, notwithstanding a finding that certain source categories will not cause or contribute to a NAAQS violation, MCAQD could still require preconstruction permits for these smaller area sources to improve rule effectiveness. In sum, with the proper technical showing, MCAQD could adopt ADEQ's minor NSR applicability thresholds generally, but regulate particular categories of smaller area sources at a lower applicability level to enhance enforcement and the effectiveness of its existing SIP control measures without requiring these permits to undergo public review. If MCAQD does not justify the public participation thresholds before submitting SIP revisions to EPA, and EPA disapproves this aspect of the submittal, then the permitting and minor NSR modification threshold may become the default threshold for public participation. Therefore, MCAQD must provide a technical justification for the public participation threshold.

Response #4 NSPRM: MCAQD Must Provide a Technical Justification for the Public Participation Threshold

Maricopa County has worked with EPA Region IX on the requirements for public notice and the type of demonstration that should accompany the NSR rulemaking. The department further reviewed the federal register notices in which EPA approved other agencies minor NSR programs in regard to their permitting thresholds, public notice thresholds and technical demonstrations. For example, EPA has approved minor source programs in Bay Area Air Quality Management District, Ventura County, Sacramento County in California as well the Clark County program in Nevada that include public notice thresholds higher than the permitting thresholds. Based on these approved programs notices, the department has determined that EPA will approve a public participation threshold that is higher than the permitting threshold with appropriate documentation. The department prepared its demonstration study following examples from these other agencies that were suggested by EPA.

The preamble to this notice notes the department conducted a study and summarized the results of the study as justification for the permitting threshold and the public notice threshold proposed. SRP did not ask to review the county's studies and instead included its own demonstration. However, that demonstration relied upon only a partial list of sources under permit in Maricopa County and, as a result, does not portray the complete inventory for the county. Based on the department's study of permits and past permitting actions, MCAQD projects that approximately 3,085 Non-Title V permits, including General permits, out of 4,221 total Non-Title V permits or 73.1% of Non-Title V permits will undergo a 30-day public notice. The remaining Non-Title V permits are smaller sources and are subject to RACT or BACT rules that have gone through the public notice and comment process at the time of adoption. The remaining Non-Title V permits will have the receipt of their applications notice online and the issuance of their permit noticed in the department's monthly publication of issued permits. The department has added additional text to the preamble text for the second supplemental notice of proposed rulemaking.

SRP suggests a tiered permitting scheme implemented by ADEQ that added a registration program that includes a "back stop" by screening exempt sources to assure accountability in the source's emission estimates and confirm nonapplicability of minor NSR. ADEQ did add a registration program for smaller sources, however, that registration program still includes public notice for many of the registrations. ADEQ notes this change was necessary to address an EPA identified deficiency that ADEQ's permitting thresholds were inadequate to attain and maintain the federal standards. Maricopa County was not subject to such a finding and does not find it necessary to lower its permitting thresholds. The proposed revisions have retained the current permit program structure but converted both the permitting thresholds and the public notice thresholds to a ton per year form. Maricopa County's public notice thresholds are already higher than the permitting thresholds so many smaller sources currently do not undergo a 30-day public notice. Since the county can justify retaining the higher public notice thresholds supported by the documentation prepared, the department has determined it is not necessary to develop a new registration program for smaller sources.

In addition, the department also makes extensive use of the general permit program provided in the existing rules that provides an even more streamlined permitting process than a registration program. Under the general permit program, the master general permit is prepared consistent with all minor NSR requirements and all unitary permit requirements. The master permit undergoes public notice, and once issued, each individual permit authorization or permit revision authorization can be issued within 2 to 3 days. The county then publishes a list all permits issued, including general permit authorizations, once a month. The department has currently issued 2,890 general permit authorizations out of a total of 4,221 Non-Title V stationary source permits.

Comment #5 NSPRM: MCAQD Should Adjust the Contemporaneous Period to Promote Regulatory Certainty

MCAQD proposes to include language that mirrors the contemporaneous timeframe in ADEQ and EPA rules. Defining the period in this manner requires MCAQD and the source to project a future construction date when processing permit applications. EPA has raised concerns, after a reviewing authority issued a final permit, when the projected construction date differs from the actual construction date in a way that affects the netting analysis. To avoid the regulatory uncertainty that occurs from a moving contemporaneous period, MCAQD should change the contemporaneous period regulations to read: "between the date five (5) years before submitting a permit application or commencing construction of the particular major modification, whichever is sooner, and the date that the increase from the particular major modification occurs…". This definition is neither more stringent nor less stringent than ADEQ's and EPA's definition because it is as likely to require the continued consideration of emissions increases as decreases over the potentially extended contemporaneous period. The change merely provides certainty and clarity for implementation.

Response #5 NSPRM: MCAQD Should Adjust the Contemporaneous Period to Promote Regulatory Certainty

In Rule 240, the department is proposing to incorporate by reference 40 CFR 51.155(a)(1), which includes the definition of "net emissions increase". In the incorporated definition of "net emissions increase", the department is proposing to replace "reasonable period" with "between the date five years before construction on the date the particular change commences, and the date that the increase from the particular change occurs." This change is consistent with ADEQ's NSR rules R18-2-101(88) (Definition of "Net Emissions Increase"). However, in this notice (under Item 6, in third paragraph of "Revisions to Maricopa County Major NSR Program") the department is soliciting comments on two other options for defining "reasonable period" in the definition of "net emissions increase".

Comment #6 NSPRM: MCAQD Should Retain the Current Exclusion for Increases in Hours of Operation and Production Rate Within the Definition of Major Modification

In Rule 100, Section 200.64, MCAQD proposes to remove paragraph (c)(6) from the definition of "major modification", which specifies that an increase in the hours of operation or in the production rate under specified circumstances is not a major modification. MCAQD has not explained the basis for the change. ADEQ's rules, Federal regulations, and MCAQD's current regulations exclude this activity from the definition of major modification.

Response #6 NSPRM: MCAQD Should Retain the Current Exclusion for Increases in Hours of Operation and Production Rate Within the Definition of Major Modification

In Rule 100, Sections 200.64(c)(5) and (c)(6) (Definition of "Major Modification"), the department is proposing to change the definition of "major modification" so it is consistent with ADEQ's NSR rules R18-2-101(74). The text that specifies that an increase in the hours of operation or in the production rate under specified circumstances is not a major modification is proposed to be returned to the definition of "major modification".

Comment #7 NSPRM: MCAQD Should Correct Conflicts Between MCAQD's Prior Exemption List and MCAQD's Insignificant Activities List

In Rule 200, Section 305, the exemption list appears to conflict with MCAQD's prior exemption list and insignificant activities list. The exemption thresholds in Sections 305.2 and 305.3 appear to conflict with the thresholds in Sections 305.6 and 305.8. For example, an emergency internal combustion engine that

emits at 4,000 pounds per year would be exempt under Sections 305.8, but would not qualify for an exemption under Section 305.2 and 305.3 because it emits above the permitting threshold. To address this issue, SRP recommends that MCAQD add the following language to Section 305: "A source that qualifies for any one of the listed exemptions is exempt from obtaining a permit even if the source does not qualify under all applicable exemptions for that source type." Moreover, MCDAQD should reference the exemption section in Rule 241 to make clear that these activities are not subject to minor NSR permitting. To address this issue, MCAQD should amend the language in Rule 241, Section 103 to add the following language: "The provisions of this rule also do not apply to any activity exempt from permitting under Rule 200, Section 305."

Response #7 NSPRM: MCAQD Should Correct Conflicts Between MCAQD's Prior Exemption List and MCAQD's Insignificant Activities List

In Rule 200, Sections 303.2(a) and (b) (Non-Title V Permit), the department is proposing to add text from new Section 305.2 (Exemptions) and Section 305.3 (Exemptions) to clarify thresholds for exemptions from obtaining a permit and thresholds for insignificant activities. In Rule 200, Section 305 (Exemptions), the department is proposing to change the first sentence to specifically designate the activities listed in Sections 305.1 through 305.10 as being exempt from obtaining a permit and to add a second sentence describing emission limits for any single or combination of activities above which a permit is required. In Rule 200, Sections 305.2 (Exemptions), the department is proposing to move new Section 305.2 to Section 303.2(a) (Non-Title V Permit). In Rule 200, Sections 305.3 (Exemptions), the department is proposing to move new Section 305.3 to Section 303.2(b) (Non-Title V Permit).

Comment #8 NSPRM: MCAQD Should Amend the Regulatory Text of Various Sections of the Proposed Rule Revisions

Attachment B to this letter contains a list of the additional regulatory text changes that SRP recommends MCAQD implement as part of this rulemaking process.

Response #8 NSPRM: MCAQD Should Amend the Regulatory Text of Various Sections of the Proposed Rule Revisions

The department considered SRP's comments in Attachment B of their November 9, 2015 comments. See comments and responses below.

SRP's Attachment B Comment #1: Rule 100, Section 200.50 (Definition of "Existing Source")

MCAQD should remove the definition of "existing source" from the definitions as it is confusing and unnecessary. As written, all sources that would construct after the effective date of the rule would be "new" and not existing, even if that source subsequently exists for many years after the effective date of the rules. The definition of existing source is not necessary for the major NSR permit programs, because MCAQD already incorporated the Federal definition by reference. For purposes of the minor New Source Review (NSR) programs, whether a source is "existing" should be in reference to the date of a proposed change, not rule approval. ADEQ also eliminated this term from its definitions in its latest rule revisions.

SRP's Attachment B NSPRM Response #1: Rule 100, Section 200.50 (Definition of "Existing Source")

In Rule 100, Section 200.50 (Definition of "Existing Source"), the department is proposing to change the definition of "existing source" to "any source that is not a new source" and in Rule 100, Section 200.76 (Definition of "New Source"), the department is proposing to change the definition of "new source" to "a source for which construction has not commenced before the effective date of an applicable rule or standard to which a source is subject".

SRP's Attachment B Comment #2: Rule 100, Section 200.71 (Definition of "Minor NSR Modification")

MCAQD's definition refers to "minor NSR thresholds" and should refer to "minor NSR modification thresholds".

SRP's Attachment B Response #2: Rule 100, Section 200.71 (Definition of "Minor NSR Modification")

In Rule 100, Section 200.71(c) (Definition of "Minor NSR Modification"), the department is proposing to change "minor NSR threshold" to "minor NSR modification threshold".

SRP's Attachment B Comment #3: Rule 100, Section 200.73 (Definition of "Modification")

MCAQD proposes to add a definition of modification to the rules that mirrors the definition added by ADEQ in its most recent rule revisions. This definition, however, is confusing because it defines activities differently from the definition of "major modification" and "minor NSR modification". For example, it uses the term "regulated air pollutant", which includes hazardous air pollutant (HAP) emissions, and exempts increases in operating hours (which should be included in the major modification definition). It also uses the term "de minimis" and "minor source", which are not defined in the rules. MCAQD's intent for this definition is not clear. For example in Rule 241, Section 306.4, the regulations require best available control technology (BACT) for "the affected area in the case of a modification". As written, the language could be interpreted to require BACT for HAP emissions increases if a HAP modification occurs concurrently with a minor NSR modification that requires BACT. The term "modification" also is used to describe changes to permits and model substitution. The defined term "modification" makes no sense in these contexts. To prevent confusion, MCAQD should remove the definition, or explain in the preamble how this definition interfaces with other types of modifications.

SRP's Attachment B Response #3: Rule 100, Section 200.73 (Definition of "Modification")

The definition of "modification" (in Rule 100) is proposed to be revised to be consistent with ADEQ's NRS rules R18-2-101(80) and the definition of "major modification" is proposed to be revised to be consistent with ADEQ's NSR rules R18-2-101(74). The department added definitions from statutes rather than incorporating by reference in order to facilitate EPA approval of rules into the SIP. The definition of "modification" defines activities differently from the definition of "major modification" and the definition of "minor NSR modification" because the definition of "modification" applies to Title V and operating permit rules. The term "modification" as used in Rule 241 refers specifically to minor NSR modification.

SRP's Attachment B Comment #4: Rule 100, Section 200.79 (Definition of "Physical Change")

MCAQD proposes to retain its existing definition of physical change. However, this definition is confusing because it does not contain the same exclusions as provided in the definition of major modification, minor NSR modification, and modification. To prevent this confusion, MCAQD should remove the definition.

SRP's Attachment B Response #4: Rule 100, Section 200.79 (Definition of "Physical Change")

The department is proposing to delete the definition of "physical change" from Rule 100.

SRP's Attachment B Comment #5: Rule 210, Section 301.8 (Action On Application)

MCAQD proposes to remove the time frames under which MCAQD is required to take proposed and final action on permit applications. While ADEQ may have removed this language from its rules because they address the timeframes elsewhere in their licensing timeframes, MCAQD has not adopted these licensing provisions. At any rate, MCAQD has not explained or justified its basis for removing these provisions from the Title V requirements. Therefore, MCAQD should not finalize these proposed changes.

SRP's Attachment B Response #5: Rule 210, Section 301.8 (Action On Application)

In Rule 210, Sections 301.8(f) and (h) (Action On Application), the department is proposing to remove the proposed deletion of these sections. The department is proposing to retain the original text of Rule 210, Sections 301.8(f) and (h).

SRP's Attachment B Comment #6: Rule 220, Section 302.24 (Permit Contents)

MCAQD proposes to add a provision that provides it authority to deny a permit renewal application and take other actions on a permit for *any* permit non-compliance. This statement provides the Director with overly broad discretion that is not properly bounded with reasonable procedures for determining when such extreme actions are warranted. Such an action is not justified for all degrees of non-compliance. As written, mailing a required report to the wrong address could result in permit revocation or failure to renew a permit. The provision is also not bounded in time. Non-compliance that has been identified and resolved without reoccurrence should not be a basis to withhold a permit approval. SRP recommends MCAQD delete this provision and similar provisions in other parts of its rules. If MCAQD retains these provisions, then MCAQD must, at a minimum, bound its discretion by explaining how it will reasonably implement this provision in the preamble to the final rule.

SRP's Attachment B Response #6: Rule 220, Section 302.24 (Permit Contents)

Rule 220, Section 302.24 matches ADEQ's NSR rules R18-2-306(A)(8). The department is bound by the provisions in Rule 200, Sections 401 (Approval or Denial of Permit or Permit Revisions) and 402 (Permit Reopenings; Revocations and Reissuance; Termination).

SRP's Attachment B Comment #7: Rule 230, Section 306.2 (General Permit Renewal)

MCAQD proposes to terminate a source's right to operate under a general permit if the general permit expires. This creates a potential gap if MCAQD fails to issue an individual permit for a source within 180 days of providing notice of cancellation. Under such circumstances, MCAQD should provide an application shield to applicants that allows them to continue to operate consistent with its application.

SRP's Attachment B Response #7: Rule 230, Section 306.2 (General Permit Renewal)

In Rule 230, Section 306.3, the department is proposing to delete the proposed sentences "Until such time that a timely application is submitted, the source shall continue to comply with the previously issued general permit coverage. Upon submittal of a timely application, the source shall comply with the renewed permit" and to add "If a source submits a timely and complete application for a permit renewal, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied"

SRP's Attachment B Comment #8: Rule 240, Section 303.3 (Action on Application and Notification Requirements)

MCAQD proposes language that requires sources to request a construction extension if construction does not begin within 18 months from the permit issuance date. In finalizing this provision, MCAQD should confirm in the preamble that it intends to implement this provision consistent with EPA's recently issued guidance (Guidance on Extension of Prevention of Significant Deterioration (PSD) Permits under 40 CFR 52.21(r)(2) January 31, 2014). This guidance provides a reasoned approach for granting extensions.

SRP's Attachment B Response #8: Rule 240, Section 303.3 (Action on Application and Notification Requirements)

The department included in the Preamble of this notice that the department intends to implement provisions consistent with the EPA's "Guidance on Extension of Prevention of Significant Deterioration (PSD) Permits under 40 CFR 52.21(r)(2)", January 31, 2014).

SRP's Attachment B Comment #9: Rule 240, Section 305.1 (Permit Requirements for New Major Sources or Major Modifications Located in Attainment or Unclassifiable Areas)

MCAQD proposes to exclude 40 CFR § 52.21(i) from its incorporation by reference of the Federal major NSR rules. These provisions define conditions under which major NSR does not apply. MCAQD has not explained the basis for its proposed exclusion of these exemptions from its major NSR regulations. MCAQD should remove this exclusion from this section.

SRP's Attachment B Response #9: Rule 240, Section 305.1 (Permit Requirements for New Major Sources or Major Modifications Located in Attainment or Unclassifiable Areas)

In Rule 240, Section 305.1(d)(1) (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas), the department is proposing to remove (i) from the list of cited 40 CFR 52.21 paragraphs.

SRP's Attachment B Comment #10: Rule 240, Section 305.2 (Permit Requirements for New Major Sources or Major Modifications Located in Attainment or Unclassifiable Areas-Additional Requirements)

MCAQD proposes language that essentially mirrors the Federal regulations at 40 CFR § 51.165(b)(2). However, paragraph (a) alters the federal regulatory language in a manner that makes the requirements less clear and potentially more stringent. MCAQD's proposed language would require a source to show that it does not cause or contribute to increased ambient concentrations rather than show that it does not cause or contribute to the NAAQS exceedance. While paragraph (b) in the proposed MCAQD rules references EPA's de minimis emission rates in 40 CFR § 51.165(b), paragraph (a) could be interpreted to find that a source causes or contributes whenever ambient concentrations increase, regardless of whether that increase

is significant or paired in time and space with the actual NAAQS violation. The proposed rule should be revised to clarify that the demonstration is with respect to whether the source will "cause or contribute to a violation", consistent with 40 CFR § 51.165(b)(1) and (b)(2). This section also contains two typographical errors. First, the rules cross reference 40 CFR 51.165(a)(11)(b)(2), but should cross reference 40 CFR 51.165(b)(2). Second, paragraph (d) appears to be missing the word "area" before "designated".

SRP's Attachment B Response #10: Rule 240, Section 305.2 (Permit Requirements for New Major Sources or Major Modifications Located in Attainment or Unclassifiable Areas-Additional Requirements)

In Rule 240, Section 305.2, the department is proposing to delete "additional" from the section heading. In Rule 240, Section 305.2(a), the department is proposing to change the phrase "would not cause or contribute to an increase in ambient concentrations for a pollutant" to "would not cause nor contribute to a violation of a NAAQS for a pollutant". In Rule 240, Section 305.2(b), the department is proposing to delete "to a major source" and changed "40 CFR 51.165(a)(11)(b)(2)" to "40 CFR 51, 165(b)(2)". In Rule 240, Section 305.2(c), the department is proposing to delete "to a major source". In Rule 240, Section 305.2(d), the department is proposing to delete "as" from the phrase "in designated nonattainment areas".

SRP's Attachment B Comment #11: Rule 241, Section 102 (Applicability)

The applicability section is confusing because Section 102.1 and 102.2 seem to stand alone from Section 102.3 and 102.4, when in fact Section 102.3 and 102.4 describe the types of construction and minor NSR modifications that MCAQD intends to regulate under the rule. As written, the rule applies to any modification or construction of a source since the definition of construction includes modification, and the term source is defined to include both an emissions unit and a stationary source. SRP suggests that MCAQD amend the language to include the language in Sections 101.1 and 101.2 in the opening paragraph of Section 102, and then add the word "when" to introduce Sections 102.3 and 102.4. The revised section would read: 102 APPLICABILITY: Except as provided in Section 103, the provisions of this rule shall apply to the construction of any new Title V or Non-Title V source, and any minor NSR modification to a Title V or Non-Title V source, when:

102.1 A regulated minor NSR pollutant emitted by a new stationary source, ~~if the source~~ will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold, or

102.4 An increase in emissions of a regulated minor NSR pollutant from a minor NSR modification~~, if the modification~~ would increase the source's potential to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold.

SRP's Attachment B Response #11: Rule 241, Section 102 (Applicability)

In Rule 241, Section 102 (Applicability), the department is proposing to clarify the types of construction and minor NSR modifications that are regulated by Rule 241. The department is proposing to include the language in Sections 102.1 and 102.2 in the opening paragraph of Section 102 and is proposing to add the word "when" to introduce Sections 102.3 and 102.4 (and to re-number Sections 102.3 and 102.4 to 102.1 and 102.2). In the previously numbered Section 102.4 (now numbered Section 102.2), the department is proposing to change the phrase "potential to emit" to "maximum capacity to emit".

SRP's Attachment B Comment #12: Rule 241, Section 306.4 (BACT Determinations)

The regulation requires that BACT address emissions from the entire facility, or "the affected area in the case of a modification". The term "affected area" is undefined and ambiguous. MCAQD's existing regulations are much clearer. Therefore, MCAQD should retain the language from its existing regulations, which states: "BACT is only required for the sources or group of sources being modified". To address new sources, the phrase "constructs or" can be inserted in front of "modified".

SRP's Attachment B Response #12: Rule 241, Section 306.4 (BACT Determinations)

To be consistent with text in Rule 241, Section 304.2 (BACT Required), the department is proposing to change, in Rule 241, Section 306.4 (BACT Determinations), the phrase "the control of each emission point for the subject pollutant at a facility or the affected area" to "the source or group of sources being modified".

SRP's Attachment B Comment #13: Rule 241, Section 313 (Permit Conditions Specified Pursuant to This Rule)

This section requires MCAQD to include conditions established under Rule 241 in subsequent permit renewals unless those conditions are modified by Rule 241 or 240. This language is too restrictive as other permit change pathways may be appropriate. For example, if an emissions unit is removed from the stationary source, an administrative amendment would be appropriate in lieu of an action under Rule 241 or 240 to change the permit. SRP suggests that MCAQD modify the proposed language to instead state: "unless modified through an appropriate permit process".

SRP's Attachment B Response #13: Rule 241, Section 313 (Permit Conditions Specified Pursuant to This Rule)

Rule 241, Section 313 matches ADEQ's NSR rules R18-2-334(J).

14. Other matters prescribed by statute that are applicable to the specific department or to any specific rule or class of rules

Not applicable

15. Incorporations by reference and their location in the rules:

Rule 240, Section 305.1: Subparts of 40 CFR 51.100; 40 CFR 51.166(p); 40 CFR 51.301; 40 CFR 52.21

Rule 240, Section 306.1: Subparts of 40 CFR 51.100(gg), (hh), (ii), (jj), and (kk)

Rule 510, Section 310: CFR references incorporated by reference in Appendix G

16. Were the rules previously emergency rules?

No

17. Full text of the rules follows:

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MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION I - GENERAL PROVISIONS

RULE 100
GENERAL PROVISIONS AND DEFINITIONS

SECTION 100 - GENERAL

101 DECLARATION OF INTENT: The Maricopa County Air Pollution Control Regulations prevent, reduce, control, correct, or remove regulated air pollutants originating within the territorial limits of Maricopa County and carry out the mandates of Arizona Revised Statutes (ARS), Title 49-The Environment.

102 LEGAL AUTHORITY: These rules are adopted under the authority granted by ARS §49-479.

103 **VALIDITY:** If any section, subsection, clause, phrase, or provision of these rules is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion.

104 **CIRCUMVENTION:** A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of regulated air pollutants to the atmosphere, conceals or dilutes an emission which would otherwise constitute a violation of these rules. No person shall circumvent these rules to dilute regulated air pollutants by using more emission openings than is considered normal practice by the industry or activity in question.

105 **RIGHT OF INSPECTION OF PREMISES:** The Control Officer, during reasonable hours, for the purpose of enforcing and administering these rules or any provision of ARS relating to the emission or control prescribed pursuant thereto, may enter every building, premises, or other place, except the interior of structures used as private residences. In the event that consent to enter for inspection purposes has been refused or circumstances justify the failure to seek such consent, special inspection warrants may be issued by a magistrate. Every person is guilty of a petty offense under ARS §49-488 who in any way denies, obstructs, or hampers such entrance or inspection that is lawfully authorized by warrant.

106 **RIGHT OF INSPECTION OF RECORDS:** When the Control Officer has reasonable cause to believe that any person has violated or is in violation of any provision of this rule, any rule adopted under this rule, or any requirement of a permit issued under this rule, the Control Officer 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 non-compliance with rules adopted under this rule. No person shall fail nor refuse to produce all existing documents required in such written request by the Control Officer.

107 **ADVISORY COUNCIL:** An Advisory Council appointed by the Board of Supervisors may advise and consult with the Board of Supervisors, the Maricopa County Air Quality Department, and the Control Officer in effecting the mandates of ARS Title 49.

108 **HEARING BOARD:** The Board of Supervisors shall appoint a 5-member hearing board knowledgeable in the field of air pollution. At least three members shall not have a substantial interest, as defined in ARS §38-502(11), in any person required to obtain an air pollution permit or subject to enforcement orders issued under these rules. Each member shall serve a term of three years.

109 **ANTI-DEGRADATION:** The standards in these rules shall not be construed as permitting the preventable degradation of air quality in any area of Maricopa County.

110 **AVAILABILITY OF POLLUTION INFORMATION:** The public shall be informed on a daily basis of average daily concentration of three pollutants: particulates, carbon monoxide, and ozone. This information shall be disseminated through the use of electronic media, newspapers, radio, and television. The levels of each pollutant shall be expressed through the use of the Air Quality Index (AQI) and a written copy of such information shall be made available at the office of the Maricopa County Air Quality Department, 1001 ~~North~~ N. Central ~~Avenue~~ Ave., Suite ~~400~~ 125, Phoenix, Arizona, 85004~~, 602-506-6010~~.

111 **ANNUAL REASONABLE FURTHER PROGRESS (RFP) REPORT:** Each year, the department shall prepare or assist in the preparation of a ~~A~~ report on the progress in implementation of nonattainment area plans. ~~shall be produced by the department each year.~~ The primary function of the report is to review the implementation schedules for control measures and emission reduction forecasts in the nonattainment area plans. ~~The annual report will be made available to the public at the offices of Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, Arizona, 85004, 602-506-6010.~~

112 **AVAILABILITY OF INFORMATION:** Copies of 40 CFR 51, Subpart A, Appendix A, Table 2A currently enforced by the department are available electronically at: http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR; at the Maricopa Air Quality Department, 1001 ~~North~~ N. Central ~~Avenue~~ Ave., Suite ~~695~~ 125, Phoenix, Arizona, 85004; or ~~call~~ by calling (602) 506-6010 for information.

SECTION 200 - DEFINITIONS: To aid in the understanding of these rules, the following general definitions are provided. Additional definitions, as necessary, can be found in each rule of the Maricopa County Air Pollution Control Regulations.

200.1 **AAC:** Arizona Administrative Code.

200.2 **ACT**: The Clean Air Act of 1963 (P.L. 88-206; 42 United States Code sections 7401 through 7671q), as amended ~~by the Clean Air Act Amendments of 1990 (P.L.101-549).~~ through December 31, 2014 (and no future editions).

200.3 **ACTUAL EMISSIONS:** The actual rate of emissions of a regulated pollutant from an emissions unit, as determined in Section 200.3(a) through Section 200.3(e) of this rule:

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the ~~emissions~~ unit actually emitted the pollutant during a ~~2-year~~ consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Control Officer may allow the use of a different time period upon a ~~demonstration~~ determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. ~~If there is inadequate information to determine actual historical emissions, then the~~ The Control Officer may presume that source-specific allowable emissions for the ~~emissions~~ unit are equivalent to the actual emissions of the ~~emissions~~ unit.

c. For any emissions unit at a Title V source~~, other than an electric utility steam generating unit described in Section 200.3(e) of this rule~~ that has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.

d. For any emissions unit at a Non-Title V source that has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.

e. ~~For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit), actual emissions of the unit, following the physical or operational change, shall equal the representative actual annual emissions of the unit, if the source owner and/or operator maintains and submits to the Control Officer on an annual basis, for a period of five years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the Control Officer, if the Control Officer determines the longer period to be more representative of normal source post-change operations.~~ This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, the definitions of projected actual emissions and baseline actual emissions in Rule 240 of these rules shall apply for those purposes.

200.4 **ADMINISTRATOR:** The Administrator of the United States Environmental Protection Agency.

200.5 **ADVISORY COUNCIL:** The Maricopa County Air Pollution Control Advisory Council appointed by the Maricopa County Board of Supervisors.

200.6 **AFFECTED FACILITY:** With reference to a stationary source, any apparatus to which a standard is applicable.

200.7 **AFFECTED SOURCE:** A source that includes one or more emissions units which are subject to emission reduction requirements or limitations under Title IV-Acid Deposition Control of the Act.

200.8 **AFFECTED STATE:** Any State whose air quality may be affected and that is contiguous to Arizona or that is within 50 miles of the permitted source.

200.9 **AIR CONTAMINANT:** Includes smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, windborne matter, radioactive materials, noxious chemicals, or any other material in the outdoor atmosphere.

200.10 **AIR POLLUTION:** The presence in the outdoor atmosphere of one or more air contaminants, or combinations thereof, in sufficient quantities, which either alone or in connection with other substances, by reason of their concentration and duration, are or tend to be injurious to human, plant, or animal life, or causes damage to property, or unreasonably interferes with the comfortable enjoyment of life or property of a substantial part of a community, or obscures visibility, or which in any way degrades the quality of the ambient air below the standards established by the Board of Supervisors.

200.11 **AIR POLLUTION CONTROL EQUIPMENT:** Equipment used to eliminate, reduce, or control the emission of air pollutants into the ambient air.

200.12 **ALLOWABLE EMISSIONS:** The emission rate of a stationary source calculated using both the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation ~~or both~~) and the most stringent of the following:

a. The applicable ~~New Source Performance Standards as described in Rule 360 of these rules or the Federal Hazardous Air Pollutant Program as described in Rule 370 of these rules;~~ standards as set forth in 40 CFR 60 , 61 and 63; ~~or~~

b. The applicable ~~existing source performance standard as approved for the State Implementation Plan (SIP)~~ emissions limitations approved into the state implementation plan, including those with a future compliance date; or

c. The emissions rate specified ~~in any federally promulgated rule or~~ as a federally enforceable permit condition, including those with a future compliance date.

200.13 **AMBIENT AIR:** That portion of the atmosphere, external to buildings, to which the general public has access.

200.14 **AP-42:** The EPA document "Compilation of Air Pollutant Emission Factors," as incorporated by reference in Appendix G of these rules.

200.15 **APPLICABLE IMPLEMENTATION PLAN:** Those provisions of the State Implementation Plan (SIP) approved by the Administrator or a Federal Implementation Plan (FIP) promulgated ~~under~~ for Arizona or any portion of Arizona in accordance with Title I-Air Pollution Prevention And Control of the Act.

200.16 **APPLICABLE REQUIREMENT:** Applicable requirement means any of the following:

a. Any federal applicable requirement as defined in Section 200.49 of this rule.

b. Any other requirement established under the Maricopa County Air Pollution Control Regulations or ARS Title 49, Chapter 3, Articles 1, 3, 7, and 8.

200.17 **"ARIZONA TESTING MANUAL":** Sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).

~~200.17~~ **200.18** **APPROVED:** Approved in writing by the Maricopa County Air Pollution Control Officer.

~~200.18~~ **200.19** **AREA SOURCE:** Any stationary source that is not a major source. For purposes of these rules, the term "area source" shall not include motor vehicles or nonroad vehicles subject to regulation under Title II-Emission Standards For Moving Sources of the Act.

~~200.19~~ **200.20** **ARS:** The Arizona Revised Statutes. The titles of the most frequently used ARS references in these rules are listed below:

ARS §38-502(11)	Public Officers And Employees, Conduct Of Office, Conflict Of Interest Of Officers And Employees, Definitions, Substantial Interest
ARS Title 49	The Environment
ARS Title 49, Chapter 3	The Environment, Air Quality
ARS Title 49, Chapter 4	The Environment, Solid Waste Management

ARS §49-109	The Environment, General Provisions, Department Of Environmental Quality, Certificate Of Disclosure Of Violations; Definition; Remedies
ARS §49-401	The Environment, Air Quality, General Provisions, Declaration Of Policy
ARS §49-426	The Environment, Air Quality, State Air Pollution Control, Permits; Duties Of Director; Exceptions; Applications; Objections; Fees
ARS §49-426.04	The Environment, Air Quality, State Air Pollution Control, State List Of Hazardous Air Pollutants
ARS §49-426.05	The Environment, Air Quality, State Air Pollution Control, Designation Of Sources Of Hazardous Air Pollutants
ARS §49-429	The Environment, Air Quality, State Air Pollution Control, Permit Transfers; Notice; Appeal
ARS §49-464	The Environment, Air Quality, State Air Pollution Control, Violation; Classification; Penalties; Definition
ARS §49-473	The Environment, Air Quality, County Air Pollution Control, Board Of Supervisors
ARS §49-476.01	The Environment, Air Quality, County Air Pollution Control, Monitoring
ARS §49-478	The Environment, Air Quality, County Air Pollution Control, Hearing Board
ARS §49-480	The Environment, Air Quality, County Air Pollution Control, Permits; Fees
ARS §49-480.03	The Environment, Air Quality, County Air Pollution Control, Federal Hazardous Air Pollutant Program; Date Specified By Administrator; Prohibition
ARS §49-480.04	The Environment, Air Quality, County Air Pollution Control, County Program For Control Of Hazardous Air Pollutants
ARS §49-482	The Environment, Air Quality, County Air Pollution Control, Appeals To Hearing Board
ARS §49-483	The Environment, Air Quality, County Air Pollution Control, Permit Transfers; Notice; Appeal
ARS §49-487	The Environment, Air Quality, County Air Pollution Control, Classification And Reporting; Confidentiality Of Records
ARS §49-488	The Environment, Air Quality, County Air Pollution Control, Special Inspection Warrant
ARS §49-490	The Environment, Air Quality, County Air Pollution Control, Hearings On Orders Of Abatement
ARS §49-498	The Environment, Air Quality, County Air Pollution Control, Notice Of Hearing; Publication; Service
ARS §49-501	The Environment, Air Quality, County Air Pollution Control, Unlawful Open Burning; Definition; Exceptions; Fine
ARS §49-511	The Environment, Air Quality, County Air Pollution Control, Violations, Order Of Abatement
ARS §49-514	The Environment, Air Quality, County Air Pollution Control, Violation; Classification; Definition

~~200.20~~ **200.21** **ASME:** The American Society of Mechanical Engineers.

~~200.21~~ **200.22** **ASTM:** The American Society for Testing and Materials.

~~200.22~~ **200.23** **ATTAINMENT AREA:** ~~An area so designated by the Administrator, acting under Section 107 Air Quality Control Regions of the Act, as having ambient air pollutant concentrations equal to or less than national primary or secondary ambient air quality standards for a particular pollutant or~~

~~pollutants.~~ Any area in the state that has been identified in regulations promulgated by the Administrator as being in compliance with national ambient air quality standards.

~~200.23~~ **200.24** **BEGIN ACTUAL CONSTRUCTION:** ~~In general, initiation~~ Initiation of physical on-site construction activities on an emissions unit, which are of a permanent nature. ~~Such activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures~~. With respect to a change in method of operation, "begin actual construction" refers to those on-site activities, other than preparatory activities, which mark the initiation of change.

a. For purposes of title I, parts C and D and section 112 of the Act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the Act, these activities include installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures but do not include any of the following, subject to Section 200.24(c) of this rule:

(1) Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil.

(2) Installation of access roads, driveways and parking lots.

(3) Installation of ancillary structures, including fences, office buildings and temporary storage structures that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.

(4) Ordering and on-site storage of materials and equipment.

b. For purposes other than those identified in Section 200.24(a) of this rule, these activities do not include any of the following, subject to Section 200.24(c) of this rule:

(1) Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil and earthwork cut and fill for foundations.

(2) Installation of access roads, parking lots, driveways and storage areas.

(3) Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment.

(4) Ordering and on-site storage of materials and equipment.

(5) Installation of underground pipework, including water, sewer, electric and telecommunications utilities.

(6) Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and platforms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.

c. An applicant's performance of any activities that are excluded from the definition of "begin actual construction" under Sections 200.24 (a) or (b) of this rule shall be at the applicant's risk and shall not reduce the applicant's obligations under these rules. The Control Officer shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activities allowed under Sections 200.24 (a) or (b) of this rule had not occurred.

~~200.24~~ **200.25** **BEST AVAILABLE CONTROL TECHNOLOGY (BACT):** An emissions limitation, based on the maximum degree of reduction for each pollutant, subject to regulation under the Act, which would be emitted from any proposed stationary source or modification, which the Control Officer, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. Under no circumstances shall BACT be determined to be less stringent than the emission control required by an applicable provision of these rules or of any State or Federal laws ("Federal laws" include the EPA approved

State Implementation Plan (SIP)). If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

~~200.25~~ **200.26** **BRITISH THERMAL UNIT (BTU):** The quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit (°F) at 39.1°F.

~~200.26~~ **200.27** **BUILDING, STRUCTURE, FACILITY, OR INSTALLATION:** All the pollutant-emitting equipment and activities that belong to the same industrial grouping, that are located on one or more contiguous or adjacent properties, and that are under the control of the same person or persons under common control, except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987".

200.28 **CATEGORICAL SOURCES:** The following classes of sources:

a. Coal cleaning plants with thermal dryers;

b. Kraft pulp mills;

c. Portland cement plants;

d. Primary zinc smelters;

e. Iron and steel mills;

f. Primary aluminum ore reduction plants (with thermal dryers);

g. Primary copper smelters;

h. Municipal incinerators capable of charging more than 50 tons of refuse per day;

i. Hydrofluoric, sulfuric, or nitric acid plants;

j. Petroleum refineries;

k. Lime plants;

l. Phosphate rock processing plants;

m. Coke oven batteries;

n. Sulfur recovery plants;

o. Carbon black plants using the furnace process;

p. Primary lead smelters;

q. Fuel conversion plants;

r. Sintering plants;

s. Secondary metal production plants;

t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;

u. Fossil-fuel boilers, or combinations thereof, totaling more than 250 million British thermal units (BTU) per hour heat input;

v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;

w. Taconite ore processing plants;

x. Glass fiber processing plants;

y. Charcoal production plants;

z. Fossil fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million BTU per hour rated heat input;

aa. Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111-Standards Of Performance For New Stationary Sources of the Act or under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act.

~~200.27~~ **200.29** **CFR:** The United States Code of Federal Regulations~~.~~ with standard references in these rules by Title and Part, so that "40 CFR 51" means "Title 40 of the Code of Federal Regulations, Part 51."

~~200.28~~ **200.30** **CIRCUMSTANCES OUTSIDE THE CONTROL OF THE SOURCE:** Shall include, but not be limited to, circumstances where a violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a startup or shutdown, or resulted from upset of operations.

~~200.29~~ **200.31** **CLEAN COAL TECHNOLOGY:** Any technology, including technologies applied at the pre-combustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity or process steam that was not in widespread use as of November 15, 1990.

~~200.30~~ **200.32** **CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT:** A project using funds appropriated under the heading "Department Of Energy-Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology or similar projects, funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

~~200.31~~ **200.33** **COMMENCE:** As applied to construction of a major source or a major modification, that the ~~owner and/or operator~~ owner or operator has all necessary preconstruction approvals or permits and has either:

a. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

b. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the ~~owner and/or operator~~ owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

~~200.32~~ **200.34** **COMPLETE:** In reference to an application for a permit or permit revision, "complete" means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit or permit revision, processing does not preclude the Control Officer from requesting nor from accepting any additional information.

~~200.33~~ **200.35** **CONSTRUCTION:** Any physical change or change in the method of operation, including fabrication, erection, or installation, demolition, or modification of an emissions unit, which would result in a change in actual emissions.

200.36 **CONVENTIONAL AIR POLLUTANT:** Any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard.

~~200.34~~ **200.37** **CONTROL OFFICER:** The executive head of the department authorized or designated to enforce air pollution regulations, the executive head of an air pollution control district established under ARS §49-473, or the designated agent.

~~200.35~~ **200.38** **DEPARTMENT:** The Maricopa County Air Quality Department.

~~200.36~~ **200.39** **DIRECTOR:** The director of the Arizona Department Of Environmental Quality (ADEQ).

~~200.37~~ **200.40** **DISCHARGE:** The release or escape of an effluent into the atmosphere from a source.

~~200.38~~ **200.41** **DIVISION:** The Division no longer exists; consequently, all references in these rules to Division refer to Department.

~~200.39~~ **200.42** **DUST GENERATING OPERATION:** Any activity capable of generating fugitive dust, including but not limited to, land clearing, maintenance, and land clean-up using mechanized equipment, earthmoving, weed abatement by discing or blading, excavating, construction, demolition, bulk

material handling (e.g., bulk material hauling and/or transporting, bulk material stacking, loading, and unloading operations), storage and/or transporting operations (e.g., open storage piles), ~~vehicle use and movement,~~ the operation of any outdoor equipment, ~~or unpaved parking lots.~~ the operation of motorized machinery, establishing and/or using staging areas, parking areas, material storage areas, or access routes to and from a site, establishing and/or using unpaved haul/access roads to, from, and within a site, disturbed surface areas associated with a site, and installing initial landscapes using mechanized equipment. For the purpose of this ~~rule~~ definition, landscape maintenance and playing on or maintaining a field used for non-motorized sports shall not be considered a dust generating operation. However, landscape maintenance shall not include grading, trenching, or any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.

~~200.40~~ **200.43** **EFFLUENT:** Any air contaminant which is emitted and subsequently escapes into the atmosphere.

~~200.41~~ **200.44** **ELECTRIC UTILITY STEAM GENERATING UNIT:** Any steam electric generating unit that is constructed for the purpose of supplying more than 1/3 of its potential electric output capacity and more than 25 MW electric output to any utility power distribution system for sale. Any steam supplied to a steam distribution system, for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale, is also considered in determining the electrical energy output capacity of the affected facility.

~~200.42~~ **200.45** **EMISSION STANDARD:** The definition of emission standard, as summarized from ARS §49-514(T) and ARS §49-464(V), is: A numeric limitation on the volume or concentration of air pollutants in emissions from a source or a specific design, equipment, or work practice standard, the purpose of which is to eliminate or reduce the volume or concentration of pollutants emitted by a source. The term emission standard does not include opacity standards. Violations of emission standards shall be determined in the manner prescribed by the applicable regulations issued by the Administrator or the Director or the Control Officer.

~~200.43~~ **200.46** **EMISSIONS UNIT:** Any part of a stationary source which emits or would have the potential to emit any regulated air pollutant and includes an electric steam generating unit.

~~200.44~~ **200.47** **EPA:** The United States Environmental Protection Agency.

~~200.45~~ **200.48** **EQUIVALENT METHOD:** Any method of sampling and analyzing for an air pollutant, which has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

~~200.46~~ **200.49** **EXCESS EMISSIONS:** Emissions of an air pollutant in excess of an emission standard, as measured by the compliance test method applicable to such emission standard.

~~200.47~~ **200.50** **EXISTING SOURCE:** Any source that is not a new source.

~~a. A source in operation prior to the effective date of this rule, or a source on which the construction or modification has commenced and for which the Control Officer has granted a permit prior to the effective date of this rule; or~~

~~b. When used in conjunction with a source subject to new source performance standards (NSPS), any source which does not have an applicable NSPS under Rule 360 New Source Performance Standards of these rules.~~

~~200.48~~ **200.51** **FACILITY:** The definition of facility is included in ~~Section 200.6 Definition Of Affected Facility of this rule and in Section 200.26 Definition Of Building, Structure, Facility Or Installation of this rule.~~ the definitions of "affected facility" and "building, structure, facility or installation" of this rule.

~~200.49~~ **200.52** **FEDERAL APPLICABLE REQUIREMENT:** Any of the following ~~as they apply to emissions units covered by a Title V permit or a Non-Title V permit~~ (including requirements that have been promulgated or approved by the 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 the EPA through rulemaking under Title I-Air Pollution

Prevention And Control of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.

b. Any term or condition of any unitary permits issued under regulations approved or promulgated through rulemaking under Title I-Air Pollution Prevention And Control, including Parts C or D, of the Act.

c. Any standard or other requirement under Section 111-Standards Of Performance For New Stationary Sources of the Act, includes Section 111(d).

d. Any standard or other requirement under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act, including any requirement concerning accident prevention under Section 112(r)(7) of the Act.

e. Any standard or other requirement of the acid rain program under Title IV-Acid Deposition Control of the Act or the regulations promulgated thereunder and incorporated under Rule 371-Acid Rain of these rules.

f. Any requirements established under Section 504(b)-Permit Requirements And Conditions or Section 114(a)(3)-Inspections, Monitoring, And Entry of the Act.

g. Any standard or other requirement governing solid waste incineration under Section 129-Solid Waste Combustion of the Act.

h. Any standard or other requirement for consumer and commercial products pursuant to Section 183(e)-Federal Ozone Measures of the Act.

i. Any standard or other requirement for tank vessels pursuant to Section 183(f)-Federal Ozone Measures of the Act.

j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources under Section 328-Air Pollution From Outer Continental Shelf Activities of the Act.

k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI-Stratospheric Ozone Protection of the Act, 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-Prevention Of Significant Deterioration Of Air Quality of Title I-Air Pollution Prevention And Control of the Act, but only as it would apply to temporary sources permitted under Section 504(e)-Permit Requirements And Conditions of the Act.

~~200.50~~ **200.53** **FEDERAL LAND MANAGER:** With respect to any lands in the United States, the Secretary of the Department with authority over such lands.

~~200.51~~ **200.54** **FEDERALLY ENFORCEABLE:** All limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:

a. All terms and conditions contained in a Title V permit, except those terms and conditions which have been specifically designated as not federally enforceable;

b. The requirements of operating permit programs and permits issued under such permit programs which have been approved by the Administrator, including the requirements of State and County operating permit programs approved under Title V-Permits of the Act or under any new source review permit program;

c. All limitations and conditions which are enforceable by the Administrator, including the requirements of the New Source Performance Standards (NSPS) and the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) ~~contained in these rules~~;

d. The requirements of such other State or County rules or regulations approved by the Administrator for inclusion in the State Implementation Plan (SIP);

e. The requirements of any federal regulation promulgated by the Administrator as part of the State Implementation Plan (SIP); and

f. The requirements of State and County operating permit programs, other than Title V programs, which have been approved by the Administrator and incorporated into the applicable State Implementation Plan (SIP) under the criteria for federally enforceable State Operating Permit

Programs set forth in 54, Federal Register 27274, dated June 28, 1989. Such requirements include permit terms and conditions which have been entered into voluntarily by a source under this rule and/or under Rule 220-Non-Title V Permit Provisions of these rules.

g. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements that are included in a permit pursuant to Rule 201 (Emissions Caps) of these rules or Rule 220, Section 304 (Permits Containing Voluntarily Accepted Emissions Limitations, Controls, Or Other Requirements (Synthetic Minor)) of these rules.

200.55 **FEDERALLY LISTED HAZARDOUS AIR POLLUTANT:** A pollutant listed pursuant to Rule 372, Section 309 of these rules.

~~200.52~~ **200.56** **FINAL PERMIT:** The version of a permit issued by the Control Officer after completion of all review required by Maricopa County Air Pollution Control Regulations.

~~200.53~~ **200.57** **FUEL OIL:** Number 2 through Number 6 fuel oils as specified in ASTM D396-90a-Specification For Fuel Oils, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D2880-90a-Specification For Gas Turbine Fuel Oils, or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D975-90a-Specification For Diesel Fuel Oils.

~~200.54~~ **200.58** **FUGITIVE EMISSION:** Any emission which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

200.59 **HAZARDOUS AIR POLLUTANT (HAP):** Any federally listed hazardous air pollutant.

~~200.55~~ **200.60** **HAZARDOUS AIR POLLUTANT REASONABLY AVAILABLE CONTROL TECHNOLOGY (HAPRACT):** An emissions standard for hazardous air pollutants which the Control Officer, acting pursuant to §49-480.04(C), determines is reasonably available for a source. In making the foregoing determination, the Control Officer shall take into consideration the estimated actual air quality impact of the standard, the cost of complying with the standard, the demonstrated reliability and widespread use of the technology required to meet the standard, and any non-air quality health and environmental impacts and energy requirements. For purposes of this definition, an emissions standard may be expressed as a numeric emissions limitation or as a design, equipment, work practice, or operational standard.

~~200.56~~ **200.61** **INDIAN GOVERNING BODY:** The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

~~200.57~~ **200.62** **INDIAN RESERVATION:** Any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

~~200.58~~ **200.63** **INSIGNIFICANT ACTIVITY:** For the purpose of this rule, an insignificant activity shall be any activity, process, or emissions unit that is not subject to a source-specific applicable requirement, that emits no more than 0.5 ton per year of hazardous air pollutants (HAPs) and no more than two tons per year of a regulated air pollutant , and that is ~~either included in Appendix D-List of Insignificant Activities of these rules~~ listed below or is approved as an insignificant activity under Rule 200-Permit Requirements of these rules. Source-specific applicable requirements include requirements for which emissions unit-specific information is needed to determine applicability.

a. Food Processing Equipment:

(1) Any confection cooker and associated venting or control equipment cooking edible products intended for human consumption.

(2) Any oven in a food processing operation where less than 1,000 pounds of product are produced per day of operation.

b. General Combustion Activities:

(1) All natural gas and/or liquefied petroleum gas-fired pieces of equipment over 300,000 BTU per hour, only if the input capacities added together are less than 2,000,000 BTU per hour, the

emissions come from fuel burning, and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.

(2) Any oil-fueled heating piece of equipment (except off-spec. oil) with a maximum rate input capacity or an aggregate input capacity of less than:

(a) 500,000 BTU/hour if only emissions came from fuel burning, or

(b) 1,000,000 BTU/hour if only emissions came from fuel burning and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.

c. **Surface Coating And Printing Equipment:** Any equipment or activity using no more than 300 gallons per year of surface coating or any combination of surface coating and solvent, which contains either VOC or hazardous air pollutants (HAPs) or both.

d. **Solvent Cleaning Equipment:** Any non-vapor cleaning machine (degreaser) or dip-tank having a liquid surface area of 1 square foot (0.09 square meters) or less, or having a maximum capacity of 1 gallon (3.79 liters) or less.

e. **Internal Combustion (IC) Equipment:**

(1) IC engine-driven compressors, IC engine-driven electrical generator sets, and IC engine-driven water pumps used only for emergency replacement or standby service (including testing of same), not to exceed 4,000 pounds of NO_x or CO at 500 hours of operation per year.

(2) Any piston-type IC engine with a manufacturer's maximum continuous rating of no more than 50 brake horsepower (bhp).

f. **Laboratories And Pilot Plants:** Lab equipment used exclusively for chemical and physical analyses.

g. **Storage And Distribution:**

(1) Chemical or petroleum storage tanks or containers that hold 250 gallons or less and would have emissions of a regulated air pollutant.

(2) Any emissions unit, operation, or activity that handles or stores no more than 12,000 gallons of a liquid with a vapor pressure less than 1.5 psia.

(3) Any equipment used exclusively for the storage of unheated organic material with: (1) an initial boiling point of 150° Centigrade (C) (302° Fahrenheit (F)) or greater, as determined by ASTM D1078-11; or (2) a vapor pressure of no more than 5 millimeters mercury (mmHg) (0.1 pound per square inch (psi) absolute), as determined by ASTM D2879-11.

(4) Any equipment with a capacity of no more than 4,200 gallons (100 barrels) used exclusively to store oil with specific gravity 0.8762 or higher (30° API or lower), as measured by API test method 2547 or ASTM D1298-12b.

(5) Any equipment used exclusively for the storage of liquefied gases in unvented pressure vessels, except for emergency pressure-relief valves.

(6) Any equipment used exclusively to compress or hold dry natural gas. Any ICE or other equipment associated with the dry natural gas should not be considered an insignificant activity, unless such ICE or other equipment independently qualifies as an insignificant activity.

(7) Any equipment used exclusively for the storage of fresh, commercial, or purer grade of: (1) sulfuric or phosphoric acid with acid content of no more than 99% by weight; or (2) nitric acid with acid content of no more than 70% by weight.

h. **Miscellaneous Activities:**

(1) Any blast cleaning equipment using a suspension of abrasive material in water and the control equipment venting such blast cleaning equipment.

(2) Cooling towers: Any water cooling tower which: (1) has a circulation rate of less than 10,000 gallons per minute; and (2) is not used to cool process water, water from barometric jets, or water from barometric condensers.

(3) Batch mixers with rated capacity of 5 cubic feet or less.

(4) Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons per hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units, which are used to crush or grind any non-metallic minerals.

(5) Any brazing, soldering, welding, or cutting torch equipment used in manufacturing and construction activities and with the potential to emit hazardous air pollutant (HAP) metals, provided the total emissions of HAPs do not exceed 0.5 ton per year.

(6) Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood.

(7) Any aerosol can puncturing or crushing operation that processes less than 500 cans per day provided such operation uses a closed loop recovery system.

(8) Any laboratory fume hood or vent provided such equipment is used exclusively for the purpose of teaching, research, or quality control.

~~200.59~~ **200.64** **MAJOR MODIFICATION:** ~~Any physical change or change in the method of operation of a major source that would result in a significant net emissions increase of any regulated air pollutant.~~

a. ~~Any net emissions increase that is significant for VOCs shall be considered significant for ozone.~~ Any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source.

b. Any emissions increase or net emissions increase that is significant for ~~oxides of nitrogen shall be considered significant for ozone nonattainment areas classified as marginal, moderate, serious, or severe~~ nitrogen oxides or volatile organic compounds is significant for ozone.

c. For the purposes of this definition, none of the following ~~shall not be considered~~ is a physical change or a change in the method of operation:

(1) Routine maintenance, repair, and replacement;

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

(3) Use of an alternative fuel by reason of an order or rule under Section 125-Measures To Prevent Economic Disruption Or Unemployment of the Act;

(4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) ~~Use of an alternative fuel or raw material by a stationary source that either:~~ For the purposes of determining the applicability of Rule 240 (Federal Major New Source Review (NSR), Section 304 (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas) of these rules, any of the following:

~~(a) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources, Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules; or~~

~~(b) The source is approved to use under any permit issued under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources, Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules;~~

(a) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Federal Major New Source Review (NSR) , Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules; or

(b) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules; or

(c) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules.

(6) For the purposes of determining applicability of Rule 240 (Federal Major New Source Review (NSR), Section 305 (Permit Requirements For New Major Sources Or Major Modifications Located In Attainment Or Unclassifiable Areas) of these rules, any of the following:

(a) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules; or

(b) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules; or

(c) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule

210-Title V Permit Provisions, Rule 240-Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules.

~~(6) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources, Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules;~~

(7) Any change in ownership at a stationary source;

~~(8) The addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the Control Officer determines that the addition, replacement, or use renders the unit less environmentally beneficial, or except:~~

~~(a) When the Control Officer has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent Title I air quality impact analysis in the area, if any, and~~

~~(b) The Control Officer determines that the increase will cause or contribute to a violation of any national ambient air quality standard, prevention of significant deterioration (PSD) increment, or visibility limitation;~~

~~(9)~~ **(8)** The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:

(a) The State Implementation Plan (SIP); and

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

~~(10)~~ **(9)** For electric utility steam generating units located in attainment and unclassified areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis; and

~~(11)~~ **(10)** For electric utility steam generating units located in attainment and unclassified areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.

d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of Plantwide Applicability Limitations (PALs) as described in Rule 240 of these rules. Instead, the definition of "PAL" major modification in Rule 240 of these rules shall apply.

~~200.60~~ **200.65** **MAJOR SOURCE:** A source that meets any of the following criteria:

a. A major source as defined in Rule 240-~~Permits For New Major Sources And Major Modifications To Existing Major Sources~~ Federal Major New Source Review (NSR) of these rules.

b. A major source under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act:

(1) For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emissions, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed under Section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Title 18-Environmental Quality, Chapter 2-Department Of Environmental

Quality Air Pollution Control, Article 11-Federal Hazardous Air Pollutants of the Arizona Administrative Code. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(2) For radionuclides, major source shall have the meaning specified by the Administrator by rule.

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

~~Coal cleaning plants (with thermal dryers).~~
~~Kraft pulp mills.~~
~~Portland cement plants.~~
~~Primary zinc smelters.~~
~~Iron and steel mills.~~
~~Primary aluminum ore reduction plants.~~
~~Primary copper smelters.~~
~~Municipal incinerators capable of charging more than 50 tons of refuse per day.~~
~~Hydrofluoric, sulfuric, or nitric acid plants.~~
~~Petroleum refineries.~~
~~Lime plants.~~
~~Phosphate rock processing plants.~~
~~Coke oven batteries.~~
~~Sulfur recovery plants.~~
~~Carbon black plants (furnace process).~~
~~Primary lead smelters.~~
~~Fuel conversion plants.~~
~~Sintering plants.~~
~~Secondary metal production plants.~~
~~Chemical process plants.~~
~~Fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input.~~
~~Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.~~
~~Taconite ore processing plants.~~
~~Glass fiber processing plants.~~
~~Charcoal production plants.~~
~~Fossil fuel-fired steam electric plants of more than 250 million BTU per hour rated heat input.~~
~~Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111-Standards Of Performance For New Stationary Sources of the Act or under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act.~~

~~200.61~~ **200.66** **MAJOR SOURCE THRESHOLD:** The lowest applicable emissions rate for a pollutant that would cause the source to be a major source, at the particular time and location, under ~~Section 200.60-Definition Of Major Source~~ the definition of "major source" of this rule.

~~200.62~~ **200.67** **MALFUNCTION:** Any sudden and unavoidable failure of air pollution control equipment, process, or process equipment to operate in a normal and usual manner. Failures that are caused by poor maintenance, careless operation, or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care shall not be considered malfunctions.

~~200.63~~ **200.68** **MATERIAL PERMIT CONDITION:**

a. For the purposes of ARS §49-464(G) and ARS §49-514(G), a material permit condition shall mean a condition which satisfies all of the following:

(1) The condition is in a permit or permit revision issued by the Control Officer or by the Director after the effective date of this rule.

(2) The condition is identified within the permit as a material permit condition.

(3) The condition is one of the following:

(a) An enforceable emission standard imposed to avoid classification as a major modification or major source or to avoid triggering any other applicable requirement.

~~(b) A requirement to install, operate, or maintain a maximum achievable control technology or hazardous air pollutant reasonably available control technology required under Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

~~(c)~~ **(b)** A requirement for the installation or certification of a monitoring device.

~~(d)~~ **(c)** A requirement for the installation of air pollution control equipment.

~~(e)~~ **(d)** A requirement for the operation of air pollution control equipment.

~~(f)~~ **(e)** An opacity standard required by Section 111-Standards Of Performance For New Stationary Sources of the Act or Title I-Air Pollution Prevention And Control, Part C or D, of the Act.

(4) Violation of the condition is not covered by Subsections (A) through (F) or (H) through (J) of ARS §49-464 or Subsections (A) through (F) or (H) through (J) of ARS §49-514.

b. For the purposes of ~~Sections 200.63~~ Section 200.72(a)(3)(c), (d), and (e) of this rule, a permit condition shall not be material where the failure to comply resulted from circumstances which were outside the control of the source.

200.69 **MAXIMUM CAPACITY TO EMIT:** The maximum amount a source is capable of emitting under its physical and operational design without taking any limitations on operations or air pollution controls into account.

~~200.64~~ **200.70** **METHOD OF OPERATION:** The definition of method of operation is included in ~~Section 200.72-Definition Of Operation~~ the definition of "operation" of this rule.

200.71 **MINOR NSR MODIFICATION:** Any of the following changes that do not qualify as a major source or major modification:

a. Any physical change in or change in the method of operation of an emission unit or a stationary source that either:

(1) Increases the potential to emit of a regulated minor NSR pollutant by an amount greater than the minor NSR modification threshold, or

(2) Results in the potential to emit of a regulated minor NSR pollutant not previously emitted by such emission unit or stationary source in an amount greater than the minor NSR modification threshold.

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

c. A change covered by Sections 200.71 (a) or (b) of this rule constitutes a minor NSR modification regardless of whether there will be a net decrease in total source emissions or a net increase in total source emissions that is less than the minor NSR modification threshold as a result of decreases in the potential to emit of other emission units at the same stationary source.

d. For the purposes of this definition, the following do not constitute a physical change or change in the method of operation:

(1) A change consisting solely of the construction of, or changes to, a combination of emissions units qualifying as an insignificant activity.

(2) For a stationary source that is required to obtain a Non-Title V permit under Rule 200 of these rules and that is subject to source-wide emissions caps under Rule 201 of these rules, a change that will not result in the violation of the existing emissions cap for that regulated minor NSR pollutant.

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

(4) Routine maintenance, repair, and replacement.

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

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

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

(8) Use of an alternative fuel or raw material by a stationary source that either:

(a) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rules 210, 220, 240, or 241 of these rules; or

(b) The source is approved to use under any permit issued under 40 CFR 52.21, or under Rules 210, 220, or 240 these rules.

(9) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rules 210, 220, 240, or 241 of these rules.

(10) Any change in ownership at a stationary source.

e. For purposes of this definition:

(1) "Potential to emit" means the lower of a source's or emission unit's potential to emit or its allowable emissions.

(2) In determining potential to emit, the fugitive emissions of a stationary source shall not be considered unless the source belongs to a section 302(j) category.

(3) All of the roadways located at a stationary source constitute a single emissions unit.

f. **Minor NSR Modification Threshold:** For the purposes of this definition, "minor NSR modification threshold" is defined as: For a regulated minor NSR pollutant, the following applies:

~~**Pollutant**~~	~~**Maximum Capacity To Emit Emission Rate In Tons Per Year (TPY)**~~
~~$PM_{2.5}$~~	~~7.5~~
	~~(primary emissions only; levels for precursors are set below)~~
~~PM_{10}~~	~~7.5~~

~~SO_2~~	~~20~~
~~NO_x~~	~~20~~
~~VOC~~	~~20~~
~~CO~~	~~50~~
~~Pb~~	~~0.3~~

200.72 **MOBILE SOURCE:** Any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest.

~~200.65~~ **200.73** **MODIFICATION:** A physical change in or a change in the method of operation of a source which increases the actual emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount, or which results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source's potential to emit before and after the modification. The following exemptions apply:

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

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

c. A change in ownership at a source is not considered a modification.

~~200.68~~ **200.74** **NATIONAL AMBIENT AIR QUALITY STANDARD (NAAQS):** The ambient air pollutant concentration limits established by the administrator pursuant to Section 109 of the Clean Air Act.

~~200.66~~ **200.75** **NET EMISSIONS INCREASE:** For the purposes of Rule 240, Sections 305 and 306 of these rules, a net emissions increase shall be defined by the federal regulations incorporated by reference. For the purposes of Rule 220 of these rules, a net emissions increase shall be an emissions increase for a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification where:

a. ~~The amount by which the sum of Section 200.66(a)(1) and Section 200.66(a)(2) below exceed zero:~~ A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

~~(1) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and~~

~~(2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.~~

b. ~~An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:~~ A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits in Rule 204 of these rules and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences.

~~(1) The date five years before construction on the particular change commences; and~~

~~(2) The date that the increase from the particular change occurs.~~

~~c. An increase or decrease in actual emissions is creditable only if the Control Officer has not relied on it in issuing a permit, which is in effect when the increase in actual emissions from the particular change occurs. In addition, in nonattainment areas, a decrease in actual emissions shall be considered in determining net emissions increase due to modifications only if the State has not relied on it in demonstrating attainment or reasonable further progress.~~

~~d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, or particulate matter which occurs before the applicable baseline date, as described in Rule 500-Attainment Area Classification of these rules, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.~~

~~e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.~~

~~f. A decrease in actual emissions is creditable only to the extent that:~~

~~**(1)** The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;~~

~~**(2)** The emissions unit was actually operated and emitted the specific pollutant;~~

~~**(3)** It is federally enforceable at and after the time that actual construction on the particular change begins; and~~

~~**(4)** It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~**g.** An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.~~

~~200.67~~ **200.76** **NEW SOURCE:** ~~Any source that is not an existing source.~~ A source for which construction has not commenced before the effective date of an applicable rule or standard to which a source is subject.

200.77 **NEW SOURCE PERFORMANCE STANDARDS (NSPS):** Standards adopted by the Administrator under section 111(b) of the Act.

~~200.68~~ **200.78** **NITROGEN OXIDES (NO_X):** All oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.

~~200.69~~ **200.79** **NONATTAINMENT AREA:** An area so designated by the Administrator, acting under Section 107-Air Quality Control Regions of the Act, as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.

~~200.70~~ **200.80** **NON-PRECURSOR ORGANIC COMPOUND:** Any of the organic compounds that have been designated by the EPA as having negligible photochemical reactivity as listed in Appendix G of these rules.

~~200.71~~ **200.81** **OPEN OUTDOOR FIRE:** Any combustion of material of any type outdoors, where the products of combustion are not directed through a flue.

~~200.72~~ **200.82** **OPERATION:** Any physical action resulting in a change in the location, form, or physical properties of a material, or any chemical action resulting in a change in the chemical composition or properties of a material.

~~200.73~~ **200.83** **ORGANIC COMPOUND:** Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

~~200.74~~ **200.84** **ORGANIC LIQUID:** Any organic compound which exists as a liquid under any actual conditions of use, transport, or storage.

~~200.75~~ **200.85** ~~OWNER AND/OR OPERATOR~~ **OWNER OR OPERATOR:** Any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source. ~~of which an affected facility is a part.~~

~~200.76~~ **200.86** **PARTICULATE MATTER:** Any material, except condensed water containing no more than analytical trace amounts of other chemical elements or compounds, which has a nominal aerodynamic diameter smaller than 100 microns (micrometers) and which exists in a finely divided form as a liquid or solid at actual conditions.

~~200.77~~ **200.87** **PERMITTING AUTHORITY:** The department or a County department, ~~or~~ agency, or air pollution control district that is charged with enforcing a permit program adopted under ARS §49-480, Subsection A.

200.88 **PERMITTING THRESHOLD:** For a regulated air pollutant, the following applies:

~~**Pollutant**~~	~~**Maximum Capacity To Emit Emission Rate In Tons Per Year (TPY)**~~
~~$PM_{2.5}$~~	~~0.5~~
	~~(primary emissions only; levels for precursors are set below)~~
~~PM_{10}~~	~~0.5~~
~~SO_2~~	~~1.0~~
~~NO_x~~	~~1.0~~
~~VOC~~	~~0.5~~
~~CO~~	~~1.0~~
~~Pb~~	~~0.3~~
~~Single HAP (other than Pb)~~	~~0.5~~
~~Total HAPs~~	~~1.0~~
~~Any other regulated air pollutant~~	~~1.0~~

~~200.78~~ **200.89** **PERSON:** Any individual, public or private corporation, company, partnership, firm, association or society of persons, the Federal Government and any of its departments or agencies, or the State and any of its agencies, departments or political subdivisions, as well as a natural person.

~~200.79~~ ~~PHYSICAL CHANGE: Any replacement, addition, or alteration of equipment that is not already allowed under the terms of the source's permit.~~

200.90 **PLANNING AGENCY:** An organization designated by the governor pursuant to 42 U.S.C. 7504.

~~200.80~~ **200.91** **$PM_{2.5}$:** Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns (micrometers), as measured by the applicable State and Federal Reference Test Methods.

~~200.81~~ **200.92** **PM_{10}:** Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (micrometers), as measured by the applicable State and Federal Reference Test Methods.

~~200.82~~ **200.93** **POLLUTANT:** An air contaminant the emissions or ambient concentration of which is regulated under these rules.

~~200.83~~ ~~POLLUTION CONTROL PROJECT: Any activity or project undertaken at an existing electric utility steam generating unit to reduce emissions from the unit. The activities or projects are limited to:~~

~~a. The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls, and electrostatic precipitators;~~

~~b. An activity or project to accommodate switching to a fuel less polluting than the fuel used before the activity or project, including but not limited to natural gas or coal reburning, or the co-firing of natural gas and other fuels for the purpose of controlling emissions;~~

~~c. A permanent clean coal technology demonstration project, conducted under Title II, Section 101(d) of the Further Continuing Appropriation Act of 1985 (42 U.S.C. 5903(d)) or subsequent appropriations up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA; or~~

~~d. A permanent clean coal technology demonstration project that constitutes a repowering project.~~

~~200.84~~ **200.94** **PORTABLE SOURCE:** Any stationary source that is capable of being transported and operated in more than one county of this state.

~~200.85~~ **200.95** **POTENTIAL TO EMIT (PTE):** The maximum capacity of a stationary source to emit pollutants, excluding secondary emissions, under its physical and operational design. Any physical or

operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design, if the limitation or the effect it would have on emissions is ~~federally~~ legally and practically enforceable by any rule, ordinance, order or permit adopted or issued under A.R.S. Title 49, Chapter 3 or the state implementation plan.

~~200.86~~ **200.96** **PROPOSED PERMIT:** The version of a permit for which the Control Officer offers public participation under Rule 210-Title V Permit Provisions or Rule 220-Non-Title V Permit Provisions of these rules or offers affected State review under Rule 210-Title V Permit Provisions of these rules.

~~200.87~~ **200.97** **PROPOSED FINAL PERMIT / PROPOSED FINAL PERMIT REVISION:** The version of a Non-Title V permit or permit revision that the Control Officer proposes to issue in compliance with Rule 220-Non-Title V Permit Provisions of these rules or a Title V permit or permit revision that the Control Officer proposes to issue and forwards to the Administrator for review, in compliance with Rule 210-Title V Permit Provisions of these rules. A proposed final permit/proposed final permit revision constitutes a final authorization to begin actual construction of, but not to operate, a new Title V source or a modification to a Title V source.

200.98 **PUBLIC NOTICE THRESHOLD:** For a regulated air pollutant, the following applies:

~~**Pollutant**~~	~~**Public Notice Threshold TPY (New Or Permit Renewals PTE)**~~	~~**Public Notice Threshold TPY (PTE To PTE Emission Increase)**~~
~~VOC~~	~~25~~	~~25~~
~~NO_x~~	~~25~~	~~25~~
~~SO_2~~	~~25~~	~~25~~
~~PM_{10}~~	~~7.5~~	~~7.5~~
~~$PM_{2.5}$~~	~~5.0~~	~~5.0~~
	~~(primary emissions only; levels for precursors are set above)~~	
~~CO~~	~~50~~	~~50~~
~~Pb~~	~~0.3~~	~~0.3~~
~~Any Single HAP~~	~~5.0~~	~~5.0~~
~~Total HAPs~~	~~12.5~~	~~12.5~~

~~200.88~~ **200.99** **QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.

~~200.89~~ **200.100** **REACTIVATION OF A VERY CLEAN COAL-FIRED ELECTRIC UTILITY STEAM GENERATING UNIT:** Any physical change or change in the method of operation, associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation, if the unit:

a. Has not been in operation for the 2-year period before enactment of the Clean Air Act Amendments of 1990 and the emissions from the unit continue to be carried in the Maricopa County emissions inventory at the time of enactment;

b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

c. Is equipped with low nitrogen oxides (NO_x) burners before commencement of operations following reactivation; and

d. Is otherwise in compliance with the Act.

200.101 **REASONABLE FURTHER PROGRESS:** The schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.

~~200.90~~ **200.102** **REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT):** For facilities subject to Regulation III-Control Of Air Contaminants of these rules, the emissions limitation of the existing source performance standard. For facilities not subject to Regulation III-Control Of Air Contaminants of these rules, the lowest emission limitation that a particular source is capable of achieving by the application of control technology that is reasonably available considering technological and economic feasibility. Such technology may previously have been applied to a similar, but not necessarily identical, source category. RACT for a particular facility, other than a facility subject to Regulation III-Control Of Air Contaminants of these rules, is determined on a case-by-case basis, considering the technological feasibility and cost-effectiveness of the application of the control technology to the source category.

~~200.91~~ **200.103** **REFERENCE METHOD:** Any of the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual for Air Pollutant Emissions; 40 CFR 50, Appendices A through L; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in Appendix G of these rules.

~~200.92~~ **200.104** **REGULATED AIR POLLUTANT:** Any of the following:

a. Any conventional air pollutant. ~~as defined in ARS §49-401.01, which means any pollutant for which the Administrator has promulgated a primary or a secondary national ambient air quality standard (NAAQS) (i.e., for carbon monoxide (CO), nitrogen oxides (NO_X), lead, sulfur oxides (SO_X) measured as sulfur dioxides (SO_2), ozone, and particulates).~~

b. Nitrogen oxides (NO_X) and volatile organic compounds (VOCs).

c. Any air contaminant that is subject to a standard ~~contained in Rule 360-New Source Performance Standards of these rules or~~ promulgated under Section 111-Standards Of Performance For New Stationary Sources of the Act or under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act.

~~d. Any hazardous air pollutant (HAP) as defined in Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

~~e.~~ **(d)** Any Class I or II substance listed in Section 602-Stratospheric Ozone Protection; Listing Of Class I And Class II Substances of the Act.

200.105 **REGULATED MINOR NSR POLLUTANT:** Any pollutant for which a national ambient air quality standard has been promulgated and the following precursors for such pollutants:

a. VOC and nitrogen oxides as precursors to ozone.

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

200.106 **REGULATED NSR POLLUTANT:** A pollutant as defined in Rule 240 (Federal Major New Source Review (NSR)) of these rules.

~~200.93~~ **200.107** **REGULATORY REQUIREMENTS:** All applicable requirements, department rules, and all State requirements pertaining to the regulation of air contaminants.

~~200.94~~ **200.108** **REPLICABLE:** With respect to methods or procedures sufficiently unambiguous such that the same or equivalent results would be obtained by the application of the method or procedure by different users.

~~200.95~~ **200.109** **REPOWERING:** The Control Officer shall give expedited consideration to permit applications for any source that satisfies the following criteria and that is granted an extension under Section 409-Repowered Sources of the Act:

a. Repowering means replacing an existing coal-fired boiler with one of the following clean coal technologies:

(1) Atmospheric or pressurized fluidized bed combustion;

(2) Integrated gasification combined cycle;

(3) Magnetohydrodynamics;

(4) Direct and indirect coal-fired turbines;

(5) Integrated gasification fuel cells; or

(6) As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above listed technologies; and

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

b. Repowering also includes any oil, gas, or oil and gas-fired units which have been awarded clean coal technology demonstration funding as of January 1, 1991 by the United States Department of Energy.

~~200.96~~ ~~REPRESENTATIVE ACTUAL ANNUAL EMISSIONS: The average rate, in tons per year, at which the source is projected to emit a pollutant for the 2-year period after a physical change or change in the method of operation of a unit (or a different consecutive 2-year within 10 years after that change, if the Control Officer determines that the different period is more representative of source operations), considering the effect the change will have on increasing or decreasing the hourly emission rate and on projected capacity utilization. In projecting future emissions, the Control Officer shall:~~

~~a. Consider all relevant information, including but not limited to historical operational data, the company's representations, filings with the Maricopa County, State or Federal regulatory authorities, and compliance plans under Title IV-Acid Deposition Control of the Act; and~~

~~b. Exclude, in calculating any increase in emissions that result from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions, following the change, that could have been accommodated during the representative baseline period and that is attributable to an increase in projected capacity utilization at the unit unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.~~

~~200.97~~ **200.110** **RESPONSIBLE OFFICIAL:** One of the following:

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

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

(2) The delegation of authority to such representatives is approved in advance by the permitting authority;

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

c. For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this rule, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator); or

d. For affected sources:

(1) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV-Acid Deposition Control of the Act or the regulations promulgated thereunder are concerned; and

(2) The designated representative for any other purposes under 40 CFR, Part 70.

~~200.98~~ **200.111** **SCHEDULED MAINTENANCE:** Preventive maintenance undertaken in order to avoid a potential breakdown or upset of air pollution control equipment.

200.112 **SCREENING MODEL:** Air dispersion modeling performed with screening techniques in accordance with 40 CFR 51 Appendix W.

200.113 **SECTION 302(J) CATEGORY:**

a. Any of the classes of sources listed in the definition of "categorical sources" of this rule; or

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

~~200.99~~ **200.114** **SIGNIFICANT:**

a. In reference to a ~~net~~ significant emissions increase, a significant net emissions increase, or ~~the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any one of the following rates:~~ a stationary source's potential to emit:

(1) A rate of emissions of conventional pollutants that would equal or exceed any of the following:

~~**Pollutant**~~	~~**Emissions Rate (TPY)**~~
~~Carbon Monoxide~~	~~100~~
~~Nitrogen Oxides~~	~~40~~
~~Sulfur Dioxide~~	~~40~~
~~Particulate Matter~~	~~25~~
~~PM_{10}~~	~~15~~
~~$PM_{2.5}$~~	~~10~~
	~~10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions.~~
~~VOC Ozone~~	~~40 tpy of VOC or nitrogen oxides~~
~~Lead~~	~~0.6~~
~~Fluorides~~	~~3~~
~~Sulfuric Acid Mist~~	~~7~~
~~Hydrogen Sulfide (H_2S)~~	~~10~~
~~Total Reduced Sulfur (including hydrogen sulfide)~~	~~10~~
~~Reduced Sulfur Compounds (including hydrogen sulfide)~~	~~10~~
~~Municipal waste combustor organics (measured as total tetra-through- octa-chlorinated: dibenzo-p-dioxins and dibenzofurans)~~	~~3.5×10^{-6}~~
~~Municipal waste combustor metals (measured as particulate matter)~~	~~15~~
~~Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)~~	~~40~~
~~Municipal solid waste landfill emissions (measured as nonmethane organic compounds)~~	~~50~~

(2) For purposes of determining the applicability of Rule 220 or Rule 240, Section 305 of these rules, a rate of emisisons of non-conventional pollutants that would equal or exceed any of the following:

~~**Pollutant**~~	~~**Emissions Rate (TPY)**~~
~~Particulate Matter~~	~~25~~
~~Flourides~~	~~3~~
~~Sulfuric Acid Mist~~	~~7~~
~~Hydrogen Sulfide (H_2S)~~	~~10~~
~~Total Reduced Sulfur (including hydrogen sulfide)~~	~~10~~

~~Reduced Sulfur Compounds (including hydrogen sulfide)~~	~~10~~
~~Municipal waste combustor organics (measured as total tetra-through-octa-chlorinated: dibenzo-p-dioxins and dibenzofurans)~~	~~3.5×10^{-6}~~
~~Municipal waste combustor metals (measured as particulate matter)~~	~~15~~
~~Municipal solid waste landfill emissions (measured as nonmethane organic compounds)~~	~~50~~
~~Any pollutant subject to regulation not specifically listed in this section of this definition or in Section 200.114(a)(1) of this rule~~	~~Any emission rate~~

b. In ozone nonattainment areas classified as serious or severe, ~~significant emissions of~~ the emission rate for nitrogen oxides or VOC ~~shall be~~ determined under Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ Federal Major New Source Review (NSR) of these rules.

c. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.

d. In $PM_{2.5}$ nonattainment areas, 40 tons per year of VOC as precursor of $PM_{2.5}$.

~~c. In reference to regulated air pollutant that is not listed in Section 200.99(a) of this rule is not a Class I nor a Class II substance listed in Section 602-Listing Of Class I And Class II Substances of the Act and is not a hazardous air pollutant according to Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules, any emissions rate.~~

~~d.~~ **e.** Notwithstanding the emission ~~amount~~ rates listed in ~~Section 200.99(a)~~ Section 200.114(a)(1) or (2) of this rule, for purposes of determining the applicability of Rule 240, Section 305 of this rule, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers (6.2 miles) of a Class I area and ~~which would~~ have an impact on the ambient air quality of such area equal to or greater than 1 microgram/cubic meter ~~(mg/m³)~~ ($\mu g/m^3$) (24-hour average).

~~200.100~~ **200.115** **SOLVENT-BORNE COATING MATERIAL:** Any liquid coating-material in which the solvent is primarily or solely a VOC. For the purposes of this definition, "primarily" means that of the total solvent mass that evaporates from the coating, the VOC portion weighs more than the non-VOC portion.

~~200.101~~ **200.116** **SOURCE:** Any building, structure, facility, or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution.

~~200.102~~ **200.117** **SPECIAL INSPECTION WARRANT:** An order, in writing, issued in the name of the State of Arizona, signed by a magistrate, directed to the Control Officer or his deputies authorizing him to enter into or upon public or private property for the purpose of making an inspection authorized by law.

~~200.103~~ **200.118** **STANDARD CONDITIONS:** A temperature of 293K (68 degrees Fahrenheit or 20 degrees Celsius) and a pressure of 101.3 kilopascals (29.92 in.Hg or 1013.25 mb). When applicable, all analyses and tests shall be calculated and reported at standard gas temperatures and pressure values.

~~200.104~~ **200.119** **STATE IMPLEMENTATION PLAN (SIP):** ~~The plan adopted by the State Of Arizona which provides for implementation, maintenance, and enforcement of such primary and secondary ambient air quality standards as are adopted by the Administrator under the Act.~~ The accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.

~~200.105~~ **200.120** **STATIONARY SOURCE:** ~~Any source that operates at a fixed location and that emits or generates regulated air pollutants.~~ Any building, structure, facility or installation which emits or may emit any regulated pollutant. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant emitting activities shall be considered as part of the same

industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987.

200.121 **SUBCONTRACTOR:** Any person, firm, partnership, corporation, association, or other organization that conducts work at a site under contract with or under the control or supervision of the owner and/or operator or another subcontractor.

~~200.106~~ **200.122** **SYNTHETIC MINOR:** Any source whose maximum capacity to emit a pollutant under its physical and operational design would exceed the major source threshold levels but is restricted by an enforceable emissions limitation that prevents such source from exceeding major source threshold levels.

~~200.107~~ **200.123** **TEMPORARY CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT:** A clean coal technology demonstration project operated for five years or less and that complies with the ~~SIP~~ applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

~~200.108~~ **200.124** **TITLE V:** Title V of the Federal Clean Air Act as amended in 1990 and the 40 CFR Part 70 EPA regulations adopted to implement the Act.

~~200.109~~ **200.125** **TOTAL REDUCED SULFUR (TRS):** The sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.

~~200.110~~ **200.126** **TRADE SECRETS:** Information to which all of the following apply:

a. A person has taken reasonable measures to protect from disclosure and the person intends to continue to take such measures.

b. The information is not, and has not been, reasonably obtainable without the person's consent by other persons, other than governmental bodies, by use of legitimate means, other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding.

c. No statute, including ARS §49-487, specifically requires disclosure of the information to the public.

d. The person has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business's competitive position.

~~200.111~~ **200.127** **TRIVIAL ACTIVITY:** For the purpose of this rule, a trivial activity shall be any activity, process, or emissions unit that, in addition to meeting the criteria for insignificant activity, has extremely low emissions. No activity, process, or emissions unit that is conducted as part of a manufacturing process or is related to the source's primary business activity shall be considered trivial. Trivial activities are listed ~~in Appendix E of these rules~~ below and may be omitted from Title V permit applications and from Non-Title V permit applications.

a. **General Combustion Activities:** Combustion emissions from propulsion of mobile sources, except for vessel emissions from outer continental shelf sources.

b. **Surface Coating And Printing Equipment:** Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compounds (VOC) or hazardous air pollutants (HAPs).

c. **Cleaning Equipment:** Laundry activities, except for dry-cleaning and steam boilers.

d. **Internal Combustion Equipment:**

(1) Internal combustion (IC) engines used for landscaping purposes.

(2) Emergency (backup) electrical generators at residential locations.

e. **Testing And Monitoring Equipment:**

(1) Routine calibration and maintenance of laboratory equipment or other analytical instruments.

(2) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.

(3) Hydraulic and hydrostatic testing equipment.

(4) Environmental chambers not using HAP gases.

(5) Shock chambers.

(6) Humidity chambers.

(7) Solar simulators.

(8) Vents from continuous emissions monitors and other analyzers.

f. Office Equipment:

(1) Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act.

(2) Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.

(3) Consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproduction.

(4) Bathroom/toilet vent emissions.

(5) Tobacco smoking rooms and areas.

(6) Consumer use of paper trimmers/binders.

g. Repair And Maintenance:

(1) Janitorial services and consumer use of janitorial products.

(2) Plant maintenance and upkeep activities (e.g., groundskeeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. Cleaning and painting activities qualify, if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners or operators must still get a permit, if otherwise required.

(3) Repair or maintenance shop activities not related to the source's primary business activity (excluding emissions from surface coating or degreasing (solvent metal cleaning) activities) and not otherwise triggering a permit modification.

h. Storage And Distribution:

(1) Storage tanks, vessels, containers holding or storing liquid substances that will not emit any VOC or HAPs. Exemptions for storage tanks containing petroleum liquids or other VOCs should be based on size limits and vapor pressure of liquids stored and are not appropriate for this list.

(2) Demineralized water tanks and demineralizer vents.

(3) Boiler water treatment operations, not including cooling towers.

i. Hand Operated Equipment:

(1) Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic.

(2) Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation.

(3) Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device.

(4) Air compressors and pneumatically operated equipment, including hand tools.

j. **Food Equipment:** Non-commercial food preparation.

k. **Water And Waste Water Treatment:**

(1) Process water filtration systems and demineralizers.

(2) Oxygen scavenging (de-aeration) of water.

l. **Emergency Equipment:**

(1) Fire suppression systems.

(2) Emergency road flares.

~~200.112~~ **200.129** **UNCLASSIFIED AREA:** An area which the Administrator, because of lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant. For purposes of these rules, unclassified areas are to be treated as attainment areas.

~~200.113~~ **200.129** **VOLATILE ORGANIC COMPOUND (VOC):** Any organic compound which participates in atmospheric photochemical reactions, except the non-precursor organic compounds.

SECTION 300 - STANDARDS

301 **AIR POLLUTION PROHIBITED:** No person shall discharge from any source whatever into the atmosphere regulated air pollutants which exceed in quantity or concentration that specified and allowed in these rules, the ~~Arizona Administrative Code~~ AAC or ARS, or which cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the Board Of Supervisors or the Director.

302 **APPLICABILITY OF MULTIPLE RULES:** Whenever more than one standard in this rule applies to any source or whenever a standard in this rule and a standard in the Maricopa County Air Pollution Control Regulations Regulation III-Control Of Air Contaminants applies to any source, the rule or combination of rules resulting in the lowest rate or lowest concentration of regulated air pollutants released to the atmosphere shall apply, unless otherwise specifically exempted or designated.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 **CERTIFICATION OF TRUTH, ACCURACY, AND COMPLETENESS:** Any application form or report submitted under these rules shall contain certification by a responsible official of truth, accuracy, and completeness of the application form or report as of the time of submittal. This certification and any other certification required under these rules shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

402 **CONFIDENTIALITY OF INFORMATION:**

402.1 The Control Officer shall make all permits, including all elements required to be in the permit under Rule 210-Title V Permit Provisions of these rules and Rule 220-Non-Title V Permit Provisions of these rules, available to the public.

402.2 Any records, reports, or information obtained from any person under these rules shall be available to the public, unless the Control Officer has notified the person in writing as specified in Section 402.3 of this rule and unless a person:

a. Precisely identifies the information in the permit(s), records, or reports, which is considered confidential.

b. Provides sufficient supporting information to allow the Control Officer to evaluate whether such information satisfies the requirements related to trade secrets as defined in Section 200.110 of this rule.

402.3 Within 30 days of receipt of a notice of confidentiality that complies with Section 402.2 of this rule, the Control Officer shall make a determination as to whether the information satisfies the requirements for trade secrets as described in Section 200.110 of this rule and so notify the applicant in writing. If the Control Officer agrees with the applicant that the information covered by the notice of confidentiality satisfies the statutory requirements, the Control Officer shall include a notice in the administrative record of the permit application that certain information has been considered confidential.

402.4 A claim of confidentiality shall not excuse a person from providing any and all information required or requested by the Control Officer.

402.5 A claim of confidentiality shall not be a defense for failure to provide such information.

SECTION 500 - MONITORING AND RECORDS

501 REPORTING REQUIREMENTS: The ~~owner and/or operator~~ owner or operator of any air pollution source shall maintain records of all emissions testing and monitoring, records detailing all malfunctions which may cause any applicable emission limitation to be exceeded, records detailing the implementation of approved control plans and compliance schedules, records required as a condition of any permit, records of materials used or produced, and any other records relating to the emission of air contaminants which may be requested by the Control Officer.

502 DATA REPORTING: When requested by the Control Officer, a person shall furnish to the Department information to locate and classify air contaminant sources according to type, level, duration, frequency, and other characteristics of emissions and such other information as may be necessary. This information shall be sufficient to evaluate the effect on air quality and compliance with these rules. The ~~owner and/or operator~~ owner or operator of a source requested to submit information under Section 501 of this rule may subsequently be required to submit annually, or at such intervals specified by the Control Officer, reports detailing any changes in the nature of the source since the previous report and the total annual quantities of materials used or air contaminants emitted.

503 EMISSION STATEMENTS REQUIRED AS STATED IN THE ACT: Upon request of the Control Officer and as directed by the Control Officer, the ~~owner and/or operator~~ owner or operator of any source which emits or may emit oxides of nitrogen (NO_x) or volatile organic compounds (VOC) shall provide the Control Officer with an emission statement, in such form as the Control Officer prescribes, showing measured actual emissions or estimated actual emissions of NO_x and VOC from that source. At a minimum, the emission statement shall contain all information required by the ~~Consolidated Emissions Reporting Rule~~ Air Emissions Reporting Requirements in 40 CFR 51, Subpart A, Appendix A, Table 2A, which is incorporated by reference in Appendix G of these rules. The statement shall contain emissions for the time period specified by the Control Officer. The statement shall also contain a certification by a responsible official of the company that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. Statements shall be submitted annually to the Department. The Control Officer may waive this requirement for the ~~owner and/or operator~~ owner or operator of any source which emits less than 25 tons per year of oxides of nitrogen or volatile organic compounds with an approved emission inventory for sources based on AP-42 or other methodologies approved by the Administrator.

504 RETENTION OF RECORDS: Information and records required by applicable requirements and copies of summarizing reports recorded by the ~~owner and/or operator~~ owner or operator and submitted to the Control Officer shall be retained by the ~~owner and/or operator~~ owner or operator for five years after the date on which the information is recorded or the report is submitted. Non-Title V sources may retain such information, records, and reports for less than five years, if otherwise allowed by these rules.

505 ANNUAL EMISSIONS INVENTORY REPORT:

505.1 Upon request of the Control Officer and as directed by the Control Officer, the ~~owner and/or operator~~ owner or operator of a business shall complete and shall submit to the Control Officer an annual emissions inventory report. The report is due by April 30, or 90 days after the Control Officer makes the inventory form(s) available, whichever occurs later. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.

505.2 The annual emissions inventory report shall be in the format provided by the Control Officer.

505.3 The Control Officer may require submittal of supplemental emissions inventory information forms for air contaminants under ARS §49-476.01~~,~~ and ARS §49-480.03. ~~, and Rule 372 Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

REGULATION II – PERMITS AND FEES

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PERMIT REQUIREMENTS

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MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES

RULE 200
PERMIT REQUIREMENTS

SECTION 100 – GENERAL

101 **PURPOSE:** To provide an orderly procedure for the review of new sources of air pollution and for the modification and operation of existing sources through the issuance of permits.

102 **APPLICABILITY:** Unless otherwise noted**,** this rule applies to each source requiring a permit or permit revision.

SECTION 200 – DEFINITIONS: ~~(NOT APPLICABLE) 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 definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definition in this rule takes precedence.

201 **GOOD ENGINEERING PRACTICE (GEP) STACK HEIGHT:** A stack height meeting the requirements described in Rule 240 (Federal Major New Source Review (NSR)) of these rules.

SECTION 300 – STANDARDS

301 **PERMITS REQUIRED:** Except as otherwise provided in these rules, ~~no person shall commence~~ an owner or operator shall not begin actual construction of, operate, or make a modification to any stationary source subject to regulation under these rules, without first obtaining a permit or permit revision from the Control Officer. The Maricopa County Air Quality Department issues the following permits: Title V permits, Non-Title V permits, General permits, Dust Control permits, and Permits to Burn. The standards and/or requirements for these permits are described in ~~Section 302 through Section 305 and Section 307 of this rule~~ Sections 302 through 305, 306, and 308 of this rule. Additional standards, administrative requirements, and monitoring and records requirements for some of these permits are described in individual rules of

these rules, ~~as applicable~~/as specified in ~~Section 302 through Section 305 and Section 307 of this rule~~ Sections 302 through 305, 306, and 308 of this rule.

302 TITLE V PERMIT:

302.1 A Title V permit or, in the case of an existing permitted source, a permit revision shall be required for ~~a person~~ an owner or operator to ~~commence~~ begin actual construction of, to operate, or to modify any of the following:

~~302.1~~ **a.** Any major source as defined in Rule 100 of these rules.

~~302.2~~ **b.** Any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act.

~~302.3~~ **c.** Any affected source as defined in Rule 100 of these rules.

~~302.4~~ **d.** Any stationary source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the Board of Supervisors by rule.

302.2 Notwithstanding Sections 301 and 302 of this rule, an owner or operator may begin actual construction, but not operation, of a source requiring a Title V permit or Title V permit revision upon the Control Officer's issuance of the proposed final permit or proposed final permit revision.

303 NON-TITLE V PERMIT: Unless a Title V permit or Title V permit revision is required, a Non-Title V permit or permit revision shall be required for:

303.1 ~~A person to make a modification to a source which would cause it to emit or to have the potential to emit quantities of regulated air pollutants greater than those specified in subsections 303.2 and 303.3(c) of this rule~~. An owner or operator to begin actual construction of , modify, or operate any stationary source that emits, or has the maximum capacity to emit, or cause the source to emit regulated air pollutants in an amount greater than or equal to the following permitting thresholds:

Pollutant	Maximum Capacity To Emit Emission Rate In Tons Per Year (TPY)
$PM_{2.5}$ (primary emissions only; levels for precursors are set below)	0.5
PM_{10}	0.5
SO_2	1.0
NO_x	1.0
VOC	0.5
CO	1.0
Pb	0.3
Single HAP (other than Pb)	0.5
Total HAPs	1.0
Any other regulated air pollutant	1.0

~~303.2 A person to commence construction of or to modify either of the following after rules adopted pursuant to A.R.S. § 49-480.04 are effective:~~

~~a. A source that emits or has the potential to emit with controls ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants designated by the Director pursuant to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules and not listed in Section 112(b) of the Act.~~

~~b. A source that is within a category designated by the Director pursuant to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules and that emits or has the potential to emit with controls at least one ton, but less than ten tons per year of a hazardous air pollutant or at least 2.5 tons, but less than 25 tons per year of any combination of hazardous air pollutants.~~

~~303.3~~ **303.2** ~~A person to commence construction of, to operate, or to modify any of the following:~~ An owner or operator to begin actual construction of, operate, or modify any of the following:

a. Any source other than a major source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act. However, a source is not required to obtain a permit solely because it is subject to one of the standards under Section 111 of the Act listed in Sections 303.2(a)(1) and (2) of this rule and meets the criteria under Section 305.7 of this rule.

(1) 40 CFR 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines).

(2) 40 CFR 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines).

b. Any source other than a major source, including an area source, subject to a standard or other requirement pursuant to Section 112 of the Act. However, a source is not required to obtain a permit solely because it is subject to ~~regulation or requirements pursuant to~~ Section 112(r) of the Act or as specified below:

(1) If a source is subject to one of the standards under Section 112 of the Act listed in Sections 303.2(b)(1)(a) through (d) of this rule and has a maximum capacity to emit less than the permitting thresholds in Section 303.1 of this rule.

(a) 40 CFR 61.145.

(b) 40 CFR 63, Subpart WWWWW (Ethylene Oxide Sterilizers).

(c) 40 CFR 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations).

(d) A regulation or requirement under Section 112(r) of the Act.

(2) If a source is subject to one of the standards under Section 112 of the Act listed in Sections 303.2(b)(2)(a) through (c) of this rule and meets the criteria under Sections 305.4, 305.7, or 305.9 of this rule as applicable.

(a) 40 CFR 63, Subpart ZZZZ (Reciprocating Internal Combustion Engines).

(b) 40 CFR 63, Subpart CCCCCC (Gasoline Distribution).

(c) 40 CFR 63, Subpart JJJJJJ (Industrial, Commercial, and Institutional Boilers Area Sources), published at 76 FR 15554 (March 21, 2011).

~~c. Any source that emits or has the potential to emit, without control, regulated air pollutants, except the following sources to the extent which the described limits are not exceeded. However, any source that is exempt from obtaining a Non-Title V permit according to this section shall still comply with all other applicable requirements of these rules.~~

~~(1) General Combustion Equipment:~~

~~(a) Any source with an aggregated input capacity of less than 2,000,000 BTU per hour calculated by adding only those pieces of equipment over 300,000 BTU per hour with respect to fuel burning equipment fired with natural gas or liquefied petroleum gas.~~

~~(b) Any oil fueled heating equipment with a maximum rated input capacity or an aggregated input capacity of less than 500,000 BTU (527,200 kilojoules) per hour.~~

~~(2) Liquid Storage Tanks:~~

(a) ~~Stationary storage tanks with a capacity of 250 gallons (946 liters) or less used for storing organic liquids.~~

(b) ~~Stationary storage tanks used for storing organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or less.~~

(c) ~~Pressure tanks and pressurized vessels used exclusively for the storage of liquefied gases.~~

(3) ~~Surface Coating and Printing Equipment:~~

(a) ~~The aggregate of all surface coating operations of a source in which no coated product is heat cured and a combined total of one gallon per day or less of all coating materials and solvents are used.~~

(b) ~~Application equipment for architectural surface coatings is used for commercial and residential applications.~~

(c) ~~Any coating operation, which employs only hand-held aerosol cans, where VOC emissions do not exceed three pounds on any single day.~~

(d) ~~Any printing operation which employs a combination of printing presses with a maximum of 500 square inches (3226 cm^2) of impression area and a maximum of two units per printing press. For the purposes of this rule, "units" means the number of printing surfaces.~~

(4) ~~Solvent Cleaning Equipment: Unheated, non-conveyorized, cleaning or coating equipment that does not include control enclosures:~~

(a) ~~With an open surface area of one square meter (10.8 square feet) or less and an internal volume of 350 liters (92.5 gallons) or less, having an organic solvent loss of three gallons per day or less, or~~

(b) ~~Using only organic solvents with an initial boiling point of 302°F (150°C) or greater and having an organic solvent loss of three gallons per day or less, or~~

(c) ~~Using materials with a VOC content of two percent or less by volume (20 cubic centimeters per liter).~~

(5) ~~Internal Combustion Equipment:~~

(a) ~~Internal combustion engines with a manufacturer's maximum continuous rating of 50 horsepower or less or a maximum accumulative rating of 250 horsepower or less for engines used in the same process at one source.~~

(b) ~~Internal combustion engines used solely as a source of unlimited standby power or emergency purposes and operated at or below 500 hours per year for routine testing and emergency standby operation for each internal combustion engine and provided such source demonstrates that the potential emissions at 500 hours of operation each of all internal combustion engines do not exceed 4,000 pounds of nitrogen oxides or carbon monoxide per year as evidenced by an installed hour meter or written usage records maintained by the operator; and~~

(i) ~~Are only used for power when normal power line service fails; or~~

(ii) ~~Are only used for the emergency pumping of water.~~

(iii) ~~This exemption does not apply to internal combustion engines used as standby power due to a voluntary reduction in power by the power company.~~

(c) ~~Engines used to propel motorized vehicles.~~

(d) ~~Gas turbines with a maximum heat input at ISO Standard Day Conditions of less than 3,000,000 BTU (3,162,000 kilojoules) per hour fired exclusively with natural gas and/or liquefied petroleum gas.~~

~~(e) Portable internal combustion engines used on a temporary basis of no more than 30 days per calendar year at any one facility.~~

~~(6) Food Equipment:~~

~~(a) Equipment, excluding boilers, used in eating establishments or other retail establishments for the purpose of preparing food for human consumption.~~

~~(b) Bakeries:~~

~~(i) Mixers and blenders used in bakeries where the products are edible and intended for human consumption.~~

~~(ii) Ovens at bakeries whose total production is less than 10,000 pounds (4,535 kg) per operating day.~~

~~(7) Miscellaneous:~~

~~(a) Diesel contaminated soil remediation projects, where no heat is applied.~~

~~(b) Self contained, enclosed blast and shot peen equipment where the total internal volume of the blast section is 50 cubic feet or less and where any venting is done via pollution control equipment.~~

~~(c) Those laboratory acids which have both a pH above 1.5 and an aggregate daily emission to ambient air of vapor/mists from all such acids not exceeding three pounds on any single day.~~

~~(d) Brazing or welding equipment.~~

~~(e) Hand soldering equipment.~~

~~(f) A source whose aggregate of all wood working equipment totals 50 horsepower or less.~~

~~(g) Equipment used for buffing, carving, cutting, drilling, surface grinding, machining, planing, routing, sanding, sawing, shredding, or turning of ceramic artwork, precision parts, leather, metals, plastics, rubber, fiberboard, masonry, carbon, graphite or glass.~~

~~(h) Refrigerant recovery equipment.~~

~~(i) Building maintenance or janitorial activities.~~

~~(j) A source whose aggregate of all miscellaneous equipment, processes or production lines not otherwise identified in this section has total uncontrolled emissions of less than three pounds (1.4 kg) VOC or PM_{10} during any day and less than 5.5 pounds (2.5 kg) of any other regulated air pollutant during any day.~~

~~(k) A person to begin actual construction of a source subject to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules.~~

~~(l) A person to make a modification to a source subject to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules.~~

304 GENERAL PERMIT: ~~A General permit shall be required for a person to commence construction of, to operate, or to modify a source that is a member of a facility class for which a General permit has been developed pursuant to Rule 230 of these rules. The provisions of Rule 230 of these rules shall apply to General permits, except as otherwise provided in Rule 230 of these rules.~~

304.1 An owner or operator of a source may apply for a General permit to commence construction of, to operate, or to modify a source that is a member of a facility class for which a General permit has been developed pursuant to Rule 230 of these rules. The provisions of Rule 230 of these rules shall apply to General permits, except as otherwise provided in Rule 230 of these rules.

304.2 An owner or operator of a source, which is a member of the class of facilities covered by a General permit, may apply for an authority to operate under the General permit in lieu of applying for a Non-Title V permit or a Title V permit.

305 **EXEMPTIONS:** The activities listed in Sections 305.1 through 305.10 of this rule shall be exempt from obtaining a permit. However, any single or combination of the following activities, except those activities listed in Sections 305.1 and 305.2 of this rule, that emit more than 0.5 ton per year of hazardous air pollutants (HAPs) or more than two tons per year of a regulated air pollutant shall require a permit. Any activity that is exempt from obtaining a permit according to this rule shall still comply with all other applicable requirements of these rules.

305.1 The following sources shall not require a permit, unless the source is a major source or unless operation without a permit would result in a violation of the Act:

a. Sources subject to 40 CFR 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, for the purposes of this rule, does not include equipment that would be classified as a source that would require a permit under Title V of the Act, or would be subject to a standard under 40 CFR parts 60 or 61.

305.2 **Trivial activities.**

305.3 **Food Processing Equipment:**

a. Any confection cooker and associated venting or control equipment cooking edible products intended for human consumption.

b. Any oven in a food processing operation where less than 1,000 pounds of product are produced per day of operation.

305.4 **General Combustion Activities:**

a. All natural gas and/or liquefied petroleum gas-fired pieces of equipment over 300,000 BTU per hour, only if the input capacities added together are less than 2,000,000 BTU per hour, the emissions come from fuel burning, and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.

b. Any oil-fueled heating piece of equipment (except off-spec. oil) with a maximum rate input capacity or an aggregate input capacity of less than:

(1) 500,000 BTU/hour if only emissions came from fuel burning, or

(2) 1,000,000 BTU/hour if only emissions came from fuel burning and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.

305.5 **Surface Coating And Printing Equipment:** Any equipment or activity using no more than 300 gallons per year of surface coating or any combination of surface coating and solvent, which contains either VOC or hazardous air pollutants (HAPs) or both.

305.6 **Solvent Cleaning Equipment:** Any non-vapor cleaning machine (degreaser) or dip-tank having a liquid surface area of 1 square foot (0.09 square meters) or less, or having a maximum capacity of 1 gallon (3.79 liters) or less.

305.7 **Internal Combustion (IC) Equipment:**

a. IC engine-driven compressors, IC engine-driven electrical generator sets, and IC engine-driven water pumps used only for emergency replacement or standby service (including testing of same), not to exceed 4,000 pounds of NO_x or CO at 500 hours of operation per year.

b. Any piston-type IC engine with a manufacturer's maximum continuous rating of no more than 50 brake horsepower (bhp).

305.8 **Laboratories And Pilot Plants:** Lab equipment used exclusively for chemical and physical analyses.

305.9 **Storage And Distribution:**

a. Chemical or petroleum storage tanks or containers that hold 250 gallons or less and would have emissions of a regulated air pollutant.

b. Any emissions unit, operation, or activity that handles or stores no more than 12,000 gallons of a liquid with a vapor pressure less than 1.5 psia.

c. Any equipment used exclusively for the storage of unheated organic material with: (1) an initial boiling point of 150° Centigrade (C) (302° Fahrenheit (F)) or greater, as determined by ASTM D1078-11; or (2) a vapor pressure of no more than 5 millimeters mercury (mmHg) (0.1 pound per square inch (psi) absolute), as determined by ASTM D2879-11.

d. Any equipment with a capacity of no more than 4,200 gallons (100 barrels) used exclusively to store oil with specific gravity 0.8762 or higher (30° API or lower), as measured by API test method 2547 or ASTM D1298-12b.

e. Any equipment used exclusively for the storage of liquefied gases in unvented pressure vessels, except for emergency pressure-relief valves.

f. Any equipment used exclusively to compress or hold dry natural gas. Any ICE or other equipment associated with the dry natural gas should not be considered an insignificant activity, unless such ICE or other equipment independently qualifies as an insignificant activity.

g. Any equipment used exclusively for the storage of fresh, commercial, or purer grade of: (1) sulfuric or phosphoric acid with acid content of no more than 99% by weight; or (2) nitric acid with acid content of no more than 70% by weight.

305.10 **Miscellaneous Activities:**

a. Any blast cleaning equipment using a suspension of abrasive material in water and the control equipment venting such blast cleaning equipment.

b. Cooling towers: Any water cooling tower which: (1) has a circulation rate of less than 10,000 gallons per minute; and (2) is not used to cool process water, water from barometric jets, or water from barometric condensers.

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

d. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons per hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units, which are used to crush or grind any non-metallic minerals.

e. Any brazing, soldering, welding, or cutting torch equipment used in manufacturing and construction activities and with the potential to emit hazardous air pollutant (HAP) metals, provided the total emissions of HAPs do not exceed 0.5 ton per year.

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

g. Any aerosol can puncturing or crushing operation that processes less than 500 cans per day provided such operation uses a closed loop recovery system.

h. Any laboratory fume hood or vent provided such equipment is used exclusively for the purpose of teaching, research, or quality control.

~~305~~ **306** **DUST CONTROL PERMIT**: A Dust Control permit shall be required before a person, including but not limited to, the property owner, lessee, developer, responsible official, Dust Control permit applicant (who may also be the responsible party contracting to do the work), general contractor, prime contractor, supervisor, management company, or any person who owns, leases, operates, controls, or supervises a dust-generating operation subject to the requirements of Rule 310 of these rules, causes, commences, suffers, allows, or engages in any dust-generating operation that disturbs a total surface area of 0.10 acre (4,356 square feet) or more. The provisions of Rule 310 of these rules shall apply to Dust Control permits, except as otherwise provided in Rule 310 of these rules.

~~306~~ **307** **SUBCONTRACTOR REGISTRATION:**

~~306.1~~ **307.1** A subcontractor who is engaged in dust-generating operations at a site that is subject to a Dust Control permit ~~that is~~ issued by a Control Officer and that requires control of PM_{10} emissions from dust-generating operations shall register with the Control Officer by submitting information in the manner prescribed by the Control Officer. The Control Officer shall issue a registration number after payment of the fee. The Control Officer may establish and assess a fee for the registration based on the total cost of processing the registration and issuance of a registration number.

~~306.2~~ **307.2** The subcontractor shall have its registration number readily accessible on-site while conducting any dust-generating operations. The subcontractor's registration number must be visible and readable by the public without having to be asked by the public (e.g., included/posted in a sign that is visible on the subcontractor's vehicle or equipment, included/posted on a sign that is visible in the window of the subcontractor's vehicle or equipment, or included/posted on a sign where the subcontractor is working on the site).

~~307~~ **308** **PERMIT TO BURN:** A permit is required for any open outdoor fire authorized under the exceptions in A.R.S. 49-501 or Rule 314 of these rules.

~~308~~ ~~EXEMPTIONS: Notwithstanding Sections 301, 302, and 303 of this rule, the following sources shall not require a permit, unless the source is a major source, or unless operation without a permit would result in a violation of the Act:~~

~~308.1~~ ~~Sources subject to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.~~

~~308.2~~ ~~Sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR 61.145.~~

~~308.3~~ ~~Agricultural equipment used in normal farm operations. Agricultural equipment used in normal farm operations, for the purposes of this rule, does not include equipment that would be classified as a source that would require a permit under Title V of the Act, or would be subject to a standard under 40 CFR parts 60 or 61.~~

309 **STANDARDS FOR APPLICATIONS:** All permit applications shall be filed in the manner and form prescribed by the Control Officer. The application shall contain all the information necessary to enable the Control Officer to make the determination to grant or to deny a permit or permit revision, which shall contain such terms and conditions as the Control Officer deems necessary to assure a source's compliance with the requirements of these rules. The issuance of any permit or permit revision shall not relieve the owner or operator from compliance with any federal laws, Arizona laws, or these rules, nor does any other law, regulation or permit relieve the owner or operator from obtaining a permit or permit revision required under these rules.

309.1 Insignificant Activities:

a. ~~Rather than supplying detailed information, a Title V source may, in its permit application, list and generally group insignificant activities, which are defined in Rule 100 – General~~

~~Provisions and Definitions of these rules and which are listed in Appendix D-List of Insignificant Activities of these rules.~~ An insignificant activity shall be any activity, process, or emissions unit that meets all of the following:

(1) Is not subject to a source-specific applicable requirement. Source-specific applicable requirements include requirements for which emissions unit-specific information is needed to determine applicability.

(2) Is either included in the definition of "insignificant activity" in Rule 100 of these rules or is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA) as an insignificant activity under this rule.

b. ~~A Non-Title V source is not required to list nor to describe, in a permit application, insignificant activities, which are defined in Rule 100 – General Provisions and Definitions of these rules and which are listed in Appendix D-List of Insignificant Activities of these rules. If a Non-Title V source's emissions are approaching an applicable requirement, including but not limited to best available control technology (BACT) requirements or major source status, then such Non-Title V source may be required by Maricopa County to include, in a permit application, a description of its insignificant activities and emissions calculations for such insignificant activities.~~ **For Title V Permit Applications:**

(1) An owner or operator of a Title V source may, in its permit application, list and generally group insignificant activities. The permit application need not provide emissions data regarding insignificant activities, except as necessary to complete the assessment required by Rule 210, Section 301.4 of these rules.

(2) An owner or operator of a Title V source may request approval for the classification of an activity as insignificant by including such request in its permit application, along with justification that such activity meets the definition of insignificant activity in Rule 100 of these rules.

(3) An owner or operator of a Title V source shall include information in its permit application regarding insignificant activities, if such information is needed to determine: (1) the applicability of or to impose any applicable requirement; (2) whether the source is in compliance with applicable requirements; or (3) the fee amount required under these rules. In such cases, emissions calculations or other necessary information shall be included in the application.

c. ~~An activity, process, or emissions unit that is not included in Appendix D-List of Insignificant Activities of these rules may be considered an insignificant activity if it meets the definition of insignificant activity in Rule 100 – General Provisions and Definitions of these rules and is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA). A source may request approval for the classification of an activity as insignificant by including such a request in its permit application, along with justification that such activity meets the definition of insignificant activity in Rule 100 – General Provisions and Definitions of these rules~~. **For Non-Title V Permit Applications:**

(1) An owner or operator of a Non-Title V source is not required to list or describe, in its permit application, insignificant activities, which are defined in Rule 100 of these rules, except as necessary to complete the assessment required by Rule 210, Sections 301.4 of these rules.

(2) If a Non-Title V source's emissions are approaching an applicable requirement, including but not limited to best available control technology (BACT) requirements or major source status, then the owner or operator of such Non-Title V source may be required to include, in its permit application, a description of its insignificant activities and emissions calculations for such insignificant activities.

(3) An owner or operator of a Non-Title V source shall include information in its permit application regarding insignificant activities, if such information is needed to determine: (1) the applicability of or to impose any applicable requirement; (2) whether the source is

in compliance with applicable requirements; or (3) the fee amount required under these rules. In such cases, emissions calculations or other necessary information shall be included in the application.

~~d. An application may not omit information regarding insignificant activities that is needed to determine: (1) the applicability of or to impose any applicable requirement; (2) whether the source is in compliance with applicable requirements; or (3) the fee amount required under these rules. In such cases, emissions calculations or other necessary information shall be included in the application.~~

309.2 Trivial Activities:

a. ~~A Title V source is not required, in a permit application, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities, which are defined in Rule 100 – General Provisions and Definitions of these rules and which are listed in Appendix E-List of Trivial Activities of these rules~~. A trivial activity shall be any activity, process, or emissions unit that, in addition to meeting the criteria for insignificant activity, has extremely low emissions.

b. ~~A Non-Title V source is not required, in a permit application, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities, which are defined in Rule 100 – General Provisions and Definitions of these rules and which are listed in Appendix E-List of Trivial Activities of these rules.~~ No activity, process, or emissions unit that is conducted as part of a manufacturing process or is related to the source's primary business activity shall be considered trivial.

c. ~~An activity that is not included in Appendix E-List of Trivial Activities of these rules may be considered a trivial activity, if such activity meets the definition of trivial activity in Rule 100 – General Provisions and Definitions of these rules~~. Trivial activities as defined in Rule 100 of these rules may be omitted from Title V permit applications and from Non-Title V permit applications.

310 PERMIT CONDITIONS: The Control Officer may impose any permit conditions that are necessary to ensure compliance with federal laws, Arizona laws, or these rules.

310.1 The Control Officer may require, as specified in Section 310.2 and ~~Section 310.3~~ Section 310.5 of this rule, any source of regulated air pollutants to monitor, sample, or perform other studies to quantify emissions of regulated air pollutants or levels of air pollution that may reasonably be attributable to that source, if the Control Officer:

a. Determines that monitoring, sampling, or other studies are necessary to determine the effects of the source on levels of air pollution; or

b. Has reasonable cause to believe a violation of this rule, rules adopted pursuant to this rule, or a permit issued pursuant to this rule has been committed; or

c. Determines that those studies or data are necessary to accomplish the purposes of this rule 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 regulated air contaminants.

310.2 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:

a. The actual or potential emissions of air pollution may adversely affect public health or the environment.

b. An adequate scientific basis for the monitoring, sampling, or quantification method exists.

c. The monitoring, sampling, or quantification method is technically feasible for the subject contaminant and the source.

d. The monitoring, sampling, or quantification method is reasonably accurate.

e. The cost of the method is reasonable in light of the use to be made of the data.

310.3 The issuance of a permit or permit revision under this rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.

310.4 The permittee shall comply with all conditions of the permit, including all applicable requirements of Arizona air quality statutes and the air quality rules. Compliance with permit terms and conditions does not relieve, modify, or otherwise affect the permittee's duty to comply with all applicable requirements of Arizona air quality statutes and the Maricopa County Air Pollution Control Regulations. Any permit non-compliance is grounds for enforcement action; for a permit termination, revocation, and reissuance or revision; or for permit denial. Non-compliance with any federally enforceable requirement in a permit constitutes a violation of the Act.

~~310.3~~ **310.5** Orders issued or permit conditions imposed pursuant to this rule shall be appealable to the hearing board in the same manner as that prescribed for orders of abatement in A.R.S. § 49-489 and A.R.S. § 49-490 and for permit conditions in A.R.S. § 49-482.

311 **PROHIBITION – PERMIT MODIFICATION:** A person shall not willfully deface, alter, forge, counterfeit, or falsify any permit issued under the provisions of these rules.

312 **PERMIT POSTING REQUIRED:** Any person who has been granted a permit shall keep a complete permit clearly visible and accessible on the site where the equipment is installed. All equipment covered by the permit shall be listed in the permit by a serial number or other equipment identification symbol and shall be identified on a plant diagram.

313 ~~TRANSITION FROM INSTALLATION AND OPERATING PERMIT PROGRAM TO UNITARY PERMIT PROGRAM;~~ **MINOR NSR TRANSITION:** Existing sources are not subject to the minor NSR provisions of Rule 241 of these rules, unless the source undertakes a minor NSR modification.

~~313.1 Sources With a Valid Installation, Operating, or Conditional Permit: A valid installation permit or operating permit issued by the Control Officer or a valid conditional permit issued by the hearing board before September 1, 1993, and the authority to operate as provided in Laws 1992, Chapter 299, Section 65, continue in effect until:~~

~~a. The Control Officer revokes an installation permit.~~

~~b. The Control Officer issues or denies a Title V permit or a Non-Title V permit to the source.~~

~~c. The hearing board revokes or modifies a conditional permit or the conditional permit expires. A source operating under a valid conditional permit may continue to operate in accordance with the terms and conditions of such permit after the expiration of the conditional permit if, at least 30 days prior to the expiration of the conditional permit, the source submits an application to the Control Officer for a Title V permit as described in Section 313.2 of this rule or for a Non-Title V permit as described in Section 313.3 of this rule.~~

~~313.2 Title V Sources With an Installation, Operating, or Conditional Permit: Following November 29, 1996, the effective date of the Environmental Protection Agency's (EPA's) final interim approval of Maricopa County's Title V permit program, a source becomes subject to the requirements of the Title V permit program, when the source meets the applicability requirements as provided in this rule. Sources which hold a valid installation, operating, or conditional permit and require a Title V permit shall comply with the following provisions:~~

a. ~~The owner or operator of the source shall submit a permit application within 180 days of receipt of written notice from the Control Officer that an application is required or 12 months after the source becomes subject to the requirements of Title V of the Act and the permit requirements of these rules, whichever is earlier.~~

b. ~~Any source, which has not yet submitted a Title V permit application, that wishes to make any source change not requiring a permit, an administrative permit revision, a minor permit revision, or a significant permit revision shall comply with the applicable provisions of Rule 210 of these rules.~~

~~313.3~~ ~~Non-Title V Sources With an Installation, Operating, or Conditional Permit: Sources requiring a Non-Title V permit in existence on the date these rules become effective which hold a valid installation, operating, or conditional permit shall comply with the following provisions:~~

a. ~~All sources shall submit a permit application to the Control Officer within 90 days of receipt of written notice from the Control Officer that an application is required.~~

b. ~~Any source that wishes to make any source change not requiring a permit, an administrative permit revision, a minor permit revision, or a non-minor permit revision shall comply with the applicable provisions of Rule 220 of these rules.~~

~~313.4~~ ~~Written Notice: For purposes of this subsection, written notice shall include, but not be limited to, a written warning, Notice of Violation, or order issued by the Control Officer for constructing or operating an emission source without a permit. Such a source shall be considered to be in violation of these rules on each day of operation or each day during which construction continues, until a permit is granted.~~

~~313.5~~ ~~Sources Not Under Permit:~~

a. ~~All sources not in existence prior to the effective date of these rules shall first submit to the Control Officer an air quality permit application for the entire source and shall have been issued an air quality permit before commencing construction of such source.~~

b. ~~All sources in existence on the date these rules become effective and not holding a valid installation permit and/or a valid operating permit issued by the Control Officer, which have not applied for a Non-Title V permit pursuant to these rules, shall submit to the Control Officer a permit application for the entire source.~~

c. ~~All sources in existence on the date these rules become effective and not holding a valid installation permit and/or a valid operating permit issued by the Control Officer, which have not applied for a Title V permit pursuant to these rules, shall submit to the Control Officer a Title V permit application no more than 12 months after becoming subject to Title V permit requirements.~~

~~313.6~~ ~~Sources Which Currently Have an Installation or Operating Permit:~~

a. ~~For sources in existence on the date these rules become effective holding a valid installation permit and/or a valid operating permit issued by the Control Officer, the Control Officer may establish a phased schedule for acting on permit applications received within the first full year after the source becomes subject to obtaining a Title V or a Non-Title V permit under these rules. The schedule shall assure that at least one-third of such applications will be acted on annually over a period not to exceed three years after such effective date. Based on this schedule, the Control Officer shall review a completed application in accordance with the provisions of these rules and shall issue or deny the applicable permit within 18 months after the receipt of the completed application.~~

b. ~~Any application for an installation permit or an operating permit that is determined to be complete prior to the effective date of these rules but for which no permit has been issued shall be considered complete for the purposes of this section. In issuing a permit pursuant to such an application, the Control Officer shall include in the permit all elements addressed in the application and a schedule of compliance for submitting an application for a permit revision to address the elements required to be in the permit that were not included in the~~

~~operating permit application or in the installation permit application. No later than six months after the effective date of these rules, the Control Officer shall take final action on an operating permit application or on an installation permit application determined to be complete prior to the effective date of these rules.~~

314 ACCELERATED PERMITTING:

314.1 Notwithstanding any other provisions of these rules, the following qualify a source for a request-submittal for accelerated permit processing: an application for a Title V permit or for a Non-Title V permit; any permit revision; and any coverage under a general permit. Such a request-submittal shall be submitted in writing to the Control Officer at least 30 days in advance of filing the application and shall be accompanied by fees as described in Rule 280 of these rules.

314.2 When an applicant has requested accelerated permit processing, the Control Officer may, to the extent practicable, undertake to process the permit or permit revision in accordance with the following schedule:

a. For applications for initial Title V and Non-Title V permits under Rules 210 and 220 of these rules, for significant permit revisions under Rule 210 of these rules, or for non-minor permit revisions under Rule 220 of these rules, final action on the permit or on the permit revision shall be taken within 90 days or after the Control Officer determines that the application is complete for a Non-Title V source and within 120 days after the Control Officer determines that the application is complete for a Title V source. Except for a new major source or a major modification subject to the requirements of Rule 240 of these rules, an application for a new permit, a significant permit-revision, or a permit renewal shall be deemed to be complete unless the Control Officer notifies the applicant by certified mail within 30 days of receipt of the application that the application is not complete.

b. For applications for coverage under a general permit under Rule 230 of these rules, final action shall be taken within 30 days after receipt of the application.

c. For minor permit revisions governed by Rule 210 of these rules and Rule 220 of these rules, the permit revision shall be issued within 60 days after receipt of the application.

314.3 Before issuing a permit or permit revision pursuant to this section, the applicant shall pay to the Control Officer all fees due as described in Rule 280 of these rules. Nothing in this section shall affect the public participation requirements of Rules 210 or 220 of these rules, or EPA and affected state review as required under Rule 210 of these rules.

315 STACK HEIGHT PROVISIONS: The degree of emission limitation required of any source of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique as determined by the procedures of 40 CFR 51.118 and the EPA regulations cross-referenced therein as incorporated by reference in Appendix G of these rules.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 APPROVAL OR DENIAL OF PERMIT OR PERMIT REVISION:

401.1 The Control Officer shall deny a permit or revision if the applicant does not demonstrate that every such source for which a permit or permit revision is sought is so designed, controlled, or equipped with such air pollution control equipment that the source may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of these rules or applicable State Implementation Plan (SIP) plan requirements.

401.2 Prior to acting on an application for a permit, the Control Officer may require the applicant to provide and to maintain such devices and procedures as are necessary for sampling and for testing purposes in order to secure information that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere from the source described in the application. In

the event of such a requirement, the Control Officer shall notify the applicant in writing of the type and characteristics of such devices and procedures.

401.3 In acting upon an application for a permit renewal, if the Control Officer finds that such source has not been constructed in accordance with any prior permit or revision issued pursuant to A.R.S. § 49-480.01, the Control Officer shall require the permittee to obtain a permit revision or shall deny the permit renewal. The Control Officer shall not accept any further application for a permit for such source so constructed until the Control Officer finds that such source has been reconstructed in accordance with a prior permit or a revision, or until a revision to the permit has been obtained. The Control Officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.

401.4 After a decision on a permit or on a permit revision, the Control Officer shall notify the applicant and any person who filed a comment on the permit pursuant to A.R.S. § 49-480 or on the permit revision pursuant to A.R.S. § 49-480.01 in writing of the decision, and if the permit is denied, the reasons for such denial. Service of this notification may be made in person or by first class mail. The Control Officer shall not accept a further application unless the applicant has corrected the circumstances giving rise to the objections as specified by the Control Officer as reasons for such denial.

402 PERMIT REOPENINGS; REVOCATION AND REISSUANCE; TERMINATION:

402.1 Reopening for Cause:

a. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1) Additional applicable requirements under the Act 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 Section 403.2 of this rule. Any permit revision required pursuant to this rule shall comply with Section 403 of this rule for a permit renewal and shall reset the five year permit term.

(2) 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 Title V permit.

(3) 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.

(4) The Control Officer or the Administrator determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

b. 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, except for reopenings under Section 402.1(a)(1) of this rule, affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as is practicable.

c. Action to reopen a permit under 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.

d. When a permit is reopened and revised pursuant to this rule, the Control Officer may make appropriate revisions to the permit shield established pursuant to Rule 210 of these rules.

402.2 Reopening for Cause by the Administrator:

a. If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to Section 402.1 of this rule, the Administrator may notify the Control Officer and the permittee of such finding in writing. Within ten days of receipt of notice from the Administrator that cause exists to reopen a Title V permit, the Control Officer shall notify the source.

b. 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 a proposed determination of termination, modification, or revocation and reissuance of the permit. The Control Officer may request a 90-day extension of this limit if it is necessary to request a new or revised permit application or additional information from the applicant for, or holder of, a Title V permit.

c. The Control Officer shall have 90 days from receipt of an objection by the Administrator to attempt to resolve the objection.

402.3 The Control Officer may issue a notice of termination of a permit issued under these rules if:

a. The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

b. The person applying for the permit failed to disclose a material fact required by the application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.

c. The terms and conditions of the permit have been or are being violated.

402.4 If the Control Officer issues a notice of termination under this rule, the notice shall be served on the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation and a statement that the permittee is entitled to a hearing.

403 PERMIT RENEWAL AND EXPIRATION:

403.1 Prior to renewing a permit issued under these rules, the Control Officer shall provide notice in the same manner and form as provided in Rule 210 of these rules.

403.2 The Control Officer shall not renew a permit issued under these rules unless the permittee applies for a permit renewal prior to the expiration of a permit in the manner required by Rule 210 of these rules. If a timely and complete application for a permit renewal is submitted, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied. Any testing that is required for a renewal shall be completed before the proposed permit renewal is issued by the Control Officer.

403.3 The Control Officer shall publish notice of a permit renewal decision in the same manner as that provided in Rule 210 of these rules for a Title V permit and as that provided in Rule 220 of these rules for a Non-Title V permit.

404 PERMIT TRANSFERS:

404.1 Except as provided in A.R.S. § 49-429 and Section 404.2 of this rule, a Title V permit, a Non-Title V permit, or a General permit may be transferred to another person. Before the proposed transfer, the person who holds a valid Non-Title V permit or a valid General permit shall comply with the administrative permit revision procedures pursuant to Rule 220, Section 405.1 of these rules. At least 30 days before the proposed transfer, the person who holds a valid Title V permit shall give notice to the Control Officer in writing and shall comply with the administrative permit amendment procedures pursuant to Rule 210, Section 404 of these rules. Permit transfer notice shall contain the following:

a. The permit number and expiration date.

b. The name, address and telephone number of the current permit holder.

c. The name, address and telephone number of the person to receive the permit.

d. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance.

e. A description of the equipment to be transferred.

f. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee.

g. Provisions for the payment of any fees pursuant to Rule 280 of these rules that will be due and payable before the effective date of transfer.

h. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Control Officer to make the decision in Section 404.2 of this rule including:

(1) The qualifications of each person principally responsible for the operation of the source.

(2) A statement by the chief financial officer of the new permittee that it is financially capable of operating the source in compliance with the law, and the information that provides the basis for that statement.

(3) A brief description of any action for the enforcement of any federal or state law, rule or regulation, or any county, city or local government ordinance relating to the protection of the environment, instituted against any person employed by the new permittee and principally responsible for operating the source during the five years preceding the date of application. In lieu of this description, the new permittee may submit a copy of the certificate of disclosure or 10-K form required under A.R.S. § 49-109, or a statement that this information has been filed in compliance with A.R.S. § 49-109.

404.2 The Control Officer shall deny the transfer if the Control Officer determines that the organization receiving the permit is not capable of operating the source in compliance with Article 3, Chapter 3, Title 49, Arizona Revised Statutes, the provisions of these rules, or the provisions of the permit. Notice of the denial stating the reason for the denial shall be sent to the original permit holder by certified mail stating the reason for the denial within ten working days of the Control Officer's receipt of the ~~application~~ notice. If the transfer is not denied within ten working days after receipt of the notice, the Control Officer shall approve such permit transfer.

404.3 To appeal the transfer denial:

a. Both the transferor and transferee shall petition the hearing board in writing for a public hearing; and

b. The appeal process for a permit shall be followed.

405 PERMITS CONTAINING THE TERMS AND CONDITIONS OF FEDERAL DELAYED COMPLIANCE ORDERS (DCO) OR CONSENT DECREES:

405.1 The terms and conditions of either a DCO or consent decree shall be incorporated into a permit through a permit revision. In the event the permit expires prior to the expiration of the DCO or consent decree, the DCO or consent decree shall be incorporated into any permit renewal.

405.2 The owner or operator of a source subject to a DCO or consent decree shall submit to the Control Officer a quarterly report of the status of the source and construction progress and copies of any reports to the Administrator required under the order or decree. The Control Officer may require additional reporting requirements and conditions in permits issued under this rule.

405.3 For the purpose of this rule, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.

406 **APPEAL:** Denial or revocation of a permit shall be stayed by the permittee's written petition for a hearing, filed in accordance with Rule 400 of these rules.

407 **AIR QUALITY IMPACT MODELS:**

407.1 Where the Control Officer requires a person to perform air quality impact modeling, the modeling shall be performed in a manner consistent with ~~40 CFR 51, Appendix W, "Guideline On Air Quality Models", as of July 1, 2004 (and no future amendments or additions), which shall be referred to hereinafter as "Guideline", and is adopted by reference.~~ the Guideline specified in Rule 240, Section 304 (Permit Requirements For New Major Sources Or Major Modifications Located In Nonattainment Areas) or Section 305 (Permit Requirements For New Major Sources Or Major Modifications Located In Attainment Or Unclassificable Areas) of these rules.

407.2 **Model Substitution:** Where the person can demonstrate that an air quality impact model specified in the Guideline is inappropriate, on a case-by-case basis, the model may be modified or another model substituted. However, before such modification or substitution can occur, the Control Officer must make a written finding that:

a. No model in the Guideline is appropriate; or

b. The data base required for the appropriate model in the Guideline is not available; and

c. A model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline.

407.3 **Model Substitution EPA Approval:** Written approval from the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment.

408 **TESTING PROCEDURES:** Except as otherwise specified, the applicable testing procedures contained in the Arizona Testing Manual for Air Pollutant Emissions shall be used to determine compliance with standards or permit conditions established pursuant to these rules.

409 **PERMIT FEES:** A fee shall be charged for each facility. No permit is valid until the applicable permit fee has been received and until the permit is issued by the Control Officer.

410 **PORTABLE SOURCES:**

410.1 An owner or operator of a portable source which will operate for the duration of its permit solely in Maricopa County shall obtain a permit from the Control Officer for Maricopa County and is subject to Sections 410.2, 410.3, and 410.4 of this rule. A portable source with a current State of Arizona permit need not obtain a Maricopa County permit but is subject to Sections 410.3, 410.4, and 410.5 of this rule. Any permit for a portable source shall contain conditions that will assure compliance with all applicable requirements at all authorized locations. A portable source that has permit issued by the Director and obtains a permit from the Control Officer for Maricopa County shall request that the Director terminate the permit. Upon issuance of the permit from the Control Officer for Maricopa County, the permit issued by the Director is no longer valid.

410.2 An owner or operator of a portable source which has a Maricopa County permit but proposes to operate outside of Maricopa County, shall obtain a permit from the Director. A portable source that has a permit issued from the Control Officer for Maricopa County and obtains a permit issued by the Director shall request that the Control Officer terminate the permit issued by the Control Officer for Maricopa County. Upon issuance of a permit by the Director, the ~~Control Officer shall terminate the Maricopa County permit for that source~~ permit issued by the Control Officer for Maricopa County is no longer valid. If the owner or operator relocates the portable source in Maricopa County, the owner or operator shall notify the Control Officer as required by Section 410.4 of this rule of the relocation of the portable source. Whenever the owner or operator of a portable source operates a portable source in Maricopa County, such owner or operator shall comply with all regulatory requirements in these rules.

410.3 An owner of a portable source which requires a permit under this rule, shall obtain the permit prior to renting or leasing said portable source. This permit shall be provided by the owner to the renter or lessee, and the renter or lessee shall be bound by the permit provisions. In the event a copy of the permit is not provided to the renter or lessee, both the owner and the renter or lessee shall be responsible for the operation of the portable source in compliance with the permit conditions and any violations thereof.

410.4 A portable source may be transported from one location to another within or across Maricopa County boundaries provided the owner or operator of such portable source notifies the Director and any Control Officer who has jurisdiction over the geographic area that includes the new location of the portable source by certified mail at least ten working days before the portable source is transported to the new location. The notification required under this rule shall include:

a. A description of the portable source to be transported including the Maricopa County permit number or the State of Arizona permit number for such portable source;

b. A description of the present location;

c. A description of the location to which the portable source is to be transported, including the availability of all utilities, such as water and electricity, necessary for the proper operation of all control equipment;

d. The date on which the portable source is to be moved;

e. The date on which operation of the portable source will begin at the new location; and

f. The duration of operation at the new location.

410.5 An owner or operator of a portable source with a current State of Arizona permit that moves such portable source into Maricopa County shall notify the Control Officer that such portable source is being transported to a new location and shall include in such notification a copy of the State of Arizona permit and a copy of any conditions imposed by the State of Arizona permit. The source shall be subject to all regulatory requirements of these rules.

411 PUBLIC RECORDS; CONFIDENTIALITY:

411.1 The Control Officer shall make all permits, including all elements required to be in the permit pursuant to Rule 210 of these rules and Rule 220 of these rules available to the public.

411.2 A notice of confidentiality pursuant to A.R.S. § 49-487(c) shall:

a. Precisely identify the information in the application documents, 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, could cause substantial harm to the person's competitive position.

411.3 Within 30 days of receipt of a notice of confidentiality that complies with Section 411.2 of this rule, the Control Officer shall make a determination as to whether the information satisfies the requirements for trade secret or competitive position pursuant to A.R.S. § 49-487(C)(1) and so notify the applicant in writing. If the Control Officer agrees with the applicant that the information covered by the notice of confidentiality satisfies the statutory requirements, the Control Officer shall include a notice in the administrative record of the permit application that certain information has been considered confidential.

SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)

REGULATION II - PERMITS AND FEES

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MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES

RULE 210
TITLE V PERMIT PROVISIONS

SECTION 100 - GENERAL

101 **PURPOSE:** To provide an orderly procedure for the review of new Title V sources of air pollution and of the modification and operation of existing Title V sources through the issuance of Title V permits.

102 **APPLICABILITY:** Unless otherwise noted, this rule applies to each source requiring a Title V permit or permit revision.

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 definition shall apply:~~ For the purpose of this rule, the following definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definition in this rule takes precedence.

201 **EMISSIONS ALLOWABLE UNDER THE PERMIT:** An enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

SECTION 300 – STANDARDS

301 **PERMIT APPLICATION PROCESSING PROCEDURES:**

301.1 **Standard Application Form And Required Information:** To apply for any permit under this rule, applicants shall complete the "Standard Permit Application Form" and shall supply all information required by the "Filing Instructions" as shown in Appendix B of these rules.

301.2 ~~Unless otherwise required by Rule 200-Permit Requirements of these rules, a~~ A timely application is:

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

~~a.~~ **b.** For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.

~~**b.** For the initial Phase II acid rain requirement under Rule 371-Acid Rain of these rules of a Title V permit, one that is submitted to the Control Officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.~~

c. Any existing source which becomes subject to a standard promulgated by the Administrator under Section 112(d) of the Act shall, within 12 months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.

301.3 If, at the time an application for a permit required by these rules is submitted, 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.

301.4 A complete application is one that satisfies all of the following:

a. To be complete, an application shall provide all information required by Section 301.1-Standard Application Form And Required Information of this rule. An application for permit revision only need supply information related to the proposed change, unless the source's proposed permit revision will change the permit from a Non-Title V Permit to a Title V Permit. A responsible official shall certify the submitted information consistent with Section 301.7-Certification Of Truth, Accuracy, And Completeness of this rule.

b. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ Federal Major New Source Review (NSR) ~~and Rule 241-Permits For New Sources And Modifications To Existing Sources~~ of these rules. If the proposed new source is a major source, as defined in Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ of these rules, or the proposed permit revision constitutes a major modification as defined in ~~Rule 100-General Provisions And Definitions~~ Rule 240 of these rules, then the application shall comply with all applicable requirements of Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ of these rules.

c. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Rule 241-Minor New Source Review (NSR) of these rules. If the applicant determines that the proposed new source is subject to Rule 241 of these rules, or the proposed permit revision constitutes a minor NSR modification, the application shall comply with all the applicable requirements of Rule 241 of these rules.

~~c. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements established under Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules. If the proposed new source permit or permit revision is subject to the requirements of Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules, the application shall comply with all applicable requirements of Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

d. An application to construct or reconstruct any major source of hazardous air pollutants shall contain a determination that maximum achievable control technology (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 under 40 C.F.R. 63.40 through 63.44~~, as incorporated by reference in Rule 370-Federal Hazardous Air Pollutant Program of these rules~~. For purposes of this section of this rule, constructing or reconstructing a major source shall have the meaning prescribed in 40 C.F.R. 63.41~~, as incorporated by reference in Rule 370-Federal Hazardous Air Pollutant Program of these rules~~.

e. An application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete, unless the Control Officer notifies the applicant by certified mail within 60 days of receipt of the application that the application is not complete. For a proposed new major source or a major modification subject to the requirements of Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ Federal Major New Source Review (NSR) of these rules, the permit application shall be deemed to be submitted on the date that the completeness determination is made under Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ of these rules.

f. If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or to take final action on that application, the Control Officer may request such information in writing and may set a reasonable deadline for a response. Except for minor permit revisions as set forth in Section 405 of this rule, a source's ability to continue operating without a permit, as set forth in this rule, shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Control Officer. The Control Officer may, after one submittal by the applicant under this rule, reject an application that is still determined to be incomplete and shall notify the applicant of the decision by certified mail.

g. The completeness determination shall not apply to revisions processed through the minor permit revision process.

h. To be complete, an application for a new permit or an application for a permit revision shall list and generally group activities, if applicable, which are insignificant as defined in Rule 100-General Provisions And Definitions of these rules ~~and which are listed in Appendix D-List Of Insignificant Activities of these rules~~. Except as necessary to complete the assessment required by Section 301.4 of this rule, ~~The~~ the application need not provide emissions data regarding insignificant activities. If the Control Officer determines that an activity listed as insignificant does not meet the requirements of insignificant as defined in Rule 100-General Provisions And Definitions of these rules ~~and as listed in Appendix D-List Of Insignificant Activities of these rules~~ (i.e., if emissions estimates are needed for another purpose, such as determining the amount of permit fees) or that emissions data for the activity is required to complete the assessment required by Section 301.4 of this rule, then the Control Officer shall notify the applicant in writing and shall specify additional information required.

i. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted source 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.

j. The Control Officer agrees with a notice of confidentiality submitted under A.R.S. §49-487.

301.5 A source that has submitted information with an application under a claim of confidentiality under A.R.S. § 49-487 and Rule 200-Permit Requirements of these rules shall submit a copy of such information directly to the Administrator.

301.6 **Duty To Supplement Or Correct Application:** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such 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.

301.7 **Certification Of Truth, Accuracy, And Completeness:** Any application form, report, or compliance certification submitted under these rules shall contain certification by a responsible official of truth, accuracy, and completeness of the application as of the time of submittal. This certification and any other certification required under this rule shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

301.8 **Action on Application:**

a. The Control Officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.

b. In addition, the Control Officer may issue, revise, or renew a permit only if all of the following conditions have been met:

(1) The permit application received must be complete according to Section 301.4 of this rule.

(2) Except for revisions qualifying as administrative or minor under Sections 404 and 405 of this rule, all of the requirements for public notice and participation under Section 408 of this rule must have been met.

(3) The Control Officer shall have complied with the requirements of Section 303 of this rule for notifying and responding to affected states and if applicable, other notification requirements of Rule 240, Section 304.2-Action On Application And Notification Requirements ~~and Rule 240, Section 511.3(b) Visibility Protection~~ of these rules.

(4) The conditions of the permit shall require compliance with all applicable requirements.

(5) For permits for which an application is required to be submitted to the Administrator under Section 303.1 of this rule, and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Department, the Control Officer has revised and submitted a proposed final permit in response to the objection and the Administrator has not objected to this proposed final permit within 45 days of receipt.

(6) For permits to which the Administrator has objected to issuance under a petition filed under 40 C.F.R. 70.8(d), the Administrator's objection has been resolved.

c. The Control Officer may issue a notice of revocation of a permit issued under this rule if:

(1) The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

(2) The person applying for the permit failed to disclose a material fact required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.

(3) The terms and conditions of the permit have been or are being violated and the violation has not been corrected within a reasonable period of time as specified by the Control Officer.

d. If the Control Officer issues a notice of denial or revocation of a permit under this rule, the notice shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial or revocation and explaining that the permit applicant or permittee is entitled to a hearing under A.R.S. §49-482.

e. The Control Officer shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions. The Control Officer shall send this statement to the Administrator and to any other person who requests it.

f. Except as provided in 40 C.F.R. 70.4(b)(11), Rule 200-Permit Requirements of these rules and Rule 240-Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources, of these rules, regulations promulgated under Title IV or Title V of the Act, or the permitting of affected sources under the acid rain program, the Control Officer shall take final action on each permit application (and request for revision or renewal) within 18 months after receiving a complete application.

g. Priority shall be given by the Control Officer to taking action on applications for construction or modification submitted under Title I, Parts C-Prevention Of Significant Deterioration and D-New Source Review of the Act.

h. A proposed permit decision shall be published within nine months of receipt of a complete application and any additional information requested under Section 301.4(e) of this rule to process the application. The Control Officer shall provide notice of the decision as provided in Section 408 of this rule and any public hearing shall be scheduled as expeditiously as possible.

301.9 **Requirement for A Permit:** Except as noted under the provisions in Sections 403 and 405 of this rule, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this rule. However, if a source submits a timely and complete application for permit issuance, revision, or renewal, the source's failure to have a permit is not a violation of these rules until the Control Officer takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Control Officer, any additional information identified as being needed to process the application. If a source submits a timely and complete application for a permit renewal, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied. This section of this

rule does not affect a source's obligation to obtain a permit revision before making a modification to the source.

302 PERMIT CONTENTS:

302.1 Each permit issued under this rule shall include the following elements:

a. The date of issuance, the permit term, and the deadline by which the permittee must renew the permit.

b. Enforceable emission limitations and standards including those operational requirements and limitations that assures compliance with all applicable requirements at the time of issuance.

(1) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(2) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act and incorporated under Rule 371-Acid Rain of these rules, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.

(3) Any permit containing an equivalency demonstration for an alternative emission limit submitted under Section 301.3 of this rule shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(4) The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in Rule 100-General Provisions and Definitions of these rules.

c. As necessary, the following requirements with respect to monitoring:

(1) Requirements, including stipulated requirements, concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;

(2) 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 under Section 302.1(d) of this rule. Such monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this rule; and

(3) Any emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Sections 114(a)(3) or 504(b) of the Act.

d. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(1) Records of required monitoring information that include the following:

(a) The date, place as defined in the permit, and time of sampling or measurements;

(b) The date(s) analyses were performed;

(c) The name of the company or entity that performed the analysis;

(d) The analytical techniques or methods used;

(e) The results of such analysis; and

(f) The operating conditions as existing at the time of sampling or measurement.

(2) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

e. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(1) Submittal of reports of any required monitoring at least every six months. All instances of deviations from permit requirements shall be clearly identified in such reports. All required reports shall be certified by a responsible official consistent with Section 301.7 and Section 305.1(e) of this rule.

(2) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Control Officer shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements.

f. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder and incorporated under Rule 371-Acid Rain of these rules.

(1) No permit revision shall be required for increases in emissions that are authorized by allowances acquired under the acid rain program and incorporated under Rule 371-Acid Rain of these rules, provided that such increases do not require a permit revision under any other applicable requirement.

(2) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to non-compliance with any other applicable requirement.

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

(4) Any permit issued under the requirements of this rule and Title V of the Act to a unit subject to the provisions of Title IV of the Act and incorporated under Rule 371-Acid Rain of these rules shall include conditions prohibiting all of the following:

(a) Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owners or operators of the unit or the designated representative of the owners or operators.

(b) Exceedances of applicable emission rates.

(c) The use of any allowance prior to the year for which it was allocated.

(d) Violation of any other provision of the permit.

g. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

h. Provisions stating the following:

(1) That the permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes and the air quality rules. Compliance with permit terms and conditions does not relieve, modify, or otherwise affect the permittee's duty to comply with all applicable requirements of Arizona air quality statutes and the Maricopa County Air Pollution Control Regulations. Any permit non-compliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or

revision; or for denial of a permit renewal application. Non-compliance with any federally enforceable requirement in a permit constitutes a violation of the Act.

(2) That the permittee shall halt or reduce the permitted activity in order to maintain compliance with applicable requirements of Federal laws, Arizona laws, these rules, or other conditions of the permit.

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

(4) That the permit does not convey any property rights nor exclusive privilege, of any sort.

(5) That the permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for revising, revoking and reissuing the permit, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish a copy of such records directly to the Administrator along with a claim of confidentiality.

(6) For any major source operating in a nonattainment area for any pollutant(s) for which the source is classified as a major source, the source shall comply with reasonably available control technology (RACT) as defined in Rule 100-General Provisions And Definitions of these rules.

(7) For any major source operating in a nonattainment area designated as serious for PM_{10}, for which the source is classified as a major source for PM_{10}, the source shall comply with the best available control technology (BACT), as defined in Rule 100-General Provisions And Definitions of these rules, for PM_{10}.

i. A provision to ensure that a source pays fees to the Control Officer under A.R.S. §49-480(D) and Rule 280-Fees of these rules.

j. A provision stating that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

k. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions:

(1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted source a record of the scenario under which it is operating;

(2) Shall extend the permit shield described in Section 407 of this rule to all terms and conditions under each such operating scenario; and

(3) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this rule.

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

(1) Shall include all terms required under Section 302.1 and Section 302.3 of this rule to determine compliance;

(2) May extend the permit shield described in Section 302.4 of this rule to all terms and conditions that allow such increases and decreases in emissions; and

(3) Shall meet all applicable requirements and requirements of this rule.

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

n. If a permit applicant requests it, the Control Officer shall issue permits that contain terms and conditions allowing for the trading of emission increases and decreases in the permitted source 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. The Control Officer shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this section of this rule shall not include modifications under any provision of Title I of the Act and may not exceed emissions allowable under the permit. The terms and conditions shall include notice that (1) conforms to Section 403.4 and Section 403.5 of this rule and (2) describes how the increases or decreases in emissions will comply with the terms and conditions of the permit.

o. Such terms and conditions as are consistent with the requirements of this rule, of Rule 100-General Provisions And Definitions of these rules and of the Clean Air Act and are found by the Control Officer to be necessary.

302.2 Federally Enforceable Requirements: All terms and conditions in a Title V Permit shall be enforceable by the Administrator and citizens under the Act, including any provisions designed to limit a source's potential to emit. However, the Control Officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the Title V Permit that are not required under the Act or under any of its applicable requirements.

302.3 All applications for a permit required by this rule shall include a compliance plan meeting the requirements of Section 503 of the Act.

302.4 Each permit shall include the applicable permit shield provisions set forth in Section 407 of this rule.

302.5 A Title V permit issued to a major source shall require that revisions be made under Rule 200-Permit Requirements of these rules to incorporate additional applicable requirements adopted by the Administrator under the Act that become applicable to a source with a permit with a remaining permit term of three or more years. No revision shall be required if the effective date of the applicable requirements is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than 18 months after the promulgation of such standards and regulations. Any permit revision required under this section of this rule shall comply with provisions in Rule 200-Permit Requirements of these rules for permit renewal and shall reset the five year permit term.

303 PERMIT REVIEW BY THE EPA AND AFFECTED STATES:

303.1 Except as provided in Section 301.5 of this rule and as waived by the Administrator, for each Title V permit, a copy of each of the following shall be provided to the Administrator as follows:

a. The applicant shall provide a complete copy of the application, including any attachments, compliance plans, and other information required by Section 301.4 of this rule at the time of submittal of the application to the Control Officer.

b. The Control Officer shall provide the proposed final permit after public and affected State review.

c. The Control Officer shall provide the final permit at the time of issuance.

303.2 The Control Officer may require the application information to be submitted in a computer-readable format compatible with the Administrator's national database management system.

303.3 The Control Officer shall keep all records associated with all permits including those records containing the calculations and rationale supporting the Control Officer's decision to issue a permit for a minimum of five years from permit issuance.

303.4 No permit for which an application is required to be submitted to the Administrator under Section 303.1 of this rule shall be issued if the Administrator properly objects to its issuance in writing within 45 days of receipt of the proposed final permit from the Control Officer and all necessary supporting information.

303.5 Review By Affected States:

a. For each Title V permit, the Control Officer shall provide notice of each proposed permit to any affected State on or before the time that the Control Officer provides this notice to the public as required under Section 408 of this rule except to the extent Section 405 of this rule requires the timing of the notice to be different.

b. If the Control Officer refuses to accept a recommendation of any affected State submitted during the public or affected State review period, the Control Officer shall notify the Administrator and the affected State in writing. The notification shall include the Control Officer's reasons for not accepting any such recommendation and shall be provided to the Administrator as part of the submittal of the proposed final permit. The Control Officer shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.

303.6 Any person who petitions the Administrator under 40 C.F.R. 70.8(d) shall notify the Control Officer by certified mail of such petition as soon as possible, but in no case more than 10 days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. A petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day administrative review period and prior to the Administrator's objection.

303.7 If the Control Officer has issued a permit prior to receipt of the Administrator's objection under this rule, and the Administrator indicates that a permit should be revised or revoked and reissued, the Control Officer shall respond consistent with Rule 200-Permit Requirements of these rules and may thereafter issue only a revised permit that satisfies the Administrator's objection. In any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.

303.8 Prohibition on Default Issuance:

a. No Title V permit including a permit renewal or revision shall be issued until affected States and the Administrator have had an opportunity to review the proposed permit.

b. No permit or renewal shall be issued unless the Control Officer has acted on the application.

304 EMISSION STANDARDS AND LIMITATIONS: Wherever applicable requirements apply different standards or limitations to a source for the same item, all applicable requirements shall be included in the permit.

305 COMPLIANCE PLAN; CERTIFICATION:

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

a. The following monitoring requirements sufficient to assure compliance with the terms and conditions of the permit:

(1) Any emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Section 114(a)(3) or 504(b) of the Act;

(2) 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 under Section 305.1(c) of this rule. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirements; and

(3) Requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

b. All applicable recordkeeping requirements, as described in Section 302.1(d) of this rule.

c. All applicable reporting requirements including the following:

(1) Submittal of reports of any required monitoring at least every six months. All instances of deviations from permit requirements shall be clearly identified in such reports. All required reports shall be certified by a responsible official consistent with Section 305.1(e) of this rule.

(2) Reporting within two working days from knowledge of deviations from permit requirements, including those attributable to upset conditions as defined in the permit and the probable cause of such deviations. Reporting within a reasonable time of any long-term corrective actions or preventative measures taken.

d. 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:

(1) The frequency for submissions of compliance certifications, which shall not be less than annually;

(2) The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;

(3) A requirement that the compliance certification include the following:

(a) The identification of each term or condition of the permit that is the basis of the certification;

(b) The compliance status;

(c) Whether compliance was continuous or intermittent;

(d) The method(s) used for determining the compliance status of the source, currently and over the reporting period; and

(e) Other facts the Control Officer may require to determine the compliance status of the source.

(4) A requirement that all compliance certifications be submitted to the Control Officer and to the Administrator;

(5) Additional requirements specified in Sections 114(a)(3) and 504(b) of the Act or under Rule 220-Non-Title V Permit Provisions, Section 304-Permits Containing Voluntarily Accepted Emissions Limitations, Controls, Or Other Requirements (Synthetic Minor) of these rules.

e. A requirement for any document required to be submitted by a permit, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this rule shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

f. Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to:

(1) Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or where records are required to be kept under the conditions of the permit;

(2) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;

(3) Inspect, at reasonable times, any sources, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;

(4) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and

(5) To record any inspection by use of written, electronic, magnetic, and photographic media.

g. A compliance plan that contains all of the following:

(1) A description of the compliance status of the source with respect to all applicable requirements.

(2) A description as follows:

(a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(c) For requirements with which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(3) A compliance schedule as follows:

(a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

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

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

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

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

(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) The compliance plan content requirements specified in Section 305.1(g) of this rule shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act and incorporated under Rule 371-Acid Rain of these rules with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

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

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 **FEES REQUIRED:** Persons subject to this rule shall pay the fees required, as set forth in Rule 280-Fees of these rules.

402 **PERMIT TERM:** A Title V Permit shall remain in effect for no more than five years.

403 **SOURCE CHANGES ALLOWED WITHOUT PERMIT REVISIONS:**

403.1 A source with a Title V permit may make changes <u>that contravene an express permit term</u> without a permit revision if all of the following apply:

a. The changes are not modifications under any provision of Title I of the Act or under A.R.S. §49-401.01(24) or as defined in Rule 100-General Provisions And Definitions of these rules;

b. The changes do not result in emissions that exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;

c. The changes do not violate any applicable requirements or trigger any additional applicable requirements;

d. The changes meet all requirements for processing as a minor permit revision under Section 405 of this rule;

e. The changes do not violate federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; <u>and</u>

<u>f.</u> <u>The changes do not constitute a minor NSR modification.</u>

403.2 The substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment shall qualify as a change that does not require a permit revision, if it meets all of the requirements of Sections 403.1, 403.4, and 403.5 of this rule.

403.3 Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted source, as established in the permit under Section 302.1(l) of this rule, where an applicable implementation plan provides for such emissions trades, without applying for a permit revision and based on the seven working days notice prescribed in Section 403.4 of this rule. This provision is available in those cases where the permit does not already provide for such emissions trading, and shall not include any emissions units for which emissions are not quantifiable nor for which there are no replicable procedures to enforce the emissions trades.

403.4 For each such change under Sections 403.1 and 403.3 of this rule, a written notice either by hand delivery or by certified mail shall be received by the Control Officer and the Administrator, a minimum of seven working days in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may

be provided less than seven working days in advance of the change but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible.

403.5 Each notification shall include:

a. When the proposed change will occur.

b. A description of each such change.

c. Any change in emissions of regulated air pollutants.

d. The pollutants emitted subject to the emissions trade, if any.

e. The provisions in the implementation plan that provide for the emissions trade with which the source will comply and any other information as may be required by the provisions in the implementation plan authorizing the trade.

f. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply.

g. Any permit term or condition that is no longer applicable as a result of the change.

403.6 The permit shield described in Section 407 of this rule shall not apply to any change made under Section 403.1 through Section 403.3 of this rule. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the implementation plan authorizing the emissions trade.

403.7 Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another, as provided in Section 302.1(k) of this rule, shall not require any prior notice under this rule.

~~403.8~~ ~~Notwithstanding any other part of this rule, the Control Officer may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this rule over the term of the permit, does not satisfy Section 403.1 of this rule.~~

~~403.9~~ **403.8** The Control Officer shall make available to the public monthly summaries of all notices received under this rule.

404 ADMINISTRATIVE PERMIT AMENDMENTS:

404.1 Except for provisions to Title IV of the Act, an administrative permit amendment is a permit revision that does any of the following:

a. Corrects typographical errors;

b. Identifies a change in the name, address, or phone number of any person identified in the permit or provides a similar minor administrative change at the source;

c. Requires more frequent monitoring or reporting by the permittee; or

d. Allows for a change in ownership or operational control of a source under Rule 200-Permit Provisions of these rules, where the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility coverage and liability between the current and new permittee has been submitted to the Control Officer.

404.2 Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Act or incorporated under Rule 371-Acid Rain of these rules.

404.3 The Control Officer shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request. Title V permits may incorporate such changes without providing notice to the public or affected States provided that such permits designate that such permit revisions have been made under this rule.

404.4 The Control Officer shall submit a copy of Title V permits revised under this rule to the Administrator.

404.5 **Source's Ability To Make A Change:** Except for permit transfers described in Rule 200-Permit Provisions of these rules, the source may implement the changes addressed in the request for an administrative permit amendment immediately upon submittal of the request.

405 MINOR PERMIT REVISIONS:

405.1 Minor permit revision procedures may be used only for those changes at a Title V source that satisfy all of the following:

a. Do not violate any applicable requirement;

b. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

c. Do not require or change:

(1) A case-by-case determination of an emission limitation or other standard,

(2) A source specific determination of ambient impacts, or

(3) A visibility or increment analysis.

d. Do not seek to establish nor to change a Title V permit term or condition for which there is no corresponding underlying applicable requirement and that the Title V source has assumed in order to avoid an applicable requirement to which the Title V source would otherwise be subject. Such terms and conditions include:

(1) A federally enforceable emissions cap which the Title V source would assume to avoid classification as a modification under any provision of Title I of the Act; and

(2) An alternative emissions limit approved under regulations promulgated under the Section 112(i)(5) of the Act.

e. Are not modifications under any provision of Title I of the Act. ~~or Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

f. Are not changes in fuels not represented in the permit application or provided for in the Title V permit.

g. ~~The increase in the Title V source's potential to emit for any regulated air pollutant is not significant as defined in Rule 100-General Provisions And Definitions of these rules.~~ Are not minor NSR modifications for which public participation is required under Rule 241 of these rules; and

h. Are not required to be processed as a significant permit revision under Section 406 of this rule.

405.2 As approved by the Control Officer, minor permit revision procedures may be used for Title V permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the Administrator.

405.3 To request a minor permit revision, a source shall complete the "Standard Permit Application Form" and shall include the following information:

a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

b. For any source that is making the change immediately after it files the application, the Title V source's suggested draft permit; and

c. Certification by a responsible official that the proposed revision meets the criteria for use of minor permit revision procedures and a request that such procedures be used.

405.4 **EPA and Affected State Notification:** Within five working days of the Control Officer's receipt of an application for a minor permit revision, the Control Officer shall notify the Administrator and affected States of the requested permit revision in accordance with Section 303 of this rule.

405.5 The Control Officer shall not issue a final permit revision until after the Administrator's 45-day review period or until the Administrator has notified the Control Officer that the Administrator will not object to issuance of the permit revision, whichever is first~~. Although~~, although the Control Officer may approve the permit revision prior to that time. Within 90 days of the Control Officer's receipt of an application under minor permit revision procedures, or 15 days after the end of the Administrator's 45-day review period, whichever is later, the Control Officer shall do one or more of the following:

a. Issue the permit revision as proposed;

b. Deny the permit revision application;

c. Determine that the proposed permit revision does not meet the minor permit revision criteria and should be reviewed under the significant permit revision procedures; and/or

d. Revise the proposed permit revision and transmit to the Administrator the new proposed permit revision as required in Section 303 of this rule.

405.6 **Source's Ability to Make Change:** The source may make the change proposed in its minor permit revision application immediately after it files the application, unless the revision triggers minor New Source Review (NSR) under Rule 241 of these rules. After ~~the~~ a Title V source makes the change allowed by the preceding sentence, and until the Control Officer takes any of the actions specified in Section 405.5 of this rule, the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the Title V source need not comply with the existing permit terms and conditions it seeks to modify. However, if the Title V source fails to comply with its proposed permit terms and conditions during this time period, the Control Officer may enforce existing permit terms and conditions, which the Title V source seeks to revise.

405.7 Permit Shield: The permit shield under Section 407 of this rule shall not extend to minor permit revisions.

405.8 Notwithstanding any other part of this rule, the Control Officer may require a permit to be revised under Section 406 of this rule for any change that, when considered together with any other changes submitted by the same source under this rule or under Section 404 of this rule over the life of the permit, do not satisfy Section 405.1 of this rule.

405.9 The Control Officer shall make available to the public monthly summaries of all applications for minor permit revisions.

406 SIGNIFICANT PERMIT REVISIONS:

406.1 A significant permit revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision nor as an administrative permit amendment.

406.2 A significant permit revision that is only required because of a change described in Section 405.1(f) or Section 405.1(g) of this rule shall not be considered a significant permit revision under Part 70 for the purposes of 40 C.F.R. 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall follow significant permit revision procedures.

406.3 Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under Section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision procedures. ~~and Rule 372 Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

~~406.4 All modifications to sources subject to Rule 372 Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules shall follow significant permit revision procedures.~~

~~406.5~~ **406.4** Significant permit revisions shall meet all requirements of this rule for applications, public participation, review by affected States, and review by the Administrator, that apply to permit issuance and renewal.

~~406.6 The Control Officer shall process the majority of significant permit revision applications received each calendar year within nine months of receipt of a complete permit application but in no case longer than 18 months. Applications for which the Control Officer undertakes the accelerated permitting process, under Rule 200, Section 312 of these rules, shall not be included in this requirement. Section 406.7 of this rule does not change any time-frame requirements in Section 301 of this rule.~~

407 PERMIT SHIELDS:

407.1 Each Title V permit issued under this rule shall specifically identify all federal, state, and local air pollution control requirements applicable to the Title V source at the time the Title V permit is issued. The Title V permit shall state that compliance with the conditions of the Title V permit shall be deemed compliance with any applicable requirement as of the date of Title V permit issuance, provided that such applicable requirements are included and expressly identified in the Title V permit. The Control Officer may include in a Title V permit determination that other requirements specifically identified are not applicable. Any Title V permit issued under this rule that does not expressly state that a permit shield exists shall not provide such a shield.

407.2 Nothing in this rule or in any permit shall alter or affect the following:

a. The provisions of Section 303 of the Act-Emergency Orders, including the authority of the Administrator under that section.

b. 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.

c. The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act.

d. The ability of the Administrator or of the Control Officer to obtain information from a source under Section 114 of the Act, or any provision of State law.

e. The authority of the Control Officer to require compliance with new applicable requirements adopted after the permit is issued.

407.3 In addition to the provisions of Rule 200-Permit Requirements of these rules, a permit shall 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.

408 PUBLIC PARTICIPATION:

408.1 The Control Officer shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking any of the following actions for a source required to obtain a permit under Title V of the Clean Air Act:

a. Issuing, denying, or renewing a permit.

b. Issuing or denying a significant permit revision.

c. Revoking and reissuing or reopening a permit.

d. Issuing a conditional order under Rule 120-Conditional Orders of these rules.

e. Granting a variance from a general permit under Rule 230-General Permits of these rules. ~~and Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

408.2 The Control Officer shall provide public notice of receipt of complete applications for ~~major sources~~ permits or permit revisions subject to Rule 240 of these rules by publishing a notice in a newspaper of general circulation in Maricopa County.

408.3 The Control Officer shall provide the notice required under Section 408.1 of this rule as follows:

a. The Control Officer shall publish the notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located.

b. The Control Officer shall mail a copy of the notice to persons on a mailing list developed by the Control Officer consisting of those persons who have requested in writing to be placed on such a mailing list.

c. The Control Officer shall give notice by other means if necessary to assure adequate notice to the affected public.

408.4 The notice required by Section 408.3 of this rule shall include the following:

a. Identification of the affected facility;

b. Name and address of the permittee or applicant;

c. Name and address of the permitting authority processing the permit action;

d. The activity or activities involved in the permit action;

e. The emissions change involved in any permit revision;

f. The air contaminants to be emitted;

g. A statement that any person may submit written comments, or a written request for a public hearing, or both, on the proposed permit action along with the deadline for such requests or comments;

h. The name, address, and telephone number of a person from the Department from whom additional information may be obtained;

i. Locations where copies of the permit or permit revision application, the proposed permit, and all other materials available to the Control Officer that are relevant to the permit decision may be reviewed, including the closest Department office, and the times at which such materials shall be available for public inspection;

j. A summary of any notice of confidentiality filed under Rule 100-General Provisions And Definitions of these rules; ~~and~~

~~k. If applicable, a statement that the source has submitted a risk management analysis (RMA) under Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

~~l.~~ **k.** A statement in the public record if the permit or permit revision would result in the generation of emission reduction credits under A.A.C. R18-2-1204-Title 18, Chapter 2, Article 12 or the utilization of emission reduction credits under A.A.C. R18-2-1206-Title 18, Chapter 2, Article 12; and

l. The Control Officer's preliminary determination whether the application for a permit or permit revision should be approved or disapproved.

408.5 The Control Officer shall hold a public hearing to receive comments on petitions for conditional orders, which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Control Officer shall hold a public hearing only upon written request. If a public hearing is requested, the Control Officer shall schedule the hearing and publish notice as described in A.R.S. §49-498 and in Section 408.4 of this rule. The Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.

408.6 At the time the Control Officer publishes the first notice under Section 408.3(a) of this rule, the applicant shall post a notice containing the information required in Section 408.4 of this rule at the site where the source is or may be located. Consistent with federal, State, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to

be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.

408.7 The Control Officer shall provide at least 30 days from the date of the first notice for public comment to receive comments and requests for a hearing. The Control Officer shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final ~~decision is made~~ proposed permit is submitted to the EPA, the record and copies of the Control Officer's responses shall be made available to the applicant and to all commenters.

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MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES

RULE 220
NON-TITLE V PERMIT PROVISIONS

SECTION 100 - GENERAL

101 PURPOSE: To provide an orderly procedure for the review of Non-Title V sources of air pollution through the issuance of Non-Title V permits.

102 APPLICABILITY: This rule applies to each source requiring a Non-Title V permit or permit revision.

SECTION 200 - DEFINITIONS (NOT APPLICABLE) See Rule 100-General Provisions And Definitions of these rules for definitions of terms that are used but not specifically defined in this rule.

SECTION 300 - STANDARDS

301 PERMIT APPLICATION PROCESSING PROCEDURES:

301.1 Standard Application Form And Required Information: To apply for a permit under this rule, applicants shall complete a permit application filed in the manner and form prescribed by the Control Officer. The Control Officer, either upon the Control Officer's own initiative or upon the request of a permit applicant, may waive the requirement that specific information or data for a particular source or category of sources be submitted in the Non-Title V permit application. However, the Control Officer must determine that the information or data would be unnecessary to determine all of the following:

a. The applicable requirements to which the source may be subject;

b. The design and control of the air pollution control equipment such that the source may be expected to operate without emitting or without causing to be emitted air contaminants in violation of these rules;

c. The fees to which the source may be subject under Rule 280-Fees of these rules; and

d. A proposed emission limitation, control, or other requirement that meets the requirements of Section 304 of this rule.

301.2 Permit Application And A Compliance Plan:

a A permit application, required by this rule, shall include a compliance plan, if applicable, which meets the requirements of Section 303 of this rule when a notice of violation has been issued and not resolved at the time the permit application is filed.

b. A permit application, required by this rule, can include a compliance plan, if applicable, which meets the requirements of Section 303 of this rule when the following circumstances occur:

(1) When a source is not in compliance with these rules but has not been issued a notice of violation,

(2) Under other circumstances determined by the Control Officer.

301.3 A Timely Permit Application:

a. For a source, ~~other than a major source, applying for a permit for the first time,~~ that becomes subject to the permit program as a result of a change in regulation and not as a result of construction or a physical or operational change, one that is submitted within 12 months after the source becomes subject to the permit program.

~~a.~~ **b.** ~~Unless otherwise required by Rule 200-Permit Requirements of these rules and for~~ For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.

~~b.~~ **c.** Unless otherwise required by Rule 200-Permit Requirements of these rules and for any existing source which becomes subject to a standard promulgated by the Administrator under Section 112(d) of the Act-Hazardous Air Pollutants-Emission Standards, a timely application is a permit revision application that is submitted within 12 months of the date on which the standard is promulgated. ~~Such~~ If such standard requires the source to obtain a Title V permit, then the permit revision application shall be subject to Rule 210-Title V Permit Provisions of these rules.

301.4 A complete application is one that satisfies all of the following:

a. To be complete, an application shall provide all information required under Section 301.1 of this rule, except that notifications of permit revision need supply such information only if it is related to the proposed change. A responsible official shall certify the submitted information, consistent with Section 301.6 of this rule.

b. To be complete, an application for a new permit or a notification of a permit revision shall contain an assessment of the applicability of the requirements of Rule 241 ~~Permits For New Sources And Modifications To Existing Sources~~ Minor New Source Review (NSR) of these rules and shall comply with all applicable requirements of Rule 241 ~~Permits For New Sources And Modifications To Existing Sources~~ Minor New Source Review (NSR) of these rules. If the applicant determines that the proposed new source is subject this Rule 241 of these rules, or the proposed permit revision constitutes a minor NSR modification, then the application shall comply with all applicable requirements of Rule 241 of these rules.

~~c. To be complete, an application for a new permit or a notification of a permit revision shall contain an assessment of the applicability of the requirements established under Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules. If the proposed new source permit or the proposed permit revision is subject to the requirements of Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules, the application shall comply with all applicable requirements of Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.~~

~~d.~~ **c.** An application for a new permit, a notification of a permit revision, or a permit renewal shall be deemed to be complete unless the Control Officer notifies the applicant by certified mail within 60 days of receipt of the application that the application is not complete and specifies what additional information is necessary for the application to be complete.

~~e.~~ **d.** If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or to take final action on that application, the Control Officer may request such information in writing and may set a reasonable deadline for a response. Except for minor permit revisions procedures as set forth in Section 406 of this rule, a source's ability to continue operating without a permit, as set forth in this rule, shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Control Officer. The Control Officer

may, after one submittal by the applicant under this rule, reject an application that is still determined to be incomplete and shall notify the applicant of the decision by certified mail.

~~f.~~ **e.** The completeness determination shall not apply to revisions processed through the minor permit revision process.

~~g.~~ **f.** The Control Officer agrees with the notice of confidentiality submitted under A.R.S. §49-487.

~~h.~~ **g.** Any emission source or equipment item listed in ~~Rule 200 Permit Requirements~~ the definition of "insignificant activity" in Rule 100 of these rules shall be included in the application. The application need not provide emissions data regarding the activities listed in ~~Rule 200 Permit Requirements~~ the definition of "insignificant activity" in Rule 100 of these rules. If the Control Officer determines that a source or an activity listed on the application does not meet the requirements of ~~Rule 200 Permit Requirements~~ the definition of "insignificant activity" in Rule 100 of these rules or that emissions data for the activity is required to complete the assessment required by Section 301.4 of this rule , the Control Officer shall notify the applicant in writing and specify additional information required, which may include emissions data and supporting documents.

~~i.~~ **h.** If a source wishes to voluntarily enter into an emissions limitation, control, or other requirement pursuant to Section 304 of this rule, a source shall describe that emissions limitation, control, or other requirement in its application, along with proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emissions limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.

301.5 Duty To Supplement Or Correct Application: Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such 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.

301.6 Action on Application:

a. The Control Officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.

b. For Non-Title V permits that contain voluntary emission limits, controls, or other requirements established under Section 304 of this rule, the Control Officer shall have complied with the requirement of Section 304.4 of this rule to provide the Administrator with a copy of each such proposed permit. In addition, the Control Officer may issue, revise, or renew a permit only if all of the following conditions have been met:

(1) The permit application received must be complete according to Section 301.4 of this rule.

(2) Except for revisions qualifying as administrative or minor under Sections 405.1 and 405.2 of this rule, all of the requirements for public notice and participation under Section 407 of this rule must have been met.

(3) The conditions of the permit shall require compliance with all applicable requirements.

(4) For permits for which ~~an application~~ a proposed permit is required to be submitted to the Administrator under Section 304 of this rule, and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Control Officer, the Control Officer has revised and submitted a proposed final permit in response to the objection and the Administrator has not objected to this proposed final permit within 45 days of receipt.

c. The Control Officer may issue a notice of revocation of a permit issued under this rule if:

(1) The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

(2) The person applying for the permit failed to disclose a material fact required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.

(3) The terms and conditions of the permit have been or are being violated and the violation has not been corrected within a reasonable period of time as specified by the Control Officer.

d. If the Control Officer issues a notice of denial or revocation of a permit under this rule, the notice shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial or revocation and explaining that the permit applicant or permittee is entitled to a hearing ~~under A.R.S. §49-482~~.

e. Except as provided in Rule 200-Permit Requirements of these rules, the Control Officer shall take final action on each permit application (and request for revision or renewal) within 90 days of receipt of a complete application, unless a finding is made that more time is needed, but in no case longer than nine months after receiving a complete application.

301.7 Except as noted under the provisions in Section 404 of this rule, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this rule. However, if a source submits a timely and complete application for permit issuance, revision, or renewal, the source's failure to have a permit is not a violation of these rules until the Control Officer takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Control Officer, any additional information identified as being needed to process the application. If a source submits a timely and complete application for a permit renewal, but the Control Officer fails to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied. <u>This section of this rule does not affect a source's obligation to obtain a permit revision before making a modification to the source.</u>

302 **PERMIT CONTENTS:** Each permit issued under this rule shall include the following elements:

302.1 The date of issuance and the permit term.

302.2 Enforceable emission limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of issuance, and operational requirements and limitations that have been voluntarily accepted under Section 304 of this rule, or that have been voluntarily accepted under Rule 201-Emissions Caps of these rules. Whenever more than one standard in this rule applies to any source, or whenever a standard in this rule and a standard in the Maricopa County Air Pollution Control Regulations Regulation III-Control Of Air Contaminants applies to any source, the rule or combination of rules resulting in the lowest rate or lowest concentration of regulated air pollutants released to the atmosphere shall apply, unless otherwise specifically exempted or designated.

302.3 A compliance plan, if applicable, which meets the requirements of Section 303 of this rule.

302.4 As necessary, requirements concerning the use, maintenance, and if applicable, installation of monitoring equipment or methods.

302.5 Periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, if the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring). 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 Section 304 of this rule. Recordkeeping provisions may be sufficient to meet the requirements of this rule.

302.6 All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Section 114(a)(3) of the Act and including any monitoring and analysis procedures or test methods required under Section 304 of this rule.

302.7 All recordkeeping requirements, including recordkeeping requirements established under Section 304 of this rule, if applicable, for the retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

302.8 All applicable reporting requirements, ~~and require~~ including submittal of any required monitoring reports at least annually~~. Upon request, such reporting requirements shall require~~ and prompt reporting of deviations from permit requirements, including those deviations attributable to upset conditions, as defined in the permit. Reports of deviations shall include the probable cause of the deviations and any corrective actions or preventative measures taken. For the purposes of this Section, reporting shall be considered prompt when such reporting is made in accordance with Rule 130-Emergency Provisions of these rules.

302.9 A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.

302.10 Provisions stating that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

302.11 Provisions stating that the permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated non-compliance does not stay any permit condition.

302.12 Provisions stating that the permit does not convey any property rights nor does it convey exclusive privileges of any sort.

302.13 Provisions stating that the permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for revising, revoking and reissuing the permit, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish, to the Control Officer copies of records required to be kept by the permit.

302.14 Provisions stating that any document required to be submitted by a permit, including reports, shall contain certification by a responsible official of truth, accuracy, and completeness under Rule 100-General Provisions And Definitions of these rules.

302.15 A provision to ensure that a source pays fees to the Control Officer under A.R.S. §49-480(D) and Rule 280-Fees of these rules.

302.16 Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted source a record of the scenario under which it is operating. The terms and conditions of each such alternative scenario must meet all applicable requirements and the requirements of this rule.

302.17 Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to enter upon the permittee's premises, where a source is located or where emission-related activity is conducted, or where records are required to be kept, under the conditions of the permit.

302.18 Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to have access to and to copy, at reasonable times, any records that are required to be kept under the conditions of the permit.

302.19 Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to inspect, at reasonable times, any source's equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

302.20 Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements.

302.21 Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to record any inspection by use of written, electronic, magnetic, and photographic media.

302.22 Provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit.

302.23 Federally Enforceable Requirements: Designated terms and conditions contained in Non-Title V permits issued under Rule 220-Non-Title V Permit Provisions of these rules will be considered federally enforceable, provided that the County's Permit Program is approved by the Administrator and incorporated into the applicable State Implementation Plan (SIP) under Section 110 of the Act, and the permit meets the requirements set forth in Section 304 of this rule:

a. Terms or conditions designated as federally enforceable in a Non-Title V permit, including but not limited to those that are entered into voluntarily under Section 304 of this rule and which have been submitted to the Administrator for review, include:

(1) Emissions limitations, controls, or other requirements; and

(2) Monitoring, recordkeeping, and reporting requirements associated with the emissions limitations, controls, or other requirements.

b. The Control Officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Non-Title V permit that are not required under the Act, or under any such applicable requirements, or that are not entered into voluntarily under Section 304 of this rule.

302.24 Provisions stating that the permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes and the air quality rules. Compliance with permit terms and conditions does not relieve, modify, or otherwise affect the permittee's duty to comply with all applicable requirements of Arizona air quality statutes and the Maricopa County Air Pollution Control Regulations. Any permit non-compliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Non-compliance with any federally enforceable requirement in a permit constitutes a violation of the Act.

303 **COMPLIANCE PLANS:** Each compliance plan shall contain the following elements:

303.1 A description of the compliance status of the source with respect to applicable requirements that will become effective during the permit term or for which the source is not in compliance at the time of permit issuance.

303.2 A description as follows:

a. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

b. For requirements with which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

c. For additional requirements as may be specified under Section 304 of this rule.

303.3 A compliance schedule as follows:

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

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

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

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

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

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

303.6 The Control Officer may develop special guidance documents and forms to assist certain sources in completing the compliance plan.

304 PERMITS CONTAINING VOLUNTARILY ACCEPTED EMISSIONS LIMITATIONS, CONTROLS, OR OTHER REQUIREMENTS (SYNTHETIC MINOR):

304.1 A source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls, or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to avoid classification as a source that requires a Title V permit, or to avoid one or more other applicable requirements. For the purposes of this rule, "enforceable as a practical matter" means that specific means to assess compliance with an emissions limitation, control, or other requirement are provided for in the permit in a manner that allows compliance with the limit standard or trade provision to be readily determined by an inspection of the source records or reports. In addition, for the purposes of this rule, “enforceable as a practical matter” shall include the following criteria:

a. The permit conditions are permanent and quantifiable;

b. The permit includes a legally enforceable obligation to comply;

c. The permit limits impose an objective and quantifiable operational or production limit, or require the use of in-place air pollution control equipment;

d. The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;

e. The permit conditions are enforceable and are independent of any other applicable limitations; and

f. The permit conditions for monitoring, recordkeeping, and reporting requirements are sufficient to comply with Rule 220-Non-Title V Permit Provisions, Sections 302.3, 302.4, 302.5, 302.6, and 302.7 of these rules.

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

a. The emissions limitations, controls, or other requirements to be imposed for the purpose of avoiding an applicable requirement are at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source, including those that originate in an applicable implementation plan; and

b. All voluntarily accepted emissions limitations, controls, or other requirements will be permanent, quantifiable, and otherwise enforceable as a practical matter.

304.3 The Control Officer shall not issue a permit that waives nor makes less stringent any limitations or requirements contained in or issued under an applicable implementation plan or that are otherwise federally enforceable.

304.4 At the same time as notice of proposed issuance is first published under A.R.S. §49-426(D), the Control Officer shall send a copy of any Non-Title V permit proposed to be issued under Section 304 of this rule to the Administrator review during the comment period described in the notice under Section 407 of this rule.

304.5 The Control Officer shall send a copy of each final permit issued under Section 304 of this rule to the Administrator.

304.6 For all permits containing voluntarily accepted emission limitations, controls, or other requirements established under this section, the Control Officer shall provide an opportunity for public participation as provided for in Section 407 of this rule.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 **FEES REQUIRED:** Persons subject to this rule shall pay the fees required, as set forth in Rule 280-Fees of these rules.

402 **PERMIT TERM:** A Non-Title V permit shall remain in effect for no more than five years.

403 **SOURCE CHANGES THAT REQUIRE NON-TITLE V PERMIT REVISIONS:**

403.1 A source with a Non-Title V permit may make any physical change or change in the method of operation without revising the source's permit, unless the change is specifically prohibited in the source's permit or is a change described in the following subsections. A change that does not require a permit revision may still be subject to requirements in Section 404 of this rule.

403.2 The following changes at a source with a Non-Title V permit shall require a permit revision:

a. A change that ~~triggers~~ would trigger a new applicable requirement or ~~violates~~ violate an existing applicable requirement;

b. Establishment of, or change in, an emissions cap;

c. A change that will require a case-by-case determination of an emissions limitation or other standard, or a source specific determination of ambient impacts, or a visibility or increment analysis;

d. A change that results in emissions which are subject to monitoring, recordkeeping, or reporting under Sections 302.6, 302.7, and 302.8 of this rule, if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;

e. A change that will authorize the burning of used oil, used oil fuel, hazardous waste or hazardous waste fuel, or any other fuel not currently authorized by the permit;

f. A change that requires the source to obtain a Title V permit under Rule 210-Title V Permit Provisions of these rules;

g. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;

h. Establishment or revision of an emissions limit under Section 304 of this rule;

i. Increasing operating hours or rates of production above the permitted level; ~~and~~

j. Making a change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:

(1) From removing equipment that results in a permanent decrease in actual emissions, if the source keeps on-site records of the change in a log that satisfies Section 500 of this rule and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

(2) From a change in an applicable requirement~~.~~ ; and

k. A minor NSR modification.

404 PROCEDURES FOR CERTAIN CHANGES THAT DO NOT REQUIRE A NON-TITLE V PERMIT REVISION:

404.1 Except for a physical change or change in the method of operation at a Non-Title V source requiring a permit revision under Section 403 of this rule or a change subject to logging or notice requirements in Section 404.2 of this rule or Section 404.3 of this rule, a change at a Non-Title V source shall not be subject to revision, notice, or logging requirements under these rules.

404.2 Except as otherwise provided in the conditions applicable to an emissions cap created under Rule 201-Emissions Caps of these rules, the following changes may be made if the source keeps on-site records of the changes according to Section 500 of this rule:

a. Implementing an alternative operating scenario, including raw material changes;

b. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;

c. Engaging in any new exempted activity listed in Rule 200-Permit Requirements, Section 303.3(c) of these rules, but not listed in the permit;

d. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Control Officer may require verification of efficiency of the new equipment by performance tests; and

e. Making a change that results in a decrease in actual emissions, if the source wants to claim credit for the decrease in determining whether the source has a net emissions increase for any purpose. The logged information shall include a description of the change that will produce the decrease in actual emissions. A decrease that has not been logged is creditable only if the decrease is quantifiable, enforceable, and otherwise qualifies as a creditable decrease.

404.3 Except as otherwise provided in the conditions applicable to an emissions cap created under Rule 201-Emissions Caps of these rules, the following changes may be made if the source provides written notice to the Control Officer in advance of the change as provided below:

a. Replacing an item of air pollution control equipment listed in the permit with one that is not identical but that is substantially similar and has the same or better pollutant removal efficiency: 7 days. The Control Officer may require verification of efficiency of the new equipment by performance tests;

b. Making a physical change or change in the method of operation that increases actual emissions more than 10% of the major source threshold for any conventional air pollutant but does not require a permit revision: 7 days;

c. Replacing an item of air pollution control equipment listed in the permit with one that is not substantially similar but that has the same or better efficiency: 30 days. The Control Officer may require verification of efficiency of the new equipment by performance tests;

d. Making any change that would trigger an applicable requirement that already exists in the permit: 30 days, unless otherwise required by the applicable requirement;

e. Making a change that amounts to reconstruction of the source or an affected facility: 7 days. For purposes of this section reconstruction of a source or an affected facility shall be presumed if the fixed capital cost of the new components exceed 50% of the fixed capital cost of a comparable entirely new source or affected facility and the changes to the components have occurred over the 12 consecutive months beginning with commencement of construction; and

f. Making a change that will result in the emissions of a new regulated air pollutant above an applicable regulatory threshold, but that does not trigger a new applicable requirement for that source category: 30 days. For purposes of this requirement, an applicable regulatory threshold for a conventional air pollutant shall be 10% of the applicable major source threshold for that pollutant.

404.4 For each change under Section 404.3 of this rule, the written notice shall be by certified mail or hand delivery and shall be received by the Control Officer the minimum amount of time in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided with less than required notice, but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change, as possible.

404.5 The written notice shall include:

a. When the proposed change will occur;

b. A description of the change;

c. Any change in emissions of regulated air pollutants; and

d. Any permit term or condition that is no longer applicable as a result of the change.

404.6 Notwithstanding any other part of this section of this rule, the Control Officer may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this section of this rule over the term of the permit, constitutes a change under Section 403.2 of this rule.

404.7 If a source change is described under both Section 404.2 of this rule and Section 404.3 of this rule, the source shall comply with Section 404.3 of this rule.

404.8 If a source change is described under both Section 404.3 of this rule and Section 403.1 of this rule, the source shall comply with Section 403.1 of this rule.

404.9 A source may implement any change under Section 404.3 of this rule without the required notice by applying for a minor permit revision under Section 405.2 of this rule and complying with Section 406.1 of this rule.

405 PERMIT REVISIONS:

405.1 Administrative Permit Revisions:

a. An administrative permit revision is required to correct typographical errors in a Non-Title V Permit.

b. An administrative permit revision is required to change the name, address, or phone number of any person identified in the Non-Title V permit.

c. An administrative permit revision is required to change ownership or operational control of a source with a Non-Title V permit, where the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for the change of permit responsibility and liability between the current and new permittee has been submitted to the Control Officer.

d. Incorporates any other type of change which the Control Officer has determined to be similar to those changes described in this subsection.

405.2 Minor Permit Revisions:

a. Minor permit revision procedures shall be used for a change that triggers a new applicable requirement, if all of the following apply:

(1) ~~For emissions units not subject to an emissions cap, the net emissions increase is less than the significance level defined in Rule 100-General Provisions And Definitions of these rules;~~ The change is not a minor NSR modification for which public participation is required under Rule 241 of these rules;

(2) A case-by-case determination of an emissions limitation or other standard is not required; and

(3) The change does not require the source to obtain a Title V permit under Rule 210-Title V Permit Provisions of these rules.

b. Minor permit revision procedures shall be used for a change that ~~increases operating hours or rates of production~~ increases emissions above the permitted level, unless the increase otherwise creates a condition that requires a non-minor permit revision;

c. Minor permit revision procedures shall be used for a change in fuel from fuel oil or coal to natural gas or propane, if not authorized in the permit;

d. Minor permit revision procedures shall be used for a change that results in emissions subject to monitoring, recordkeeping, or reporting under Sections 302.6, 302.7, or 302.8 of this rule and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;

e. Minor permit revision procedures shall be used for a change that decreases emissions permitted under an emissions cap under Rule 201-Emissions Caps of these rules, unless the decrease requires a change in the conditions required to enforce the emissions cap or to ensure that emissions trades conducted under the emissions cap are quantifiable and enforceable; and

f. Minor permit revision procedures shall be used for a change that replaces an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.

405.3 Non-Minor Permit Revisions: A source with a Non-Title V permit shall make the following changes only after its permit is revised following the public participation requirements of Section 407 of this rule:

a. Establishing or revising a voluntarily accepted emission limitation or standard described in Section 304 of this rule, or an emissions cap described in Rule 201-Emissions Caps of these rules, except a decrease in the limitation authorized by Section 405.2(e) of this rule;

b. Making any change in fuel not authorized by the Non-Title V permit and that is not fuel oil or coal to natural gas or propane;

c. ~~A change to, or an addition of, an emissions unit not subject to an emissions cap that will result in a net emissions increase of a pollutant greater than the significance level defined in Rule 100-General Provisions And Definitions of these rules;~~ A change that is a minor NSR modification for which public participation is required under Rule 241 of these rules.

d. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:

(1) From removing equipment that results in a permanent decrease in actual emissions, if the source keeps on-site records of the change in a log that satisfies Section 500 of this rule and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or

(2) From a change in an applicable requirement.

e. A change that will cause the source to violate an existing applicable requirement, including the conditions establishing an emissions cap;

f. A change that will require any of the following:

(1) A case-by-case determination of an emission limitation or other standard;

(2) A source-specific determination of ambient impacts or a visibility or increment analysis; or

(3) A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.

g. A change that requires the source to obtain a Title V permit under Rule 210-Title V Permit Provisions of these rules.

406 PERMIT REVISIONS PROCEDURES:

406.1 The Source's Responsibility For A Notification Of A Permit Revision: A source shall submit to the Control Officer a notification of a Non-Title V permit revision, in a form and manner as prescribed by the Control Officer, with the appropriate fee as required by Rule 280-Fees of these rules. In a notification of a Non-Title V permit revision, a source must supply information that is related to the proposed change. If the source's proposed Non-Title V permit revision will revise its Non-Title V permit from a Non-Title V permit to a Title V permit, then the source must submit a Title V permit application in accordance with Rule 210-Title V Permit Provisions of these rules. The Control Officer shall issue the entire Title V permit, and not just the portion of the Non-Title V permit being revised, in accordance with Title V permit content and issuance requirements, including requirements for public, affected state, and EPA review contained in Rule 210-Title V Permit Provisions of these rules.

406.2 The Control Officer's Responsibility for Action on a Notification of a Permit Revision:

a. Administrative Permit Revision: The Control Officer shall take final action within 60 days of receipt of a notification of an administrative permit revision.

b. Minor Permit Revision: The Control Officer shall do one or more of the following within 60 days of receipt of a notification of a minor permit revision:

(1) Issue the minor permit revision as proposed;

(2) Deny the minor permit revision application; or

(3) Determine that the minor permit revision does not meet the minor permit revision criteria and should be reviewed under the non-minor permit revision procedures.

c. Non-Minor Permit Revision: The Control Officer shall take final action on the majority of the notifications of non-minor permit revisions within 90 days of receipt. In no case shall the final action take longer than nine months.

406.3 The Source's Ability to Make Changes Requested in a Notification of a Permit Revision:

a. Administrative Permit Revision Or Minor Permit Revision:

(1) A source may implement the changes addressed in the administrative permit revision application or in a minor permit revision application after it files the application, unless the revision triggers minor New Source Review (NSR) under Rule 241 of these rules.

(2) A source shall still comply with any Federal laws, Arizona laws, or these rules, and a source shall comply with the "new" permit conditions that the source proposes in its notification of a minor permit revision. The Control Officer may enforce the existing permit conditions if the Control Officer determines that the source is not complying with the "new" permit conditions.

b. **Non-Minor Permit Revision:** A source may implement the changes addressed in the notification for a non-minor permit revision upon the Control Officer's revising the permit.

407 PUBLIC PARTICIPATION:

407.1 **Provide Public Notice Before Taking Action On A Permit:** The Control Officer shall provide public notice and an opportunity for public comment before taking any of the following actions:

a. Issuing, denying, or renewing a permit to a Non-Title V source ~~listed in Rule 280-Fees, Section 403.1-Table A-Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as defined in Rule 100 of these rules;

b. Issuing or denying a non-minor permit revision to a Non-Title V source ~~listed in Rule 280-Fees, Section 403.1-Table A-Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as defined in Rule 100 of these rules;

c. Revoking and reissuing or reopening a permit to a Non-Title V source ~~listed in Rule 280-Fees, Section 403.1-Table A-Sources, Section 403.2-Table B, and Section 403.3-Table C-Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as defined in Rule 100 of these rules; or

d. Issuing a conditional permit under Rule 120-Conditional Orders of these rules to a Non-Title V source ~~listed in Rule 280-Fees, Section 403.1-Table A-Sources, Section 403.2-Table B-Sources, and Section 403.3-Table C-Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as defined in Rule 100 of these rules.

407.2 **Provide Information In Public Notice And Publish In Newspapers Before Taking Action On A Permit:** The Control Officer shall include the following in the notice required pursuant to Section 407.1 of this rule and shall publish such notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located and by other means if necessary to assure adequate notice to the affected public. The Control Officer shall give notice of any public hearing at least 30 days in advance of the public hearing.

a. Name and address of the affected facility(ies).

b. The activity(ies) involved in each permit action.

c. A statement that any person may submit written comments on a proposed permit action no later than the deadline for submitting such comments.

d. The deadline for submitting written comments.

e. Name, address, and phone number of a person from the Department from whom additional information may be obtained.

f. The location where copies of the permit or permit revision application, the proposed permit, the analysis in support of the preliminary determination whether the application for a permit or permit revision should be approved or disapproved, and all other materials available to the Control Officer that are relevant to the permit decision may be reviewed and the times during which such materials will be available for public inspection.

g. A statement if the permit or permit revision would result in the generation of emission reduction credits under A.A.C. R18-2-1204-Title 18, Chapter 2, Article 12 or the utilization of emission reduction credits under A.A.C. R18-2-1206 Title 18, Chapter 2, Article 12.

h. The Control Officer's preliminary determination whether the application for a permit or permit revision should be approved or disapproved.

~~407.2~~ **407.3** **Publish List Of Permit Applications Received:** ~~For sources listed in Rule 280-Fees, Section 403.1-Table A-Sources, Section 403.2-Table B-Sources, and Section 403.3-Table C-Sources of these rules, the~~ The Control Officer shall publish, once each week, a list of all permit applications received. The list will be available to the public at the Department's main office and on the ~~Internet~~ Department's website. ~~The list shall include the following information:~~

~~a. Name and address of the affected facility(ies).~~

~~b. The activity(ies) involved in each permit action.~~

~~c. A statement that any person may submit written comments on a proposed permit action no later than the deadline for submitting such comments.~~

~~d. The deadline for submitting written comments.~~

~~e. Name, address, and phone number of a person from the Department from whom additional information may be obtained.~~

~~f. The location where copies of the permit or permit revision application, the proposed permit, and all other materials available to the Control Officer that are relevant to the permit decision may be reviewed and the times during which such materials will be available for public inspection.~~

~~g. A statement if the permit or permit revision would result in the generation of emission reduction credits under A.A.C. R18-2-1204-Title 18, Chapter 2, Article 12 or the utilization of emission reduction credits under A.A.C. R18-2-1206-Title 18, Chapter 2, Article 12.~~

~~407.3~~ **407.4** **Publish List Of Permits Issued:** ~~For sources listed in Rule 280-Fees, Section 403.1-Table A-Sources, Section 403.2-Table B-Sources, and Section 403.3-Table C-Sources of these rules, the~~ The Control Officer shall publish in a newspaper or post on the Department's website, once each month, a list of all permits issued.

~~407.4~~ **407.5** **Public Hearing:** The Control Officer shall hold a public hearing to receive comments on petitions for conditional orders, which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Control Officer shall hold a public hearing only upon written request. If a public hearing is requested, the Control Officer shall schedule the public hearing and publish a notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located and by other means if necessary to assure adequate notice to the affected public. The Control Officer shall give notice of any public hearing at least 30 days in advance of the public hearing.

~~407.5~~ **407.6** **Public Notice To Be Posted By The Permit Applicant:** At the time the Control Officer publishes the first notice under Section 407.1 of this rule, the applicant shall post a notice containing the information required in Section 407.2 of this rule at the site where the source is or may be located. Consistent with Federal, State, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the public hearing. Any posting shall be maintained until the public comment period is closed.

~~407.6~~ **407.7** **Receipt Of Comments And Requests For Public Hearing:** The Control Officer shall provide at least 30 days from the date of its first notice for public comment to receive comments and requests for a hearing. The Control Officer shall keep a record of the commenters and the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the Control Officer's responses shall be made available to the applicant and to all commenters.

408 **AMENDMENTS TO A PERMIT:** The Control Officer may amend any Non-Title V permit annually without following Rule 200-Permit Requirements, Section 402-Permit Reopenings; Revocation And Reissuance; Termination of these rules in order to incorporate changes reflected in logs or notices filed

under Section 404 of this rule. The amendment shall be effective to the anniversary date of the permit. The Control Officer shall make available to the public for any source:

408.1 A complete record of logs and notices sent to the Control Officer under Section 404 of this rule; and

408.2 Any amendments or revisions to the source's permit.

SECTION 500 - MONITORING AND RECORDS

501 **LOG RETENTION REQUIREMENT:** If a source makes a change that requires logging, then the source shall keep such log for five years from the date the source creates such log.

502 **LOG FORMAT SPECIFICATIONS:** If a source makes a change that requires logging, then the source shall perform such logging in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, if approved by the Control Officer. Each log entry shall include at least the following information:

502.1 A description of the change including:

a. A description of any process change.

b. A description of any equipment change, including both old and new equipment descriptions, model numbers, and serial numbers, or any other unique equipment number.

c. A description of any process material change.

502.2 The date and time that the change occurred.

502.3 The provision of Section 404.2 of this rule that authorizes the change to be made with logging.

502.4 The date the log entry was made and the first and last name of the person making the log entry.

503 **LOG FILING:** A copy of all logs required under Section 404.2 of this rule shall be filed with the Control Officer within 30 days after each anniversary of the permit issue date. If no changes were made at the source requiring logging, a statement to that effect shall be filed instead.

REGULATION II - PERMITS AND FEES

RULE 230
GENERAL PERMITS

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~~Adopted 11/15/93~~
~~Revised 02/15/95~~
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Adopted 11/15/1993; Revised 02/15/1995; Revised 06/06/2007; Revised xx/xx/xxxx

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES

RULE 230
GENERAL PERMITS

SECTION 100 - GENERAL

101 PURPOSE: To allow for the issuance of general permits for a facility class that contains a large number of sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping.

102 APPLICABILITY: A general permit shall not be issued for affected sources except as provided in regulations promulgated by the Administrator under Title IV of the Act.

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 definition shall apply:~~ For the purpose of this rule, the following definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

201 SIMILAR IN NATURE - Refers to facility size, processes and operating conditions.

SECTION 300 - STANDARDS

301 RULES APPLICABLE TO A GENERAL PERMIT: Unless otherwise stated, the provisions of Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 220-Non-Title V Permit Provisions, Rule 241-Minor New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, Rule 270-Performance Tests, and Rule 400-Procedure Before The Hearing Board shall apply to general permits.

302 GENERAL PERMIT DEVELOPMENT:

302.1 The Control Officer may issue a general permit on his own initiative or in response to a petition. At the time the Control Officer issues a general permit, the Control Officer may also establish a specific application with filing instructions for sources in the category covered by the general permit.

302.2 Any person may submit a petition to the ~~Director or to the~~ Control Officer requesting the issuance of a general permit for a defined class of facilities. The petition shall propose a particular class of facilities, shall list the approximate number of facilities in the proposed class along with their size, processes and operating conditions, and shall demonstrate how the class meets the criteria for a general permit as specified in Sections 100 and 301 through 303 of this rule and in A.R.S. § 49-426(H). The Control Officer shall provide a written response to the petition within 120 days of receipt.

302.3 A general permit shall be issued ~~or denied~~ for classes of facilities using the same engineering technical review process that applies to permits for individual sources and following the public notice requirements of Section 304 of this rule.

302.4 A general permit shall include all of the following:

a. General permits issued for Title V major sources shall contain all elements in Rule 210-Title V Permit Provisions, Section 302.1-Permit Contents of these rules except Sections 302.1(b)(2) and 302.1(f).

b. General permits issued for Non-Title V sources shall contain all elements in Rule 220-Non-Title V Permit Provisions, Section 302-Permit Contents of these rules.

~~b.~~ **c.** The process for individual sources to apply for coverage under the general permit.

302.5 A source applying for authority to operate under a general permit shall not propose nor accept pursuant to Rule 220-Non-Title V Permit Provisions of these rules emissions limitations, controls, or other requirements that are not included in the general permit.

302.6 Of sources that are covered under the general permit, general permits developed by the Control Officer shall require both of the following:

a. Installation and operation of reasonably available control technology (RACT) as determined by Rule 241, Section 302 of these rules.

b. Compliance with Sections 111 or 112 of the Act as applicable.

303 APPLICATION FOR COVERAGE UNDER GENERAL PERMIT:

303.1 Once the Control Officer has issued a general permit, any source which is a member of the class of facilities covered by the general permit may apply to the Control Officer for authority to operate under the general permit. Applicants shall complete the specific application form, or if none has been adopted, the standard application form. The specific application form shall, at a minimum, require the applicant to submit the following information:

a. Information identifying and describing the source, its processes, and operating conditions in sufficient detail to allow the Control Officer to determine qualification for and to assure compliance with the general permit.

b. ~~A~~ For general permits issued for Title V major sources, compliance plan that meets the requirements of Rule 210-Title V Permit Provisions, Section 305-Compliance Plan; Certification of these rules.

c. For general permits issued for Non-Title V sources, compliance plan that meets the requirements of Rule 220-Non-Title V Permit Provisions, Section 303-Compliance Plans of these rules.

303.2 For sources required to obtain a permit under Title V of the Act, 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.

303.3 The Control Officer shall act on the application for coverage under ~~the~~ a general permit as expeditiously as possible~~, but a final decision shall be reached within 180 days~~. The source may operate under the terms of ~~its application~~ the applicable general permit during that time. ~~If the application for coverage is denied, the Control Officer shall notify the source that it shall apply for an individual permit within 180 days of receipt of notice.~~ The Control Officer may defer acting on an application under this rule, if the Control Officer has provided notice of intent to renew or not to renew the permit.

303.4 The Control Officer shall make available to the public a monthly summary of all applications received under this rule.

304 PUBLIC NOTICE:

304.1 The Control Officer shall provide public notice for any proposed general permit, for any revision of an existing general permit, and for renewal of an existing general permit.

304.2 The Control Officer shall publish notice of the proposed general permit once each week for two consecutive weeks in a newspaper of general circulation within Maricopa County. The notice shall describe the following:

a. The proposed general permit.

b. The category of sources that would be affected.

c. The air contaminants which the Control Officer expects to be emitted by a typical facility in the class and by class as a whole.

d. The Control Officer's proposed actions and effective date for the actions.

e. Locations where documents relevant to the proposed general permit will be available during normal business hours.

f. The name, address, and telephone number of a person within the Department who may be contacted for further information.

g. The address where any person may submit comments and/or request a public hearing and the date and time by which comments or public hearing request are required to be received.

h. The process by which sources may obtain authorization to operate under the general permit.

304.3 For general permits under which operation may be authorized in lieu of individual source permits issued under Rule 210-Title V Permit Provisions of these rules, the Control Officer shall give notice of the proposed general permit to each affected state at the same time that the proposed general permit goes out for public notice. The Control Officer shall provide the proposed final permit to the Administrator after public and affected state review. No Title V permit shall be issued if the Administrator properly objects to its issuance in writing within 45 days from receipt of the proposed final permit and any necessary supporting information from the Control Officer.

304.4 The Control Officer shall provide at least 30 days from the date of the first notice described in Section 304.3 of this rule for public comment.

304.5 Written comments to the Control Officer shall include the name of the person and the person's agent or attorney and shall clearly set forth reasons why the general permit should or should not be issued.

304.6 At the time a general permit is issued, the Control Officer shall make available a response to all relevant comments on the proposed permit raised during the public comment period and during any requested public hearing. The response shall specify which provisions, if any, of the proposed permit have been changed and the reason for the changes. The Control Officer shall also notify in writing any petitioner and each person who has submitted written comments on the proposed permit or requested notice of the final permit decision.

305 SOURCES FOR WHICH A GENERAL PERMIT MAY NOT BE ISSUED: A general permit shall not be issued to sources that are subject to case-by-case standards or requirements.

306 GENERAL PERMIT RENEWAL: ~~The Control Officer shall review and may renew general permits every five years. A source's authorization to operate under a general permit shall expire when the general permit expires regardless of when the authorization began during the five year period, except as provided in Section 311.3 of this rule. In addition to the public notice required to issue a proposed general permit under Section 304 of this rule, the Control Officer shall notify in writing all sources who have been granted or who have applications pending for authorization to operate under the general permit. The written notice shall describe the source's duty to reapply and may include requests for information required under the proposed general permit.~~

306.1 The Control Officer shall review and may renew general permits every five years.

306.2 A source's authorization to operate under a general permit shall expire when the general permit expires regardless of when the authorization began during the five year period, except as provided in Section 311.3 of this rule.

306.3 At the time a general permit is renewed, the Control Officer shall notify in writing all sources that were granted coverage under the previous permit and shall require them to submit a timely renewal application. For purposes of general permits, a timely application is one that is submitted within the time-frame specified by the Control Officer in the written notification. Failure to submit a timely application terminates the source's right to operate. If a source submits a timely and complete application for a permit renewal, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied.

307 RELATIONSHIP TO INDIVIDUAL PERMITS: Any source covered under a general permit may request to be excluded from coverage by applying for an individual source permit. Coverage under the general permit shall terminate on the date the individual permit is issued.

308 GENERAL PERMIT VARIANCE FOR ANY NON-FEDERALLY ENFORCEABLE REQUIREMENT OF A PERMIT:

~~308.1 Where maximum achievable control technology (MACT), as defined in Rule 370-Federal Hazardous Air Pollutant Program of these rules, or hazardous air pollutant reasonably available control technology (HAPRACT) has been established in a general permit for a source category designated pursuant to Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules, the owner and/or operator of a source within that source category may apply for a variance from the standard by demonstrating compliance with Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program, Section 306-Risk Management Analysis of these rules at the time the source applies for coverage under the general permit.~~

~~308.2 If the owner and/or operator makes the showing required by Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program, Section 306-Risk Management Analysis of these rules and otherwise qualifies for the general permit, the Control Officer shall, in accordance with the procedures established pursuant to this rule, approve the application and authorize operation under a variance from the standard of the general permit.~~

~~308.3~~ **308.1** Except as modified by the variance, the source shall comply with all conditions of the general permit.

~~308.4~~ **308.2** Applications and approvals of general permit variances shall be subject to the public notice requirements of Rule 210-Title V Permit Provisions of these rules.

309 GENERAL PERMIT SHIELD: Each general permit issued under this rule shall specifically identify all federal, state, and local air pollution control requirements applicable to the source at the time the general permit is issued. The general permit shall state that compliance with the conditions of the general permit shall be deemed in compliance with any applicable requirement as of the date of general permit issuance. Any permit under this rule that does not expressly state that a permit shield exists shall be presumed not to provide such a shield. Notwithstanding the above provisions, the source shall be subject to enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit. A permit shield provided for a general permit shall meet all the requirements of Rule 210-Title V Permit Provisions of these rules.

310 **GENERAL PERMIT APPEALS:** Any person who filed a comment on a proposed general permit as provided in Section 304 of this rule may appeal the terms and conditions of a general permit, as they apply to the facility class covered under a general permit, by filing an appeal with the hearing board within ten days of issuance of the general permit.

311 **REVOCATIONS OF AUTHORITY TO OPERATE:**

311.1 The Control Officer may require a source authorized to operate under a general permit to apply for and to obtain an individual source permit at any time if:

a. The Control Officer has determined that the source is not in compliance with the terms and conditions of the general permit; or

b. The Control Officer has determined that the emissions from the source or facility class are significant contributors to ambient air quality standard violations which are not adequately addressed by the requirements in the general permit; or

c. The Control Officer has information which indicates that the effects on human health and the environment from the sources covered under the general permit are unacceptable.

311.2 The Control Officer shall provide written notice to all sources operating under a general permit prior to cancellation of a general permit. Such notice shall include an explanation of the basis for the proposed action. Within six months of receipt of the notice of the expiration, termination or cancellation of any general permit, sources notified shall submit an application to the Control Officer for an individual permit.

311.3 A source previously authorized to operate under a general permit may operate under the terms of the general permit until the earlier of the date it submits a complete application for an individual permit, or 180 days after receipt of the notice of expiration, termination or cancellation of any general permit.

312 **CHANGES TO FACILITIES GRANTED COVERAGE UNDER GENERAL PERMIT:**

312.1 An owner or operator of a source that has been granted coverage under a general permit may make the following changes at the source only after the owner or operator provides written notification to the Control Officer and only if such changes do not require the owner or operator to obtain a Title V or a Non-Title V permit:

a. Adding new emissions units.

b. Installing a replacement emissions unit.

c. Adding or replacing air pollution control equipment.

312.2 **Notification Required:** The written notification required by Section 312.1 of this rule shall include:

a. When the proposed change will occur;

b. A description of the change; and

c. Any change in emissions of regulated air pollutants.

312.3 An owner or operator of a source that has been granted coverage under a general permit shall keep a record of any physical change or change in the method of operation that could affect emissions. The record shall include a description of the change and the date the change occurred.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

~~REGULATION II - PERMITS AND FEES~~
~~RULE 240~~

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~~MARICOPA COUNTY~~
~~AIR POLLUTION CONTROL REGULATIONS~~
~~REGULATION II - PERMITS AND FEES~~
~~RULE 240~~
~~PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND~~

~~MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES~~

~~SECTION 100 – GENERAL~~

~~101 PURPOSE: To provide an orderly procedure for the review of new major sources of conventional air pollutants and of major modifications to existing major sources of conventional air pollutants requiring permits or permit revisions.~~

~~102 APPLICABILITY: The provisions of this rule apply to new major sources of conventional air pollutants and major modifications to existing major sources of conventional air pollutants. The provisions of this rule do not apply to new sources and modifications to existing sources subject to the requirements of Rule 241 Permits For New Sources And Modifications To Existing Sources of these rules.~~

~~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 ADVERSE IMPACT ON VISIBILITY – Visibility impairment that interferes with the management, protection, preservation, or enjoyment of visual experience of a Class I area, as determined by Rule 500 Air Quality Standards of these rules.~~

~~202 CATEGORICAL SOURCES – The following classes of sources:~~

~~Coal cleaning plants with thermal dryers;~~
~~Kraft pulp mills;~~
~~Portland cement plants;~~
~~Primary zinc smelters;~~
~~Iron and steel mills;~~
~~Primary aluminum ore reduction plants;~~
~~Primary copper smelters;~~
~~Municipal incinerators capable of charging more than 50 tons of refuse per day;~~
~~Hydrofluoric, sulfuric, or nitric acid plants;~~
~~Petroleum refineries;~~
~~Lime plants;~~
~~Phosphate rock processing plants;~~
~~Coke oven batteries;~~
~~Sulfur recovery plants;~~
~~Carbon black plants using the furnace process;~~
~~Primary lead smelters;~~
~~Fuel conversion plants;~~
~~Sintering plants;~~
~~Secondary metal production plants;~~
~~Chemical process plants;~~
~~Fossil fuel boilers, or combinations thereof, totaling more than 250 million British thermal units (BTU) per hour heat input;~~
~~Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;~~
~~Taconite preprocessing plants;~~
~~Glass fiber processing plants;~~
~~Charcoal production plants;~~
~~Fossil fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million BTU per hour rated heat input.~~

~~203 CONVENTIONAL AIR POLLUTANT – Any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard.~~

~~204 DISPERSION TECHNIQUE – Any technique that attempts to affect the concentration of a pollutant in the ambient air by any of the following:~~

~~204.1 Using that portion of a stack that exceeds good engineering practice stack height;~~

~~204.2 Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or~~

~~204.3 Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into 1 stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This shall not include any of the following:~~

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

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

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

~~(2) After July 8, 1995, such merging is part of a change in operation at the source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or~~

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

~~c. Smoke management in agricultural or silvicultural prescribed burning programs.~~

~~d. Episodic restrictions on residential woodburning and open burning.~~

~~e. Techniques that increase final exhaust gas plume rise if the resulting allowable emissions of sulfur dioxide from the source do not exceed 5,000 tons per year.~~

~~205 GOOD ENGINEERING PRACTICE (GEP) STACK HEIGHT - A stack height meeting the requirements described in Section 309 of this rule.~~

~~206 HIGH TERRAIN - Any area having an elevation of 900 feet or more above the base of the stack of a source.~~

~~207 INNOVATIVE CONTROL TECHNOLOGY - Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.~~

~~208 LOW TERRAIN - Any area other than high terrain.~~

~~209 LOWEST ACHIEVABLE EMISSION RATE (LAER) - For any source, the more stringent rate of emissions based on 1 of the following:~~

~~209.1 The most stringent emissions limitation that is contained in the State Implementation Plan (SIP), as defined in Rule 100 General Provisions And Definitions of these rules, for the class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable; or~~

~~209.2 The most stringent emissions limitation that is achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under the applicable standards of performance in Rule 360 New Source Performance Standards of these rules and in 40 C.F.R. 60 and 40 C.F.R. 61.~~

~~210 MAJOR SOURCE -~~

~~210.1 Any stationary source located in a nonattainment area that emits, or has the potential to emit, 100 tons per year or more of any conventional air pollutant, except as follows:~~

~~Pollutant Emitted~~	~~Nonattainment Pollutant And Classification~~	~~Quantity Threshold Tons/Year Or More~~
~~Carbon Monoxide (CO)~~	~~CO, Serious, with stationary sources as more than 25% of source inventory~~	~~50~~

~~Volatile Organic Compounds (VOC)~~	~~Ozone, Serious~~	~~50~~
~~VOC~~	~~Ozone, Severe~~	~~25~~
~~PM_{10}~~	~~PM_{10}, Serious~~	~~70~~
~~NO_x~~	~~Ozone, Serious~~	~~50~~
~~NO_x~~	~~Ozone, Severe~~	~~25~~

~~or~~

~~210.2 Any stationary source located in an attainment or unclassifiable area that emits, or has the potential to emit, 100 tons per year or more of any conventional air pollutant if the source is classified as a Categorical Source, or 250 tons per year or more of any pollutant subject to regulation under the Act if the source is not classified as a Categorical Source; or~~

~~210.3 Any change to a minor source, except for VOC or NO_x emission increases at minor sources in serious or severe ozone nonattainment areas, that would increase its emissions to the qualifying levels in Section 210.1 or Section 210.2 of this rule;~~

~~210.4 Any change in VOC or NO_x at a minor source in serious or severe ozone nonattainment areas that would be significant as described in Section 307.2 of this rule and that would increase its emissions to the qualifying levels in Section 210.1 of this rule;~~

~~210.5 Any stationary source that emits, or has the potential to emit, five or more tons of lead per year;~~

~~210.6 Any source classified as major undergoing modification that meets the definition of reconstruction;~~

~~210.7 A major source that is major for VOCs shall be considered major for ozone; or~~

~~210.8 A major source that is major for oxides of nitrogen shall be considered major for ozone in nonattainment areas classified as marginal, moderate, serious or severe.~~

~~211 RECONSTRUCTION - Of sources located in nonattainment areas, reconstruction shall be presumed to have taken place if the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new stationary source, as determined in accordance with the provisions of 40 C.F.R. 60.15(f)(1) through (3).~~

~~212 RESOURCE RECOVERY PROJECT - Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. For the purpose of this rule, only energy conversion facilities that utilize solid waste that provides more than 50% of the heat input shall be considered a resource recovery project.~~

~~213 SECONDARY EMISSIONS - Emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support source which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.~~

~~214 SIGNIFICANCE LEVELS - The following ambient concentrations for the enumerated pollutants:~~

	~~Averaging Time~~				
~~Pollutant~~	~~Annual~~	~~24 Hour~~	~~8 Hour~~	~~3 Hour~~	~~1 Hour~~
~~SO_2~~	~~1 mg/m^3~~	~~5 mg/m^3~~		~~25 mg/m^3~~	
~~NO_2~~	~~1 mg/m^3~~				
~~CO~~			~~0.5 mg/m^3~~		~~2 mg/m^3~~
~~PM_{10}~~	~~1 mg/m^3~~	~~5 mg/m^3~~			

~~Except for the annual pollutant concentrations, exceedance of significance levels shall be deemed to occur when the ambient concentration of the above pollutant is exceeded more than once per year at any one location. If the concentration occurs at a specific location and at a time when the Arizona ambient air quality standards for the pollutant are not violated, the significance level does not apply.~~

~~SECTION 300 - STANDARDS~~

~~301 PERMIT OR PERMIT REVISION REQUIRED: No person shall commence construction of a new major source nor commence major modification of a major source without first obtaining a permit or a permit revision from the Control Officer.~~

~~302 APPLICATION COMPLETENESS: An application for a permit or a permit revision under this rule shall not be considered complete unless the application demonstrates that:~~

~~302.1 The requirements in Section 303 of this rule are met;~~

~~302.2 The more stringent of the applicable new source performance standards (NSPS) in Rule 360 New Source Performance Standards of these rules or the existing source performance standards in Regulation III Control Of Air Contaminants of these rules are applied to the proposed new major source or major modification of a major source;~~

~~302.3 The new major source or major modification will not have an adverse impact on visibility as determined by Section 511 of this rule and will satisfy all the visibility requirements contained in Section 511 of this rule. A demonstration of the impact on visibility shall be made according to Section 508 of this rule and shall be included with the application;~~

~~302.4 All applicable provisions of Rule 200 Permit Requirements, Rule 210 Title V Permit Provisions, Rule 240 Permits For New Major Sources And Major Modifications To Existing Major Sources, Rule 245 Continuous Source Emission Monitoring, and Rule 270 Performance Tests of these rules are met;~~

~~302.5 The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification. The degree of emission limitation required for control of any pollutant under this rule shall not be affected in any manner by:~~

~~a. Stack height in excess of GEP stack height except as provided in Section 309 of this rule; or~~

~~b. Any other dispersion technique, unless implemented prior to December 31, 1970.~~

~~302.6 The new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in Rule 370 Federal Hazardous Air Pollutant Program of these rules and/or Rule 372 Maricopa County Hazardous Air Pollutants (HAPS) Program of these rules.~~

~~302.7 The new major source or major modification will not exceed the limitations, if applicable, on emission from fugitive sources contained in Rule 310 Fugitive Dust, Rule 311 Particulate Matter From Process Industries, and Rule 316 Nonmetallic Mineral Processing of these rules.~~

~~302.8 A stationary source that will emit 5 or more tons of lead per year will not violate the ambient air quality standards for lead contained in Rule 510 Air Quality Standards of these rules.~~

~~303 AIR IMPACT ANALYSIS FOR ANY GEOGRAPHICAL AREA: Except for assessing air quality impacts within Class I areas, the air impact analysis required to be conducted as part of a permit application shall initially consider only the geographical area located within a 50 kilometer (31 mile) radius from the point of greatest emissions for the new major source or major modification. The Control Officer, on his own initiative or upon receipt of written notice from any person, shall have the right at any time to request an enlargement of the geographical area for which an air quality impact analysis is to be performed by giving the person applying for the permit or permit revision written notice thereof, specifying the enlarged radius to be so considered. In performing an air impact analysis for any geographical area with a radius of more than 50 kilometers (31 miles), the person applying for the permit or permit revision may use monitoring or modeling data obtained from major sources having comparable emissions or having emissions which are capable of being accurately used in such demonstration and which are subjected to terrain and atmospheric stability conditions which are comparable or which may be extrapolated with reasonable accuracy for use in such demonstration.~~

~~304 ACTION ON APPLICATION AND NOTIFICATION REQUIREMENTS: Unless the requirement has been satisfied under these rules, the Control Officer shall comply with the following requirements:~~

~~304.1 Within 60 days after receipt of an application for a permit, of a permit revision subject to this rule, or of any addition to such application, the Control Officer shall advise the applicant of any deficiency in the application. The date of receipt of the application shall be, for the purpose of this rule, the date on which the Control Officer received all required information. The permit application shall not be deemed complete solely because the Control Officer failed to meet the requirements of this section.~~

~~304.2 In addition to Section 511 of this rule, a copy of any notice required by Section 511 of this rule shall be sent to the permit applicant, to the Administrator, and to the following officials and agencies having cognizance of the location where the proposed major source or major modification would occur:~~

~~a. The Control Officer for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;~~

~~b. The Board Of Supervisors for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;~~

~~c. The city or town managers of the city or town which contains, and any city or town the boundaries of which are within five miles of the location of the proposed or existing source that is the subject of the permit or permit revision application;~~

~~d. Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and~~

~~e. Any State, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.~~

~~304.3 The Control Officer shall take final action on the application within one year of the proper filing of the complete application. The Control Officer shall notify the applicant in writing of his approval or of his denial.~~

~~304.4 The Control Officer shall terminate a permit or permit revision issued under this rule if the proposed construction or major modification is not begun within 18 months of issuance, or if during the construction or major modification, work is suspended for more than 18 months.~~

~~304.5 Within 30 days of the issuance of any permit under this rule, the Control Officer shall submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Act.~~

~~305 PERMIT REQUIREMENTS FOR SOURCES LOCATED IN NONATTAINMENT AREAS:~~

~~305.1 Except as provided in Section 305.3 through Section 305.7 of this rule, no permit or permit revision shall be issued under this rule to a person proposing to construct a new major source or proposing to make a major modification to a source located in any nonattainment area for the pollutant(s) for which the source is classified as a major source or the modification is classified as a major modification unless:~~

~~a. The person demonstrates that the new major source or the major modification will meet an emission limitation which is the lowest achievable emission rate (LAER) for that source for that specific pollutant(s). In determining LAER for a reconstructed stationary source, the provisions of 40 C.F.R. 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.~~

~~b. The person demonstrates that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) in the State are in compliance with, or are on a schedule of compliance for, all conditions contained in permits of each of the sources and all other applicable emission limitations and standards under the Act and in this rule.~~

~~c. The person demonstrates that emission reductions for the specific pollutant(s) from source(s) in existence in the allowable offset area of the new major source or major modification (whether or not under the same ownership) meet the offset and net air quality benefit requirements of Section 306 of this rule.~~

~~305.2 No permit or permit revision under this rule shall be issued to a person proposing to construct a new major source or proposing to make a major modification to a major source located in a nonattainment area unless:~~

~~a. The person performs an analysis of alternative sites, sizes, production processes and environmental control techniques for such new major source or major modification; and~~

~~b. The Control Officer determines that the analysis demonstrates that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.~~

~~305.3 At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.~~

~~305.4 Secondary emissions shall not be considered in determining the potential to emit of a new source or modification and therefore whether the new source or modification is major. However, if a new source or modification is subject to this rule on the basis of its direct emissions, a permit or a permit revision, under this rule to construct the new source or modification, shall be denied, unless the conditions specified in Section 305.1(a) and Section 305.1(b) of this rule are met, for reasonably quantifiable secondary emissions caused by the new source or modification.~~

~~305.5~~ ~~A permit to construct a new source or modification shall be denied, unless the conditions specified in Section 305.1(a), Section 305.1(b), and Section 305.1(c) of this rule are met for fugitive emissions caused by the new source or modification. However, these conditions shall not apply to a new major source or major modification that would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source is neither a categorical source nor a source belonging to the category of sources for which New Source Performance Standards (NSPS) under 40 C.F.R. Part 60 or National Emission Standards For Hazardous Air Pollutants (NESHAPS) under 40 C.F.R. Part 61 promulgated by the Administrator prior to August 7, 1980.~~

~~305.6~~ ~~The requirements of Section 305.1(c) of this rule shall not apply to temporary emission sources, such as pilot plants and portable sources, which are only temporarily located in the nonattainment area, are otherwise regulated by a permit, and are in compliance with the conditions of that permit.~~

~~305.7~~ ~~A decrease in actual emissions shall be considered in determining the potential of a new source or modification to emit only to the extent that the Control Officer has not relied on it in issuing any permit or permit revision under these rules, or the State has not relied on it in demonstrating attainment or reasonable further progress (RFP).~~

~~305.8~~ ~~The issuance of a permit or permit revision under this rule shall not relieve the owner and/or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements pursuant to local, State, or Federal law.~~

~~305.9~~ ~~Within 30 days of the issuance of any permit under this section, the Control Officer shall submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Act.~~

~~306~~ ~~OFFSET AND NET AIR QUALITY BENEFIT STANDARDS:~~

~~306.1~~ ~~Increased emissions by a major source or major modification subject to this rule shall be offset by reductions in the emissions of each pollutant for which the area has been designated as nonattainment and for which the source or modification is classified as major. The offset may be obtained by reductions in emissions from the source or modification, or from any other source within the allowable offset area. Credit for an emissions offset can be used only if it has not been relied upon in demonstrating attainment or in demonstrating reasonable further progress (RFP), and if it has not been relied upon previously in issuing a permit or permit revision under this rule, under Section 301 through Section 305 of this rule, or not otherwise required under this rule or under any provision of the State Implementation Plan (SIP).~~

~~306.2~~ ~~An offset shall not be sufficient unless reductions of total emissions for the particular pollutant for which the offset is required will be:~~

- ~~a.~~ ~~Obtained from sources within the allowable offset area;~~
- ~~b.~~ ~~A surplus emission, which is an emission reduction not required by current regulations in the State Implementation Plan (SIP); not already relied upon for SIP planning purposes; and not used by the source to meet any other regulatory requirement, including, at the time emission reduction credits (ERCs) are used, reasonably available control technology (RACT), reasonable further progress (RFP), or milestones thereof, or demonstration of attainment;~~
- ~~c.~~ ~~Contemporaneous with the operation, the new major source, or major modification;~~
- ~~d.~~ ~~An emission enforceable by the Administrator;~~
- ~~e.~~ ~~A quantifiable emission. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process or production inputs, modeling or other reasonable measurement practices. Quantification methods shall be credible, workable, and replicable. The method for calculating emissions should be used to measure the emissions both before and after the changes in emission levels, both at the generator and at the user of the emission reduction credits (ERCs); and~~
- ~~f.~~ ~~Sufficient to satisfy the Control Officer that emissions from the new major source or major modification, together with the offset, will result in reasonable further progress (RFP) for that pollutant.~~

~~306.3~~ ~~In ozone nonattainment areas classified as marginal, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.10:1. In ozone nonattainment areas classified as moderate, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.15:1. New major sources and~~

~~major modifications in serious and severe ozone nonattainment areas shall comply with this section and with Section 307 of this rule.~~

~~306.4~~ ~~Only intrapollutant emission offsets shall be allowed. Intrapollutant emission offsets for VOCs shall only include offset reductions in emissions of VOCs. Intrapollutant emission offsets for oxides of nitrogen shall only include offset reductions in emissions of oxides of nitrogen.~~

~~306.5~~ ~~For purpose of this rule, reasonable further progress (RFP) shall mean compliance with the schedule of annual incremental reductions in emissions of the applicable air pollutant prescribed by the Control Officer based on air quality modeling under Section 510 of this rule, to provide for attainment of the applicable air quality standards by the deadlines set under Part D of Title I of the Act, or in an applicable implementation plan.~~

~~306.6~~ ~~For the purpose of this rule, net air quality benefit shall mean that during similar time periods either Section 306.6(a) or Section 306.6(b) of this rule is applicable:~~

~~a.~~ ~~A reduction in the number of violations of the applicable Arizona ambient air quality standard within the allowable offset area has occurred and the following mathematical expression is satisfied:~~

$$\frac{\sum_{i=1}^{N} X_i - C}{N} \leq \frac{\sum_{j=1}^{K} X_j - C}{K}$$

~~when:~~

~~C =~~ ~~The applicable Arizona ambient air quality standard.~~

~~X_i =~~ ~~The concentration level of the violation at the ith receptor for the pollutant after offsets.~~

~~N =~~ ~~The number of violations for the pollutant after offsets ($N \leq K$).~~

~~X_j =~~ ~~The concentration level of the violation at the jth receptor from the pollutant before offsets.~~

~~K =~~ ~~The number of violations for the pollutant before offsets.~~

~~b.~~ ~~The average of the ambient concentrations within the allowable offset area after the implementation of the contemplated offsets will be less than the average of the ambient concentrations within the allowable offset area without the offsets.~~

~~306.7~~ ~~For the purpose of this rule, baseline shall be defined as:~~

~~a.~~ ~~The baseline of total emissions from any sources in existence or sources that have obtained a permit or permit revision under this rule, regardless of whether or not the sources are in actual operation at the time of application for the permit or permit revision, shall be the total actual emissions at the time the application is filed. In addition, the baseline of total emissions shall consist of all emission limitations included as conditions on federally enforceable permits, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained if:~~

~~(1)~~ ~~No emission limitations are applicable to a source from which offsets are being sought; or~~

~~(2)~~ ~~The demonstration of reasonable further progress (RFP) and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area.~~

~~b.~~ ~~If the emission limitations for a particular pollutant allow greater emissions than the potential emission rate of the source for that pollutant, the baseline shall be the potential emission rate at the time application for the permit or permit revision under this rule is filed, and emissions offset credit shall be allowed only for control below the potential emission rate.~~

~~306.8~~ ~~For an existing fuel combustion source, offset credit shall be based on the allowable emissions under the regulations or permit conditions applicable to the source for the type of fuel being burned at the time the application for the permit or permit revision under this rule is filed. If an existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the actual emissions for the fuels involved shall not be acceptable unless:~~

a. ~~The permit or permit revision under this rule for the source specifically requires the use of a specified alternative control measure that would achieve the same degree of emissions reduction if the source switches back to a dirtier fuel at some later date; and~~

b. ~~The source demonstrates to the satisfaction of the Control Officer that it has secured an adequate long-term supply of the cleaner fuel.~~

~~306.9 Offsets shall be made on either a pounds per hour, pounds per day, pounds per quarter, tons per quarter, or tons per year basis, whichever is applicable, when all sources involved in the emission offset calculations are operating at their maximum expected or allowed production rate and, except as otherwise provided in Section 306.8 of this rule, utilizing the type of fuel burned at the time the application for the permit or permit revision under this rule is filed. A tons per year basis shall not be used if the new or modified source or the source offsets are not expected to operate throughout the entire year. No emissions credit may be allowed for replacing one VOC with another VOC of lesser reactivity.~~

~~306.10 Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, if the work force to be affected has been notified of the proposed shutdown or curtailment. No offset credits for shutdowns or curtailments shall be provided for emissions reductions that are necessary to bring a source into compliance with reasonably available control technology (RACT) or any other standard under an applicable implementation plan.~~

~~306.11 The allowable offset area shall be the geographical area in which the sources are located whose emissions are being sought to offset emissions from a new major source or major modification. For the pollutants sulfur dioxide, PM_{10}, and carbon monoxide, the allowable offset area shall be determined by atmospheric dispersion modeling. If the emission offsets are obtained from a source on the same premises or in the immediate vicinity of the new major source or major modification, and the pollutants disperse from substantially the same effective stack height, atmospheric dispersion modeling shall not be required. The allowable offset area for all other pollutants shall be the nonattainment areas for those pollutants within which the new major source or major modification is to be located.~~

~~306.12 An emission reduction may only be used to offset emissions if the reduced level of emissions will continue for the life of the new source or modification and if the reduced level of emissions is legally and federally enforceable at the time of permit issuance. It shall be considered legally enforceable, if the following conditions are met:~~

a. ~~The emission reduction is included as a condition in the permit of the source relied upon to offset the emissions from the new major source or major modification, or in the case of reductions from sources controlled by the applicant, is included as a condition of the permit or permit revision under this rule for the new major source or major modification;~~

b. ~~The emission reduction is adopted as a part of this rule or comparable rules of any other governmental entity or is contractually enforceable by the Control Officer and is in effect at the time the permit is issued.~~

~~306.13 For the purpose of this rule, the Control Officer may initiate or a source may propose a mobile source emission reduction credit (MERC) program. "MERC Program" or "Program" means any activity undertaken by a person which generates actual mobile source emission reductions within the Maricopa County nonattainment area for purposes of establishing MERCs under this rule.~~

a. ~~Applicability: A MERC Program applies to any owner, user, transferor, or transferee of a MERC for new source review (NSR) purposes, of a mobile source for which a MERC has been granted, and for any generator of a MERC.~~

b. ~~Limitations:~~

(1) ~~A MERC Program can be a one time action, a series of one time actions, or a continuous set of actions.~~

(2) ~~A MERC generated by a MERC Program must create an actual emissions reduction.~~

(3) ~~A MERC generated by a MERC Program is subject to the written approval of the Control Officer and the Administrator.~~

(4) ~~At a minimum, a MERC, like other emission reduction credits used as NSR offsets, must meet the requirements of Section 306.2 of this rule, including being surplus, enforceable, permanent, and quantifiable.~~

~~(5) The MERC Program shall include specifications regarding:~~

~~(a) Quantification of mobile source emission credit.~~

~~(b) Life of mobile source emission credit. The life of a MERC shall be dependent on the duration of the actual emission reductions activity. For the purpose of this section, actual emission reductions mean emission reductions which occur or are projected to occur within the Maricopa County nonattainment area and which meet the requirements of Section 306.2 of this rule.~~

~~(c) Evidence of disposal of original mobile source. For the purpose of this section, disposal is not limited to scrapping a mobile source but includes relocating a mobile source outside the Maricopa County nonattainment area.~~

~~(d) Recordkeeping and reporting.~~

~~e. Inspections And Recordkeeping:~~

~~(1) Any owner, user, transferor, or transferee of a MERC for new source review (NSR) purposes, of a mobile source for which a MERC has been granted, or any generator of a MERC shall compile and retain, for five years beyond the credit life (if the credit has a limited life), all records reasonably necessary to verify compliance with the requirements of this rule and with any other requirements imposed under the granting or use of the MERC. The Control Officer shall determine what records are "reasonably necessary" and, prior to the MERC generating activity taking place, shall approve a written document, which describes these requirements. Records may be maintained in an electronic format, if compatible with existing Department computer equipment, as determined by the Control Officer.~~

~~(2) Access to and copies of all applicable records, for inspection, shall be provided to the Control Officer upon request.~~

~~(3) Any owner, user, transferor, or transferee of a MERC for new source review (NSR) purposes, of a mobile source for which a MERC has been granted, or any generator of a MERC, is subject to random inspections by the Control Officer to verify compliance with this rule and any other requirements imposed under the granting or use of the MERC.~~

~~(4) The Control Officer shall, upon request, have access to the premises of any owner, user, transferor, or transferee of a MERC for new source review (NSR) purposes, of any mobile source for which a MERC has been granted, or any generator of a MERC, for purposes of conducting an inspection to verify compliance with this rule and with any other requirements imposed under the granting or use of the MERC.~~

~~(5) Inspections may include review of records, testing, or any other action to verify compliance with this rule and with any other requirements imposed under the granting or use of the MERC.~~

~~307 SPECIAL REQUIREMENTS FOR MAJOR SOURCES OF VOC OR OXIDES OF NITROGEN IN OZONE NONATTAINMENT AREAS CLASSIFIED AS SERIOUS OR SEVERE:~~

~~307.1 The provisions of Section 307 of this rule only apply to stationary sources of VOC or oxides of nitrogen in ozone nonattainment areas classified as serious or severe. Unless otherwise provided in this rule, all requirements of Rule 200 Permit Requirements, Rule 210 Title V Permit Provisions, Rule 240 Permits For New Major Sources And Major Modifications To Existing Major Sources, Rule 245 Continuous Source Emission Monitoring, and Rule 270 Performance Tests of these rules apply.~~

~~307.2 Significant means, for the purposes of a major modification of any major source of VOC or oxides of nitrogen or for determining whether an otherwise minor source is major under Section 210 Definition Of Major Source of this rule, any physical change or change in the method of operations that results in net increases in emissions of either pollutant by more than 25 tons when aggregated with all other creditable increases and decreases in emissions from the source over the previous five consecutive calendar years, including the calendar year in which the increase is proposed. For the purpose of Section 307 of this rule, a physical change or change in the method of operation that results in an increase of less than one ton per year of VOC or oxides of nitrogen before netting does not trigger a 5-year aggregation exercise.~~

~~307.3~~ ~~For any major source that emits or has the potential to emit less than 100 tons VOC or oxides of nitrogen per year, a significant increase in VOC or oxides of nitrogen, respectively, shall constitute a major modification, except that the increase in emissions from any discrete emissions unit, operation, or other pollutant emitting activity that is offset from other units, operations, or activities at the source at a ratio of 1.3:1 for the increase in VOC or oxides of nitrogen, respectively, from the unit, operation, or activity shall not be considered part of the major modification. Best available control technology (BACT) shall be substituted for lowest achievable emission rate (LAER) for all major modifications under this section. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in Section 307.5 and Section 307.6 of this rule.~~

~~307.4~~ ~~For any stationary source that emits or has the potential to emit 100 tons or more of VOC or oxides of nitrogen per year, any significant increase in VOC or oxides of nitrogen, respectively, shall constitute a major modification. If the increase in emissions from the modification at any discrete emissions unit, operation, or other pollutant emitting activity is offset from other units, operations or activities at the source at a ratio of 1.3:1 for the increase in VOC or oxides of nitrogen, respectively from the unit, operation or activity, best available control technology (BACT) shall be substituted for lowest achievable emission rate (LAER) at the unit, operation, or activity. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in Section 307.5 and Section 307.6 of this rule.~~

~~307.5~~ ~~For any new major source or major modification that is classified major because of emissions or potential to emit VOC or oxides of nitrogen in an ozone nonattainment area classified as serious, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.2:1. The offset shall be made in accordance with the provisions of Section 306 of this rule.~~

~~307.6~~ ~~For any new major source or major modification that is classified as such because of emissions or potential to emit VOC or oxides of nitrogen in an ozone nonattainment area classified as severe, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.3:1. If the State Implementation Plan (SIP) requires all existing major sources of these pollutants in the nonattainment area to apply best available control technology (BACT), then the offset ratio shall be 1.2:1. These offsets shall be made in accordance with the provisions of Section 306 of this rule.~~

~~308 PERMIT REQUIREMENTS FOR SOURCES LOCATED IN ATTAINMENT AND UNCLASSIFIABLE AREAS:~~

~~308.1~~ ~~Except as provided in Section 308.2 through Section 308.7 and Section 509 of this rule, no permit or permit revision under this rule shall be issued to a person proposing to construct a new major source or proposing to make a major modification to a major source that would be constructed in an area designated as attainment or unclassifiable for any pollutant, unless the source or modification meets the following conditions:~~

~~a.~~ ~~A new major source shall apply best available control technology (BACT) for each pollutant listed in Rule 100 General Provisions And Definitions of these rules for which the potential to emit is significant.~~

~~b.~~ ~~A major modification shall apply best available control technology (BACT) for each pollutant listed in Rule 100 General Provisions And Definitions of these rules for which the modification would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or of a change in the method of operation in the unit.~~

~~c.~~ ~~For phased construction projects, the determination of best available control technology (BACT) shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology (BACT) for the source.~~

~~d.~~ ~~Best available control technology (BACT) shall be determined on a case by case basis and may constitute application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques, for control of such pollutant. In no event shall such application of best available control technology (BACT) result in emissions of any pollutant which would exceed the~~

~~emissions allowed by any applicable new source performance standard or national emission standard for hazardous air pollutants under Rule 360 New Source Performance Standards, Rule 370 Federal Hazardous Air Pollutant Program, and Rule 372 Maricopa County Hazardous Air Pollutants (HAPS) Program of these rules. If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be prescribed instead to satisfy the requirement for the application of best available control technology (BACT). Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.~~

~~e. The person applying for the permit or permit revision under this rule performs an air impact analysis and monitoring as specified in Section 500 of this rule and such analysis demonstrates that allowable emission increases from the proposed new major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions, for all pollutants listed in Rule 500 Attainment Area Classification of these rules, and minor and mobile sources for oxides of nitrogen:~~

~~(1) Would not cause nor contribute to an increase in concentrations of any pollutant by an amount in excess of any applicable maximum allowable increase over the baseline concentration in Rule 500 Attainment Area Classification of these rules for any attainment or unclassified area; or~~

~~(2) Would not cause nor contribute to an increase in ambient concentrations for a pollutant by an amount in excess of the significance level for such pollutant in any adjacent area in which Arizona primary or secondary ambient air quality standards for that pollutant are being violated. A new major source of volatile organic compounds (VOCs) or oxides of nitrogen, or a major modification to a major source of VOCs or oxides of nitrogen, shall be presumed to contribute to violations of the Arizona ambient air quality standards for ozone if it will be located within 50 kilometers (31 miles) of a nonattainment area for ozone. The presumption may be rebutted for a new major source or major modification if it can be satisfactorily demonstrated to the Control Officer that emissions of VOCs or oxides of nitrogen from the new major source or major modification will not contribute to violations of the Arizona ambient air quality standards for ozone in adjacent nonattainment areas for ozone. Such a demonstration shall include a showing that topographical, meteorological or other physical factors in the vicinity of the new major source or major modification are such that transport of VOCs emitted from the source are not expected to contribute to violations of the ozone standards in the adjacent nonattainment areas.~~

~~f. Air quality models:~~

~~(1) All estimates of ambient concentrations required under this rule shall be based on the applicable air quality models, data basis, and other requirements specified in 40 C.F.R. 51, Appendix W, "Guideline On Air Quality Models", as of July 1, 2004 (and no future amendments or additions), which shall be referred to hereinafter as "Guideline" and is adopted by reference.~~

~~(2) Where an air quality impact model specified in the Guideline is inappropriate, the model may be modified or another model substituted. Such a change is subject to notice and opportunity for public comment. Written approval of the Administrator shall be obtained for any modification or substitution.~~

~~308.2 The requirements of this section shall not apply to a new major source or major modification to a source with respect to a particular pollutant if the person applying for the permit or permit revision under this rule demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant.~~

~~308.3 The requirements of this section shall not apply to a new major source or major modification of a source if such source or modification would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source is not either among the Categorical Sources listed in Section~~

~~202 of this rule or belongs to the category of sources for which New Source Performance Standards (NSPS) under 40 C.F.R. Part 60 or National Emission Standards For Hazardous Air Pollutants (NESHAPS) under 40 C.F.R. Part 61, promulgated by the Administrator prior to August 7, 1980.~~

~~308.4 The requirements of this section shall not apply to a new major source or major modification to a source when the owner of such source is a nonprofit health or educational institution.~~

~~308.5 The requirements of this section shall not apply to a portable source which would otherwise be a new major source or major modification to an existing source if such portable source is temporary, is under a permit or permit revision issued under this rule, is in compliance with the conditions of that permit or permit revision under this rule, the emissions from the source will not impact a Class I area nor an area where an applicable increment is known to be violated, and reasonable notice is given to the Control Officer prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Control Officer not less than 10 calendar days in advance of the proposed relocation unless a different time duration is previously approved by the Control Officer.~~

~~308.6 Special Requirements Applicable To Federal Land Managers:~~

~~a. Notwithstanding any other provision of this rule, a Federal Land Manager may present to the Control Officer a demonstration that the emissions attributed to such new major source or major modification to a source will have significant adverse impact on visibility or other specifically defined air quality related values of any Federal Mandatory area designated in Rule 500 Attainment Area Classification of these rules, regardless of the fact that the change in air quality resulting from emissions attributable to such new major source or major modification to a source in existence will not cause or contribute to concentrations which exceed the maximum allowable increases for a Class I area. If the Control Officer concurs with such demonstrations, the permit or permit revision under this rule shall be denied.~~

~~b. If the owner or operator of a proposed new major source or a source for which major modification is proposed demonstrates to the Federal Land Manager that the emissions attributable to such major source or major modification will have no significant adverse impact on the visibility or other specifically defined air quality related values of such areas and the Federal Land Manager so certifies to the Control Officer, the Control Officer may issue a permit or permit revision under this rule notwithstanding the fact that the change in air quality resulting from emissions attributable to such new major source or major modification will cause or contribute to concentrations which exceed the maximum allowable increases for a Class I area. Such a permit or permit revision under this rule shall require that such new major source or major modification comply with such emission limitations as may be necessary to assure that emissions will not cause increases in ambient concentrations greater than the following maximum allowable increases over baseline concentrations for such pollutants:~~

~~Maximum Allowable Increases~~		
~~Pollutant~~	~~Averaging Time~~	~~Increase In mg/m^3~~
~~TSP~~	~~Annual Geometric Mean~~	~~19~~
~~TSP~~	~~24 hour Maximum~~	~~37~~
~~SO_2~~	~~Annual Arithmetic Mean~~	~~20~~
~~SO_2~~	~~24 hour Maximum~~	~~91~~
~~SO_2~~	~~3 hour Maximum~~	~~325~~
~~NO_2~~	~~Annual Arithmetic Mean~~	~~25~~

~~308.7 The issuance of a permit or permit revision under this rule in accordance with this section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.~~

~~308.8 At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.~~

~~309 STACK HEIGHT LIMITATION:~~

~~309.1 The limitations set forth herein shall not apply to stacks or dispersion techniques used by the owner or operator prior to December 31, 1970, for which the owner or operator had:~~

~~a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack;~~

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

~~c. Coal fired steam electric generating units, subject to the provisions of Section 118 of the Act which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.~~

~~309.2 Good engineering practice (GEP) stack height is calculated as the greater of the following four numbers:~~

~~a. 65 meters (213.25 feet).~~

~~b. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 C.F.R. Parts 51 and 52 and Section 305 of this rule, Hg = 2.5H.~~

~~c. For all other stacks, Hg = H + 1.5L, where:~~

~~Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;~~

~~H = height of nearby structure measured from the ground-level elevation at the base of the stack;~~

~~L = lesser dimension (height or projected width) of nearby structure; provided that the EPA, the Director, or the Control Officer may require the use of a field study or fluid model to verify good engineering practice (GEP) stack height for the source; or~~

~~d. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain obstacles.~~

~~e. For a specific structure or terrain feature, "nearby" shall be:~~

~~(1) For purposes of applying the formulae in Section 309.2(b) of this rule and Section 309.2(c) of this rule, that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile).~~

~~(2) For conducting demonstrations under Section 309.2(d) of this rule, means not greater than 0.8 km (one half mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (H+) of the feature, not to exceed two miles if such feature achieved a height (H+) 0.8 km from the stack. The height shall be at least 40% of the good engineering practice (GEP) stack height determined by the formula provided in Section 309.2(c) of this rule, or 85 feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.~~

~~f. "Excessive concentrations" means, for the purpose of determining good engineering practice stack height under Section 309.2(d) of this rule:~~

~~(1) For sources seeking credit for stack height exceeding that established under Sections 309.2(b) and 309.2(c) of this rule, a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the requirements for permits or permit revisions under this rule, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at~~

~~least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and greater than the applicable maximum allowable increase contained in Rule 500 Attainment Area Classification of these rules. The allowable emission rate to be used in making demonstrations under Section 309.2(d) of this rule shall be prescribed by the new source performance standard (NSPS) which is applicable to the source category, unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Control Officer, an alternative emission rate shall be established in consultation with the source owner or operator.~~

~~(2) For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Sections 309.2(b) and 309.2(c) of this rule, either:~~

~~(a) A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in Section 309.2(f)(1) of this rule, except that emission rate specified by any applicable State Implementation Plan (SIP) shall be used, or~~

~~(b) The actual presence of a local nuisance caused by the existing stack, as determined by the Control Officer; and~~

~~(3) For sources seeking credit after January 12, 1979, for a stack height determined under Sections 309.2(b) and 309.2(c) of this rule, where the Control Officer requires the use of a field study or fluid model to verify good engineering practice (GEP) stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Sections 309.2(b) and 309.2(c) of this rule, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.~~

~~309.3 The degree of emission limitation required of any source after the respective date given in Section 309.1 of this rule for control of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique.~~

~~309.4 The good engineering practice (GEP) stack height for any source seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards or applicable prevention of significant deterioration (PSD) increments can be adjusted by determining the stack height necessary to predict the same maximum air pollutant concentration on any elevated terrain feature as the maximum concentration associated with the emission limit which results from modeling the source using the good engineering practice (GEP) stack height as determined herein and assuming the elevated terrain features to be equal in elevation to the good engineering practice (GEP) stack height. If this adjusted good engineering practice (GEP) stack height is greater than stack height the source proposes to use, the source's emission limitation and air quality impact shall be determined using the proposed stack height and the actual terrain heights.~~

~~309.5 Before the Control Officer issues a permit or permit revision under this rule to a source based on a good engineering practice (GEP) stack height that exceeds the height allowed by Section 309.2 of this rule, the Control Officer shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of Rule 210 Title V Permit Provisions of these rules.~~

~~SECTION 400 ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)~~

~~SECTION 500 MONITORING AND RECORDS~~

~~501 POLLUTANTS TO BE INCLUDED IN ANALYSIS OF AMBIENT AIR QUALITY: Any application for a permit or permit revision under this rule to construct a new major source or major modification to a major source shall contain for each of the following pollutants an analysis of ambient air quality in the area that the new major source or major modification would affect:~~

~~501.1 For the new source, each pollutant that it would have the potential to emit in a significant amount.~~

~~501.2 For the modification, each pollutant for which it would result in a significant net emissions increase.~~

~~502 PRECONSTRUCTION AIR QUALITY MONITORING DATA:~~

~~502.1 With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain all air quality monitoring data as the Control Officer determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of the pollutant would affect.~~

~~502.2 With respect to any such pollutant, other than nonmethane hydrocarbons, for which a national ambient air quality standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of such standard or of any maximum allowable increase.~~

~~502.3 In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that if the Control Officer determines that a complete and adequate analysis can be accomplished with continuous air quality monitoring data gathered over a period shorter than one year, but not to be less than four months, the data that is required shall have been gathered over at least that shorter period.~~

~~503 COMPLETE APPLICATION AIR QUALITY MONITORING DATA: For any application which, prior to February 9, 1982, becomes complete, except as to the requirements of Section 502.2 of this rule, the data that Section 502.2 of this rule requires shall have been gathered over at least the period from February 9, 1981, to the date the application becomes otherwise complete, except that:~~

~~503.1 If the new source or modification would have been major for that pollutant under Section 308 of this rule as in effect on October 2, 1979, any monitoring data shall have been gathered over at least the period required by Section 308 of this rule.~~

~~503.2 If the Control Officer determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that Section 502.2 of this rule requires shall have been gathered over that shorter period.~~

~~503.3 If the monitoring data would relate exclusively to ozone and would not have been required under Section 308 of this rule as in effect on October 2, 1979, the Control Officer may waive the otherwise applicable requirements of Section 308 of this rule to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over the full year.~~

~~504 POST-APPROVAL AIR QUALITY MONITORING DATA FOR OZONE: The owner or operator of a proposed stationary source or modification to a source of VOCs who satisfies all conditions of 40 C.F.R. 51, Appendix S, Section IV, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Section 502 of this rule.~~

~~505 POST-CONSTRUCTION AIR QUALITY MONITORING DATA: The owner or operator of a new major source or major modification shall, after construction of the source or modification, conduct such ambient monitoring as the Control Officer determines is necessary to determine the effect emissions from the new source or modification may have, or are having, on air quality in any area.~~

~~506 OPERATIONS OF MONITORING STATIONS: The owner or operator of a new major source or major modification shall meet the requirements of 40 C.F.R. 58, Appendix B, during the operation of monitoring stations for purposes of satisfying Section 502 through Section 505 of this rule.~~

~~507 EXCEPTIONS TO MONITORING FOR A PARTICULAR POLLUTANT: The requirements of Section 502 through Section 506 of this rule shall not apply to a new major source or major modification to an existing source with respect to monitoring for a particular pollutant if:~~

~~507.1 The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:~~

~~Pollutant~~	~~Concentration~~	~~Averaging Time~~
~~Carbon Monoxide~~	~~575 mg/m^3~~	~~8 hour average~~
~~Nitrogen dioxide~~	~~14 mg/m^3~~	~~annual average~~
~~PM_{10}~~	~~10 mg/m^3~~	~~24 hour average~~
~~Sulfur dioxide~~	~~13 mg/m^3~~	~~24 hour average~~
~~Lead~~	~~0.1 mg/m^3~~	~~24 hour average~~
~~Fluorides~~	~~0.25 mg/m^3~~	~~24 hour average~~

~~Total reduced sulfur~~	~~10 mg/m^3~~	~~1 hour average~~
~~Hydrogen sulfide~~	~~0.04 mg/m^3~~	~~1 hour average~~
~~Reduced sulfur compounds~~	~~10 mg/m^3~~	~~1 hour average~~
~~Ozone~~	~~Increased emissions of less than 100 tons per year of volatile organic compounds or oxides of nitrogen~~	

~~or,~~

~~507.2 The concentrations of the pollutant in the area that the new source or modification would affect are less than the concentrations listed in Section 507.1 of this rule.~~

~~508 VISIBILITY AND AIR QUALITY IMPACT ANALYSIS: Any application for a permit or a permit revision under this rule to construct a new major source or major modification to a source shall contain:~~

~~508.1 An analysis of the impairment to visibility, soils and vegetation that would occur as a result of the new source or modification and general commercial, residential, industrial and other growth associated with the new source or modification. The applicant need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.~~

~~508.2 An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the new source or modification.~~

~~509 INNOVATIVE CONTROL TECHNOLOGY:~~

~~509.1 Notwithstanding the provisions of Sections 308.1(a), 308.1(b), and 308.1(c), of this rule, the owner or operator of a proposed new major source or major modification may request that the Control Officer approve a system of innovative control technology rather than the best available control technology (BACT) requirements otherwise applicable to the new source or modification.~~

~~509.2 The Control Officer shall approve the installation of a system of innovative control technology if the following conditions are met:~~

~~a. The owner or operator of the proposed source or modification satisfactorily demonstrates that the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;~~

~~b. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 308.1(b) of this rule by a date specified in the permit or permit revision under this rule for the source. Such date shall not be later than four years from the time of start-up or seven years from the issuance of a permit or permit revision under this rule;~~

~~c. The source or modification would meet requirements equivalent to those in Section 308.1 of this rule based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified in the permit or permit revision under this rule;~~

~~d. Before the date specified in the permit or permit revision under this rule, the source or modification would not:~~

~~(1) Cause or contribute to any violation of an applicable State ambient air quality standard; or~~

~~(2) Impact any area where an applicable increment is known to be violated.~~

~~e. All other applicable requirements, including those for public participation have been met.~~

~~f. The Control Officer receives the consent of the governors of other affected states.~~

~~g. The limits on pollutants contained in Rule 500 Attainment Area Classification of these rules for Class I areas will be met for all periods during the life of the source or modification.~~

~~509.3 The Control Officer shall withdraw any approval to employ a system of innovative control technology made under this rule if:~~

~~a. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or~~

~~b. The proposed system fails before the specified date, so as to contribute to an unreasonable risk to public health, welfare, or safety; or~~

~~c. The Control Officer decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.~~

~~509.4 If the new source or major modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with~~

~~Section 509.3 of this rule, the Control Officer may allow the owner or operator of the source or modification up to an additional three years to meet the requirement for the application of best available control technology (BACT) through use of a demonstrated system of control.~~

~~510 AIR QUALITY MODELS:~~

~~510.1 Where the Control Officer requires a person requesting a permit or permit revision under this rule to perform air quality impact modeling to obtain such permit or permit revision under this rule, the modeling shall be performed in a manner consistent with the Guideline.~~

~~510.2 Where the person requesting a permit or permit revision under this rule can demonstrate that an air quality impact model specified in the Guideline is inappropriate, the model may be modified or another model substituted. However, before such modification or substitution can occur, the Control Officer must make a written finding that:~~

~~a. No model in the Guideline is appropriate for a particular permit or permit revision under this rule under consideration; or~~

~~b. The data base required for the appropriate model in the Guideline is not available; and~~

~~c. The model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline; and~~

~~d. The model proposed as a substitute or modification has been approved by the Administrator.~~

~~510.3 Use of a modified or substituted model under this rule shall be subject to notice and opportunity for public comment under Rule 210 Title V Permit Provisions of these rules.~~

~~511 VISIBILITY PROTECTION:~~

~~511.1 For any new major source or major modification subject to the provisions of this rule, no permit or permit revision under this rule shall be issued to a person proposing to construct or to modify the source, unless the applicant has provided:~~

~~a. An analysis of the anticipated impacts of the proposed source on visibility in any Class I areas which may be affected by the emissions from that source; and~~

~~b. Results of monitoring of visibility in any area near the proposed source for such purposes and by such means as the Control Officer determines is necessary and appropriate.~~

~~511.2 A determination of an adverse impact on visibility shall be made based on consideration of all of the following factors:~~

~~a. The times of visitor use of the area.~~

~~b. The frequency and timing of natural conditions in the area that reduce visibility.~~

~~c. All of the following visibility impairment characteristics:~~

~~(1) Geographic extent;~~

~~(2) Intensity;~~

~~(3) Duration;~~

~~(4) Frequency; and~~

~~(5) Time of day.~~

~~d. The correlation between the characteristics listed in Section 511.2(c) of this rule and the factors described in Sections 511.2(a) and 511.2(b) of this rule.~~

~~511.3 The Control Officer shall not issue a permit or a permit revision under this rule, or pursuant to Rule 200 Permit Requirements, Rule 210 Title V Permit Provisions, Rule 245 Continuous Source Emission Monitoring, and Rule 270 Performance Tests of these rules, for any new major source or major modification subject to this rule, unless the following requirements have been met:~~

~~a. The Control Officer shall notify the individuals identified in Section 511.3(b) of this rule within 30 days of receipt of any advance notification of any such permit application or permit revision application under this rule.~~

~~b. Within 30 days of receipt of an application for a permit or permit revision under this rule for a source whose emissions may affect a Class I area, the Control Officer shall provide written notification of the application to the Federal Land Manager and to the federal official charged with direct responsibility for management of any lands within any such area. The notice shall:~~

~~(1) Include a copy of all information relevant to the permit application or to the permit revision application under this rule;~~

~~(2) Include an analysis of the anticipated impacts of the proposed source on visibility in any area which may be affected by emissions from the source; and~~

~~(3) Provide for no less than a 30 day period within which written comments may be submitted.~~

~~e. The Control Officer shall consider any analysis provided by the Federal Land Manager that is received within the comment period provided in Section 511.3(b) of this rule.~~

~~(1) Where the Control Officer finds that the analysis provided by the Federal Land Manager does not demonstrate to the satisfaction of the Control Officer that an adverse impact on visibility will result in the area, the Control Officer shall, within the public notice required by Rule 210 Title V Permit Provisions of these rules, either explain the decision or specify where the explanation can be obtained.~~

~~(2) When the Control Officer finds that the analysis provided by the Federal Land Manager demonstrates to the satisfaction of the Control Officer that an adverse impact on visibility will result in the area, the Control Officer shall not issue a permit or permit revision under this rule for the proposed new major source or major modification.~~

~~d. When the proposed permit decision is made under Rule 210 Title V Permit Provisions of these rules and available for public review, the Control Officer shall provide the individuals identified in Section 511.3(b) of this rule with a copy of the proposed permit decision and shall make available to them any materials used in making that determination.~~

REGULATION II - PERMITS AND FEES

RULE 240
FEDERAL MAJOR NEW SOURCE REVIEW (NSR)

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MARICOPA COUNTY

AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES

RULE 240
FEDERAL MAJOR NEW SOURCE REVIEW (NSR)

SECTION 100 - GENERAL

101 **PURPOSE:** To implement the federal new source review requirements, including nonattainment area new source review requirements of sections 172(c)(5) and 173 of the Clean Air Act for any area designated nonattainment for any national ambient air quality standard under 40 CFR 81.303 and attainment area prevention of significant deterioration requirements of section 165 of the Clean Air Act for any area designated attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act. This is a preconstruction review and permitting program applicable to new or modified major stationary sources in areas designated nonattainment, attainment or unclassifiable.

102 **APPLICABILITY:** The provisions of this rule apply to any new major stationary source -or major modification to an existing major stationary source of regulated NSR pollutants.

103 **INCORPORATION BY REFERENCE**: Except at otherwise provided in this rule, the CFR sections adopted as of July 1, 2015, as cited in this rule, are adopted and incorporated by reference in the Maricopa County Air Pollution Control Regulations. This incorporation by reference includes no future editions or amendments.

SECTION 200 - DEFINITIONS: The definitions applicable throughout this rule are incorporated by reference into Sections 304 and 305 of this rule. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence for this rule. See Rule 100 (General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

SECTION 300 - STANDARDS

301 **PERMIT OR PERMIT REVISION REQUIRED:** No person shall begin actual construction of a new major source or a major modification subject to the requirements of this rule without first obtaining a proposed final permit from the Control Officer, pursuant to Rule 210 Section 303.1(b) of these rules, stating that the major source or major modification shall meet the requirements of this rule.

302 **APPLICATION COMPLETENESS:** An application for a permit or a permit revision under this rule other than a PAL permit pursuant to Sections 304 and 305 of this rule shall not be considered complete unless the applicant demonstrates that:

302.1 The impact analyses requirements in Section 304.16 and Section 305 of this rule are met and demonstrate that the new major source or major modification will not interfere with the attainment or maintenance of any applicable NAAQS.

302.2 The more stringent of the applicable new source performance standards (NSPS) in Section 111 of the Clean Air Act or the existing source performance standards in Regulation III-Control Of Air Contaminants of these rules are applied to the proposed new major source or major modification of a major source.

302.3 The new major source or major modification will not have an adverse impact on visibility in any Federal Class I area or mandatory Class I Federal area, as determined by Sections 304 and 305 of this rule and the applicant will satisfy all the visibility requirements contained in Sections 304 and 305 of this rule. A demonstration of the impact on visibility shall be made according to 40 CFR 51.307(a), 40 CFR 52.21(o), and (p)(1) through (p)(4) as incorporated by reference and shall be included with the application.

302.4 All applicable requirements of the SIP are met, including but not limited to the requirements contained in Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Federal Major Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules.

302.5 The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification to satisfy BACT or LAER as applicable. The degree of emission limitation required for control of any pollutant under this rule shall not be affected in any manner by:

a. Stack height in excess of GEP stack height except as provided in Section 306 of this rule; or

b. Any other dispersion technique, unless implemented prior to December 31, 1970.

302.6 The new major source or major modification will the applicable standards for hazardous air pollutants contained in Section 112 of the Clean Air Act.

302.7 The new major source or major modification will comply with all applicable requirements of Regulation III.

303 **ACTION ON APPLICATION AND NOTIFICATION REQUIREMENTS:** Unless the specific requirement has been satisfied under Rule 210 of these rules, the Control Officer shall comply with the following requirements:

303.1 Within 60 days after receipt of an application for a permit, or a permit revision subject to this rule, or of any addition to such application, the Control Officer shall advise the applicant of any deficiency in the application. The date of receipt of the application shall be, for the purpose of this rule, the date on which the Control Officer received all required information and deemed the application complete. The permit application shall not be deemed complete solely because the Control Officer failed to meet the requirements of this section.

303.2 Prior to issuing a permit or permit revision pursuant to this rule, the Control Officer shall:

a. Make a preliminary determination whether the permit or permit revision or should be approved with conditions or disapproved.

b. Make available in at least one location, including the closest Department office, a copy of all materials the applicant submitted, a copy of the preliminary determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination. Permits or permit revisions subject to the provisions in Section 305 of this rule, shall also make available the degree of increment consumption that is expected from the source or modification.

c. Publish in at least one newspaper of general circulation in Maricopa County a notice stating the preliminary determination of the Control Officer, noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. The notice shall include the time and place of any hearing that may be held, including a statement of procedure to request a hearing (unless a hearing has already been scheduled).

d. Send a copy of the notice requesting public comment to the permit applicant, the Administrator, and the following officials and agencies having cognizance of the location where the proposed major source or major modification would occur:

(1) The Board Of Supervisors for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;

(2) The city or town managers of the city or town which contains, and any city or town the boundaries of which are within five miles of the location of the proposed or existing source that is the subject of the permit or permit revision application;

(3) Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and

(4) Any State, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.

e. The Control Officer shall consult with the Federal Land Manager on a proposed major stationary source or major modification that may impact visibility in any Class I Area, in accordance with 40 CFR 51.307 as incorporated by reference.

f. Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the Control Officer's judgment such a hearing is warranted. The Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.

g. Consider all written comments that were submitted within the 30 day public comment period and all comments received at any public hearing in making a final determination on the approvability of the application and make all comments available, including the Control Officer's response to the comments, for public inspection in the same location where the Control Officer made available preconstruction information relating to the proposed source or modification.

h. Make a final determination whether the permit or permit revision should be approved with conditions or denied within one year of the proper filing of the complete application. The Control Officer shall notify the applicant in writing of his approval or of his denial.

303.3 The authority to construct and operate a new major source or major modification under a permit or permit revision issued under this rule shall terminate if the owner or operator does not commence the proposed construction within 18 months of issuance, or if during the construction, the owner or operator suspends work for more than 18 months. The Control Officer may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

303.4 Within 30 days of the issuance of any permit under this rule, the Control Officer shall submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Clean Air Act.

303.5 Prior to issuance of a preliminary decision to issue a permit or permit revision for a new major stationary source or major modification, the Control Officer shall make each of the following determinations:

a. That the new or modified source will not violate applicable state implementation plan (SIP) requirements.

b. That the new or modified source will not interfere with the attainment or maintenance of any applicable NAAQS.

c. For applications subject to Section 305, that the new or modified source will not cause or contribute to a violation of a prevention of significant deterioration (PSD) increment identified in Section 305 of this rule.

d. That the new or modified source has met the BACT or LAER control technology requirements as applicable in Sections 304 and 305 of this rule.

304 **PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES OR MAJOR MODIFICATIONS LOCATED IN NONATTAINMENT AREAS:** The provisions of this section apply to new major stationary sources and major modifications to existing major stationary sources located in areas designated

as nonattainment under 40 CFR 81.303 and which would be major for the nonattainment regulated NSR pollutant. Such sources are subject to nonattainment new source review.

304.1 **Definitions:** The definitions contained in 40 CFR 51.100, 40 CFR 51.301, and 40 CFR 51.165(a)(1) are incorporated by reference, except as provided below:

a. The following incorporated provisions of 40 CFR 51.165(a)(1) are revised as follows:

(1) The definition of "major stationary source" shall include the following: "any stationary source that emits, or has the potential to emit, five or more tons of lead per year."

(2) The term "reviewing authority" shall be replaced with "Control Officer".

(3) In the definition of "net emissions increase", the term "reasonable period" shall be replaced with "Between the date five years before construction on the date the particular change commences, and the date that the increase from the particular change occurs."

(4) The definition of the term "Projected actual emissions" as defined in 40 CFR 51.165(a)(1)(xxviii) (B)(1)shall be revised to include "Maricopa County" and to read as: "…, the company's filings with Maricopa County, the State or Federal regulatory authorities,…."

b. The following definitions of 40 CFR 51.165(a)(1) are excluded: (xliii), (xliv), (xlv), and (xlvi).

c. The following definitions in 40 CFR 51.301 are included: "Adverse impact on visibility"; "Natural conditions"; and "Visibility impairment".

304.2 **Emission calculation requirements to determine NSR applicability:** Except for an application for a PAL permit subject to Section 304.9 of this rule, the provisions contained in 40 CFR 51.165(a)(2)(ii)(A) through (F) as incorporated by reference shall be used to determine if a proposed project will result in a new major stationary source or a major modification to an existing stationary source. These provisions shall not be used to determine the quantity of offsets required for a project subject the the requirements of Section 304 of this rule.

304.3 **Emission offsets:** Increased emissions, calculated pursuant to Section 304.5(d) of this rule, a major source or major modification subject to Section 304 of this rule shall be offset by reductions in the emissions of each pollutant for which the area has been designated as nonattainment and for which the proposed project will result in a new major stationary source or a major modification. Unless an offset ratio is provided for the applicable nonattainment area in Section 304.6 of this rule, the offset ratio of total actual emissions reductions to emission increases shall be at least 1 to 1.

304.4 **Baseline for determining credit for offsets:** The baseline for determining credit for emissions reductions shall be the actual emissions of the source from which offset credit is obtained.

304.5 **Offset and emission reduction requirements:**

a. All emission reductions claimed as offset credit shall meet the provisions contained in 40 CFR 51.165(a)(3)(ii)(A) through (D) as incorporated by reference and 40 CFR 51.165(a)(3)(ii)(G) as incorporated by reference.

b. All emission reductions claimed as offset credits shall be federally enforceable by the time a permit is issued to the owner or operator of the major source subject to this Section and shall be in effect by the time the new or modified source subject to the permit commences operations.

c. Location of offsetting emissions: The applicant of a major source or major modification subject to this rule must obtain offset credits from the same source or from other sources in the same nonattainment area, except that the Control Officer may allow the applicant to obtain offset credits from another nonattainment area if the provisions contained in 40 CFR Part 51 Appendix S (IV)(D) as incorporated by reference are satisfied.

d. The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset under this Section shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

e. Interpollutant offsetting:

(1) For the purposes of satisfying the offset requirements the Control Officer may approve interpollutant emission offsets for precursor pollutants on a case by case basis, except for PM_{10}, which is subject to Section 304.5(e)(2), and $PM_{2.5}$, which is subject to Section 304.5(e)(5). In such cases, the Control Officer shall impose, based on an air quality analysis, emission offset ratios in addition to the requirements of Sections 304.3 and 304.6. Interpollutant emission offsets used at a major stationary source must receive written approval by the Administrator.

(2) Interpollutant offsets between PM_{10} and PM_{10} precursors are not allowed.

(3) PM_{10} emissions shall not be allowed to offset Nitrogen Oxides or Volatile Organic Compound (VOC) emissions in ozone nonattainment areas.

(4) In no case shall the compounds excluded from the definition of VOC be used as offsets for VOC.

(5) Interpollutant offsets between $PM_{2.5}$ and $PM_{2.5}$ precursors are not allowed unless modeling has been used to demonstrate appropriate $PM_{2.5}$ interpollutant offset ratios as approved in a $PM_{2.5}$ Attainment Plan.

304.6 **Offset ratios for ozone nonattainment areas**: In meeting the emissions offset requirements of Section 304.3 for ozone nonattainment areas, the offset ratio of total actual emissions reductions of VOC or nitrogen oxides to the emissions increase of VOC or nitrogen oxides shall be as follows:

a. In any marginal nonattainment area for ozone − at least 1.1 to 1;

b. In any moderate nonattainment area for ozone – at least 1.15 to 1;

c. In any serious, severe, or extreme nonattainment area for ozone the applicable ratio as provided in 40 CFR 51.165(a)(9)(ii)(C) through (E) and 40 CFR 51.165(a)(9)(iii) as incorporated by reference.

304.7 **Source Obligations:**

a. The issuance of a permit or permit revision under this rule in accordance with this section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.

b. At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

c. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this rule, any changes to the application as required by the Control Officer, or with the terms of its permit, shall be subject to enforcement action.

304.8 **Non-Major Modifications that Result in Reasonable Possibility of Significant Emissions Increase:** The provisions of this section shall apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source, other than at a source with a PAL, in circumstances where there is a reasonable possibility, within the meaning of 40 CFR 51.165(a)(6)(vi), that a project that is not part of a major modification that may result in a signifant emissions increase of such pollutant and the owner or operator elects to use the method

specified in the definition of projected actual emissions in 40 CFR 51.165(a)(1)(xxviii)(B)(1)through(3) for calculating projected actual emissions. The owner or operator shall meet the following requirements:

a. Comply with the procedures in 40 CFR 51.165(a)(6)(i) through (vi) as incorporated by reference.

b. Make the information required to be documented and maintained pursuant to this section available for review upon a request for inspection by the Control Officer or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii) as incorporated by reference.

304.9 Plantwide Applicability Limits (PAL) Permit:

a. Any major stationary source with a PAL permit for a regulated NSR pollutant, shall comply with provisions contained in 40 CFR 51.165(f)(1) through (15) as incorporated by reference.

b. The Control Officer may issue a PAL permit for any existing major stationary source if the PAL permit meets the requirments in 40 CFR 52.21(aa) as incorporated by reference.

c. The term "PAL" shall mean "actuals PAL" throughout Section 304.9 of this rule.

d. The following terms as used in 40 CFR 52.21 (aa) shall be replaced as follows:

(1) "The term "Administrator" shall be replaced by the term "Control Officer"

(2) "The term "PSD" shall be replaced by the term "NSR"

(3) "The term "BACT" shall be replaced by the term "LAER"

(4) "The term "Plan" shall be replaced by the term "SIP"

304.10 Additional Requirements: Except as provided in Section 304.12 through Section 304.15 of this rule, the Control Officer shall not issue any permit or permit revision under this rule to an applicant proposing to construct a new major source or proposing to make a major modification for the pollutant for which the area is designated nonattainment unless:

a. The Control Officer has determined that the new major source or the major modification will meet an emission limitation which is the lowest achievable emission rate (LAER) for that source for that regulated NSR pollutant.

b. The Control Officer has determined that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with such person) in the State are in compliance with, or are on a schedule of compliance for, all conditions contained in permits for each of the sources and all other applicable emission limitations and standards under the Act and in this rule.

c. The Control Officer has determined that emission reductions for the specific pollutant(s) from of the new major source or major modification meet the offset requirements of Section 304.3 through 304.6 of this rule.

d. The Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area.

304.11 No permit or permit revision under this rule shall be issued for a new major source or major modification to a major source located in a nonattainment area unless:

a. The applicant performs an analysis of alternative sites, sizes, production processes and environmental control techniques for such new major source or major modification; and

b. The Control Officer determines that the analysis demonstrates that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

304.12 Secondary emissions shall not be considered in determining the potential to emit of a new source or modification and therefore whether the new source or modification is major. However, if a new source or modification is subject to this rule on the basis of its direct emissions, a permit or a permit revision, under this rule to construct the new source or modification, shall be denied, unless the requirements in Sections 304.10(a) and (b) of this rule are met, for reasonably quantifiable secondary emissions caused by the new source or modification.

304.13 A source or a modification that would be a major stationary source or a major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a source category listed in 40 CFR 51.165(a)(1)(iv)(c)(1)through(27).

304.14 The requirements of Section 304.10(c) of this rule shall not apply to temporary emissions units, such as pilot plants portable facilities that will be relocated outside of the nonattainment area, and the construction phase of a new source, if those units will operate for no more than 12 months in the nonattainment area, are otherwise in compliance with the requirement to obtain a permit under this rule, and are in compliance with the conditions of that permit.

304.15 A decrease in actual emissions shall be considered in determining the net emission increase of a new source or modification only to the extent that the Control Officer has not relied on it in issuing any permit or permit revision under these rules (including the issuance of any ERC (Emission Reduction Certificate), or the State has not relied on it in demonstrating attainment or reasonable further progress (RFP).

304.16 Ambient Air Quality Standards Impact Analysis: The Control Officer may require the use of an air quality model to estimate the effects of a new or modified stationary source. The analysis shall estimate the effects of the new or modified stationary source, and verify that the new or modified stationary source will not prevent or interfere with the attainment or maintenance of any ambient air quality standard. In making this determination the Control Officer shall take into account the mitigation of emissions through offsets pursuant to this rule and the impacts of transported pollutants on downwind pollutant concentrations. The Control Officer may impose, based on an air quality analysis, offset ratios greater than the requirements of Sections 304.3 and 304.6.

304.17 All estimates of ambient concentrations required pursuant to this rule shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models) as incorporated by reference and consistent with the provisions in Rule 200 (Permit Requirements), Section 407 of these rules.

304.18 The applicant of a proposed new major source or major modification that may affect visibility of a Class I area shall provide the Control Officer with an analysis of impairment to visibility that would occur as a result of the source or modification as required by 40 CFR 51.307(b)(2) as incorporated by reference and in accordance with 40 CFR 51.166(o) as incorporated by reference.

305 **PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES OR MAJOR MODIFICATIONS LOCATED IN ATTAINMENT OR UNCLASSIFIABLE AREAS**: The provisions of this section apply to new major stationary sources and major modifications to existing major stationary sources located in areas designated as attainment or in areas that are unclassifiable for any criteria air pollutant. The intent of Section 305 of this rule is to incorporate the federal prevention of significant deterioration (PSD) rule requirements into Maricopa County Air Pollution Control Regulations by incorporating the federal requirements by reference.

305.1 **Incorporation by Reference.** The following provisions are incorporated by reference:

a. 40 CFR 51.100: Definitions.

b. 40 CFR 51.166(p): Sources impacting Federal Class I areas–additional requirements.

c. The following definitions contained in 40 CFR 51.301: “Natural conditions”; and “Visibility impairment”.

d. 40 CFR 52.21: Prevention of significant deterioration of air quality, except:

(1) The following paragraphs of 40 CFR 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (p)(6-8), (q), (s), (t), (u), (w), (x), (y), (z), and (cc).

(2) The following incorporated provisions of 40 CFR 52.21 are revised as follows:

(a) The term "administrator" shall read as follows:

(i) "EPA administrator" in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (j)(2) and (p)(2); and

(ii) "Control Officer" elsewhere, as defined in Rule 100.

(b) The phrase "paragraph (q) of this section" in 40 CFR 52.21(1)(2) and (p)(1) shall be revised to read as follows: the public participation provisions of Rule 210 of these rules.

(3) The definition of the term "Subject to regulation" as defined in 40 CFR 52.21(b)(49) shall be revised to read as follows: "Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity."

305.2 **Requirements:** No permit or permit revision under this rule shall be issued to a applicant proposing to construct a new major source or proposing to make a major modification to a major source that would be constructed in an area designated as attainment or unclassifiable for any regulated NSR pollutant, unless the source or modification meets the provisions of 40 CFR 52.21 as incorporated by reference and the following conditions:

a. In addition to the air impact analysis and monitoring requirements under 40 CFR 52.21(k) and (m), the applicant for the permit or permit revision under this rule shall also demonstrate that allowable emissions increases from the proposed major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions, would not cause nor contribute to a violation of a NAAQS for a pollutant in which primary or secondary NAAQS for that pollutant are being violated.

b. A new major source or a major modification shall be presumed to cause or contribute to a violation of the NAAQS when such source or modification would, at a minimum, exceed the significance levels for any nonattainment pollutant listed in 40 CFR 51.165(b)(2) as incorporated by reference, at any locality that does not or would not meet the applicable NAAQS.

c. A new major source or major modification subject to Section 305.2(b) of this rule may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any NAAQS. In the absence of such emission reductions, the Control Officer shall deny the proposed permit or permit revision.

d. The presumption provision in Section 305.2(b) of this rule may be rebutted for a new major source or major modification if it can be satisfactorily demonstrated to the Control Officer that emissions with respect to a particular pollutant from the new major source or major modification will not cause or contribute to violations of the NAAQS in designated nonattainment areas under section 107 of the Clean Air Act.

e. The demonstration allowed by Section 305.2(d) of this rule shall include a showing that topographical, meteorological or other physical factors in the vicinity of the new major source or major modification are such that transport of VOCs emitted from the source are not expected to contribute to violations of the ozone standards in the adjacent nonattainment areas.

306 **STACK HEIGHT AND DISPERSION TECHNIQUES:** Criteria for good engineering practice for stack heights and dispersion techniques is established as follows:

306.1 **Incorporation by Reference:** Except as provided below, the definitions contained in 40 CFR 51.100 (gg) "A stack in existence", (hh) "Dispersion technique", (ii) "Good engineering practice (GEP)", (jj) "Nearby" , and (kk) "Excessive concentration" are incorporated by reference.

a. The term "authority administering the State implementation plan" shall be replaced with "Control Officer".

b. The term "EPA, State or local control agency" shall be replaced with "Control Officer".

c. The term "reviewing agency" shall be replaced with "Control Officer".

306.2 The degree of emission limitation required of any source for control of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice as determined in accordance with 40 CFR 51.100 (ii) as incorporated by reference or by any other dispersion technique as defined in 40 CFR 51.100 (hh) as incorporated by reference, except as provided in Section 306.3 of this rule.

306.3 The provisions of Section 306 shall not apply to a stack in existence, or dispersion technique~~s~~ implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed, or for which major modifications, as defined in this rule, were carried out after December 31, 1970.

306.4 Before the Control Officer issues a permit or permit revision under this rule to a source based on a good engineering practice (GEP) stack height that exceeds the height allowed by 40 CFR 51.100(ii) as incorporated by reference, the Control Officer shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of Rule 210-Title V Permit Provisions of these rules.

306.5 Any field study or fluid model used to demonstrate GEP stack height under Section 306.2 of this rule and any determination of "excessive concentration" as defined in 40 CFR 51.100 (kk) must be approved by the EPA and the Control Officer prior to any emission limit being established.

306.6 The provisions of Section 306 of this rule do not restrict, in any manner, the actual stack height of any stationary source or facility.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)

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~~Adopted 11/15/93~~
~~Revised 06/19/96~~

Adopted 11/15/1993; Revised 06/19/1996; Revised xx/xx/xxxx

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES

RULE 241
~~PERMITS FOR NEW SOURCES AND MODIFICATIONS TO EXISTING SOURCES~~
MINOR NEW SOURCE REVIEW (NSR)

SECTION 100 - GENERAL

101 **PURPOSE:** To provide ~~control technology requirements for~~ a procedure for the review of new sources and modifications to existing sources of air pollution requiring permits or permit revisions for the protection of the national ambient air quality standards (NAAQS).

102 **APPLICABILITY:** ~~The provisions of this rule shall not apply to new major sources and major modifications to existing major sources subject to the requirements of Rule 240 of these rules.~~ Except as provided in Section 103 of this rule, the provisions of this rule shall apply to the construction of any new Title V or Non-Title V source and any minor NSR modification to a Title V or Non-Title V source, when:

102.1 A regulated minor NSR pollutant emitted by a new stationary source will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold, or

102.2 An increase in emissions of a regulated minor NSR pollutant from a minor NSR modification would increase the source's maximum capacity to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold.

103 **EXEMPTION**: The provisions of this rule shall not apply to the emissions of a pollutant from any of the activities identified in Section 102 of this rule, if the emissions of that pollutant are subject to major source requirements under Rule 240 (Federal Major New Source Review (NSR)) of these rules.

SECTION 200 – DEFINITIONS (NOT APPLICABLE) See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

SECTION 300 - STANDARDS:

301 **PERMIT OR PERMIT REVISION REQUIRED:** An owner or operator of a source shall not begin actual construction:

301.1 Of a new stationary source, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.

301.2 Of a minor NSR modification, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.

302 **BEST AVAILABLE CONTROL TECHNOLOGY (BACT) OR REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIRED:** The Control Officer shall not issue a proposed final Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule to an owner or operator of a source proposing to construct a new source or make a minor NSR modification unless such owner or operator implements BACT or RACT, as required by Sections 304 or 305 of this rule.

303 **REVIEW OF NAAQS COMPLIANCE:** Notwithstanding the implementation of RACT or BACT under this rule, an applicant for a permit subject to this rule shall conduct an ambient air quality impact assessment under Section 308 of this rule upon the Control Officer's request. The Control Officer shall make such request, if there is reason to believe that a source or minor NSR modification could interfere with attainment or maintenance of a national ambient air quality standard. In making the determination under this section of this rule, the Control Officer shall take into consideration:

303.1 The source's emission rates.

303.2 The location of emission units within the facility and their proximity to the ambient air.

303.3 The terrain in which the source is or will be located.

303.4 The source type.

303.5 The location and emissions of nearby sources.

303.6 Background concentrations of regulated minor NSR pollutants.

~~301~~ **304** ~~BEST AVAILABLE CONTROL TECHNOLOGY (BACT)~~ **BACT REQUIRED:** An applicant for a permit or permit revision subject to Rules 210, 220, or 230 of these rules shall ~~apply~~ implement BACT for each pollutant emitted which exceeds any of the threshold limits set forth in any one of the following criteria:

~~301.1~~ **304.1** Any new stationary source which emits more than ~~150 lbs/day or~~ 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide, or ~~particulate matter~~; more than ~~85 lbs/day or~~ 15 tons/yr of PM10; ~~or~~ more than ~~550 lbs/day or~~ 100 tons/yr of carbon monoxide; more than 10 tons/yr of PM2.5; or more than 0.3 tons/yr of lead.

~~301.2~~ **304.2** Any modified stationary source if the modification causes an increase in ~~emissions on any single day of~~ the source's maximum capacity to emit of more than ~~150 lbs/day or~~ 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide ~~or particulate matter~~; more than ~~85 lbs/day or~~ 15 tons/yr of PM10; ~~or~~ more than ~~550 lbs/day or~~ 100 tons/yr of carbon monoxide; more than 10

tons/yr of PM2.5; or more than 0.3 tons/yr of lead. BACT is only required for the sources or group of sources being modified.

~~302~~ **305** ~~REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)~~ **RACT REQUIRED:** An applicant for a permit or permit revision for a new or modified stationary source which emits or causes an increase in emissions of up to ~~150 lbs/day or~~ 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide, ~~or particulate matter~~; up to ~~85 lbs/day or~~ 15 tons/yr of PM10; ~~or~~ up to ~~550 lbs/day or~~ 100 tons/yr of carbon monoxide; up to 10 tons/yr of PM2.5; or up to 0.3 tons/yr of lead shall ~~apply~~ implement RACT for each pollutant emitted from said new or modified stationary source.

306 **BACT DETERMINATIONS:**

306.1 An applicant for a permit or permit revision for a new or modified stationary source shall present an emissions analysis to determine whether the future emissions increase will trigger BACT requirements.

306.2 The applicant shall conduct a BACT analysis for each pollutant which exceeds the BACT threshold. The applicant may conduct a case-by-case analysis.

306.3 The applicant may accept legally and practically enforceable limits on the operation of their source in order to restrict emissions to below the BACT thresholds and avoid imposition of BACT in accordance with Rule 220, Section 304 of these rules. At such time as the applicability of any requirement of this rule would be triggered by an existing source solely by virtue of a relaxation of any enforceable limitation on the capacity of the source to emit a pollutant, then the requirements of this rule will apply to the source in the same way as they would apply to a new or modified source otherwise subject to this rule.

306.4 In the case of a modification, the selection of BACT shall address the sources or group of sources being modified.

307 **RACT DETERMINATIONS:** The Control Officer shall determine RACT, as appropriate, for each emission unit subject to the RACT requirements under Section 305 of this rule. RACT shall be determined as follows:

307.1 For any facilities subject to a source-specific rule under Regulation III-Control Of Air Contaminants of these rules, RACT is the emissions limitation of the existing source performance standard.

307.2 For any facilities not subject to a source-specific rule under Regulation III-Control Of Air Contaminants of these rules, RACT is the lowest emission limitation that a particular source is capable of achieving by the application of control technology that is reasonably available considering technological and economic feasibility and shall be determined by one of the following:

a. Technology that may previously have been applied to a similar, but not necessarily identical, source category. RACT for a particular facility is determined on a case-by-case basis, considering the technological feasibility and cost-effectiveness of the application of the control technology to the source category.

b. A control technique guideline issued by the Administrator under section 108(f)(1) of the Act.

c. An emissions standard established or revised by the Administrator for the same type of source under section 111 or 112 of the Act after November 15, 1990.

308 **NAAQS COMPLIANCE ASSESSMENT:** An ambient air quality assessment must demonstrate that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of any national ambient air quality standard.

308.1 An owner or operator of a source may elect to have the Control Officer perform a screening model of its emissions. If the results of the screening model indicate that the source or minor NSR modification will interfere with attainment or maintenance of any national ambient air quality

standard, the owner or operator may perform a more refined model to make the demonstration required by this rule.

308.2 The requirements of this rule shall be satisfied, if the results of the screen or more refined modeling conducted pursuant to Section 308.1 of this rule demonstrate either of the following:

a. Ambient concentrations resulting from emissions from the source or modification combined with existing concentrations of regulated minor NSR pollutants will not cause or contribute to a violation of any national ambient air quality standard.

b. Emissions from the source or minor modification will have an ambient impact below the significance levels as defined in Rule 240 of these rules.

308.3 The assessment required by this rule shall take into account any limitations, controls, or emissions decreases that are or will be enforceable in the permit or permit revision for the source.

309 **APPLICATION DENIAL:** The Control Officer shall deny an application for a Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule, if:

309.1 An assessment conducted pursuant to Section 308 of this rule demonstrates that the source or permit revision will interfere with attainment or maintenance of any national ambient air quality standard; or

309.2 The new or modified source will violate applicable State Implementation Plan (SIP) requirements.

310 **PUBLIC NOTICE:** Public notice requirements pursuant to Rules 210 and 220 of these rules shall be required for a permit or permit revision if the emissions of any one pollutant are equal to or greater than the public notice threshold as defined in Rule 100 of these rules. The Control Officer shall hold a public hearing upon written request. If a public hearing is requested, the Control Officer shall schedule the public hearing and publish a notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located and by other means if necessary to assure adequate notice to the affected public. The Control Officer shall give notice of any public hearing at least 30 days in advance of the public hearing.

311 **NOTICE TO OTHER AGENCIES:** A copy of the notice required by Rule 210, Section 408 for permits or significant permit revisions or Rule 220, Section 407 of these rules for permits or non-minor permit revisions subject to this rule must also be sent to the Administrator through the appropriate regional office. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under this rule.

312 **MODELING REQUIRED:** All modeling required pursuant to this rule shall be conducted in accordance with 40 CFR 51, Appendix W.

313 **PERMIT CONDITIONS SPECIFIED PURSUANT TO THIS RULE:** The Control Officer shall specify those conditions in the permit that are implemented pursuant to this rule. The specified conditions shall be included in subsequent permit renewals unless modified pursuant to this rule or Rule 240 of these rules.

~~303~~ **314** **CIRCUMVENTION:** The submission of applications for permits or permit revisions for new or modified sources in phases so as to circumvent the requirements of this section is prohibited. The burden of proof to show that an application for a permit or permit revision is not being submitted as a phase of a larger project shall be upon the applicant. A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, conceals or dilutes an emission which would otherwise constitute a violation of this section. A person shall not circumvent this section to dilute air contaminants by using more emission openings than is considered normal practice by the industry or by the activity in question.

315 **SOURCE OBLIGATION:** The issuance of a permit or permit revision under this rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

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~~Revised 07/13/88~~
~~Repealed and Adopted 11/15/93~~
~~Revised 07/26/00~~

~~MARICOPA COUNTY~~
~~AIR POLLUTION CONTROL REGULATIONS~~
~~REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION~~
~~RULE 500~~
~~ATTAINMENT AREA CLASSIFICATION~~

~~SECTION 100 - GENERAL~~

~~101 PURPOSE: To set forth the criteria used to classify attainment areas and pollution standards for attainment areas.~~

~~SECTION 200 - DEFINITIONS (NOT APPLICABLE)~~

~~See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.~~

~~SECTION 300 - STANDARDS~~

~~301 CLASSIFICATION AND REDESIGNATION OF ATTAINMENT AREAS: All attainment and unclassified areas or parts thereof shall be classified as either Class I, Class II or Class III.~~

~~301.1 Class I Areas: All of the following areas which were in existence on August 7, 1977, including any boundary changes to those areas which occurred subsequent to the date of enactment of the Clean Air Act Amendments of 1977 and before March 12, 1993, shall be Class I areas irrespective of attainment status and shall not be redesignated:~~

~~a. International parks;~~
~~b. National wilderness areas which exceed 5,000 acres in size;~~
~~c. National parks which exceed 6,000 acres in size;~~
~~d. National memorial parks which exceed 5,000 acres in size;~~

~~301.2 Class I or Class II Areas:~~

~~a. The following areas shall be designated only as Class I or Class II:~~

~~(1) An area, which, as of August 7, 1977, exceeds 10,000 acres in size and is a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore.~~

~~(2) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.~~

~~b. All other areas, other than those areas described in subsection 301.2(a) of this rule, shall be Class II areas, unless redesignated under subsection 301.3 of this rule or subsection 301.4 of this rule.~~

~~301.3 Redesignation As Class I Area Or Class II Area: The Control Officer may request the Governor or the Governor's designee to redesignate areas of the state as Class I or Class II, provided that the following requirements are fulfilled:~~

~~a. At least 1 public hearing is held in or near the area affected.~~

~~b. Other states, Indian governing bodies, and Federal Land Managers whose land may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing.~~

~~c. A discussion document of the reasons for the proposed redesignation, including a description and analysis of health, environmental, economic, social, and energy effects of the proposed redesignation, is prepared by the Governor or the Governor's designee. The discussion document shall be made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing shall contain appropriate notification of the availability of such discussion document.~~

~~d. Prior to the issuance of notice respecting the redesignation of an area which includes any Federal lands, the Governor or the Governor's designee has provided written notice to the appropriate Federal Land Manager and afforded the Federal Land Manager adequate opportunity, not in excess of 60 days, to confer with the state respecting the redesignation and to submit written comments and recommendations. The Governor or the Governor's designee shall publish a list of any inconsistency between such redesignation and such recommendations, together with the reasons for making such redesignation against the recommendation of the Federal Land Manager, if any Federal Land Manager has submitted written comments and recommendations.~~

~~e. The redesignation is proposed after consultation with the elected leadership of local governments in the area covered by the proposed redesignation.~~

~~f. The redesignation is submitted to the Administrator of the Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).~~

~~g. A redesignation shall not be effective until approved by the Administrator of EPA as part of an applicable implementation plan.~~

~~h. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body.~~

~~301.4 Redesignation As Class III Area: The Control Officer may request the Governor or the Governor's designee to redesignate areas of the state as Class III, if all of the following criteria are met:~~

~~a. Such redesignation meets the requirements of subsection 301.3 of this rule.~~

~~b. Such redesignation has been approved after consultation with the appropriate committee of the legislature if it is in session or with the leadership of the legislature if it is not in session.~~

~~c. The general purpose units of local government representing a majority of the residents of the area to be redesignated concur in the redesignation.~~

~~d. Such redesignation shall not cause, or contribute to, concentration of any air pollutant which exceeds any maximum allowable increase or maximum allowable concentration permitted under the classification of any area.~~

~~e. For any new major source, as defined in Rule 240, Section 210 of these rules, or for a major modification of such source which may be permitted to be constructed and operated only if the area in question is redesignated as Class III, any permit application or related materials shall be made available for public inspection prior to a public hearing.~~

~~f. The redesignation is submitted to the Administrator of EPA as a revision to the SIP.~~

~~g. A redesignation shall not be effective until approved by the Administrator of EPA as part of an applicable implementation plan.~~

~~h. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body.~~

~~302 LIMITATION OF POLLUTANTS IN CLASSIFIED ATTAINMENT AREAS:~~

~~302.1 Areas designated in Class I, II or III shall be limited to the following increases in air pollutant concentrations occurring over the baseline concentration, provided that for any period other than an annual period, the applicable maximum allowable increase may be exceeded once per year at any one location:~~

~~POLLUTION INCREASE LIMITS IN ATTAINMENT AREAS~~

	~~Maximum Allowable Increase (micrograms per cubic meter)~~

~~CLASS I~~	
~~Particulate Matter $PM_{2.5}$:~~	
~~Annual arithmetic mean~~	~~1~~
~~24 hr maximum~~	~~2~~
~~Particulate matter PM_{10}:~~	
~~Annual arithmetic mean~~	~~4~~
~~24 hour maximum~~	~~8~~
~~Sulfur dioxide:~~	
~~Annual arithmetic mean~~	~~2~~
~~24 hour maximum~~	~~5~~
~~3 hour maximum~~	~~25~~
~~Nitrogen dioxide:~~	
~~Annual arithmetic mean~~	~~2.5~~

~~CLASS II~~	~~Maximum Allowable Increase (micrograms per cubic meter)~~
~~Particulate matter $PM_{2.5}$:~~	
~~Annual arithmetic mean~~	~~4~~
~~24 hr maximum~~	~~9~~
~~Particulate matter PM_{10}:~~	
~~Annual arithmetic mean~~	~~17~~
~~24 hour maximum~~	~~30~~
~~Sulfur dioxide:~~	
~~Annual arithmetic mean~~	~~20~~
~~24 hour maximum~~	~~91~~
~~3 hour maximum~~	~~512~~
~~Nitrogen dioxide:~~	
~~Annual arithmetic mean~~	~~25~~

~~CLASS III~~	~~Maximum Allowable Increase (micrograms per cubic meter)~~
~~Particulate matter $PM_{2.5}$:~~	
~~Annual arithmetic mean~~	~~8~~
~~24 hr maximum~~	~~18~~
~~Particulate matter PM_{10}:~~	
~~Annual arithmetic mean~~	~~34~~
~~24 hour maximum~~	~~60~~
~~Sulfur dioxide:~~	
~~Annual arithmetic mean~~	~~40~~
~~24 hour maximum~~	~~182~~
~~3 hour maximum~~	~~700~~
~~Nitrogen dioxide:~~	
~~Annual arithmetic mean~~	~~50~~

~~302.2 The baseline concentration shall be that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.~~

~~a. The major source baseline date is:~~

~~(1) January 6, 1975, for sulfur dioxide and particulate matter ; and .~~

~~(2) February 8, 1988, for nitrogen dioxide.~~

~~(3) October 20, 2010, for $PM_{2.5}$.~~

~~b. The minor source baseline date shall be the earliest date after August 7, 1977, for sulfur dioxide and particulate matter and February 8, 1988, for nitrogen dioxide, that either:~~

~~(1) A major source, as defined in Rule 240, Section 210 of these rules, or a major modification submits a complete permit application to the Administrator of EPA under 40 CFR 52.21; or~~

~~(2) A major source, as defined in Rule 240, Section 210 of these rules, or a major modification submits a complete permit application to the Control Officer under Rules 200, 210, 240, 245, and 270 of these rules.~~

~~c. A baseline concentration shall be determined for each pollutant for which there is a minor source baseline date and shall include both:~~

~~(1) The actual emissions representative of sources in existence on the minor source baseline date, except as provided in subsection 302.2(d) of this rule; and~~

~~(2) The allowable emissions of major sources, as defined in Rule 240, Section 210 of these rules, which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.~~

~~d. The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:~~

~~(1) Actual emissions from any major source, as defined in Rule 240, Section 210 of these rules, on which construction commenced after the major source baseline date; and~~

~~(2) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.~~

~~302.3 The baseline date shall be established for each pollutant for which maximum allowable increases or other equivalent measures have been established if both:~~

~~a. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application under either subsections 302.2(b)(1) or 302.2(b)(2) of this rule; and~~

~~b. In the case of a major source, as defined in Rule 240, Section 210 of these rules, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.~~

~~302.4 The baseline area shall be any area, with any intrastate area designated as attainment or unclassifiable, in which the major source, as defined in Rule 240, Section 210 of these rules, or a major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m³ (annual average) of greater than or equal to 0.3 microgram per cubic meter (annual average) for $PM_{2.5}$. Area redesignation under Section 301 of this rule cannot intersect nor be smaller than the area of impact of any new major source, as defined in Rule 240, Section 210 of these rules, or a major modification which either:~~

~~a. Establishes a minor source baseline date; or~~

~~b. Is subject to either 40 CFR 52.21 or Rule 240, Section 308 of these rules and would be constructed in Arizona.~~

~~302.5 The maximum allowable concentration of any air pollutant in any area to which subsection Section 302.1 of this rule applies shall not exceed a concentration for each pollutant equal to the concentration permitted under the Maricopa County Ambient Air Quality Standards contained in Rule 510 of these rules.~~

~~302.6 For the purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:~~

~~a. Concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of a natural gas curtailment order which is in effect under the provisions of Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, over the emissions from such sources before the effective date of such order;~~

~~b. The concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from using gas by reason of a natural gas curtailment plan in effect under the Federal Power Act, 16 U.S.C. 792 - 825r, over the emissions from such sources before the effective date of the natural gas curtailment plan;~~

~~c. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary activities of a new or altered source;~~

~~d. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and~~

~~e. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides or particulate matter from major sources, as defined in Rule 240, Section 210 of these rules, when the following conditions are met:~~

~~(1) The permit issued to such sources specifies the time period during which the temporary emissions increase of sulfur dioxide, nitrogen oxides or particulate matter would occur. Such time period shall not be renewable and shall not exceed 2 years unless a longer period is specifically approved by the Control Officer.~~

~~(2) No emissions increase shall be approved which would either:~~

~~(a) Impact any portion of any Class I area or any portion of any other area where an applicable incremental ambient standard is known to be violated in that portion; or~~

~~(b) Cause or contribute to the violation of a state ambient air quality standard.~~

~~(3) The permit issued to such sources specifies that at the end of the time period described in subsection 302.6(e)(1) of this rule, the emissions levels from the sources would not exceed the levels occurring before the temporary emissions increase was approved.~~

~~f. The exception granted with respect to increment consumption under subsections 302.6(a) and 302.6(b) of this rule shall not apply more than 5 years after the effective date of the order or natural gas curtailment plan on which the exception is based.~~

~~302.7 If the Control Officer determines that the SIP is substantially inadequate to prevent significant deterioration, or that an applicable maximum allowable increase as specified in subsection 302.1 of this rule is being violated, the Control Officer shall submit to the Director a proposal to revise the SIP to correct the inadequacy or the violation. The SIP shall be revised within 60 days of such a finding by the Director, or within 60 days following notification by the Control Officer or the Administrator of EPA, or by such later date as prescribed by the Administrator of EPA after consultation with the Director.~~

~~302.8 The Control Officer shall review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable maximum allowable increase is being violated.~~

~~SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)~~

~~SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)~~

REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION

RULE 510
AIR QUALITY STANDARDS

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~~Revised 07/13/88~~
~~Revised 11/01/06~~

Revised 07/13/1988; Revised 11/01/2006; Revised xx/xx/xxxx

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION

RULE 510
AIR QUALITY STANDARDS

SECTION 100 - GENERAL

101 PURPOSE: To establish maximum limiting levels for pollutants existing in the ambient air which are necessary to protect human health and public welfare.

102 AVAILABILITY OF INFORMATION: Copies of materials referenced in Sections 310, 401.1, and 401.2 of this rule currently enforced by the department are available electronically at http://www.gpo.gov/fdsy/browse/collectionCfr.action?collectionCode=CFR; at the Maricopa County Air Quality Department, 1001 ~~North~~ N. Central ~~Avenue~~ Ave., Suite ~~400~~ 125, Phoenix, AZ, 85004; or ~~call~~ by calling (602) 506-6010 for information.

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:~~ For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

201 PRIMARY AMBIENT AIR QUALITY STANDARDS - The ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.

202 SECONDARY AMBIENT AIR QUALITY STANDARDS - The ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.

SECTION 300 - STANDARDS: The following are established as the primary and secondary ambient air quality standards for Maricopa County:

301 PARTICULATE MATTER - 2.5 MICRONS OR LESS ($PM_{2.5}$):

301.1 Primary and Secondary Ambient Air Quality Standards for $PM_{2.5}$ Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be ~~15~~ 12 micrograms per cubic

meter (μg/m^3). The standard shall be considered attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to ~~15~~ 12 μg/m^3.

301.2 Primary and Secondary Ambient Air Quality Standards for $PM_{2.5}$ 24-hour Average Concentration: The 24-hour average concentration shall be ~~65~~ 35 μg/m^3. The standard shall be considered attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to ~~65~~ 35 μg/m^3.

302 PARTICULATE MATTER - 10 MICRONS OR LESS (PM_{10}):

~~302.1 Primary and Secondary Ambient Air Quality Standards for PM_{10} Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 50 μg/m^3. The standard shall be considered attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to 50 μg/m^3.~~

~~302.2~~ **Primary and Secondary Ambient Air Quality ~~Standards~~ Standard for PM_{10} 24-hour Average Concentration:** The 24-hour average concentration shall be 150 μg/m^3. This concentration shall not be exceeded more than once per calendar year at any one location. The standard shall be considered attained when the expected number of days per calendar year with a 24-hour average concentration above 150 μg/m^3, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to ~~1~~ one.

303 SULFUR OXIDES (SULFUR DIOXIDE):

303.1 Primary Ambient Air Quality Standards for Sulfur Oxides (Measured as Sulfur Dioxide):

a. Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 0.030 parts per million (ppm) ~~(80 μg/m^3)~~ (80 g/m^3). This concentration shall not be exceeded more than once in a calendar year. The annual arithmetic mean shall be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm shall be rounded up).

b. 24-hour Concentration: The maximum 24-hour concentration shall be 0.14 ppm ~~(365 μg/m^3)~~ (365 g/m^3). This concentration shall not be exceeded more than once per calendar year at any one location. The 24-hour averages shall be determined from successive nonoverlapping 24-hour blocks starting at midnight each calendar day and shall be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm shall be rounded up).

c. 1-hour Concentration: The maximum 1-hour concentration shall be 75 parts per billion (ppb) 75 parts per billion (ppb). The one-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of the daily maximum one-hour average concentrations is less than or equal to 75 parts per billion, as determined according to 40 CFR 50, Appendix T.

d. The standards in Sections 303.1(a) and (b) of this rule shall apply:

(1) In an area designated nonattainment for the standard in Sections 303.1(a) and (b) of this rule as of August 23, 2011, and areas not meeting a state implementation plan call for a standard in Sections 303.1(a) and (b) of this rule until the state submits pursuant to section 191 of the Act, and the Administrator approves, a state implementation plan providing for attainment of the standard in Section 303.1(c) of this rule in that area.

(2) In areas other than those identified in Section 303.1(d) of this rule, until the effective date of the designation of that area, pursuant to section 107 of the Act, for the standard in Section 303.1(c) of this rule.

303.2 Secondary Ambient Air Quality Standard for Sulfur Oxides (Measured as Sulfur Dioxide) 3-Hour Concentration: The maximum 3-hour concentration shall be 0.5 ppm ~~(1300 μg/m^3)~~ (1300 g/m^3). This concentration shall not be exceeded more than once per calendar year at any one location. The 3-hour averages shall be determined from successive non-overlapping 3-hour blocks

starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

304 OZONE:

Primary and Secondary Ambient Air Quality Standards for Ozone Eight-hour Average Concentration:

The daily maximum eight-hour average concentration shall be ~~0.08 ppm~~ 0.075 ppm. The standard shall be considered attained at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration, as determined in accordance with 40 CFR 50, Appendix ~~I~~ P, is less than or equal to ~~0.08 ppm~~ 0.075 ppm.

305 CARBON MONOXIDE:

305.1 Primary Ambient Air Quality Standards for Carbon Monoxide:

a. One-hour Average Concentration: The maximum one-hour average concentration shall be 35 ppm (40 mg/m^3). This concentration shall not be exceeded more than once per year at any one location.

b. Eight-hour Average Concentration: The maximum eight-hour average concentration shall be 9 ppm (10 mg/m^3). This concentration shall not be exceeded more than once per year at any one location. An eight-hour average shall be considered valid if at least 75% of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using 6 or 7 as the divisor.

305.2 When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in ppm shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.

306 NITROGEN ~~DIOXIDE~~ OXIDES (NITROGEN DIOXIDE):

~~Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 0.053 ppm (100 µg/m^3). The standard shall be considered attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete, or upon data derived from manual methods that is at least 75% complete for the scheduled sampling days in each calendar quarter.~~

306.1 The primary ambient air quality standards for oxides of nitrogen, measured in the ambient air as nitrogen dioxide, are:

a. Annual Concentration: 53 parts per billion. The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with 40 CFR, Appendix S for the annual standard.

b. One Hour Concentration: 100 parts per billion. The one-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 parts per billion, as determined in accordance with 40 CFR 50, Appendix S.

306.2 The secondary ambient air quality standard for oxides of nitrogen is 0.053 parts per million (100 micrograms per cubic meter) – annual arithmetic mean.

a. The standard shall be considered attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up.

b. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete, or upon data derived from the manual methods, that is at least 75% complete for the scheduled sampling days in each calendar quarter.

307 LEAD:

~~Primary and Secondary Ambient Air Quality Standards for Lead Quarterly Maximum Arithmetic Mean Concentration: The maximum arithmetic mean concentration for lead and its compounds, measured as elemental lead, shall be 1.5 µg/m^3, as averaged over a calendar quarter.~~

307.1 The primary and secondary ambient air quality standards for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix G and designated in accordance with 40 CFR 53, or by an equivalent designated in accordance with 40 CFR 53.

307.2 The national primary and secondary ambient air quality standards for lead are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR 50, Appendix R, is less than or equal to 0.15 micrograms per cubic meter.

307.3 The former primary and secondary ambient air quality standards for lead of 1.5 micrograms per cubic meter averaged over a calendar quarter shall apply to an area until one year after the effective date of the designation of that area, pursuant to section 107 of the Act, for the standards in Section 307.1 of this rule.

308 POLLUTANT CONCENTRATION DETERMINATIONS: Pollutant concentrations shall be measured by the following methods:

308.1 Appendices to 40 CFR 50: Pollutant concentrations shall be measured by the following appendices to 40 CFR 50:

Pollutant	40 CFR 50
Particulate Matter ($PM_{2.5}$)	Appendix L
	Appendix N
Particulate Matter (PM_{10})	Appendix J
	Appendix K
Sulfur Oxides (Sulfur Dioxide)	Appendix A
	Appendix A-1
Ozone	Appendix D
	Appendix P
Carbon Monoxide	Appendix C
Nitrogen Dioxide	Appendix F
	Appendix S
Lead	Appendix G
	Appendix R

308.2 Reference or Equivalent Methods: Pollutant concentrations shall also be measured by:

a. A method of measurement that has been designated as a reference or equivalent method by the Administrator acting pursuant to 40 CFR 53; or

b. A method of measurement that, though not designated as a reference or equivalent method, has been approved for use by the Administrator acting pursuant to 40 CFR 58, Appendix C. Such method shall be subject to any restrictions placed on its use by the Administrator.

308.3 Method Withdrawal: The cancellation or supersession of designation of a reference or equivalent method by the Administrator acting pursuant to 40 CFR 53.11 or 53.16, shall also amount to a withdrawal of the authorization for use of that method for purposes of this regulation.

309 ADDITIONAL REQUIREMENTS:

309.1 Quality assurance, monitor siting, and sample probe installation procedures shall be in accordance with the procedures described in the Appendices to 40 CFR 58.

309.2 Unless otherwise specified, interpretation of all ambient air quality standards contained in this rule shall be in accordance with 40 CFR 50.

309.3 The evaluation of air quality data in terms of procedure, methodology, and concept is to be consistent with methods described in 40 CFR 50.

310 INCORPORATIONS BY REFERENCE: The CFR references listed below are incorporated by reference in Appendix G of these rules:

40 CFR 50;
40 CFR 50, Appendices A through N;
40 CFR 53;
40 CFR 58.26 and 40 CFR 58.50; and
40 CFR 58, all appendices.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 REPORTING OF AMBIENT AIR QUALITY MONITORING DATA:

401.1 Annual Air Quality Monitoring Report: The Control Officer shall submit to the Administrator an annual summary report that at a minimum meets the requirements of 40 CFR 58.26 and 40 CFR 58, Appendix F. The annual report will be made available to the public at the address listed in Section 102 of this rule.

401.2 Daily Air Quality Index (AQI) Report: The Control Officer shall report to the general public an AQI that at a minimum meets the requirements of 40 CFR 58.50 and 40 CFR 58, Appendix G. The AQI will also be made available to the public at the address listed in Section 102 of this rule.

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

REGULATION VI - EMERGENCY EPISODES

RULE 600
EMERGENCY EPISODES

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SECTION 500 - MONITORING AND RECORDS (NOT INCLUDED)

Revised 07/13/1988; Revised xx/xx/xxxx

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION VI - EMERGENCY EPISODES

RULE 600
EMERGENCY EPISODES

SECTION 100 - GENERAL

101 **PURPOSE:** To establish criteria used to determine air pollution emergency episodes and the appropriate control actions. This rule describes control and advisory procedures reached at each of the three episode levels.

102 **EPISODE PROCEDURES GUIDELINES:** Guidelines for the procedures and communication steps to be followed during an air pollution episode are presented in ~~Appendices D and E of the Arizona Air Pollution Control Implementation Plan.~~ the Arizona Department of Environmental Quality's "Procedures for Prevention of Emergency Episodes," amended as of October 18, 1988 (and no future edition).

SECTION 200 - DEFINITIONS: ~~For the purpose of this rule, the following definition shall apply:~~ For the purpose of this rule, the following definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definition in this rule takes precedence.

201 **EMERGENCY EPISODE PLAN:** A system designed to reduce the levels of air contaminants which may reach or have reached the level which may be harmful to health, and to protect that portion of the population at risk.

SECTION 300 - STANDARDS

301 **EPISODE LEVEL CRITERIA:** An air pollution alert, warning or emergency shall be declared when the following air pollutant concentrations are exceeded at any monitoring site and when meteorological conditions indicate that there will be a recurrence of those concentrations for the same pollutant(s) during the subsequent 24-hour period:

~~**EPISODE LEVEL CRITERIA**~~				
~~**Pollutant**~~	~~**Averaging Time**~~	~~**Alert**~~	~~**Warning**~~	~~**Emergency**~~
~~Sulfur Dioxide (ug/m^3)~~	~~24 hr~~	~~800~~	~~1,600~~	~~2,100~~
~~Small Particulates(PM_{10}) (ug/m^3)~~	~~24 hr~~	~~350~~	~~420~~	~~500~~
~~Fine Particulates ($PM_{2.5}$) (ug/m^3)~~	~~24 hr~~	~~350~~	~~420~~	~~500~~
~~Total Particulates (ug/m^3)~~	~~24 hr~~	~~375~~	~~625~~	~~875~~
~~Sulfur Dioxide and Particulates Combined (ug/m^3)~~	~~24 hr~~	~~$6.5x10^4$~~	~~$26.1x10^4$~~	~~$39.3x10^4$~~
~~Ozone (ug/m^3)~~	~~1 hr~~	~~400 (0.2ppm)~~	~~800 (0.4ppm)~~	~~1,000 (0.5ppm)~~
~~Nitrogen Dioxide (ug/m^3)~~	~~1 hr~~	~~1,130~~	~~2,260~~	~~3,000~~
	~~24 hr~~	~~282~~	~~565~~	~~750~~
~~Carbon Monoxide mg/m^3~~	~~8 hr~~	~~17 (15 ppm)~~	~~34 (20 ppm)~~	~~46 (40 ppm)~~

302 **CONTROL ACTIONS:** When an air pollution alert, warning or emergency has been declared, one or more of the control actions as applicable to the source emitting the pollutant of concern shall be implemented in the affected area.

302.1 Control Actions - Air Pollution Alert

a. All permits to burn shall be suspended until further notice. The forest service shall be notified to postpone slash burning in affected areas.

b. Incineration shall be limited to the hours of 12 noon to 4:00 p.m.

c. Those manufacturing facilities with prearranged emission reduction plans as noted in the State Air Pollution Control Implementation Plan shall be notified to initiate alert stage control actions. Other sources shall be notified to minimize emissions by curtailing or deferring operations not on a required schedule and by maximizing the collection efficiency of control equipment. Emissions from batch operations shall be limited to the hours of 12 noon to 4:00 p.m.

d. The public shall be requested to voluntarily eliminate all unnecessary usage of motor vehicles.

302.2 Control Actions - Air Pollution Warning

a. Burning of refuse, vegetation, trade wastes, and debris shall not be permitted by any person.

b. Use of incinerators shall be prohibited.

c. Those manufacturing facilities with prearranged emission reduction plans as noted in the Arizona Air Pollution Control Implementation Plan shall be notified to initiate warning stage control actions. Other sources shall be notified to initiate a 40 percent or greater reduction in emissions by curtailment or cessation of operations. All processing industries shall be requested to effect a maximum reduction in heat load demands.

d. If possible, power plant generating loads shall be transferred outside the affected area. Power plant production shall be reduced by purchase of available energy from neighboring utilities.

e. Highway construction and paving activities shall be halted. All soil removal or grading operations at other construction sites shall be postponed.

f. Dust producing crop preparation and cultivation activities shall be postponed. A maximum reduction in agricultural processing and handling operations shall be effected.

g. The public shall be requested to voluntarily reduce motor vehicle usage by use of carpools and other means of transportation and elimination of unnecessary operation.

302.3 Control Actions - Air Pollution Emergency

a. Those manufacturing facilities with prearranged emission reduction plans as noted in the Arizona Air Pollution Control Implementation Plan shall be notified to initiate emergency stage control actions. Other manufacturing establishments shall cease operations as directed by the Governor.

b. As directed by the Governor, all commercial, governmental, and institutional establishments, except those vital for public safety and welfare and enforcement of the emergency episode control actions, shall be closed.

c. Generating loads at power plants shall be reduced further, resulting from industrial and commercial cutbacks.

d. All construction shall be halted as directed by the Governor except that which must proceed to avoid emergent physical harm.

e. As directed by the Governor, use of motor vehicles shall be prohibited except in emergencies with approval of the local police.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 **EPISODE TERMINATION:** Once declared, any status reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At such time, the next lower status will be assumed.

402 **COORDINATION WITH THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY:** When the conditions justifying the proclamation of an air pollution alert, warning, or emergency are determined to exist in any place in Maricopa County, the Control Officer shall be guided by the following criteria as established by state regulation R18-2-219, and cooperate directly with the State Director, Arizona Department of Environmental Quality in all pertinent areas of control and surveillance.

402.1 If the average wind speed for 24 hours is greater than 9.0 miles per hour, the criteria levels for particulates and sulfur dioxide and particulates combined shall not apply and no source control actions shall be taken.

402.2 If, after an alert or warning episode level has been declared, and air pollution concentrations and meteorological conditions do not deteriorate further, or improve after 48 hours and control actions have been taken, the next higher episode shall be declared and its associated control actions implemented.

SECTION 500 - MONITORING AND RECORDS (NOT INCLUDED)

~~Adopted 07/26/00~~
~~Revised 08/22/01~~

~~APPENDIX D~~

~~List Of Insignificant Activities~~

~~The List of Insignificant Activities is a list of most common insignificant activities. An insignificant activity is any activity, process, or emissions unit that is not subject to a source-specific applicable requirement and that emits no more than 0.5 ton per year of hazardous air pollutants (HAPs) and no more than 2 tons per year of a regulated air pollutant. Source-specific applicable requirements include requirements for which emissions unit-specific information is needed to determine applicability.~~

~~Pursuant to Rule 200 of these rules, a Non-Title V source is not required to list nor to describe insignificant activities in a permit application. If a Non-Title V source's emissions are approaching an applicable requirement, then such Non-Title V source may also be required to include, in a permit application, a description of its insignificant activities and emissions calculations for such insignificant activities.~~

~~Pursuant to Rule 200 of these rules, a Title V source, in a permit application, may, rather than supplying detailed information, list and generally group its insignificant activities. However, an application may not omit information regarding insignificant activities that is needed to determine: (1) applicability of or to impose any applicable requirement; (2) whether the source is in compliance with applicable requirements; or (3) the fee amount required under these rules.~~

~~An activity, process, or emissions unit that is not included in this list may be considered an insignificant activity, if it meets the definition of insignificant activity in Rule 100 (General Provisions and Definitions) of these rules and is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA). A source may request approval for the classification of an activity as insignificant by including such a request in its permit application, along with justification that such activity meets the definition of insignificant activity in Rule 100 (General Provisions and Definitions) of these rules.~~

~~Food Processing Equipment:~~

~~1. Any confection cooker and associated venting or control equipment cooking edible products intended for human consumption.~~

~~2. Any oven in a food processing operation where less than 1,000 pounds of product are produced per day of operation.~~

~~General Combustion Activities:~~

~~1. All natural gas and/or liquefied petroleum gas-fired pieces of equipment over 300,000 BTU per hour, only if the input capacities added together are less than 2,000,000 BTU per hour, the emissions come from fuel burning, and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.~~

~~2. Any oil fueled heating piece of equipment (except off spec. oil) with a maximum rate input capacity or an aggregate input capacity of less than:~~

(a) ~~500,000 BTU/hour if only emissions came from fuel burning, or~~

(b) ~~1,000,000 BTU/hour if only emissions came from fuel burning and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.~~

~~Surface Coating And Printing Equipment:~~

1. ~~Any equipment or activity using no more than one gallon per day of surface coating or any combination of surface coating and solvent, which contains either VOC or hazardous air pollutants (HAPs) or both.~~

~~Solvent Cleaning Equipment:~~

1. ~~Any non-vapor cleaning machine (degreaser) or dip tank having a liquid surface area of 1 square foot (0.09 square meters) or less, or having a maximum capacity of 1 gallon (3.79 liters) or less.~~

~~Internal Combustion (IC) Equipment:~~

1. ~~IC engine driven compressors, IC engine driven electrical generator sets, and IC engine driven water pumps used only for emergency replacement or standby service (including testing of same), not to exceed 4,000 pounds of NO_x and CO at 500 hours of operation per year.~~
2. ~~Any piston type IC engine with a manufacturer's maximum continuous rating of no more than 50 brake horsepower (bhp).~~

~~Laboratories And Pilot Plants:~~

1. ~~Lab equipment used exclusively for chemical and physical analyses.~~

~~Storage And Distribution:~~

1. ~~Chemical or petroleum storage tanks or containers that hold 250 gallons or less and would have emissions of a regulated air pollutant.~~
2. ~~Any emissions unit, operation, or activity that handles or stores no more than 12,000 gallons of a liquid with a vapor pressure less than 1.5 psia.~~
3. ~~Any equipment used exclusively for the storage of unheated organic material with: (1) an initial boiling point of 150° Centigrade (C) (302° Fahrenheit (F)) or greater, as determined by ASTM test method 1078-86; or (2) a vapor pressure of no more than 5 millimeters mercury (mmHg) (0.1 pound per square inch (psi) absolute), as determined by ASTM test method D-2879-86.~~
4. ~~Any equipment with a capacity of no more than 4,200 gallons (100 barrels) used exclusively to store oil with specific gravity 0.8762 or higher (30° API or lower), as measured by API test method 2547 or ASTM test method D-1298-80.~~
5. ~~Any equipment used exclusively for the storage of liquefied gases in unvented pressure vessels, except for emergency pressure relief valves.~~
6. ~~Any equipment used exclusively to compress or hold dry natural gas. Any ICE or other equipment associated with the dry natural gas should not be considered an insignificant activity, unless such ICE or other equipment independently qualifies as an insignificant activity.~~
7. ~~Any equipment used exclusively for the storage of fresh, commercial, or purer grade of: (1) sulfuric or phosphoric acid with acid content of no more than 99% by weight; or (2) nitric acid with acid content of no more than 70% by weight.~~

~~Miscellaneous Activities:~~

1. ~~Any blast cleaning equipment using a suspension of abrasive material in water and the control equipment venting such blast cleaning equipment.~~
2. ~~Cooling towers: Any water cooling tower which: (1) has a circulation rate of less than 10,000 gallons per minute; and (2) is not used to cool process water, water from barometric jets, or water from barometric condensers.~~
3. ~~Batch mixers with rated capacity of 5 cubic feet or less.~~
4. ~~Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons per hour or less, and whose permanent in plant roads are paved and cleaned to control dust. This does not include activities in emissions units, which are used to crush or grind any non-metallic minerals.~~
5. ~~Any other activity pursuant to Rule 200 of these rules, which meets all of the following requirements:~~
   (a) ~~Is not otherwise subject to a source-specific applicable requirement.~~
   (b) ~~Is not needed to determine all applicable requirements, compliance status, or fee amounts.~~
   (c) ~~Does not emit more than 0.5 ton per year of hazardous air pollutants (HAPs) or more than 2 tons per year of a regulated air pollutant, and~~
   (d) ~~Is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA).~~

6. ~~Any brazing, soldering, welding, or cutting torch equipment used in manufacturing and construction activities and with the potential to emit hazardous air pollutant (HAP) metals, provided the total emissions of HAPs do not exceed 0.5 tons per year.~~
7. ~~Hand held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood.~~
8. ~~Any aerosol can puncturing or crushing operation that processes less than 500 cans per day, provided such operation uses a closed loop recovery system.~~
9. ~~Any laboratory fume hood or vent, provided such equipment is used exclusively for the purpose of teaching, research, or quality control.~~

~~Adopted 07/26/00~~
~~Revised 08/22/01~~

~~APPENDIX E~~

~~List Of Trivial Activities~~

~~The List of Trivial Activities is a list of most common trivial activities. A trivial activity is any activity, process, or emissions unit that has extremely low emissions and is not subject to a source specific requirement. An activity, process, or emissions unit that is conducted as part of a manufacturing process or is related to the source's primary business activity is not considered trivial.~~

~~Pursuant to Rule 200 of these rules, Title V sources and Non-Title V sources are not required, in permit applications, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities.~~

~~General Combustion Activities:~~

1. ~~Combustion emissions from propulsion of mobile sources, except for vessel emissions from outer continental shelf sources.~~

~~Surface Coating And Printing Equipment:~~

1. ~~Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compounds (VOC) or hazardous air pollutants (HAPs).~~

~~Cleaning Equipment:~~

1. ~~Laundry activities, except for dry-cleaning and steam boilers.~~

~~Internal Combustion Equipment:~~

1. ~~Internal combustion (IC) engines used for landscaping purposes.~~
2. ~~Emergency (backup) electrical generators at residential locations.~~

~~Testing And Monitoring Equipment:~~

1. ~~Routine calibration and maintenance of laboratory equipment or other analytical instruments.~~
2. ~~Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.~~
3. ~~Hydraulic and hydrostatic testing equipment.~~
4. ~~Environmental chambers not using HAP gases.~~
5. ~~Shock chambers.~~
6. ~~Humidity chambers.~~
7. ~~Solar simulators.~~
8. ~~Vents from continuous emissions monitors and other analyzers.~~

~~Office Equipment:~~

1. ~~Air conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act.~~
2. ~~Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.~~
3. ~~Consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproduction.~~
4. ~~Bathroom/toilet vent emissions.~~
5. ~~Tobacco smoking rooms and areas.~~
6. ~~Consumer use of paper trimmers/binders.~~

~~Repair And Maintenance:~~

1. ~~Janitorial services and consumer use of janitorial products.~~
2. ~~Plant maintenance and upkeep activities (e.g., groundskeeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not~~

~~otherwise triggering a permit modification. Cleaning and painting activities qualify, if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners and/or operators must still get a permit, if otherwise required.~~

3. ~~Repair or maintenance shop activities not related to the source's primary business activity (excluding emissions from surface coating or degreasing (solvent metal cleaning) activities) and not otherwise triggering a permit modification.~~

~~Storage And Distribution:~~

1. ~~Storage tanks, vessels, containers holding or storing liquid substances that will not emit any VOC or HAPs. Exemptions for storage tanks containing petroleum liquids or other VOCs should be based on size limits and vapor pressure of liquids stored and are not appropriate for this list.~~
2. ~~Demineralized water tanks and demineralizer vents.~~
3. ~~Boiler water treatment operations, not including cooling towers.~~

~~Hand Operated Equipment:~~

1. ~~Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic.~~
2. ~~Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation.~~
3. ~~Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device.~~
4. ~~Air compressors and pneumatically operated equipment, including hand tools.~~

~~Food Equipment:~~

1. ~~Non-commercial food preparation.~~

~~Water And Waste Water Treatment:~~

1. ~~Process water filtration systems and demineralizers.~~
2. ~~Oxygen scavenging (de-aeration) of water.~~

~~Emergency Equipment:~~

1. ~~Fire suppression systems.~~
2. ~~Emergency road flares.~~

~~Roadways And Motor Vehicles:~~

1. ~~Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted.~~

~~Miscellaneous Activities:~~

1. ~~Blacksmith forges.~~
2. ~~Brazing, soldering and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals.~~
3. ~~Batteries and battery charging stations, except at battery manufacturing plants.~~
4. ~~Storage tanks, reservoirs, and pumping and handling equipment, of any size, containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.~~
5. ~~Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.~~
6. ~~Drop hammers or hydraulic presses for forging or metalworking.~~
7. ~~Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.~~
8. ~~CO_2 lasers, used only on metals and other materials which do not emit HAPs in the process.~~
9. ~~Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves, or the boilers delivering the steam.~~
10. ~~Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants.~~
11. ~~Laser trimmers using dust collection to prevent fugitive emissions.~~
12. ~~Ozone generators.~~
13. ~~Steam vents and safety relief valves.~~
14. ~~Steam leaks.~~
15. ~~Steam cleaning operations.~~
16. ~~Steam sterilizers.~~
17. ~~Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment.~~
18. ~~Bench-scale laboratory equipment used for physical or chemical analysis, but not lab fume hoods or vents.~~

MARICOPA COUNTY BOARD OF HEALTH MEETING MINUTES
Monday, July 27, 2015
301 W. Jefferson Street, 10th Floor
Phoenix, Arizona 85003
Board of Supervisors Conference Room

Return to the list of Attachments

President Andrew Ingram called the meeting to order at 3:00 p.m.

ROLL CALL:

Members Present:
Don Cassano
Andrew Ingram
Nedra Halley
Don Hughes
Andrew Kunasek
Debra Baldauff

Members Excused:
Michael Mills, M.D.
Francisca Montoya
Dr. Scott Somers
Kip Steill

Ex-Officio: Bob England, M.D.

CALL TO THE PUBLIC:

Mr. Andrew Ingram announced it was time for a call to the public and requested public comment forms for those who wanted to speak or who wanted to address any action items. One public comment form was given to Mr. Ingram. Dr. John P. Middaugh, M.D. would like to address the Board of Health. Dr. Middaugh is a retired public health official. Dr. Middaugh has recently been asked to chair the Maricopa County Medical Society. Both Maricopa Medical Society and the Arizona Medical Association have passed resolutions calling for the regulation of E-Cigarettes and an increase in immunization education. Dr. Middaugh would like to work with the Board of Health and Dr. England to work on these two resolutions. Dr. England will discuss these two items under discussion item disease updates.

DISCUSSION/ACTION ITEMS

1. **Approval of Minutes: President Ingram asked for a motion to approve the minutes from the BOH Meeting held on April 27, 2015. Motion was made by Mr. Don Cassano to approve the BOH minutes as presented. Motion was seconded by Ms. Nedra Halley and the motion passed unanimously.**

2. **Fee Waiver Applications** **Ms. Jeannie Taylor**

   Ms. Jeannie Taylor presented thirty (30) fee waivers for review and consideration of approval. A summary sheet document was provided. Mr. Cassano had a question about the Greater Oro Valley Arts Council dba Southern Arizona Arts & Cultural Alliance waiver and if the event takes places in Tucson. Ms. Taylor replied that the event actually took place in Phoenix and the business operator uses a 501-(c)(3). Ms. Halley had a question about when tax returns are updated. Ms. Taylor replied that the tax returns are updated when the business operator's fiscal year ends.

   Motion to approve the 30 Fee Waiver applications was made by Ms. Halley, seconded by Ms. Debra Baldauff and all were in favor. Motion passed unanimously.

DRAFT

3. **Make recommendations to Maricopa County Board of Supervisors to approve regulatory changes to the Maricopa County Air Quality Department's New Source Review (NSR) rules (AQ-2013-005-New Source Review)** — **Ms. Johana Kuspert**, **Ms. Corky Martinkovic**

Ms. Johanna Kuspert introduced herself as the Supervisor in the Rules Unit in the Air Quality Department, and introduced Ms. Corky Martinkovic, Manager of Planning Analysis Division. Ms. Martinkovic introduced the Air Quality Deputy Director, Michael Fulton. Ms. Kuspert provided an overview sheet for the members of Board of Health to review what the Air Quality department is asking. The Air Quality Department is requesting that the Board of Health approve a recommendation to the Board of Supervisors to approve regulatory changes to the New Source Review (NSR) rules. NSR is a long-standing Clean Air Act permitting program that requires businesses to get an air pollution control permit before they start construction or make major modifications to their business. NSR must ensure that air quality is not significantly degraded from the addition of new or modified businesses, while also providing flexibility to businesses to improve or modernize their operations. Permits must include an air quality analysis to demonstrate that new emissions emitted from the business will not cause or contribute to a violation of a National Ambient Air Quality Standard. In January of 2013, the County Manager briefed the Board of Supervisors. In August 2013-October 2014, the Air Quality Department conducted stakeholder workshops. On April 27, 2015, the Board of Health approved the initiation of regulatory changes. In May 2015-June 2015, the Air Quality Department reviewed NSR rules in regards to the EPA's proposed limited approval and disapprovals of ADEQ's NSR Rules. Today, the Air Quality Department is requesting that the Board of Health approve the recommendation to the Board of Supervisors to approve the regulatory changes to NSR rules. The formal comment period will begin July 31. Examples of businesses that require an air pollution control permit are: generator, paint booth, printing, wood working, chemical mixing, concrete batch plant, electronic assembly, abrasive blasting, gasoline resale, power plant. One of the regulatory changes is converting the threshold of pounds per day of volatile organic compound to tons per year of volatile organic compound. There is also a more clear definition of when a permit revision is required. The other change is converting public participation thresholds to tons per year instead of Rule 280 fee tables. These new rules will make it easier for businesses to comply. There are no fee changes associated with the proposed regulatory changes of the NSR rules.

Motion to approve to make recommendations to Maricopa County Board of Supervisors to approve regulatory changes to the Maricopa County Air Quality Department's New Source Review (NSR) rules (AQ-2013-005-New Source Review) was made by Mr. Cassano, and seconded by Ms. Halley and the motion passed unanimously.

4. **Agenda Item Four will be held in a telephonic conference at a later date as the Finance Committee was not available to make recommendations prior.**

5. **Agenda Item Five will be held in a telephonic conference at a later date as the Finance Committee was not available to make recommendations prior.**

6. **Elections: New Chair (President) and Vice-Chair (President-Finance)**

Since the President and Vice President terms do not end until December 2016, it is not necessary to elect a new president and vice president. There is one vacancy on the Finance Committee. Currently on the finance committee is Mr. Andrew Ingram Chair (President), Mr. Kip Steill Vice-Chair (President-Finance), Mr. Don Cassano and Ms. Francisca Montoya. Mr. Ingram appreciated Ms. Halley's nomination and appointed her to fill the vacant position.

DRAFT

Discussion Items: **Dr. Bob England**

1. **Public Health Report:**
   - i. **Human Resources**
   - ii. **Communication**
   - iii. **Infrastructure**
   - iv. **Strategic Planning**
   - v. **Programs**
   - vi. **Disease Update**
   - vii. **Future Topics**

Dr. England gave an update on the MCDPH's accreditation process with the Public Health Accreditation Board (PHAB). Accreditation is the measurement of the health department against a set of nationally recognized standards. The site visit report was received this morning and corrections are due in 3 days. The report looks very positive and results will be known sometime in August. The accreditation lasts for 5 years during which the health department addresses the issues that were outlined in the report. Upon expiration, a reapplication process will take place. There are other agencies that are in the process of creating another accreditation process that will gauge how well core services are being fulfilled.

The integrated IGA with ADHS is underway. This is ADHS's attempt to take multiple funding streams and combine them with one set of deliverables. This will allow for more efficient and varied health efforts to take place simultaneously amongst programs. This IGA may make it necessary for reorganization efforts. MCDPH's report is due to ADHS on August 15th.

In July, select MCDPH staff attended National Association of County and City Health Officials (NACCHO) in Kansas City. Several staff presented at this conference and did a great job representing MCDPH. In July 2016, NACCHO will take place in Phoenix. Dr. England would be grateful to have partners, decision-makers and the Board of Health attend as available.

Health Resources and Services Administration (HRSA) is asking that the governance for the Health Care for the Homeless (HCH) grant change. MCDPH is one of few of HCH programs that are administered by the health department. In the past, HRSA allowed the counties governing entity to be the board. Now, HRSA is requiring that the board consist of 9 members and must represent the population served. HRSA has to approve the co-applicant's board. There is an option of a co-applicant agency. However, the county would have to turn over all governance to the co-applicant. A desirable co-applicant would be one who has strong homeless and healthcare experience. The other option is another 501(c)(3). This change for governance is not as a result of the HCH program performance. In reality, the MCDPH HCH program is doing very well, serving better, and working well with partners. Circumstances often drive HCH clinics to become urgent care facilities, but MCDPH HCH is working hard to ensure that the clinic becomes a medical home for chronic conditions. During the telephonic conference, there will be an update on the HCH. This will take place prior to the next Board of Supervisors meeting on September 23rd. A decision needs to be made by January.

Dr. England would like to address the question about immunizations from Dr. John Middaugh. MCDPH is the safety net for immunizations and provides about 30% of immunizations. Currently, immunization rates are sliding which affects herd immunity. Arizona is among one of the easiest states from immunizations exemptions. ADHS has re-created the immunization exemption form in an attempt to encourage vaccinations by making parents initial consequences of their child not being vaccinated. Last year, Representative Carter who is the chair of the House Health Committee introduced legislation to tighten vaccination exemptions. Representative Carter is currently holding stakeholder meetings to work on legislation for next year, which Dr. Bob is participating in. There are several options to tighten

vaccination exemptions. For example, in California, all children are required to be vaccinated. Another option is to allow exemptions for religious reasons, but to require proof of religious reasons. Some states require education requirements, or health department counseling. This would not be feasible for MCDPH due to the number of unvaccinated children. The Arizona Academy of Pediatrics is considering the option to require parents to go back to the primary care physician to sign a form indicating that the physician has counseled the parents on the importance of vaccines. Supervisor Kunasek asked if there are any studies of why children are unvaccinated. There have been a few studies on this topic. Anecdotally, MCDPH knows that some schools are more supportive of vaccines then others. Some school offices will tell parents to go see their primary care physician for immunizations or just sign the exemption form. Schools with attitude tend to be schools without a school nurse on campus. Dr. Bob is a member of the Arizona Medical Association (ArMA) and ex-officio for the Maricopa County Medical Society (MCMS). The Arizona Partnership for Immunizations (TAPI) is a very strong advocate for immunizations and MCDPH works with them constantly.

Dr. England would also like to address Dr. Middaugh's question regarding e-cigarettes. There is no data that e-cigarettes are safer, and this data will not be available for some time. It is true that there are lower levels of harmful chemicals in e-cigarettes, but there are also higher levels of metal particles. There is also an amount of organic solvent (propylene glycol) in e-cigarettes that has not been researched on the effects on humans when inhaled. E-cigarettes are not regulated, so there are various levels of nicotine and other ingredients in each kind. Since e-cigarettes, there has been a large increase in nicotine use in teens. The social stigma against using tobacco products is being jeopardized by e-cigarettes, especially since they are permitted in public areas. There is no solid data on the harm of e-cigarettes and if they are effective in helping tobacco users quit smoking. Dr. England fears that e-cigarettes could act as a gateway to other nicotine products. Next meeting, Dr. Bob will provide an update on the progress with e-cigarettes.

ANNOUNCEMENTS AND CURRENT EVENTS

- Please look for an email from Kelsey regarding a telephonic meeting prior to September 23rd
- Next meeting is October 26, 2015

ADJOURNMENT: There being no further business, motion to adjourn the meeting was made by Mr. Cassano, seconded by Ms. Halley and motion was passed unanimously. The meeting was adjourned at 4:02 p.m.

DRAFT

Return to list of Attachments

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E-mail:Barbara.Sprungl@srpnet.com

Submitted electronically via www.maricopa.gov/regulations/comments.aspx

August 31, 2015

Mr. Phillip McNeely
Maricopa County Air Quality Department
1001 North Central Avenue
Phoenix, AZ 85004

RE: SRP Comments in Response to the Proposed Revisions to MCAQD's New Source Review Rules
AQ-2013-005-New Source Review (NSR)

Dear Mr. Neely,

Salt River Project Agricultural Improvement and Power District (SRP) appreciates the opportunity to provide comments to the Maricopa County Air Quality Department (MCAQD) on the proposed revisions to the New Source Review (NSR) rules.

SRP is a political subdivision of the State of Arizona that provides retail electric services to approximately 1 million residential, commercial, industrial, agricultural, and mining customers in Arizona. As a vertically integrated utility, SRP provides generation, transmission and distribution services, as well as metering and billing services. SRP relies on an intentional and beneficial diverse portfolio of owned and purchased generation resources that includes natural gas, hydroelectric, nuclear, coal, solar, wind, biomass, and geothermal. Given the impact that a minor and major NSR program has on constructing new or modifying existing sources, SRP has a clear and significant interest in this pending action.

SRP would like to commend MCAQD on this proposed rulemaking action, especially the extensive outreach that has been provided throughout the stakeholder engagement process. SRP recognizes that the proposed revisions will substantially improve and update MCAQD's NSR programs, as compared to the existing programs under the approved state implementation plan, as well as provide mechanisms for MCAQD to improve air quality in Maricopa County.

SRP does have some specific recommendations for changes to the proposed rule as detailed below.

Comment No. 1 - Proposed "Permitting Threshold"

The new MCAQD Rule 100 Section 200.86 related to "Permitting Threshold" defines the new trigger levels as follows:

- 0.3 tpy for lead (Pb);
- 0.5 tpy for particulate matter nominally less than 2.5 microns ($PM_{2.5}$), particulate matter nominally less than 10 microns (PM_{10}), volatile organic compounds (VOC), and any single hazardous air pollutant (HAP) (other than Pb); and
- 1.0 tpy for sulfur dioxide (SO_2), nitrogen oxide (NOx), carbon monoxide (CO), total HAPs, and any other "regulated air pollutant."

The proposed thresholds are inconsistent with the current MCAQD threshold in Rule 100 Section 200.58, which states the following:

> *INSIGNIFICANT ACTIVITY: For the purpose of this rule, an insignificant activity shall be any activity, process, or emissions unit that is not subject to a source-specific applicable requirement, that emits no more than* ***0.5 ton per year of hazardous air pollutants (HAPs)*** *and no more than* ***two tons per year of a regulated air pollutant****, and that is either included in Appendix D - List of Insignificant Activities of these rules or is approved as an insignificant activity under Rule 200 - Permit Requirements of these rules. Source-specific applicable requirements include requirements for which emissions unit-specific information is needed to determine applicability.*

The 0.5 and 2 tpy thresholds noted above are also defined as the Insignificant Emission Rate (IER) in the MCAQD December 29, 2006 *"Interim Guidance Document For Title V Permit Revisions,"* which has been applied to Title V permit revisions in the county since 2007. The proposed thresholds are also inconsistent with "Permitting Exemption Thresholds" proposed by the ADEQ NSR rules, which are as follows:

- 0.3 tpy for lead (Pb);
- 50 tpy for CO;
- 20 tpy for VOC, NOx, and SO_2;
- 7.5 tpy for PM_{10}; and
- 5 tpy for $PM_{2.5}$ (primary emissions only).

MCAQD retained the historic 0.5 tpy threshold for HAPs and utilized ADEQ's proposed 0.3 tpy threshold for Pb. At a minimum, MCAQD should revise the threshold for all pollutants, other than lead, to be consistent with its definition of Insignificant Emission Rate (IER) in the December 29, 2006 *"Interim Guidance Document For Title V Permit Revisions."*

Comment No. 2 - Proposed "Minor NSR Modification Threshold"

The new MCAQD Rule 100 Section 200.70(f) related to "Minor NSR Modification Threshold" defines the new trigger levels as follows:

- 0.3 tpy for lead (Pb); and
- 5 tpy for $PM_{2.5}$ (primary emissions only), PM_{10}, SO_2, NOx, VOC, and CO.

The proposed thresholds are also inconsistent with the corollary "Minor NSR Modification" proposed by the ADEQ NSR rules, which are the same as the "Permitting Exemption Thresholds" listed above. The MCAQD proposal is similar to ADEQ's for Pb and $PM_{2.5}$ but with much lower thresholds for all other pollutants (CO, VOC, NOx, SO_2, and PM_{10}). SRP understands that Maricopa County is a nonattainment area for ozone and PM_{10}, which may justify a lower threshold for VOC, NOx, and PM_{10}. However, the thresholds proposed by MCAQD seem more appropriate for severe and extreme nonattainment areas and such low thresholds leave no room for future downward adjustment in the case of a severe nonattainment designation of Maricopa County.
Therefore, consistent with ADEQ's program, MCAQD should change the minor NSR permitting thresholds to match ADEQ's thresholds for all pollutants other than the nonattainment pollutants. SRP proposes that for PM10, VOC and NOx MCAQD adopt a conservative threshold of 40% of the "Significant" emission rates defined in MCAQD Rule 100 Section 200.99 as follows:

- 0.3 tpy for lead (Pb);
- 50 tpy for CO;
- 20 tpy for SO_2;
- 16 tpy for VOC, NOx, and;
- 6 tpy for PM_{10}; and
- 5 tpy for PM2.5 (primary emissions only)

Comment No. 3 - Development of a "Registration" program

In a May 22, 1996 letter addressing the adequacy of ADEQ's permit program, EPA Region 9 stated that "ADEQ could develop a source registration program for smaller facilities that would achieve the same environmental benefit as a traditional permitting program."[1] As a result, the proposed ADEQ NSR rules contain a new "Registration" program to minimize the burden imposed on currently unpermitted or smaller emission sources.

The MCAQD NSR rules do not propose the development of a similar registration program. The changes being proposed to the MCAQD permitting and Minor NSR thresholds are expected to bring numerous currently unpermitted and smaller emission sources into the MCAQD permitting program. Under the current proposed MCAQD rules, such sources will likely need to obtain an MCAQD Non-Title V permit, which can require a complicated application process for the applicants and consume MCAQD permit engineering resources with no measurable improvement to county air quality. Due to the impact on MCAQD permit engineering resources,

[1] Per Arizona Department of Environmental Quality (ADEQ), State Implementation Plan Revision, New Source Review, Final Version, October 2012, Page 1547.

other larger industrial sources with pending Title V and Non-Title V permit actions may experience permit processing delays that could be detrimental to the county's business and economic advantage.

MCAQD should add a registration program as part of the proposed revisions consistent with ADEQ's program.

Comment No. 4 – Minor NSR Reasonably Available Control Technology (RACT) Determinations

The MCAQD NSR rules propose a new Rule 241 Section 307 that the agency shall determine RACT for minor NSR purposes, as follows:

- For sources subject to source-specific rule under Regulation III (Control of Air Contaminants), RACT is the emissions limitation in the applicable rule.
- For all other sources, RACT shall be determined by one of the following:
  a. Technology that may previously have been applied to a similar, but not necessarily identical, source category;
  b. A control technique guideline (CTG) issued by the EPA under Clean Air Act (CAA) section 108(f)(1); or
  c. An emissions standard established or revised in a New Source Performance Standard (NSPS) or National Emission Standard for Hazardous Air Pollutants (NESHAP) after November 15, 1990.

However, the ADEQ NSR rules propose at R18-2-334(D) that the agency shall accept a requirement proposed as RACT if it complies with the most recently adopted guidelines or standards from the list below. The differences with respect to the MCAQD proposal are in **bold** text.

a. A control technique guideline (CTG) issued by the EPA under CAA section 108(f)(1);
b. An emissions standard established or revised in an NSPS or NESHAP after November 15, 1990;
c. An applicable requirement in ADEQ or county rules that has been specifically identified as constituting RACT;
d. **A RACT standard imposed on the same type of source by a General Permit; and**
e. **A RACT standard imposed on the same type of source within the past 10 years (the rules also note that to facilitate identification of previously imposed RACT standards, the ADEQ will establish an online database of historic RACT determinations).**

A comparison of the proposals above indicate that the ADEQ allows applicants to use standards contained in General Permits. Additionally, ADEQ will develop an online tool to summarize historic RACT determinations. The addition of the two remaining ADEQ RACT demonstration sources would provide more flexibility in meeting the RACT obligations of the proposed MCAQD NSR rules. Therefore, MCAQD should add these remaining two remaining ADEQ RACT demonstration sources in the proposed revisions.

Comment No. 5 – Application of RACT to Proposed Modifications

The ADEQ NSR rules propose at R18-2-334(C)(1) that RACT shall be implemented for each emissions unit that will experience an increase in the potential to emit of a regulated minor NSR pollutant in an amount greater than or equal to **20% of the permitting exemption threshold** (i.e., not all emission sources at a new source must address RACT). This provision allows the application of controls to the emissions units that contribute to the bulk of the site's emissions and reduces the burden of either 1) applying controls to emissions units, or 2) developing technical and economic infeasibility demonstrations for small emissions units and spending permit engineering and processing resources on such demonstrations.

The proposed MCAQD NSR rules do not include such an allowance. As a result, all emissions units associated with a modification under MCAQD jurisdiction may need to be considered for RACT demonstration. As discussed above, this could lead to significant consumption of MCAQD permit engineering resources on smaller emission units with no measurable improvement to county air quality. Due to the impact on MCAQD permit engineering resources, other larger industrial sources with pending Title V and Non-Title V permit actions may experience permit processing delays that could be detrimental to the county's business and economic advantage. Therefore, MCAQD should add a 20% threshold for the implementation of RACT on sources experiencing emission increases greater than the proposed "Permitting Thresholds."

Comment No. 6 – "NAAQS Compliance Assessment"

The new MCAQD NSR proposed rule at Rule 241 Section 308 "NAAQS Compliance Assessment" notes that an ambient air quality assessment must demonstrate that new emissions would not interfere with attainment or maintenance of the NAAQS. Such demonstration would require an evaluation of the impact from the source or modification, as well as the addition of a representative background. For PM_{10} (which is also a non-attainment pollutant), most of the monitors around Maricopa County register ambient concentrations that exceed the NAAQS. As a result, MCAQD should define an alternate procedure in the rule that can be executed when developing the "NAAQS Compliance Assessment" for non-attainment pollutants.

Furthermore, MCAQD does not currently have air dispersion modeling guidelines, although a request for proposals (RFP #15076) for "Air Quality Dispersion Modeling Guideline Development" was issued in July 2015. MCAQD must continue with the process of developing guidelines, allowing public participation in the development of such guidelines, and allow the use of modeling guidelines from other Arizona agencies, such as the ADEQ, in the interim.

Comment No. 7 – Timing of Public Notice on Proposed Rules

The MCAQD "Report to the Board of Health" indicates that "... the Department is reviewing its NSR rules to make sure that whatever the EPA has disapproved in ADEQ's NSR rules will be written in such a way that it is approvable by the EPA in the department's NSR rules."[2] This implies that further revisions could be made to the proposed MCAQD NSR rules as the ADEQ received the final "limited approval and limited disapproval" on their NSR program on June 29,

[2] Per Report to the Board of Health To Initiate Regulatory Change, Prepared by the Maricopa County Air Quality Department, Case #/Title: AQ-2013-005-New Source Review (NSR), Meeting Date: April 27, 2015.

2015, and further refinements to the ADEQ NSR rules are in process. For example, ADEQ had proposed under R18-2-334 that an application may be processed as a minor permit revision if the results of the SCREEN model show expected concentrations, including background concentrations, are less than 75% of the applicable standard. MCAQD has a similar proposal in their proposed NSR rules. The June 29, 2015 final EPA "limited approval and limited disapproval" rejected ADEQ's initial proposal. This is just one example of an issue that is expected to affect the current draft of the MCAQD NSR rules.

As a result, MCAQD should delay public notice of its rule package until MCAQD can assess and incorporate all of the changes that ADEQ is implementing in their rules to address the basis for EPA's "limited disapproval".

Comment No. 8 – Version Date for Dispersion Models

Pursuant to MCAQD proposed Rule 100 Section 200.111:

> ***SCREEN MODEL:*** *The AERSCREEN air dispersion model published by the Administrator in* ***April 2011*** *and available on the Support Center for Regulatory Atmospheric Modeling web site: http://www.epa.gov/ttn/scram.*

It is to be noted that the current applicable version of the AERCREEN model is 15181, which was released by EPA in 2015. The April 2011 version is no longer applicable. Since EPA releases updates to dispersion models on a frequent basis, MCAQD's rules should not identify the date of the model version to be used. MCAQD should adopt ADEQ's proposed definition of "Screening model" meaning "*air dispersion modeling performed with screening techniques in accordance with 40 CFR 51 Appendix W.*"

If you have questions or need additional information, please contact Barbara Cenalmor at (602) 236-2322 or barbara.cenalmorbruquetas@srpnet.com, or me at (602) 236-5374 or Barbara.Sprungl@srpnet.com.

Sincerely,

Barbara Sprungl
Manager, Air Quality & Environmental Systems

cc: ORG 1-1-4

From: Johanna Kuspert - AQDX
Sent: Friday, September 18, 2015 11:37 AM
To: Cenalmor Bruquetas Maria B (Barbara) (Barbara.CenalmorBruquetas@srpnet.com)
Cc: Corky Martinkovic - AQDX; Hether Krause - ENVX
Subject: FW: Comment from Salt River Project on NSR Rules

Barbara:

Thank you for your comments regarding Maricopa County's NSR rules. We have included your comments and the department's responses in the Draft Notice of Final Rulemaking, which will be included in a Report to the Board of Supervisors. The Report to the Board of Supervisors is scheduled to be posted on the EROP website on October 21, 2015.

Also, a Notice of Supplemental Proposed Rulemaking, which includes the proposed rule amendments since the Notice of Proposed Rulemaking was published in the Arizona Administrative Register on July 31, 2015, is scheduled to be published in the Arizona Administrative Register on October 9, 2015. The 30-day comment period will close on November 9, 2015.

If you have any questions or concerns, please let me know.
Thanks.

The Air Quality Department strives to provide excellent customer service to residents of Maricopa County.
How are we doing? **Send us your feedback.**

Johanna M. Kuspert
Maricopa County Air Quality Department - Planner
1001 North Central Avenue, Suite 125
Phoenix, Arizona 85004
602-506-6710
Located at the Central Ave. & Roosevelt METRO stop

From: Regulatory [mailto:regulations@mail.maricopa.gov]
Sent: Monday, August 31, 2015 5:00 PM
To: Hether Krause - ENVX; Valerie Beckett - PLANDEVX; Jennifer Pokorski - FCDX
Subject: FW: Comment from Salt River Project on NSR Rules

From: Cenalmor Bruquetas Maria B (Barbara)[SMTP:BARBARA.CENALMORBRUQUETAS@SRPNET.COM]
Sent: Monday, August 31, 2015 4:58:13 PM
To: Regulatory
Subject: Comment from Salt River Project on NSR Rules
Auto forwarded by a Rule

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Direct Line: (602) 236-5374
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Submitted electronically via www.maricopa.gov/regulations/aq/process.aspx

November 9, 2015

Phillip McNeely
Maricopa County Air Quality Department
1001 North Central Avenue
Phoenix, AZ 85004

RE: SRP Comments in Response to Supplemental Proposed Revisions to MCAQD's New Source Review Rules – AQ-2013-005-New Source Review

Dear Mr. McNeely:

Salt River Project Agricultural Improvement and Power District (SRP) appreciates the opportunity to comment on Maricopa County Air Quality Department's (MCAQD) Supplemental New Source Review (NSR) Proposal.

SRP is a political subdivision of the State of Arizona that provides retail electric services to approximately 1 million residential, commercial, industrial, agricultural, and mining customers in Arizona. As a vertically integrated utility, SRP provides generation, transmission and distribution services, as well as metering and billing services. SRP relies on an intentional and beneficial diverse portfolio of owned and purchased generation resources that includes natural gas, hydroelectric, nuclear, coal, solar, wind, biomass, and geothermal. Given the impact that the minor and major NSR programs and the Title V program have on constructing new or modifying existing sources, SRP has a clear and significant interest in this pending action.

SRP appreciates MCAQD's response to our previous comments and commends MCAQD for providing an opportunity to comment on additional changes to the rules. In general, SRP fully supports MCAQD's proposal to incorporate by reference the Federal major NSR regulations in MCAQD's regulations. These changes will improve implementation of the major NSR provisions and update the regulations to match major NSR programs implemented throughout the United States. In this regard, SRP offers limited, but important, comments on the proposed changes to the major NSR program to highlight ways to improve implementation and clarity of the final

rules. SRP's comments on the proposed changes to the minor NSR permit program are more expansive. All of these comments are discussed in more detail below.

I. ADEQ's Minor NSR Thresholds are Appropriate for Many Source Categories and Criteria Pollutants in Maricopa County.

On July 6, 2012, the Arizona Department of Environmental Quality (ADEQ) adopted changes to its permitting regulations that implement major and minor NSR. These changes included adopting minor NSR thresholds between 0.3 and 50 tons per year (tpy) for criteria pollutants.

Under this proposal, MCAQD structured its proposed minor NSR rule to apply to all stationary source categories that would emit above the proposed applicability thresholds whether the stationary source is located in an attainment area or nonattainment area for that pollutant. However, MCAQD's proposed applicability thresholds are lower than the thresholds adopted by ADEQ in its recent NSR rule revisions.[1] When compared to ADEQ's rules, these lower thresholds result in not only a more stringent minor NSR program, but they also increase the stringency of the Title V permit revision procedures by defining more changes as significant modifications.[2]

Under Arizona Revised Statutes (A.R.S.) §49-112, MCAQD may not adopt regulations that are more stringent than ADEQ's rules unless MCAQD provides technical and economic analyses to justify adopting more stringent standards than ADEQ's. MCAQD's public notice contains no technical information to support its assertion that a more stringent minor NSR program is necessary for Maricopa County to achieve attainment. MCAQD's justification contains no analysis comparing its proposed thresholds with the levels adopted by ADEQ to explain the

[1] ADEQ final rules 18 AAR 27 (July 6, 2012).

[2] For example, MCAQD proposes to add paragraph (f) to Rule 210, Section 403.1, which would not allow minor NSR modifications to contravene an express term of a permit without a permit revision. Under ADEQ's rules, a stationary source making a change that increases volatile organic compound (VOC) emissions by less than 10 tpy may contravene a permit term and possibly make the change without a permit revision. Under MCAQD's rules, this increase would qualify as a minor NSR modification and could not take advantage of the CAA Section 502(2)(b)(10) process for this change (40 AAR at 2129). Before adopting changes that appear identical to ADEQ's rule changes, MCAQD must analyze the stringency of the change given MCAQD's lower applicability thresholds. Even if MCAQD justifies being more stringent than ADEQ for its minor NSR program, it may still be appropriate for MCAQD to apply ADEQ's thresholds for purposes of the Title V revision process.

difference in the amount of emissions and cost that results from applying one program versus the other, or how applying ADEQ's thresholds would prevent ADEQ from achieving or maintaining compliance with each National Ambient Air Quality Standard (NAAQS). This analysis is necessary both to justify MCAQD's assertion that it requires a more stringent NSR program and to justify MCAQD's minor NSR modification and public participation thresholds for inclusion in the state implementation plan (SIP).

SRP recognizes that MCAQD has been implementing its minor NSR program through its Interim Guidance Document for Title V Permit Revisions that defines insignificant activities.[3] But, these applicability levels were not subject to public comment, and since issuing the guidance, MCAQD adopted numerous control measures that better address the County's nonattainment issues. MCAQD's new rulemaking provides an opportunity for all stakeholders to comment on the appropriate applicability levels for minor NSR given current day nonattainment concerns.

It is critical for continued economic development and the sustainability of existing industry in Maricopa County that MCAQD establish minor NSR applicability thresholds that are technically-based and appropriate for the air quality needs of the County. In this regard, SRP suggests that MCAQD proceed cautiously, in a stepwise approach, in regulation of minor NSR under the SIP. If MCAQD adopts ADEQ's applicability thresholds and then determines that additional regulation is required, MCAQD can strengthen the regulations through an additional regulatory action. A reverse scenario is not easily corrected.

If EPA approves the changes into the SIP, and then MCAQD determines that its regulations are overly stringent, the anti-backsliding provisions in the Clean Air Act (CAA) prohibit EPA from revising the regulations applicable in some nonattainment areas, and requires extensive technical analysis to justify a revision in other areas.[4] Accordingly, SRP cannot overstate the importance of establishing the correct thresholds in the first instance before adding the requirements to the SIP.

Across-the board regulations that are more stringent than ADEQ's are unwarranted. MCAQD should consider a more tailored approach that evaluates each pollutant and the types of

[3] Interim Guidance Document for Title V Permit Revisions, Maricopa County Air Quality Department (Dec. 29, 2006).

[4] CAA Sections 110(l) and 172(e), 42 U.S.C §7410 and §7502.

stationary sources it should regulate to achieve or maintain NAAQS compliance. MCAQD should also expand the costs benefits analysis so that it contains a full economic analysis, including the cost of emissions controls consistent with the requirement under A.R.S § 49-112.[5]

Ultimately, when MCAQD conducts the required analysis to determine which sources it should regulate under its minor NSR program to achieve the NAAQS, it likely will find that the levels adopted by ADEQ for its statewide NSR program are appropriate for many source categories in Maricopa County, and for all attainment or unclassifiable areas.

Further technical details supporting thresholds that are equivalent to ADEQ's thresholds is provided in Attachment A to this letter.

II. MCAQD Should Retain Authority to Implement the Existing SIP-Approved Program Until EPA Fully Approves MCAQD's SIP Submittal.

The Arizona SIP currently contains a fully-approved NSR program applicable in Maricopa County. EPA has not formally instituted a SIP call for that portion of the State Plan.[6] This was also true for ADEQ's NSR rules that applied in other parts of the State. Yet, in acting on ADEQ's NSR SIP submission, EPA asserted its authority to disapprove the submittal using a limited approval/limited disapproval mechanism. This mechanism triggers SIP sanctions and an obligation for EPA to impose a federal implementation plan (FIP) if the State does not correct the alleged deficiencies in the specified time period. In responding to SRP's comments questioning EPA's legal authority to replace a fully approved SIP using a mechanism that triggers SIP sanctions and a FIP, EPA responded that ADEQ had not opted to retain the current SIP-approved program.

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[5] MCAQD also must correct errors in its current costs benefits analysis. Specifically, in paragraph (c) of the A.A.R. Notice of Supplemental Proposed Rulemaking, MCAQD asserts that the SCREEN model will cost applicants approximately $300. MCAQD then annualizes this cost based on the number of expectant applicants using the SCREEN model. EPA no longer allows the SCREEN model as an approved screening method, but instead requires the use of the AERSCREEN model. This model is substantially more involved than the SCREEN model, and anecdotal evidence indicates that many applicants are skipping a screening step and opting for full refined modeling. At any rate, the appropriate cost for running AERSCREEN is likely $2,000-$3,000 rather than $300.

[6] 42 U.S.C. §7410 at Section 110(k) for the procedures EPA must follow to initiate a SIP-call.

In light of EPA's response, and to avoid the potential for EPA to act on MCAQD's NSR SIP submission in a similar manner, MCAQD should include a provision in its final rules that retains authority for MCAQD to implement the current version of the approved SIP for any source, or any part of its jurisdiction, for which EPA fails to approve the SIP submission. As long as MCAQD still has State authority to implement the approved SIP, EPA should not have legal authority to impose SIP sanctions or a FIP without first undertaking a SIP call. Such an approach for processing the SIP submittal would avoid the unfortunate consequence of removing a fully approved program from the SIP and replacing it with one which contains any aspect that EPA believes would trigger SIP sanctions and a FIP if not corrected.

III. MCAQD Must Clarify that it Does Not Intend to Regulate Ammonia Emissions as a Precursor to $PM_{2.5}$ in Any of MCAQD's Permitting Programs.

Under Rule 100, Section 200.107, MCAQD proposes to include ammonia, as a precursor to particulate matter nominally less than 2.5 microns ($PM_{2.5}$), in the definition of a *"regulated NSR pollutant"* in nonattainment areas. Under Rule 240, MCAQD proposes to incorporate by reference the definitions in the Federal Prevention of Significant Deterioration (PSD) regulations at 40 CFR §52.21(b) and §51.165(a)(1) and states that, to the extent there are conflicts in the definitions of this rule and MCAQD's rules, the definition in this rule applies. This suggests that MCAQD intends for the Federal definitions to apply for purposes of major NSR in lieu of the definition in Rule 100. However, the preamble states, *"under NRDC decision... and EPA proposal, ammonia must be treated as a precursor for PM2.5"*.[7] The preamble then explains that the definition of regulated NSR pollutant is revised so that ammonia is not a regulated NSR pollutant for PSD. This leaves the reader with the implication that ammonia is a regulated NSR pollutant for nonattainment areas, and generally calls into question how the definitions in Rule 100 interact with the definitions incorporated by reference in Rule 240, since the Rule 100 definitions seem to address many major NSR concepts.

Moreover, even if the Federal definitions apply for purposes of major NSR, defining ammonia as a regulated NSR pollutant has permitting implications elsewhere in the rule. For example, Rule 200, Section 303.1 requires non-Title V permits for certain changes that increase emissions of a regulated NSR pollutant. It appears that ammonia would be a *"regulated NSR pollutant"* in this

[7] 21 A.R.S. at 2136.

context, but there is no threshold defined. This raises the question as to whether ammonia is regulated, but has a threshold of zero, or whether it is not regulated under that provision.

MCAQD proposes to regulate ammonia as a precursor to $PM_{2.5}$ in nonattainment areas before EPA or ADEQ have determined that such treatment of ammonia is appropriate.[8] Until both EPA and ADEQ finalize their position on treating ammonia as a precursor, it is inappropriate for MCAQD to define ammonia as a precursor in nonattainment areas for any purpose without justifying the action under A.R.S. § 49-112. MCAQD's current administrative record lacks such a showing. If MCAQD includes ammonia as a $PM_{2.5}$ precursor, it must concurrently establish a significant emissions rate; otherwise the current regulations would require "any" increase in ammonia to go through permitting.

IV. MCAQD Must Provide a Technical Justification for the Public Participation Threshold.

Under the CAA and EPA's implementing regulations at 40 CFR § 51.160(e), a reviewing authority may define the type and size of stationary source it will regulate under its minor NSR program. A reviewing authority should determine the scope of its minor NSR program based on whether it is necessary to regulate such sources *"to assure that national ambient air quality standards are achieved"*.[9] Once a reviewing authority defines this scope, EPA policy requires all of these identified stationary sources to meet the minimum minor NSR program requirements in 40 CFR §51.160-164, including public review. EPA's most extensive discussion of this relationship between 40 CFR §51.160(e) and public review requirements is contained in a supplemental proposal for Title V permit programs:

> *"Application of public participation procedures to new and modified sources under minor NSR programs must be consistent with the statutory and regulatory purposes of those programs, and EPA believes that tailoring this application to the environmental*

[8] EPA has not finalized its proposal to assume that ammonia is a $PM_{2.5}$ precursor in all nonattainment areas. Moreover, EPA's proposed rule requests comments on three separate approaches for identifying and regulating $PM_{2.5}$ precursors, and would allow States to demonstrate that regulation of ammonia as a precursor is not necessary in specific nonattainment areas.[8] Also, although ADEQ's latest draft NSR rule also includes ammonia as precursor, ADEQ has not proposed or finalized this requirement.

[9] Clean Air Act Section 110(a)(2)(c) and 42 U.S.C. § 7410.

> *significance of new or modified sources on a categorical or individual basis is consistent with these purposes."*[10]

Although EPA presented this interpretation in a proposed rule that it never finalized, Regional Offices based approval of tailored public participation requirements in other State minor NSR programs on this interpretation.[11] To be clear, EPA's interpretation does not provide that a State show that public participation has no environmental significance, but that the modification falls below thresholds that would require full regulation under the State's minor NSR program.

Accordingly, once MCAQD concludes that a source must be regulated under its minor NSR program, it has no authority to exclude that source from any part of the substantive program requirements, including public participation. Under MCAQD's proposed permitting thresholds, EPA's policy would require MCAQD to subject all the permit applications it expects to receive each year to public notice. For a new source, this could mean a source emitting as little as 0.5 tpy VOC could not receive a permit until a proposed permit undergoes public review.

Moreover, MCAQD's current cost assessment contains assumptions that seemingly support public participation requirements for all permits, in that MCAQD estimated that it will require 95% of applicants to conduct SCREEN modeling and 5% of applicants to conduct refined modeling. A Control Officer may request modeling only if there is a reason to believe that a source may interfere with attainment or maintenance of the NAAQS. By projecting that MCAQD will require 100% of minor NSR permit applicants to conduct modeling, MCAQD undermines a contention that public review is not necessary for some of these applications.

Importantly, however, MCAQD's cost analysis makes no attempt to first determine whether emissions from these applicants need to be regulated under the County's minor NSR program to achieve attainment. To prevent unwarranted delays in processing permit applications for de minimis emissions increases (i.e., those with little to no possibility of preventing the County from achieving attainment), MCAQD must undertake a quantitative or qualitative analysis to identify which sources MCAQD needs to regulate through its minor NSR program (if any) to achieve attainment.

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[10] 60 FR 45530 at 45548.

[11] For example, 77 FR 71145.

MCAQD may determine that it is not necessary to regulate certain types of sources because existing MCAQD regulations already assure that such sources will not cause or contribute to a NAAQS violation. In a recent Advanced Notice of Proposed Rulemaking, EPA requested comment on promulgating a regulation for minor sources in the oil and gas industry in lieu of regulating such sources under the Federal minor NSR Indian Country preconstruction permit rule.[12] Similarly, MCAQD already promulgated numerous control technology regulations for certain source categories. These control requirements reduce the likelihood that these sources could cause or contribute to a NAAQS violation, and the public already had an opportunity to comment on the rule. Therefore, exempting such sources from additional public participation requirements is appropriate.

Once MCAQD identifies the sources that are necessary to include in the minor NSR program, EPA will allow MCAQD to regulate additional stationary sources under its SIP for other reasons. For example, ADEQ's Registration Program provides a "back stop" by screening exempt sources to assure accountability in the source's emissions estimates, and to confirm the non-applicability of minor NSR.[13] Indiana, Texas, and New Mexico adopted similar tiered regulatory structures for sources undertaking changes that increase emissions below the significant emissions rates based on a finding that full regulation of some categories or size of sources is not necessary for attainment.[14] Similarly, notwithstanding a finding that certain source

[12] 79 FR 32502 (June 5, 2014).

[13] ADEQ conducted an analysis and determined that it need regulate only stationary sources above the specified permitting threshold. Nonetheless, ADEQ included the Registration Program as a safety measure to assure that no stationary source avoids review under the minor NSR program, based on the general assumption that its PTE is below a level of concern (and to strengthen its existing emissions inventory for smaller sources). The Registration Program serves as a check on minor NSR applicability status in the same way that minor NSR double checks major NSR applicability determinations. In this way, the Registration Program provides an additional applicability pathway to the minor NSR program - - beyond the permitting thresholds included within the minor NSR program. This additional pathway strengthens the minor NSR program (not substitutes for it). It also supports ADEQ's policy decision to move cautiously in strengthening the minor NSR program while providing procedures to assure program success and accountability.

[14] As recently as March 2015, January 2014, and March 2013, EPA Regional Offices approved nearly identical tiered, permitting programs for Indiana, Texas, and New Mexico. Indiana's rules, for example, contain provisions for significant modifications and minor modifications. Those rules require public

categories will not cause or contribute to a NAAQS violation, MCAQD could still require preconstruction permits for these smaller area sources to improve rule effectiveness.

In sum, with the proper technical showing, MCAQD could adopt ADEQ's minor NSR applicability thresholds generally, but regulate particular categories of smaller area sources at a lower applicability level to enhance enforcement and the effectiveness of its existing SIP control measures without requiring these permits to undergo public review. If MCAQD does not justify the public participation thresholds before submitting SIP revisions to EPA, and EPA disapproves this aspect of the submittal, then the permitting and minor NSR modification threshold may become the default threshold for public participation. Therefore, MCAQD must provide a technical justification for the public participation threshold.

V. MCAQD Should Adjust the Contemporaneous Period to Promote Regulatory Certainty.

MCAQD proposes to include language that mirrors the contemporaneous timeframe in ADEQ and EPA rules. Defining the period in this manner requires MCAQD and the source to project a future construction date when processing permit applications. EPA has raised concerns, after a reviewing authority issued a final permit, when the projected construction date differs from the actual construction date in a way that affects the netting analysis.

To avoid the regulatory uncertainty that occurs from a moving contemporaneous period, MCAQD should change the contemporaneous period regulations to read: "*between the date five (5) years before submitting a permit application or commencing construction of the particular major modification, whichever is sooner, and the date that the increase from the particular major modification occurs...*". This definition is neither more stringent nor less stringent than ADEQ's and EPA's definition because it is as likely to require the continued consideration of emissions increases as decreases over the potentially extended contemporaneous period. The change merely provides certainty and clarity for implementation.

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review for only significant modifications (generally sources with a PTE greater than 25 tpy for most criteria pollutants.) In fact, Region 5's recent action on Indiana's program allowed Indiana to change the significant modification applicability threshold from 25 tpy to 100 tpy for CO. The Region based its approval on a finding that the revised CO threshold, "satisfies 40 CFR 51.160(e)...."*See* EPA's approval of these programs into each State's SIP (80 FR 13493; 79 FR 551; 78 FR 15296, respectively).

VI. MCAQD Should Retain the Current Exclusion for Increases in Hours of Operation and Production Rate Within the Definition of Major Modification.

In Rule 100, Section 200.64, MCAQD proposes to remove paragraph (c)(6) from the definition of *"major modification"*, which specifies that an increase in the hours of operation or in the production rate under specified circumstances is not a major modification. MCAQD has not explained the basis for the change. ADEQ's rules, Federal regulations, and MCAQD's current regulations exclude this activity from the definition of major modification.

VII. MCAQD Should Correct Conflicts Between MCAQD's Prior Exemption List and MCAQD's Insignificant Activities List.

In Rule 200, Section 305, the exemption list appears to conflict with MCAQD's prior exemption list and insignificant activities list. The exemption thresholds in Sections 305.2 and 305.3 appear to conflict with the thresholds in Sections 305.6 and 305.8. For example, an emergency internal combustion engine that emits at 4,000 pounds per year would be exempt under Sections 305.8, but would not qualify for an exemption under Section 305.2 and 305.3 because it emits above the permitting threshold. To address this issue, SRP recommends that MCAQD add the following language to Section 305:

> *"A source that qualifies for any one of the listed exemptions is exempt from obtaining a permit even if the source does not qualify under all applicable exemptions for that source type."*

Moreover, MCDAQD should reference the exemption section in Rule 241 to make clear that these activities are not subject to minor NSR permitting. To address this issue, MCAQD should amend the language in Rule 214, Section 103 to add the following language:

> *"The provisions of this rule also do not apply to any activity exempt from permitting under Rule 200, Section 305."*

VIII. MCAQD Should Amend the Regulatory Text of Various Sections of the Proposed Rule Revisions.

Attachment B to this letter contains a list of the additional regulatory text changes that SRP recommends MCAQD implement as part of this rulemaking process.

SRP greatly appreciates the opportunity to provide comments on MCAQD's Supplemental NSR Proposal. If you have questions or need additional information regarding these comments, please contact Barbara Cenalmor at Barbara.CenalmorBruquetas@srpnet.com or (602) 236-2322, or me at Barbara.Sprungl@srpnet.com or (602) 2336-5374.

Sincerely,

Barbara Sprungl

Barbara Sprungl
Manager, Air Quality & Environmental Systems

cc: Hether Krause, MCAQD
Jo Crumbaker, MCAQD
Richard Sumner, MCAQD
File: ORG 1-1-4

Attachments

ATTACHMENT A

INFORMATION IN SUPPORT OF SRP'S COMMENTS ON MCAQD'S MINOR NSR THRESHOLDS

Maricopa Air Quality Control Department (MCAQD) asserts that it must implement a more stringent minor New Source Review (NSR) program than the Arizona Department of Environmental Quality (ADEQ) to address peculiar local conditions *"due to longstanding nonattainment area federal requirements."*[1] This rationale is insufficient to justify imposing more stringent standards. In its discussion, MCAQD points out that a portion of the county is designated serious nonattainment for particulate matter nominally less than 10 microns (PM_{10}), and its nonattainment classification may be upgraded to *"moderate"*. These facts are undisputable, but do not explain why more stringent rules for NSR are necessary to address these nonattainment concerns, or why more stringent thresholds apply in attainment areas and for all criteria pollutants.

To make an adequate showing, MCAQD must explain how emissions increases from new sources and minor NSR modifications at different applicability thresholds would affect the County's ability to achieve or maintain compliance with the National Ambient Air Quality Standards (NAAQS) for each pollutant. As the Environmental Protection Agency (EPA) stated in reviewing ADEQ's rule thresholds, justifications for permitting thresholds *"depend[ ] on the particular air quality concerns in the area at issue"*.[2] MCAQD must distinguish the nature and cause of nonattainment in Maricopa County from other nonattainment areas in Arizona, and explain how failing to regulate certain non-major modifications under its minor NSR program would prevent the County from achieving attainment. MCAQD is also required to support its finding with technical and economic analysis under Arizona Revised Statutes (A.R.S.) § 49-112, which it has not done.

When MCAQD conducts the required analysis to determine which sources it should regulate under its minor NSR program to achieve the NAAQS for each pollutant, it likely will find that the levels adopted by ADEQ for its statewide NSR program are appropriate for Maricopa County in many cases. That is because stationary sources are not generally the cause of NAAQS exceedances in Maricopa County and the fact that Maricopa County is attainment for many criteria pollutants.

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[1] 21 A.A.R. 1302 at 1306 and 21 A.A.R. at 2129.

[2] See pre-publication version of Revisions to Air Plan; Arizona Stationary Sources; New Source Review signed by the Regional Administrator on June 29, 2015, p. 18.

A. Ozone Exceedances in Maricopa County are Not Caused by Stationary Source Emissions.

During the last four years, the number of 8-hour ozone NAAQS exceedances in Maricopa County decreased 39%, from 28 exceedances in 2011 to only 11 exceedances in 2014.[3] The County's air quality is significantly impacted by the transport of international emissions and interstate emissions originating in California. Motor vehicles and other internal combustion engines are the primary source of NAAQS exceedances in the local area.[4]

Many of the County's ozone NAAQS exceedances occur as isolated, one-day events. In many cases, the ambient concentrations, even during the ozone season, are far below the NAAQS. Some ozone exceedances during the ozone season are multi-day events, but transport emissions likely cause the NAAQS exceedances or contribute significantly to them. For example, on 7/17/2013 through 7/18/2013, monitors in the County experienced a surge in ozone concentrations with many monitors exceeding the 8-hr ozone NAAQS of 75 parts per million (ppm). Two days before this exceedance, a forest fire started 83 miles southeast of Los Angeles, California. The fire moved northwest in the direction of Maricopa County, eventually burning over 27,000 acres. On 7/17/2013, monitors in Maricopa County began registering exceedances in a concentration gradient entirely consistent with the northwest wind patterns from the previous days. On subsequent days, the wind shifted direction.[5] The two days of NAAQS exceedances and the concentration gradient across Maricopa County are entirely consistent with a transported pollution pattern. Even if this exceedance event is not excludable in computing the County's design values based on EPA's exceptional event policy, it remains unlikely that additional emissions control requirements on stationary sources would have prevented the NAAQS exceedance on these dates.

To determine the appropriate stationary sources to include in its minor NSR program (if any), MCAQD should review other recent NAAQS exceedances to determine whether a particular type of stationary source significantly contributed to the exceedance.

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[3] *See* Ozone Season Begins April 1 (April 2015) MCAQD News (available at: https://www.maricopa.gov/pr_detail.aspx?releaseID=2861).

[4] EPA's New, Lower Ozone Standard Challenging for Arizona, ADEQ News Release (Oct. 2, 2015) (available at: http://www.azdeq.gov/function/news/2015/download/100215.pdf).

[5] Gabbert, B. (July 2013) California: Mountain Fire. *Wildfire Today* (available at http://wildfiretoday.com/2013/07/15/california-mountain-fire/).

B. VOC and NO_x Emissions Increases from Non-Major Modifications will Not Prevent Maricopa County from Achieving the Ozone NAAQS.

In 2011, MCAQD's volatile organic compound (VOC) emissions inventory for stationary sources included emissions from 18 point sources and specifically identified 388 area sources. Applying MCAQD's 0.5 VOC ton per year (tpy) permitting applicability threshold to these sources potentially would subject 264 sources to the minor NSR permitting program because their potential emissions are above the permitting threshold.[6] These identified sources comprise greater than 99.1% of the VOC stationary source emissions inventory, and would exclude identified sources that emit a combined total of only 20 tpy from the minor NSR program – an inconsequential sum compared to the total VOC emissions inventory of 129,129 tpy. While this value is only slightly more inclusive than EPA's Indian Country minor NSR rule (which EPA estimated covered 98.9% of stationary sources emissions), EPA did not base its permitting threshold decision in that rule on a requirement to cover a certain percentage of the emissions inventory. Instead, EPA selected an "average" permitting threshold based on a review of other State program applicability thresholds. Because of the nationwide applicability of the Indian Country minor NSR rule, comparisons to the total nationwide emissions inventory would yield little helpful information in assessing the appropriateness of the selected thresholds. This is because the combination of State inventories would mask the importance of the emissions percentage for any given area. In contrast, MCAQD is well-situated to determine the importance of a specified level of VOC emissions increase in relation to its total VOC emissions inventory, and to relate this potential emissions increase to the likelihood of adverse effects on NAAQS compliance.

Total stationary source emissions in the 2011 emissions inventory (2,210 tpy) comprise only 1.7% of the total reported VOC emissions inventory. MCAQD estimated that under its current proposed minor NSR modification threshold, it would process 100 permit applications per year. This permit application estimate coincides with the number of stationary sources identified in MCAQD's emissions inventory with reported emissions above the 5 tpy VOC minor NSR modification threshold.

Table A-1 on the following page evaluates MCAQD's proposed public participation threshold and other potential minor NSR modification applicability thresholds. As this table shows, if emissions increases associated with the 100 permit applications all involved VOC emission increases that mirrored the existing inventory, then emissions would increase by 1,532 tpy

[6] 264 of the stationary sources specifically identified in the 2011 emission inventory reported emissions above the proposed 0.5 VOC tpy permitting threshold.

VOC.[7] In contrast, using this same formulation to assess ADEQ's minor NSR modification thresholds, MCAQD would receive 27 permit applications that would cover 813 tpy of emissions increases.[8] MCAQD would decrease the minor NSR permitting burden by 73%, but would allow emission increases totaling only 0.5% of the current VOC emissions inventory to avoid minor NSR review.

Table A-1: Comparison of MCAQD Minor NSR Modification Threshold to ADEQ Rule and Other Potential Thresholds for Volatile Organic Compounds

Rule	Minor NSR Modification Threshold (tpy)	Estimated Number of Permits Issued Per Year	Estimated Emission Increases Reviewed under Minor NSR (tpy)	Potentially Un-reviewed Emissions Increases (tpy)	Un-reviewed Emissions Increases as a Percentage of Existing Emissions Inventory
MCAQD Public Participation Threshold	25	21	700	832	0.6%
ADEQ	20	27	833	699	0.5%
	15	34	955	577	0.4%
	10	56	1236	296	0.2%
MCAQD Minor NSR	5	100	1532	0	0

[7] This assessment assumes that all 100 permits trigger permitting based on an increase in VOC emissions that is equal to or greater than 5 tpy. This value is also based on a doubling of the top 100 emitters in the inventory, except that 6 major sources would increase emissions by only 39 tpy, as doubling emissions of these sources would exceed the major modification threshold.

[8] This estimate applies the same formulation by doubling emissions of all sources in the inventory that emit above the 20 tpy threshold except that 6 major sources would increase emissions by only 39 tpy.

For nitrogen oxides (NO_X), there are 291 stationary sources specifically identified as contributing to the 2011 emissions inventory (18 point sources and 275 area sources). Following a similar approach to estimate potential coverage under MCAQD's proposed minor NSR modification thresholds would result in 1,213 tpy of NO_x emissions increases at 100 facilities, as shown in Table A-2 below.[9]

Table A-2: Comparison of MCAQD Minor NSR Modification Threshold to ADEQ Rule and Other Potential Thresholds for Nitrogen Oxides

Rule	Minor NSR Modification Threshold (tpy)[10]	Estimated Number of Permits Issued per Year	Estimated Emission Increases Reviewed under Minor NSR (tpy)	Potentially Un-reviewed Emissions Increases (tpy)	Un-reviewed Emissions as a Percentage of Existing Emissions Inventory
MCAQD Public Participation	25	15	547	666	0.13%
ADEQ	20	17	585	628	0.12%
	15	23	676	537	0.10%
	10	34	813	400	0.08%
MCAQD Minor NSR	5	100	1213	0	0

The doubling assumption used in this analysis likely overestimates the amount of emissions increases that would be subject to review by a large amount. Nonetheless, this analysis illustrates that stationary source emissions growth would remain an inconsequentially small percentage of the total VOC and NO_X emissions inventory. Such small changes in the emissions inventory are unlikely to prevent the County from achieving or maintaining attainment, and the

[9] This estimate applies the same formulation by doubling emissions of the top 100 emitters in the inventory except that 9 major sources would increase emissions by only 39 tpy and 35 sources are assumed to have 5 tpy emissions increases, because doubling these sources current would not trigger a minor NSR modification.

[10] This illustration evaluates only the minor NSR modification threshold for changes at existing stationary sources. The threshold for new sources is significantly lower and would also be inconsequential in achieving the NAAQS.

relative difference between MCAQD's and ADEQ's minor NSR modification threshold does not appear to justify the more stringent rule.

Maricopa County should refine this analysis with actual permit issuance rates and tpy permitted emissions increases from historic data to illustrate the affect differing emissions thresholds would have on the area's ability to achieve attainment considering current control requirements in the SIP, and the percentage of these emission increases relative to the entire emissions inventory.

C. PM_{10} Exceedances in Maricopa County are Not Caused by Non-Fugitive Stationary Source Emissions.

The Maricopa Association of Governments (MAG) conducted an extensive study to determine the cause of PM_{10} nonattainment within Maricopa County and to recommend control strategies for achieving attainment. MAG found that *"the PM-10 problem in the Maricopa County nonattainment area is largely attributable to coarse particles, comprised primarily of geologic material"*. [11]

> *"The primary sources of particulate pollution are construction activities, paved road dust, unpaved roads and parking lots, agricultural activities, windblown dust from disturbed vacant lots, construction sites, and agricultural fields, fires and open burning, dust from off-road recreational vehicles, leaf blowers, and exhaust from cars."*[12]

Area sources such as haul roads, material transfer, pile forming and loading, and crushing and screening from sand and gravel operations account for 91% of the total industrial emissions.[13]

MAG also found that historically (2005-2006), the majority of NAAQS exceedances occurred on fall and winter days with stagnant or near-stagnant weather conditions during draught conditions.[14] MAG determined that control strategies that reduce fugitive dust emissions are

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[11] PM-10 Source Attribution and Deposition Study, Maricopa Association of Governments, Report No. 2008-03-01 (Mar. 2008).

[12] State Implementation Plan, MCAQD Website http://www.maricopa.gov/aq/divisions/planning_analysis/state_implementation_plan.aspx.

[13] Revised PM_{10} State Implementation Plan for the Salt River Area, Arizona Department of Environmental Quality, (June 2005) (available at: http://repository.asu.edu/attachments/77598/content/SaltRiver_pm10.pdf).

[14] PM-10 Source Attribution and Deposition Study, Maricopa Association of Governments, Report No. 2008-03-01 (Mar. 2008).

necessary to achieve attainment. The County's Five Percent Reduction Plan is based only on dust control measures, not stationary source, non-fugitive, control measures.

More recently, Maricopa County's PM_{10} nonattainment issues are not pervasive nor persistent throughout the county. Exceedance events generally occur as sporadic one-day spikes at a single monitoring station, and monitored concentrations before and after the exceedances are significantly below the standard. In 2012, the highest measured mean average daily PM_{10} concentrations exceeded the NAAQS at three monitors on separate dates.[15] The first event occurred on 4/3/12 through 4/4/12. Measurements before and after the spike were 16 and 33 micrograms per cubic meter ($\mu g/m^3$). The second event occurred on 6/13/12. Measurements before and after this isolated spike were 52 and 76 $\mu g/m^3$. The third event occurred on 8/6/12, and monitored concentrations before and after this spike were 43 and 62 $\mu g/m^3$.

These sudden, short-lived increases in emissions are inconsistent with the continuous type of emissions that occur from stationary source stack emissions, unless emissions occur from an excess emissions event. A search of MCAQD's enforcement report reveals no Notices of Violation corresponding with these exceedance dates.

In planning meetings for the South Mountain Freeway PM_{10} Hot-Spot Interagency Consultation, meeting notes indicate that the April exceedance represented a statistically significant outlier that was six standard deviations away from the median of all other recorded data from this site. The group removed the exceedance from further consideration in the hot-spot analysis in accordance with National Cooperative Highway Research Program guidance. Meeting participants identified no cause for the anomaly.[16]

The second exceedance on 6/13/12 may have been caused by a warehouse fire that occurred a short distance from the monitor.[17] The third exceedance is likely related to motor vehicle idling emissions. On 8/6/12, a car accident occurred on Highway 85 less than two miles north of the Buckeye monitor. The accident required two victims to be transported via helicopter to a local

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[15] This information does not include any exceedances related to exceptional events.

[16] Final Meeting Minutes, H5764: South Mountain Freeway PM_{10} Hot-Spot Interagency Consultation (May 20, 2014) (available at http://www.ryot.org/powerful-winds-lash-california-and-arizona/124930).

[17] *See* Benson, P. (June 23, 2012) Company Relocates after $8M Gilbert Warehouse Fire. KPHO News. http://www.kpho.com/story/18818833/company-relocates-after-8m-gilbert-warehouse-fire. *See also* Camera footage of the fire available at https://www.youtube.com/watch?v=Y3XOPAVqsHs.

hospital, and likely caused lane closures and an extended traffic back-up on the northbound lane.[18]

In 2013, the number of random spikes in ambient PM_{10} concentrations dropped to two. These events were mostly likely weather-related. On 4/8/13, high wind advisories were issued for California and Arizona, and a fugitive dust storm caused closure of some roads.[19] The PM_{10} wind event can be seen in Arizona's and the U.S.' PM_{10} Air Quality Index (AQI) Maps for this date. The AQI values decrease in a northwest pattern from high values beginning in Southern California.

On 7/18/13, a localized weather event occurred, causing wind gusts at Kingman Airport that reportedly reached 60 miles per hour and downed trees.[20] Ambient concentrations before these two weather events were 29 and 10 $\mu g/m^3$. After the concentration spikes, ambient levels fell to 37 and 23 $\mu g/m^3$.

In 2014, the County experienced two random spikes in PM_{10} concentrations, and thus far in 2015, the County shows no exceedances of the NAAQS. This suggests that MCAQD's existing dust control measures are successfully addressing the significant contributors to the County's NAAQS exceedances, and additional regulation of non-fugitive minor source emissions growth is not necessary for the County to achieve attainment.

D. PM_{10} Emissions Increases from Non-Major Non-Fugitive Modifications will Not Prevent Maricopa County from Achieving the NAAQS.

MAG's review of PM_{10} emissions sources in the Salt River area as part of its PM_{10} attainment plan showed that non-fugitive stationary sources generally are not the cause of the County's failure to reach attainment. MAG found that point sources make up only 1.1 to 2.7% (3.0 to 5.3 $\mu g/m^3$) of the ambient PM_{10} concentrations.[21] EPA rules indicate that a major stationary source will cause or contribute to a PM_{10} NAAQS violation only when its emissions exceeds 5 $\mu g/m^3$

[18] Benson, P. (August 6, 2012) DPS: 2 hurt in head-on crash near Buckeye. KPHO news (available at: http://www.kpho.com/story/19207293/dps-2-hurt-in-head-on-crash-near-buckeye).

[19] Darg, G. Powerful Winds Lash California and Arizona. RYOT website (available at http://www.ryot.org/powerful-winds-lash-california-and-arizona/124930).

[20] SPC Storm Reports for 07/18/2013/ Storm Prediction Center, NOAA's Weather Service. (Available at: http://www.spc.noaa.gov/exper/archive/event.php?date=20130718).

[21] Proposed Revised PM10 State Implementation Plan for the Salt River Area, Arizona Department of Environmental Quality (June 2005).

PM_{10} at the site of the violation.[22] This means that the entire combined contribution of major stationary sources are not likely significant contributors to PM_{10} exceedances. Major contributors to the inventory are miscellaneous area sources such as windblown dust, tilling, travel on unpaved roads and parking lots, mobile sources, construction, and off-road recreational vehicles. This is consistent with MAG's findings that fugitive dust is the predominant cause of NAAQS exceedances, not stationary sources.

The 2011 PM_{10} emissions inventory report did not contain individual facility level data for permitted area sources from which to estimate the potential impacts of various minor NSR modification thresholds. Nonetheless, based on the composition of the emissions inventory, and the identified causes of nonattainment, MCAQD does not appear justified in concluding that an across-the-board, lower permitting and minor NSR threshold for PM_{10} is required to achieve (or maintain) the NAAQS within attainment and nonattainment areas in the County. MCAQD should conduct analyses as suggested above to review historic permit data and determine the effect emissions increases might have on the County's ability to achieve the NAAQS. In this regard, given the fugitive dust emissions contribution to NAAQS exceedance, it may be appropriate to regulate only greenfield construction activities (new source or minor modifications of existing sources that involve land disturbance), or source categories contributing to fugitive dust concerns in nonattainment areas at levels lower than ADEQ's thresholds.

[22] *See* 40 CFR §51.165 (b).

ATTACHMENT B

ADDITIONAL REGULATORY TEXT CHANGES ASSOCIATED WITH SRP'S COMMENTS ON MCAQD'S MINOR NSR THRESHOLDS

A. Rule 100 – Definitions

Section 200.50 Existing Source – The Maricopa County Air Quality Department (MCAQD) should remove the definition of *"existing source"* from the definitions as it is confusing and unnecessary. As written, all sources that would construct after the effective date of the rule would be "new" and not existing, even if that source subsequently exists for many years after the effective date of the rules. The definition of existing source is not necessary for the major NSR permit programs, because MCAQD already incorporated the Federal definition by reference. For purposes of the minor New Source Review (NSR) programs, whether a source is "existing" should be in reference to the date of a proposed change, not rule approval. The Arizona Department of Environmental Quality (ADEQ) also eliminated this term from its definitions in its latest rule revisions.

Section 200.71 Minor NSR Modification – MCAQD's definition refers to *"minor NSR thresholds"* and should refer to *"minor NSR modification thresholds"*.

Section 200.73 Modification – MCAQD proposes to add a definition of modification to the rules that mirrors the definition added by ADEQ in its most recent rule revisions. This definition, however, is confusing because it defines activities differently from the definition of *"major modification"* and *"minor NSR modification"*. For example, it uses the term *"regulated air pollutant"*, which includes hazardous air pollutant (HAP) emissions, and exempts increases in operating hours (which should be included in the major modification definition). It also uses the term *"de minimis"* and *"minor source"*, which are not defined in the rules.

MCAQD's intent for this definition is not clear. For example in Rule 241, Section 306.4, the regulations require best available control technology (BACT) for *"the affected area in the case of a modification"*. As written, the language could be interpreted to require BACT for HAP emissions increases if a HAP modification occurs concurrently with a minor NSR modification that requires BACT. The term *"modification"* also is used to describe changes to permits and model substitution. The defined term *"modification"* makes no sense in these contexts.

To prevent confusion, MCAQD should remove the definition, or explain in the preamble how this definition interfaces with other types of modifications.

200.90 Physical Change – MCAQD proposes to retain its existing definition of physical change. However, this definition is confusing because it does not contain the same exclusions as provided in the definition of major modification, minor NSR modification, and modification. To prevent this confusion, MCAQD should remove the definition.

B. Rule 210 – Title V Permit Provisions

Section 301.8 Action on Application – MCAQD proposes to remove the time frames under which MCAQD is required to take proposed and final action on permit applications. While ADEQ may have removed this language from its rules because they address the timeframes elsewhere in their licensing timeframes, MCAQD has not adopted these licensing provisions. At any rate, MCAQD has not explained or justified its basis for removing these provisions from the Title V requirements. Therefore, MCAQD should not finalize these proposed changes.

C. Rule 220 – Non-Title V Permit Provisions

Section 302.24 – MCAQD proposes to add a provision that provides it authority to deny a permit renewal application and take other actions on a permit for *any* permit non-compliance. This statement provides the Director with overly broad discretion that is not properly bounded with reasonable procedures for determining when such extreme actions are warranted. Such an action is not justified for all degrees of non-compliance. As written, mailing a required report to the wrong address could result in permit revocation or failure to renew a permit. The provision is also not bounded in time. Non-compliance that has been identified and resolved without reoccurrence should not be a basis to withhold a permit approval.

SRP recommends MCAQD delete this provision and similar provisions in other parts of its rules. If MCAQD retains these provisions, then MCAQD must, at a minimum, bound its discretion by explaining how it will reasonably implement this provision in the preamble to the final rule.

D. Rule 230 – General Permits

Section 306.2 – MCAQD proposes to terminate a source's right to operate under a general permit if the general permit expires. This creates a potential gap if MCAQD fails to issue an individual permit for a source within 180 days of providing notice of cancellation. Under such circumstances, MCAQD should provide an application shield to applicants that allows them to continue to operate consistent with its application.

E. Rule 240 – Major New Source Review

Section 303.3 – MCAQD proposes language that requires sources to request a construction extension if construction does not begin within 18 months from the permit issuance date. In finalizing this provision, MCAQD should confirm in the preamble that it intends to implement this provision consistent with EPA's recently issued guidance.[1] This guidance provides a reasoned approach for granting extensions.

Section 305.1 Incorporation by Reference – MCAQD proposes to exclude 40 CFR § 52.21(i) from its incorporation by reference of the Federal major NSR rules. These provisions define conditions under which major NSR does not apply. MCAQD has not explained the basis for its proposed exclusion of these exemptions from its major NSR regulations. MCAQD should remove this exclusion from this section.

Section 305.2 Additional Requirements – MCAQD proposes language that essentially mirrors the Federal regulations at 40 CFR § 51.165(b)(2). However, paragraph (a) alters the federal regulatory language in a manner that makes the requirements less clear and potentially more stringent. MCAQD's proposed language would require a source to show that it does not cause or contribute to increased ambient concentrations rather than show that it does not cause or contribute to the NAAQS exceedance. While paragraph (b) in the proposed MCAQD rules references EPA's *de minimis* emission rates in 40 CFR § 51.165(b), paragraph (a) could be interpreted to find that a source causes or contributes whenever ambient concentrations increase, regardless of whether that increase is significant or paired in time and space with the actual NAAQS violation. The proposed rule should be revised to clarify that the demonstration is with respect to whether the source will *"cause or contribute to a violation"*, consistent with 40 CFR § 51.165(b)(1) and (b)(2).

This section also contains two typographical errors. First, the rules cross reference 40 CFR 51.165(a)(11)(b)(2), but should cross reference 40 CFR 51.165(b)(2). Second, paragraph (d) appears to be missing the word *"area"* before *"designated"*.

F. Rule 241 – Minor New Source Review

Section 102 Applicability – The applicability section is confusing because Section 102.1 and 102.2 seem to stand alone from Section 102.3 and 102.4, when in fact Section 102.3 and 102.4

[1] Memorandum from Stephen D. Page, Office of Air Quality Planning and Standards *to* Regional Air Division Directors. Guidance on Extension of Prevention of Significant Deterioration (PSD) Permits under 40 CFR 52.21(r)(2). (January 31, 2014).

describe the types of construction and minor NSR modifications that MCAQD intends to regulate under the rule. As written, the rule applies to *any* modification or construction of a source since the definition of construction includes modification, and the term source is defined to include both an emissions unit and a stationary source. SRP suggests that MCAQD amend the language to include the language in Sections 101.1 and 101.2 in the opening paragraph of Section 102, and then add the word "*when*" to introduce Sections 102.3 and 102.4.

The revised section would read:

> **102 APPLICABILITY:** Except as provided in Section 103, the provisions of this rule shall apply to the construction of any new Title V or Non-Title V source, and any minor NSR modification to a Title V or Non-Title V source, when:
>
> 102.1 A regulated minor NSR pollutant emitted by a new stationary source, ~~if the source~~ will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold, or
>
> 102.4 An increase in emissions of a regulated minor NSR pollutant from a minor NSR modification~~, if the modification~~ would increase the source's potential to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold.

Section 306.4. – The regulation requires that BACT address emissions from the entire facility, or "*the affected area in the case of a modification*". The term "*affected area*" is undefined and ambiguous. MCAQD's existing regulations are much clearer. Therefore, MCAQD should retain the language from its existing regulations, which states: "*BACT is only required for the sources or group of sources being modified*". To address new sources, the phrase "*constructs or*" can be inserted in front of "*modified*".

Section 313 – This section requires MCAQD to include conditions established under Rule 241 in subsequent permit renewals unless those conditions are modified by Rule 241 or 240. This language is too restrictive as other permit change pathways may be appropriate. For example, if an emissions unit is removed from the stationary source, an administrative amendment would be appropriate in lieu of an action under Rule 241 or 240 to change the permit. SRP suggests that MCAQD modify the proposed language to instead state: "*unless modified through an appropriate permit process*".

Maricopa County

Air Quality Department

Return to the list of Attachments

MEMORANDUM

Date: July 9, 2013

To: Tom Manos, County Manager

Via: Joy Rich, AICP, Deputy County Manager

From: William D. Wiley, P.E., Air Quality Department Director

Subject: New Source Review (NSR) Rulemaking – County Manager's Approval

In accordance with the "Moratorium on Increased Regulatory Burdens," the Air Quality Department is seeking your approval to proceed with the New Source Review (NSR) rulemaking. NSR is a preconstruction permitting program for major sources (also called "Title V") and minor sources (also called "Non-Title V"). The rule revisions proposed by the NSR rulemaking will meet the U.S. Environmental Protection Agency (EPA) requirement to comply with an outstanding Notice of Deficiency for the Title V Operating Permits Program and the requirements for the Arizona Infrastructure State Implementation Plan (SIP) and will streamline permit requirements for sources. It will also allow for a level playing field with sources that may also be permitted by the Arizona Department of Environmental Quality (ADEQ); ADEQ revised their rules in August 2012.

The NSR rulemaking qualifies for County Manager approval under the moratorium, as this rulemaking will:

- lessen or ease a regulatory burden, and
- comply with a federal statutory or regulatory requirement or a state statutory requirement.

We are requesting your approval to move this rulemaking forward in accordance with the "Moratorium on Increased Regulatory Burdens."

Approved by Tom Manos, County Manager

1001 N. Central Avenue, Suite #125 Phoenix, AZ 85004 Phoenix: 602-506-6443 Fax: 602-372-2440.