

CHAPTER 3. PERMITS AND PERMIT REVISIONS

ARTICLE 1. GENERAL PROVISIONS RELATING TO PERMITS AND PERMIT REVISIONS

3-1-010. Purpose

The purpose of this article is 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. The provisions of this article shall not apply to applicants for open burning permits.

[Adopted effective June 29, 1993. Amended effective November 3, 1993.]

3-1-020. Adopted documents

Subject to the additions and modifications in § 3-1-030, the definitions set forth in A.A.C. R18-2-301 and 40 C.F.R. § 51.166(b) are hereby adopted by reference and made a part of this Code.

[Adopted effective June 29, 1993. Tentatively revised as indicated on 5/14/97; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96).]

3-1-030. Definitions

For the purpose of this chapter, the following definitions shall apply:

1. **AFFECTED SOURCE** - A source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Clean Air Act (1990).
2. **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.
3. **ALTERNATIVE METHOD** - Any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to produce results adequate for the Control Officer's determination of compliance in accordance with §3-1-160.D.
- 3a. **BILLABLE PERMIT ACTION** - The issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.
4. **COMPLETE** - In reference to an application for a permit or permit revision, complete shall mean that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Control Officer from requesting or accepting any additional information.
5. **DISPERSION TECHNIQUE** - Any technique which attempts to affect the concentration of a pollutant in the ambient air by:
 - a. Using that portion of a stack which exceeds good engineering practice stack height.
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant.
 - c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

- i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
 - ii. The merging of exhaust gas streams where:
 - (1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams.
 - (2) After July 8, 1983, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of dispersion techniques shall apply only to the emission limitation for the pollutant affected by such change in operation; 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 reviewing agency 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 reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source.
 - iii. Smoke management in agricultural or silvicultural prescribed burning programs.
 - iv. Episodic restrictions on residential woodburning and open burning.
 - v. Techniques under paragraph (c) above which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
- 5a. **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.
6. **EQUIPMENT USED IN NORMAL FARM OPERATIONS** - Equipment used directly on farm property for tilling, disking, fertilizing, harvesting, feeding, weed and pest controlling, crop or animal handling, milking, sheep shearing, irrigating, or other direct farm operation for over 50% of its use. Fuel storage vessels are considered farm equipment if they meet all of the following conditions:
- a. Contain diesel, unleaded or leaded gasoline, propane or butane.
 - b. Are located on farm property which is zoned for agricultural use and assessed for property tax purposes as being used for agricultural uses.
 - c. Have total capacities not more than 12,000 gallons for diesel, 8,000 gallons for gasoline, 2,000 gallons for propane or butane.
 - d. Are used to fuel equipment used on the same farm property on which they are located.
- Equipment used on a farm for a purpose which is normally done off farm property by a farm support company is not considered farm equipment for normal farm

- operations. Examples include but are not limited to long term grain storage, cotton ginning, repair services, and irrigation wells and equipment not located on the farm which they irrigate.
7. **EXISTING STACK** - The owner or operator had:
 - a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or
 - b. Entered into binding 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.
 8. **FINAL PERMIT** - The version of a permit issued by the District after completion of all review required by this Code.
 - 8a. **GASOLINE DISPENSING OPERATION** - all gasoline dispensing tanks and associated equipment located on one or more contiguous or adjacent properties under the control of the same person (or persons under common control). These sources shall be permitted as a Title V, General, and Non-Title V source, according to the number of nozzles, the gasoline throughput, and vapor recovery systems.
 9. **GOOD ENGINEERING PRACTICE (GEP) STACK HEIGHT** - A stack height meeting the requirements described in §3-1-177.
 10. **HIGH TERRAIN** - Any area having an elevation of 900 feet or more above the base of the stack of a source.
 11. **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, and of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.
 12. **LOW TERRAIN** - Any area other than high terrain.
 13. **LOWEST ACHIEVABLE EMISSION RATE (LAER)** - For any source, the more stringent rate of emissions based on the following:
 - a. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or
 - b. The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance or national emission standard for a hazardous air pollutant.
 - 13a. **MINOR SCREENING SOURCE** - A source that requires a permit under Code §3-1-040, but which does not have an uncontrolled potential to emit that exceeds the significant emission rates defined in Code §1-3-140.122.
 - 13b. **NAICS** - the 5 or 6 digit North American Industry Classification System - United States, 1997, number for industries used by the U.S. Department of Commerce
 - 13c. **PERMIT PROCESSING TIME** - all time spent by the air quality staff on tasks specifically related to the processing of an application for the issuance, or renewal of a particular permit or permit revision, including time spent processing an application that is denied.

14. PORTABLE SOURCE - Any building, structure, facility or installation subject to regulation pursuant to A.R.S. §49-480 (1992) which emits or may emit any air pollutant and is capable of being operated at more than one location.
15. PROPOSED PERMIT - The version of a permit for which the control Officer offers public participation under §3-1-107 or affected state review pursuant to §3-1-065.E.
16. PROPOSED FINAL PERMIT - The version of a Class I permit that the District proposes to issue and forwards to the Administrator for review in compliance with §3-1-065.A.
- 16a. QUALIFYING GENERAL SOURCE - a source that meets the applicability requirements for an ADEQ general permit issued under A.A.C. R18-2-501 through R18-2-511.
17. REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) - For sources subject to Chapter 5. of this Code, the emissions limitation of the source performance standard. For sources not subject to Chapter 5. of this Code, 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 source 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.
18. 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:
 - i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - ii. The delegation of authority to such representatives is approved in advance by the Control Officer;
 - 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 Code, 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; or
 - d. For affected sources:
 - i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act (1990) or the regulations promulgated thereunder are concerned; and
 - ii. The designated representative for any other purposes under 40 C.F.R. Part 70 (1992).

19. SIGNIFICANCE LEVELS - The following ambient concentrations for the enumerated pollutants:

Pollutant	Averaging Time				
	Annual	24-hour	8-hour	3-hour	1-hour
SO ₂	1 µg/m ³	5 µg/m ³		25 µg/m ³	
NO ₂	1 µg/m ³				
CO			0.5 mg/m ³		2 mg/m ³
PM ₁₀	1 µg/m ³	5 µg/m ³			

Except for the annual pollutant concentrations, exceedance of significance levels shall occur when the ambient concentrations of the above pollutants will be exceeded more than once per year at any one location. Significance levels shall be deemed not to have been exceeded for any of the above-enumerated pollutants if such concentrations occur at a specific location and at a time when Arizona ambient air quality standards for such pollutant would not be violated.

20. SMALL SOURCE - a source with a potential to emit, without controls, less than the rate defined as significant in §3-1-040 (#121), but required to obtain a permit solely because it is subject to a standard under 40 CFR 63.
- 20a. SPRAY OPERATIONS (MEDIUM) - A facility that has a potential to emit above any relevant major source threshold as the result of the use of spray equipment, but which has accepted a permit limitation capping allowable emissions from those operations below 25% of all relevant major source thresholds.
- 20b. SPRAY OPERATIONS (SMALL) - A facility that has a potential to emit above any relevant major source threshold as a result of the use of spray equipment, but which has accepted a permit limitation capping allowable emissions from those operations below 3% of all relevant major source thresholds.
21. SYNTHETIC MINOR SOURCES - those sources with voluntarily permit limitations adopted pursuant to §3-1-084. For fee purposes, "synthetic minor sources" means those sources with permit limitations configured to avoid triggering additional applicable requirements, and having at least one permit-defined cap that allows emissions exceeding 50% of a major source threshold.

[Adopted effective June 29, 1993. Amended effective November 3, 1993. Amended August 13, 2003. Amended October 27, 2004. Amended June 13, 2007.]

3-1-040. Applicability and classes of permits

- A. Except as otherwise provided in this chapter, no person shall commence construction of, operate, or make a modification to any source subject to regulation under this chapter, without first obtaining a permit or permit revision from the Control Officer.

- B. There shall be three classes of permits as follows:
1. Class I permits shall be required for persons proposing to commence construction of or operate any of the following sources :
 - a. Any major source.
 - b. Any source, including an area source, subject to a standard, limitation, or other requirement under §111 of the Clean Air Act (1990) that has been adopted as an element of this Code, provided that the obligation under this subparagraph does not extend to any source which has been exempted by the Administrator from a Title V permit requirement or for which the Administrator has allowed a deferral of a Title V permit requirement, but then only for the duration of the allowable deferral period.
 - c. Any source, including an area source, subject to a standard or other requirement under §112 of the Clean Air Act (1990) that has been adopted as an element of this Code, provided that the obligation under this subparagraph does not extend to any source which has been exempted by the Administrator from a Title V permit requirement or for which the Administrator has allowed a deferral of a Title V permit requirement, but then only for the duration of the allowable deferral period, and further provided that a source is not required to obtain a permit solely because it is subject to regulations or requirements under §112(r) of the Clean Air Act (1990).
 - d. An affected source.
 - e. Solid waste incineration units required to obtain a permit pursuant to §129(e) of the Clean Air Act (1990).
 - f. Any source in a source category designated by the Administrator and adopted by the Control Officer by rule.
 2. Unless a Class I permit is required, Class II permits shall be required for:
 - a. A person to commence construction of or operate any of the following:
 - i. Any source that has the potential to emit greater than *de minimis* amounts of regulated air pollutants.
 - ii. Any source, including an area source, subject to a standard, limitation, or other requirement under §111 of the Clean Air Act (1990).
 - iii. Any source, including an area source, subject to a standard or other requirement under §112 of the Clean Air Act (1990), further provided that a source is not required to obtain a permit solely because it is subject to regulations or requirements under §112(r) of the Clean Air Act (1990).
 - iv. Any source subject to a standard of performance under Chapter 5 of this Code.
 - v. Any source burning used oil, used oil fuel, hazardous waste or hazardous waste fuel.
 - vi. Incinerators.
 - vii. Fuel burning equipment, other than incinerators, fired with a fuel other than commercial natural gas or propane, and rated at more than 500,000 Btu per hour.
 - viii. Fuel burning equipment fired with commercial natural gas or propane, and rated at more than 2,500,000 BTU per hour.
 - b. A person to make a modification to a source which would cause it to emit, or have the potential to emit, quantities of regulated air pollutants greater than those specified in Paragraph a.i. of this subdivision, unless such modification is authorized by other provisions of this Code.
 3. A Class III or "minor screening" permit shall be required for:

- a. Facilities or sources that require a permit under Code §3-1-040, but which do not have an uncontrolled potential to emit that exceeds the significant emissions rates defined in §1-3-140.122.
 - b. Facilities or sources that have an uncontrolled potential to emit in excess of the "de minimis" amount of emissions as defined in §1-3-140(37) but do not qualify for the requirements of Class I or Class II permits as defined in §3-1-040.B (1) and (2).
4. Notwithstanding any other applicability provision of this rule, a political subdivision of the State of Arizona that operates a small municipal waste incinerator, that does not charge a fee for disposing of materials, that allows burning only clean wood and yard waste, that obtains an enforceable permit limiting emissions to not more than 90% of any relevant major source threshold, and that complies with all applicable standards under both Code Chapter 5 and Clean Air Act Sections 111 or 112, shall be entitled to elect fee-treatment as a Class III source.
- C. Exemptions.
- 1. Unless the source is a major source, or unless operation without a permit would result in a violation of the Clean Air Act (1990), the provisions of this chapter shall not apply to the following sources:
 - a. Sources subject to 40 CFR Part 60, Subpart AAA, "Standards of Performance for New Residential Wood Heaters".
 - b. Sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR §61.145.
 - c. Agricultural equipment used in normal farm operations. "Agricultural equipment used in normal farm operations" does not include equipment that would be classified as a source that would require a permit under Title V of the Clean Air Act (1990), or would be subject to a standard under 40 CFR Parts 60 or 61, or any other applicable requirement.
- D. No person may construct or reconstruct any major source of hazardous air pollutants, unless the control officer determines that maximum achievable control technology limitation (MACT) for new sources under section 112 of the Act will be met. Where MACT has not been established by the Administrator, such determination shall be made on a case-by-case basis pursuant to 40 CFR §§63.40 through 63.44, as incorporated by reference in Code §7-1-030.B. For purposes of this subsection, constructing and reconstructing a major source shall have the meanings prescribed in 40 CFR §63.41.

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3-1-042. Operating authority and obligations for a source subject to permit reopening

In the event a permit issued under this Code must be reopened, such permit continues in effect and the source remains subject to the obligations of such permit. Such permit also constitutes continued authority to operate until final action is taken on the reopened permit. For purposes of this section, "final action" means the latest of the issuance of the reopened permit, the expiration of the appeal period following the a refusal to issue a reopened permit, or the conclusion of any appeal process regarding the refusal to issue, or terms of, the reopened permit.

[Adopted February 22, 1995.]

3-1-045. Transition from installation and operating permit program

- A. In accordance with the provisions of Arizona Session Laws 1992, Chapter 299, Section 65, a valid Installation Permit or Permit to Operate issued by the Control Officer before November 3, 1993 and the authority to operate continues in effect until either of the following occurs:
 - 1. The Installation Permit or Permit to Operate is terminated.
 - 2. The Control Officer issues or denies a Class I or Class II permit to the source.
- B. Any Installation Permit or Permit to Operate issued after September 1, 1993 shall be effective for such term as is specified in the permit.
- C. Unless otherwise required by §3-1-050.C.3., all sources requiring Class I permits, which sources hold valid Installation Permits or Permits to Operate issued by the Control Officer before November 3, 1993, shall submit permit applications within 180 days of receipt of written notice from the Control Officer that an application is required, but in no case may the application be submitted any later than 12 months after the date the Administrator approves this Code as an operating permit program under Title V of the Clean Air Act (1990).
- D. All sources that are in existence on November 3, 1993 holding valid Installation Permits or Permits to Operate issued by the Control Officer and requiring Class II permits, shall submit permit applications to the Control Officer within 90 days of receipt of written notice from the Control Officer that an application is required.
- E. Unless otherwise provided, §§3-1-087 through 3-1-090 and §§3-2-180 through 3-2-195 shall apply to sources with Installation Permits and Permits to Operate.
- F. Sources in existence on November 3, 1993 not holding valid Permits to Operate or Installation Permits, and which have not applied for a Class I or Class II permit pursuant to this Code shall submit applications for the applicable Class I or II permit to the Control Officer within the following time frames:
 - 1. For sources requiring Class I permits, within 180 days of receipt of written notice from the Control Officer that an application is required, and no later than 12 months after the date the Administrator approves the District program.
 - 2. For sources requiring Class II permits, within 90 days of receipt of written notice from the Control Officer that an application is required.
 - 3. For purposes of this section, 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 this Code on each day of operation or each day during which construction continues, until a permit is granted.
- G. Any application for a Permit to Operate or an Installation Permit that is determined to be complete prior to November 3, 1993 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 Permit to Operate or Installation Permit application. No later than 6 months after November 3, 1993, the Control Officer shall take final action on a Permit to Operate application or an Installation Permit application determined to be complete prior to November 3, 1993.

[Adopted effective November 3, 1993. Amended February 22, 1995. Revised May 30, 2001, with effectiveness of revision contingent upon EPA approval of corresponding revisions to approved SIP (see 61 FR 15717 (4/9/96)) and interim-approved Title V program (See 61 FR 55910 (10/30/96)). Revised September 5, 2001, making Title V program approval the only condition precedent with respect to giving effect to all prior changes. Amended August 13, 2003.]

3-1-050. Permit application requirements

- A. Unless otherwise noted, this section applies to each source requiring a Class I, II or III permit or permit revision.
- B. To apply for a Class I permit, applicants shall complete the "Permit Application Form" and supply all information required by the "Filing Instructions" as shown in Appendix A.
- C. Unless otherwise required by §3-1-045, a timely application is:
 - 1. For a source, other than a major source, applying for a permit for the first time, one that is submitted within 12 months after the source becomes subject to the permit program.
 - 2. For an existing source that is initially not required to obtain a Class I permit but becomes subject to Class I permit applicability criteria, one that is submitted within 12 months after the source becomes subject to obtaining a Class I permit.
 - 3. For purposes of a Class I permit renewal, a timely application is one that is submitted at least 6 months, but not greater than 18 months prior to the date of permit expiration.
 - 4. For purposes of a Class II or III permit renewal, a timely application is one that is submitted at least 3 months, but not greater than 12 months prior to the date of permit expiration.
 - 5. For initial Phase II acid rain permits required pursuant to §3-6-565, one that is submitted to the Control Officer by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.
 - 6. Any existing source which becomes subject to a standard promulgated by the Administrator pursuant to §112(d) of the Clean Air Act (1990) shall, within twelve months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.
- D. If an applicable implementation plan allows the determination of an alternate emission limit, a source may, in its application, propose an emission limit that is equivalent to the emission limit otherwise applicable to the source under the applicable implementation plan. The source shall also demonstrate that the equivalent limit is quantifiable, accountable, enforceable and subject to replicable compliance determination procedures.
- E. Permit applications need not provide emissions data regarding insignificant activities. Activities which are insignificant pursuant to §1-3-140 need only be listed in Class I permit applications.
- F. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.
- G. A source that has submitted information with a Class I permit application under a claim of confidentiality pursuant to A.R.S. §49-487 (1992) and §3-1-120 of this Code shall submit a copy of such claim and such information directly to the Administrator.
- H. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed permit.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended October 12, 1995. Revised, with obviously incomplete paragraph renumbering, on May 30, 2001, with effectiveness of revisions contingent upon EPA-approval of corresponding revisions to approved SIP (See 61 FR 15717 (4/9/96)) and interim-approved Title V program (See 61 FR 55910 (10/30/96)). Revised September 5, 2001, making Title V program approval the only condition precedent with respect to giving effect to all prior changes. Amended August 13, 2003. Amended October 27, 2004. Amended December 21, 2005.]

3-1-055. Completeness determination

- A. Unless otherwise noted, this section applies to each source requiring a Class I, II or III permit or permit revision.
- B. A complete application is one that satisfies all of the following:
 - 1. To be complete, an application shall provide all information required pursuant to §3-1-050.B. Applications for permit revisions need supply such information only if it is related to the proposed change, unless the source's proposed permit revision will revise its permit from a Class II or III permit to a Class I permit. A responsible official shall certify the submitted information consistent with §3-1-175.
 - 2. An application for a new permit or permit revision shall contain an applicability assessment of the requirements of Article 3 of this chapter. If the applicant determines that the proposed new source is a major source as defined in §3-3-203, or the proposed permit revision constitutes a major modification as defined in §1-3-140.79., then the application shall comply with all applicable requirements of Article 3.
 - 3. An application for a new permit or a permit revision shall contain an applicability assessment of the requirements of Chapter 7 of this Code. If the applicant determines that the proposed new source permit or permit revision is subject to the requirements of Chapter 7 of this Code, the application shall comply with all applicable requirements of Chapter 7.
 - 4. Except for proposed new major sources or major modifications subject to the requirements of Article 3 of this chapter, 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 that the application is not complete within 60 days of receipt of the application. For purposes of sources subject to the requirements of Article 3 of this chapter, the Class I permit application will be deemed to be submitted on the date that the completeness determination is made pursuant to Article 3 of this chapter.
 - 5. 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 take final action on that application, the Control Officer may request such information in writing, delivered by certified mail and set a reasonable deadline for a response. Except for minor permit revisions as set forth in §3-2-190, a source's ability to operate without a permit, as set forth in this chapter, 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. If the Control Officer notifies an applicant that its application is not complete under Subdivision 3. above, the application may not be deemed automatically complete until an additional 60 days after the next submittal by the applicant. The Control Officer may, after one submittal by the applicant pursuant to this subdivision, reject an application that is determined to be still incomplete and shall notify the applicant of the decision by certified mail.
 - 6. The completeness determination shall not apply to revisions processed through the minor permit revision process.

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3-1-060. Permit application review process

- A. Unless otherwise noted, this section applies to each source requiring a Class I, II or III permit or permit revision.
- B. Action on application.
 - 1. The Control Officer shall issue or deny each permit according to the provisions of §3-1-070. 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.
 - 2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:
 - a. The application received by the Control Officer for a permit, permit revision, or permit renewal shall be complete according to §3-1-055.
 - b. Except for revisions qualifying as administrative or minor under §§3-2-185 and 3-2-190, all of the requirements for public notice and participation under §3-1-107 shall have been met.
 - c. For Class I permits, the Control Officer shall have complied with the requirements of §3-1-065 for notifying and responding to affected States, and if applicable, other notification requirements of §§3-3-210.2.e. and 3-3-280.C.2.
 - d. For Class I, II and III permits, the conditions of the permit shall require compliance with all applicable requirements.
 - e. For permits for which an application is required to be submitted to the Administrator under §3-1-065.A., and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Department, the Control Officer has revised and submitted a proposed final permit in response to the objection and EPA has not objected to this proposed final permit.
 - f. For permits to which the Administrator has objected to issuance pursuant to a petition filed under 40 CFR §70.8(d) (1992), the Administrator's objection has been resolved.
 - 3. Omitted from original.
 - 4. Omitted from original.
 - 5. 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. For Class I permits, the Control Officer shall send this statement to the Administrator and for any of Class I, II and III permits, to any other person who requests it.
 - 6. Except as provided in 40 CFR §70.4(b)(11) (1992), §§3-1-045 and 3-3-210, regulations promulgated under Title IV or V of the Clean Air Act (1990), 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.
 - 7. Priority shall be given by the Control Officer to taking action on applications for construction or modification submitted pursuant to Title I, Parts C and D of the Clean Air Act (1990).
 - 8. A proposed permit decision shall be published within 9 months of receipt of a complete application and any additional information requested pursuant to §3-1-055.B.5. to process the application. The Control Officer shall provide notice of the decision as provided in §3-1-107 and any public hearing shall be scheduled as expeditiously as possible.

- C. Except as noted under the provisions in §§3-2-180, 3-2-185 and 3-2-190, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a properly issued permit. 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 this Code 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.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended December 21, 2005.]

3-1-065. Permit review by the EPA and affected states

- A. Except as provided in §3-1-050.G. and as waived by the Administrator, for each Class I permit, a copy of each of the following shall be provided to the Administrator as follows:
 - 1. The applicant shall provide a complete copy of the application including any attachments, compliance plans and other information required by §3-1-055 at the time of submittal of the application to the Control Officer.
 - 2. The Control Officer shall provide the proposed final permit after public and affected state review.
 - 3. The Control Officer shall provide the final permit at the time of issuance.
- B. 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.
- C. The Control Officer shall keep all records associated with all permits for a minimum of five years from issuance.
- D. No permit for which an application is required to be submitted to the Administrator under Subsection A. of this section shall be issued if the Administrator properly objects to its issuance in writing within 45 days of receipt of the proposed permit from the District and all necessary supporting information.
- E. Review by Affected States.
 - 1. For each Class I 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 §3-1-107 except to the extent §3-2-190 requires the timing of the notice to be different.
 - 2. 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.
- F. Any person who petitions the Administrator pursuant to 40 CFR §70.8(d) (1992) shall notify the District 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.
- G. If the Control Officer has issued a permit prior to receipt of the Administrator's objection under this section, and the Administrator indicates that it should be revised, terminated, or

revoked and reissued, the Control Officer shall respond consistent with §3-1-087 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.

H. Prohibition on Default Issuance.

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

[Adopted effective November 3, 1993. Amended August 13, 2003.]

3-1-070. Permit application grant or denial

A. The Control Officer shall deny a permit or permit revision if:

1. At a minimum, the Control Officer does not find that every such source described within the purview of the application, the use of which may cause or contribute to air pollution, or the use of which may eliminate or reduce or control the emission of air pollutants, is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of this Code, Arizona Revised Statutes as amended by the Arizona Session Laws 1992, Chapter 299, the Clean Air Act (1990), and the Arizona State Implementation Plan as set forth in 40 C.F.R. Part 52, Subpart D.
2. 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 Article 2 of this chapter, he shall require the person to obtain a permit revision or deny the application for such permit. The Control Officer shall not accept any further application for a permit for such source so constructed until he finds that such source has been reconstructed in accordance with the prior permit or revision, or a revision to the permit has been obtained.

B. After decision on a permit or permit revision, the Control Officer shall notify the applicant and any person who filed a comment on the permit or the revision pursuant to §3-1-107 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 certified mail, and such service may be proven by the written acknowledgment of the persons served or affidavit of the person making the service. The Control Officer shall not accept a further application unless the applicant has corrected the reasons for the objections specified by the Control Officer as reasons for such denial.

[Adopted effective June 29, 1993. Amended November 3, 1993.]

3-1-080. Appeals to the Hearing Board

A. Within 30 days after notice is given by the Control Officer of approval or denial of a permit, permit revision, permit fee invoice, authorization to operate, variance under a general permit as allowed by §3-5-530 or Conditional Order, the applicant and any person who filed an objection to the permit that meets the requirements of §3-1-107 may petition the Hearing Board, in writing, for a public hearing, which shall be held within 30 days after receipt of the petition. The Hearing Board, after notice and a public hearing, may sustain, modify or reverse the action of the Control Officer.

- B. No permit applicant may appeal a decision of the Control Officer unless the applicant has first paid the applicable permit fee as defined in Article 7. of this chapter.
- C. To enable the District to pay the necessary expenses arising from the conduct of a hearing before the Hearing Board, any request for a public hearing must be accompanied by an appeal fee as set forth in Article 7 of this chapter.
- D. The appeal fee established by Article 7 of this chapter may be subject to tentative waiver, based upon an affidavit presented to the Control Officer with the request for the hearing, which affidavit sets forth either the requesting party's inability to pay or other good cause to justify the waiver.
- E. Upon commencing any hearing for which the appeal fee has been tentatively waived, the Hearing Board shall review the affidavit in support of the waiver of the appeal fee. The Hearing Board may hear testimony in support of the waiver of the appeal fee. If the Hearing Board finds the waiver justified, the Board shall proceed with the public hearing. If the Board finds the waiver not justified, the Board shall offer to the appealing party the opportunity to pay the fee. If such party pays the fee, the hearing shall proceed; otherwise, the Board shall have no further jurisdiction and shall dismiss the proceeding.

[Adopted effective June 29, 1993. Amended Subsections A., B., C. and D. effective November 3, 1993. Amended February 22, 1995]

3-1-081. Permit conditions

- A. Each permit issued shall include the following elements:
 - 1. The date of issuance and the permit term.
 - 2. Enforceable emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance.
 - a. The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
 - b. The permit shall state that, where an applicable requirement of the Clean Air Act (1990) is more stringent than an applicable requirement of regulations promulgated under Title IV of the Clean Air Act (1990), both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.
 - c. Any permit containing an equivalency demonstration for an alternative emission limit submitted pursuant to §3-1-050.D. shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
 - d. The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in §1-3-140.
 - e. Emission limitations for batch processors shall be based on worst-case operational scenarios as adequately demonstrated by the permit applicant.
 - 3. Each permit shall contain the following requirements with respect to monitoring:
 - a. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to §§114(a)(3) or 504(b) of the Clean Air Act (1990);
 - b. Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported pursuant to Subdivision A.4. of this section. Such monitoring

- requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and
- c. As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
4. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:
 - a. Records of required monitoring information that include the following:
 - i. The date, place as defined in the permit, and time of sampling or measurements;
 - ii. The date(s) analyses were performed;
 - iii. The company or entity that performed the analyses;
 - iv. The analytical techniques or methods used;
 - v. The results of such analyses; and
 - vi. The operating conditions as existing at the time of sampling or measurement;
 - b. Retention of records of all required monitoring data and support information for a period of at least 5 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.
 5. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:
 - a. Submittal of reports of any required monitoring at least every 6 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 §§3-1-175 and 3-1-083.A.5.
 - b. 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. Within a permit the Control Officer shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements, provided that no report under this subparagraph shall be due sooner than two days after the upset event, nor later than ten days after the upset event.
 6. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Clean Air Act (1990) or the regulations promulgated thereunder and incorporated pursuant to §3-6-565.
 - a. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.
 - b. 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.
 - c. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act (1990).
 - d. Any permit issued pursuant to the requirements of this chapter and Title V of the Clean Air Act (1990) to a unit subject to the provisions of Title IV of the Clean Air Act (1990) shall include conditions prohibiting all of the following:

- i. Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owners or operators of the unit or the designated representative of the owners or operators.
 - ii. Exceedances of applicable emission rates.
 - iii. The use of any allowance prior to the year for which it was allocated.
 - iv. Contravention of any other provision of the permit.
- 7. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.
- 8. Provisions stating the following:
 - a. The permittee shall comply with all conditions of the permit. The permit shall contain all applicable requirements of Arizona air quality statutes and the air quality rules. Any permit noncompliance constitutes a violation of the Clean Air Act (1990) and is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.
 - b. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
 - c. 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 noncompliance does not stay any permit condition.
 - d. The permit does not convey any property rights of any sort, or any exclusive privilege.
 - e. 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, 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 or, for information claimed to be confidential, the permittee shall furnish such records directly to the Administrator along with a claim of confidentiality.
- 9. A provision to ensure that the source pays fees to the Control Officer pursuant to Article 7 of this chapter.
- 10. 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.
- 11. 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:
 - a. Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;
 - b. Shall extend the permit shield described in §3-1-102 to all terms and conditions under each such operating scenario; and
 - c. Shall ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this chapter.
- 12. 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 facility, 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:

- a. Shall include all terms required under Subsections A. and C. of this section to determine compliance;
 - b. May extend the permit shield described in Subsection D. of this section to all terms and conditions that allow such increases and decreases in emissions; and
 - c. Shall meet all applicable requirements and requirements of this chapter.
13. Terms and conditions, if the permit applicant requests them and they are approved by the 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 periods of downtime.
14. If a permit applicant requests it, the Control Officer shall issue permits that contain terms and conditions allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements.
- a. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.
 - b. 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.
 - c. The permit shall also require compliance with all applicable requirements.
 - d. The permit terms and conditions shall provide for notice that conforms with section 3-2-180(D) and (E), and describes how the increases and decreases in emissions will comply with the terms and conditions of the permit, as per 40 CFR Chapter 1, Part 70, §70.4(b)(12).
 - e. Changes made under this subparagraph shall not include modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit.
- [sic] The permit terms and conditions shall provide for notice that conforms with section 3-2-180(D) and (E), as per 40 CFR Chapter 1, Part 70, §70.4(b)(12).
- B. Federally-enforceable requirements.
- 1. All terms and conditions in a Class I permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Clean Air Act (1990).
 - 2. Notwithstanding Subdivision B.1. of this section, the Control Officer shall specifically designate as not being federally enforceable under the Clean Air Act (1990) any terms and conditions included in the permit that are not required under the Clean Air Act (1990) or under any of its applicable requirements, provided that no such designation shall extend to any provision electively designated as federally enforceable pursuant to §3-1-084.
- C. All permits shall contain a compliance plan that meets the requirements of §3-1-083.
- D. Each permit shall include the applicable permit shield provisions set forth in §3-1-102.
- E. Emergency provision
- 1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

2. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of Subdivision 3. of this subsection are met.
 3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An emergency occurred and that the permittee can identify the cause(s) of the emergency;
 - b. The permitted facility was at the time being properly operated;
 - c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and
 - d. The permittee submitted notice of the emergency to the Control Officer by certified mail or hand delivery within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of Paragraph A.5.b. of this section. The notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.
 4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
 5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.
- F. A Class I permit issued to a major source shall require that revisions be made pursuant to §3-1-087 to incorporate additional applicable requirements adopted by the Administrator pursuant to the Clean Air Act (1990) 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 requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than eighteen months after the promulgation of such standards and regulations. Any permit revision required pursuant to this section shall comply with provisions in §3-1-089 for permit renewal and shall reset the permit term.
- G. Any permit issued by the Control Officer to any person burning used oil, used oil fuel, hazardous waste, or hazardous waste fuel under this subsection shall contain, at a minimum, conditions governing:
1. Limitations on the types, amounts and feed rates of used oil, used oil fuel, hazardous waste or hazardous waste fuel which may be burned.
 2. The frequency and type of fuel testing to be conducted by the person.
 3. The frequency and type of emissions testing or monitoring to be conducted by the person.
 4. Requirements for record keeping and reporting.
 5. Numeric emission limitations expressed in pounds per hour and tons per year for air contaminants to be emitted from the facility burning used oil, used oil fuel, hazardous waste or hazardous waste fuel.
- H. The Control Officer may waive specific requirements of this section for Class II permits if the Control Officer determines that the conditions would be unnecessary or unreasonable for a particular source or category of sources.

[Adopted effective November 3, 1993, Amended August 11, 1994. Amended February 22, 1995. Revised May 27, 1998 and ratified July 29, 1998; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96) and the District's Title V program as approved at 61 Fed. Reg. 55910 (10/30/96). Revised May 30, 2001, with apparently redundant provisions in §3-1-081.A.14, and the effectiveness of the changes contingent upon corresponding EPA-approval of revisions to approved SIP (See 61 FR 15717 (4/9/96)) and interim-approved Title V program (See 61 FR 55910 (10/30/96)). Revised September 5, 2001, making Title V program approval the only condition precedent with respect to giving effect to all prior changes. Amended August 13, 2003.]

3-1-082. 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. The Control Officer shall enforce the most stringent combination of the applicable requirements.

[Adopted effective November 3, 1993.]

3-1-083. Compliance provisions

- A. Subject only to the limitation of subsection C. of this section, all permits shall contain the following elements with respect to compliance:
1. The following monitoring requirements sufficient to assure compliance with the terms and conditions of the permit:
 - a. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to §§114(a)(3) or 504(b) of the Clean Air Act (1990);
 - b. Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to Subdivision 3. of this subsection. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and
 - c. As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
 2. All applicable recordkeeping requirements and require, where applicable, the following:
 - a. Records of required monitoring information that include the following:
 - i. The date, place as defined in the permit, and time of sampling or measurements;
 - ii. The date(s) analyses were performed;
 - iii. The company or entity that performed the analyses;
 - iv. The analytical techniques or methods used;
 - v. The results of such analyses; and
 - vi. The operating conditions as existing at the time of sampling or measurement;
 - b. Retention of records of all required monitoring data and support information for a period of at least 5 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 or physical records for continuous monitoring instrumentation, and copies of all reports required by the permit.
 3. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:
 - a. Submittal of reports of any required monitoring at least every 6 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 Subdivision 5. of this subsection.
 - b. 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. Within the

- permit, the Control Officer shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements.
4. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
 - a. The frequency for submissions of compliance certifications, which shall not be less than annually;
 - b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;
 - c. A requirement that the compliance certification include the following:
 - i. The identification of each term or condition of the permit that is the basis of the certification;
 - ii. The compliance status;
 - iii. Whether compliance was continuous or intermittent;
 - iv. The method(s) used for determining the compliance status of the source, currently and over the reporting period; and
 - v. Other facts as the Control Officer may require to determine the compliance status of the source.
 - d. A requirement that all compliance certifications be submitted to the Control Officer, and for Class I permits, to the Administrator as well.
 - e. Such additional requirements as may be specified pursuant to §§114(a)(3) and 504(b) of the Clean Air Act (1990).
 5. Any document required to be submitted by a permit, including reports, shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
 6. Inspection and entry provisions which require that upon presentation of proper credentials, the permittee shall allow the Control Officer to:
 - a. 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;
 - b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
 - c. Inspect, during normal business hours or while the source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
 - d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
 - e. To record any inspection by use of written, electronic, magnetic and photographic media.
 7. A compliance plan that contains all the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements.
 - b. A description as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

- ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - iii. For requirements for which the source is not in compliance at the time or permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - c. A compliance schedule as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
 - iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. 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.
 - d. A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation. Such schedule shall contain:
 - i. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
 - ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
 - e. The compliance plan content requirements specified in this subdivision 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 Clean Air Act (1990) and incorporated pursuant to §3-6-565 with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.
- 8. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.
- B. The Control Officer may develop special guidance documents and forms to assist certain sources applying for Class II permits in completing the compliance plan.
- C. For a Class II source with an uncontrolled potential to emit that does not exceed fifty percent (50%) of any relevant major source threshold, the Control Officer may allow reporting of required monitoring on an annual basis.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended August 13, 2003.]

3-1-084. Voluntarily Accepted Federally Enforceable Emissions Limitations; Applicability; Reopening; Effective Date.

1. A permit may, for the purpose of creating federally enforceable conditions that limit the potential emissions of a source, designate as a "federally enforceable provision" ("FEP Limit") any emission limit in conjunction with a production limit and/or operational limit expressed in the permit. A FEP Limit must be permanent, quantifiable and enforceable as a practical matter, and shall be at least as stringent as otherwise applicable limitations and requirements under either the SIP or pertinent provision of the Clean Air Act (1990), and shall not operate to relieve any other legal restriction on emissions.
2. The Control Officer may include an FEP Limit in a permit pursuant to this section only if the signed application clearly requests inclusion of such a provision.
3. In every permit including a FEP Limit, the Control Officer shall also include provisions obligating the permittee to affirmatively demonstrate compliance with the FEP Limit. Every such compliance-related provision shall also constitute a FEP and be clearly designated as such in the permit. A compliance-related FEP must include such obligations regarding record-keeping, monitoring, testing, and reporting as may be required to obligate the permittee to objectively demonstrate compliance. At a minimum, the compliance-related FEP shall obligate the permittee to submit to the District semi-annual reports documenting compliance with or deviation from each FEP Limit throughout the period.
4. Every FEP shall:
 - a. be clearly identified as such;
 - b. to the extent the FEP Limit pertains to conventional pollutants, be enforceable by the Administrator pursuant to Clean Air Act §110 (1990); and
 - c. to the extent the FEP Limit pertains to hazardous air pollutants, be enforceable by the Administrator pursuant to Clean Air Act §112 (1990).
5. If a permit applicant requests inclusion of a FEP Limit within a permit, then, in addition to the other applicable procedural requirements, including the requirement to provide an opportunity for public participation pursuant to §3-1-107, the Control Officer shall provide to the Administrator by first-class mail:
 - a. a copy of the permit application, within ten (10) days of the filing of a request for such permit;
 - b. a copy of the draft permit, as made available to public at the time of publication of public notice, to be mailed no later than that publication date; and
 - c. a copy of the final permit.
6. If an applicant requests an authorization to operate under a general permit that includes a FEP Limit, then in addition to the other applicable procedural requirements, the Control Officer shall provide to the Administrator by first-class mail:
 - a. a copy of the application, within ten (10) days of filing; and
 - b. a copy of the authorization to operate.
7. The inclusion of a FEP Limit in a permit shall not affect the timing or manner of issuance of a permit, provided that no permit purporting to contain a FEP Limit designated pursuant to this section shall be issued if the Administrator gives notice prior to issuance of such permit that any FEP Limit defined in the permit should be deemed not "federally enforceable".
8. Subject to the limitation of paragraph 9 of this section, a FEP designated pursuant to this section shall be federally enforceable from and after the latter of the issuance of a permit containing such a provision, or:
 - a. with respect to the regulation of conventional pollutants, the date upon which the Administrator approves this section as an element of the Arizona State Implementation Plan;

- b. with respect to the regulation of hazardous air pollutants, the date upon which Administrator approves this section pursuant to CAA §112(l).
- 9. If, prior to a relevant approval by or delegation from the Administrator contemplated under subsection 8 of this section, an applicant files an application requesting an individual permit containing an FEP or requesting authorization to operate under a general permit containing an FEP, or an individual permit containing an FEP is issued, or an authorization to operate under a general permit containing an FEP is issued, then at the time of such approval by or delegation from the Administrator, the Control Officer shall transmit to the Administrator each of the requisite documents identified in either subsection 5 or 6 of this section, and the federal enforceability of such an FEP shall arise upon the latter of:
 - a. the date specified under paragraph 8 of this section; or
 - b. thirty (30) days after such mailing as is contemplated under this paragraph.

[Adopted August 11, 1994. Amended February 22, 1995.]

3-1-085. Notice by building permit agencies

All agencies of Pinal County or political subdivisions of Pinal County that issue or grant building permits or approvals shall examine the plans and specifications submitted by an applicant for a permit or approval to determine if an air pollution permit will be required, the agency or political subdivision shall give written notice to the applicant to contact the Control Officer and shall furnish a copy of the notice to the Control Officer.

[Adopted effective November 3, 1993]

3-1-087. Permit reopenings, reissuance and termination

- A. Reopening for Cause
 - 1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
 - a. Additional applicable requirements under the Clean Air Act (1990) become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to §3-1-089.C. Any permit revision required pursuant to this section shall comply with provisions in §3-1-089 for permit renewal and shall reset the permit term.
 - b. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the Class I permit.
 - c. The Control Officer or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
 - d. The Control Officer or the Administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.
 - 2. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

3. Reopenings under Subdivision A.1. of this section shall not be initiated before a notice of such intent is provided to the source by the Control Officer at least 30 days in advance of the date that the permit is to be reopened, except that the Control Officer may provide a shorter time period in the case of an emergency.
 4. When a permit is reopened and revised pursuant to this section, the Control Officer may make appropriate revisions to the permit shield established pursuant to §3-1-102.
- B. Within 10 days of receipt of notice from the Administrator that cause exists to reopen a Class I permit, the Control Officer shall notify the source. The source shall have 30 days to respond. Within 90 days of receipt of notice from the Administrator that cause exists to reopen a permit, the Control Officer shall forward to the Administrator and the source a proposed determination of termination, revision, revocation or reissuance of the permit. Within 90 days of an EPA objection to the Control Officer's proposal, the Control Officer shall resolve the objection and act on the permit.

[Adopted effective November 3, 1993. Amended October 27, 2004.]

3-1-089. Permit term, renewal and expiration

- A. Permits issued pursuant to this chapter shall be issued for a period of five years.
- B. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and Administrator review, that would apply to that permit's initial issuance.
- C. Except as provided in §3-1-045, permit expiration terminates the source's right to operate unless a timely application for renewal, or a substitute application under §3-5-490, that is sufficient under A.R.S. §41-1064 has been submitted in accordance with §§3-1-050, 3-1-055 and 3-1-060. Any source relying on a timely and complete application as authority to operate after expiration of a permit shall be legally bound to adhere and conform to the terms of the expired permit, subject only to such permit revisions as may be allowed under this Code. A failure to adhere and conform to the terms of the expired permit, or such revisions as may have been allowed under this Code, shall constitute a violation. Any testing that is required for renewal shall be completed before the proposed permit is issued by the Control Officer.
- D. The Control Officer shall act on an application for a permit renewal within the same time frames as on an initial permit.

[Adopted effective November 3, 1993. Amended February 22, 1995.]

3-1-090. Permit transfer

- A. A permit shall not be transferable, whether by operation of law or otherwise, either from one location to another, or from one piece of equipment to another.
- B. The provisions of Subsection A. shall not apply to mobile or portable machinery or equipment which is transferred from one location to another after notification to the Control Officer of the transfer.
- C. A permit may be transferred, whether by operation of law or otherwise, from one person to another, provided that prior to the transfer, the person holding the permit notifies the Control Officer in writing at least 30 days before. The notice shall contain the following:
 1. The permit number and expiration date.
 2. The name, address and telephone number of the current permit holder.
 3. The name, address and telephone number of the organization to receive the permit.

4. 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.
 5. A description of the equipment to be transferred.
 6. The effective date of the proposed transfer.
 7. An agreement signed by the transferee stating a willingness to comply with all terms and conditions of the permit.
- D. If the Control Officer determines that the transferee is not capable of operating the source in compliance with the requirements of Article 3, Chapter 3, Title 49, Arizona Revised Statutes (1992), the provisions of this Code and the conditions established in the permit, the transfer shall be denied. In order for the denial to be effective, notice of the Control Officer's denial, including the reasons for the denial, shall be sent to the original permit holder by certified mail within 10 working days of the Control Officer's receipt of the notice of the proposed transfer. If the transfer is not denied within 10 working days after receipt of the notice, it shall be deemed approved.
- E. To appeal the transfer denial, both the transferor and the transferee shall petition the air pollution Hearing Board in the same manner as prescribed for denial of a permit in §3-1-080.

[Adopted effective November 3, 1993.]

3-1-100. Permit posting

- A. A person who has been granted an individual permit or an authorization to operate under a general permit shall firmly affix such permit, an approved facsimile of such permit, or other approved identification bearing the permit number upon such building, structure, facility or installation for which the permit is issued in such a manner as to be clearly visible and accessible. In the event that such building, structure, facility or installation is so constructed or operated that the permit cannot be so placed, the permit or authorization to operate shall be mounted so as to be clearly visible in an accessible place within a reasonable distance from the equipment or maintained readily available at all times on the operating premises.
- B. A copy of the complete permit shall be kept on the site.

[Adopted effective June 29, 1993. Amended effective November 3, 1993. Amended February 22, 1995.]

3-1-102. Permit shields

- A. Each Class I or II permit issued under this chapter shall specifically identify all federal, State, and local air pollution control requirements applicable to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed compliance with any applicable requirement as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Control Officer may include in a permit determinations that other requirements specifically identified are not applicable. Any permit under this chapter that does not expressly state that a permit shield exists shall not provide such a shield.
- B. Nothing in this section or in any permit shall alter or affect the following:
1. The provisions of §303 of the Clean Air Act (1990) (emergency orders), including the authority of the Administrator under that section.
 2. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

3. The applicable requirements of the acid rain program, consistent with §408(a) of the Clean Air Act (1990).
 4. The ability of the Administrator or the Control Officer to obtain information from a source pursuant to §114 of the Clean Air Act (1990), or any provision of state law.
 5. The authority of the Control Officer to require compliance with new applicable requirements adopted after the permit is issued.
- C. In addition to the provisions of §3-1-087, a permit may be reopened by the Control Officer and the permit shield revised when it is determined that standards or conditions in the permit are based on incorrect information provided by the applicant.

[Adopted effective November 3, 1993. Amended October 27, 2004.]

3-1-103. Annual emissions inventory questionnaire

- A. Every source subject to a permit requirement under this chapter, or who obtains an authorization to operate under this chapter, shall complete and submit to the Control Officer an annual emissions inventory questionnaire. The questionnaire is due by March 31 or ninety days after the Control Officer makes the inventory form available, whichever occurs later, and shall include emission information for the previous calendar year. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.
- B. The questionnaire shall be on a form provided by the Control Officer and shall include the following information:
1. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
 2. Process information for the source, including design capacity, operations schedule, and emissions control devices, their description and efficiencies.
 3. The actual annual quantity of emissions, including documentation of the method of measurement, calculation or estimation, of:
 - a. Any single regulated air pollutant in a quantity greater than one ton.
 - b. Any combination of regulated air pollutants in a quantity greater than 2½ tons.
- C. The Control Officer may waive a requirement that specific information or data be submitted in the annual emissions inventory questionnaire for sources requiring Class II or Class III permits if the Control Officer determines that the submission or data would be unnecessary or unreasonable for a particular source or category of sources and instead may require alternative information from which emissions may be determined.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended October 27, 2004.]

3-1-105. Permits containing the terms and conditions of federal delayed compliance orders (DCO) or consent decrees

- A. 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.
- B. 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 Article.

- C. For the purpose of this chapter, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.

[Adopted effective November 3, 1993.]

3-1-107. Public notice and participation

- A. 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:
1. A permit issuance or renewal of a permit.
 2. A significant permit revision.
 3. Revocation and reissuance or reopening of a permit.
 4. Conditional orders that would vary from a requirement of a permit.
- B. The Control Officer shall provide public notice of receipt of complete applications for major sources by publishing a notice in a newspaper of general circulation in Pinal County.
- C. The Control Officer shall provide notice of proposed permits required pursuant to Subsection A. of this section as follows:
1. The Control Officer shall publish the notice once each week for two consecutive weeks in two newspapers of general circulation in Pinal County.
 2. 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.
 3. When the Control Officer has objective evidence that the preceding notice may not provide adequate notice to the affected public, the Control Officer shall additionally give notice by such other means as may be necessary to assure adequate notice.
- D. The notice required by Subsection C. of this section shall include the following:
1. Identification of the affected facility.
 2. Name and address of the permittee or applicant.
 3. Name and address of the permitting authority processing the permit action.
 4. The activity or activities involved in the permit action.
 5. The emissions change involved in any permit revisions.
 6. The air contaminants to be emitted.
 7. A statement that any person may submit written comments, or a written request for a public hearing, or both, on the proposed permit action.
 8. The name, address and telephone number of a person from the District from whom additional information may be obtained.
 9. 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 District office, and the times at which they shall be available for public inspection.
 10. A summary of any notice of confidentiality filed under §3-1-120 of these rules.
 11. If applicable, a statement that the source has submitted a risk management analysis (RMA) under Chapter 7, Article 2 – Pinal County Hazardous Air Pollutants (HAPs) Program of these rules.
 12. 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. R-18-2-1204, or the utilization of emission reduction credits under A.A.C. R18-2-1206.
- E. 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 §9-1-080 and Subsection C. of this section. The Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.

- F. At the time the Control Officer publishes the first notice, the applicant shall post a notice containing the information required in Subsection D. of this section at the site where the source is or may be located. Consistent with County 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 or such other location as may be approved by the Control Officer. 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.
- G. The Control Officer shall provide a period of at least 30 days from the date of its first notice for public comment. 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, the record and copies of the Control Officer's responses shall be made available to the applicant and all commenters.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended June 13, 2007.]

3-1-109. Material permit condition

For the purposes of A.R.S. §49-514(G) (1992), a "material permit condition" shall mean a condition which satisfies all of the criteria established by the Director under A.A.C. R18-2-331.

[Adopted effective November 3, 1993. Amended February 22, 1995. Tentatively revised as indicated on 5/14/97; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96).]

3-1-110. Investigative authority

- A. When the Control Officer has reasonable cause to believe that any person is violating any provision of A.R.S. Title 49, Chapter 3, Article 3 (1992), any provision of this Code or any requirement of a permit issued pursuant to this Code he may request, in writing, that such person forthwith produce all existing books, records and other documents evidencing tests, inspections or studies which may reasonably relate to compliance or noncompliance with rules and regulations adopted pursuant to this Code.
- B. Any person violating the provisions of this section or knowingly submitting false information, reports or records to the Board of Supervisors or the Control Officer is guilty of a petty offense and a violation of this Code.

[Adopted effective June 29, 1993. Amended Subsection A. effective November 3, 1993.]

3-1-120. Confidentiality of records

- A. Any records, reports or information obtained from any person under this Code, including records, reports or information obtained or prepared by the Control Officer or a county employee, shall be available to the public, except that the information or any part of the information shall be considered confidential on either of the following:
 - 1. A showing, satisfactory to the Control Officer, by any person that the information or a part of the information if made public would divulge the trade secrets of the person.
 - a. Any material which the applicant deems confidential shall be separately bound, and incorporated by reference into the actual permit application. To enable the Control Officer to make an informed decision with respect to honoring any claim of

confidentiality, an applicant making such claim shall present such claim in writing, and include therein:

- i. A definition of the type, character and quantity of the information sought to be protected.
 - ii. An explanation of the damage the applicant would suffer if the information were disclosed.
 - iii. An explanation of the measures that the applicant has previously taken to maintain the confidentiality of the information.
- b. Within 30 days of receipt of a notice of confidentiality that complies with Paragraph 1.a. of this subsection, the Control Officer will review the claim and respond in writing, either accepting or denying the claim. The claim of confidence will be honored if the Control Officer finds the justification reasonable and adequate. A copy of any adverse response will be mailed to the applicant. In any case, both the claim and the response by the Control Officer will be included with the publicly available portions of the applicant's file.
- c. The written response by the Control Officer denying the claim of confidentiality may be considered a final administrative action. To allow opportunity to seek judicial review, the claim, the response, and the information covered by the claim will be preserved in confidence for 30 days following the mailing of the response by the Control Officer.
2. A determination by the County Attorney that disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this Code in superior court.
- B. Notwithstanding Subsection A. of this section, the following information shall be available to the public:
1. The name and address of any permit applicant or permittee.
 2. The chemical constituents, concentrations and amounts of any emission of any air contaminant.
 3. The existence or level of a concentration of an air pollutant in the environment.

[Adopted June 29, 1993 and effective September 1, 1993. Amended Subsection A.1.b. effective November 3, 1993.]

3-1-132. Permit imposed right of entry

The Board hereby declares that an essential provision of any permit issued under this Code shall be the grant by the permit holder of a right of entry in favor of the Control Officer, provided that no such right of entry shall arise under the terms of this section with respect to the interior of any structure used as a private residence. Inspections under authority of the right of entry defined by this section shall be limited to purposes of verifying compliance with the terms of the permit and compliance with this Code. The right of entry shall extend to allow access to, upon or through any premises covered by a permit. The right of entry shall arise upon the presentation of the credentials of the Control Officer or his representative. Upon entering any premises covered by a permit, the Control Officer or his representative shall observe reasonable standard safety requirements, as set forth by the owner or operator of such source, such as donning a hard hat, safety glasses and safety shoes.

[Adopted effective June 29, 1993.]

3-1-140. Permit revocation

- A. Whereas the Board of Supervisors finds that an effective County permit program constitutes an essential element in the fulfillment of the Board's responsibility to control the release of contaminants into the atmosphere, and that any such permit program rests upon the candor of owners and operators in presenting applications, the Board hereby grants to the Control Officer the authority to revoke issued permits, for the causes and in the manner set forth in this section.
- B. The Control Officer may issue a notice of intent to revoke a permit issued pursuant to this Code if:
 - 1. The Control Officer has reasonable cause to believe that the permit was obtained by fraud or material 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.
- C. If the Control Officer discovers cause to revoke permit under this section, the Control Officer shall send the permittee a 30 day notice of intent to revoke the permit, which notice shall be served on the applicant or permittee either personally or by certified mail, return receipt requested. The notice shall be a statement detailing the grounds for the action sought and calling upon the permittee to refute the factual basis upon which the Control Officer proposes to revoke the permit. The notice shall be effective upon mailing. If, within the 30 day notice period, the permittee shall fail to refute or correct to the satisfaction of the Control Officer the grounds for the pending revocation, the Control Officer shall forthwith issue a notice of revocation which shall become effective upon the lapse of the appeal period specified in Subsection D.
- D. For a period of 15 days following the delivery of a notice of revocation to the permittee, the permittee shall be entitled to appeal the revocation to the Hearing Board, in the same manner as a denial of a permit application. The notice of revocation shall be served on the permittee by certified mail, return receipt requested. In the event of such an appeal, the revocation shall be held in abeyance pending a final decision by the Board.
- E. Such facts as will justify the revocation of a permit under this section shall also constitute a violation of this Code.

[Adopted effective June 29, 1993. Amended Subsections B. and C. effective November 3, 1993.]

3-1-150. Monitoring

- A. The Control Officer may require, as a permit condition or by order in the manner specified in subsections B. or C. of this section, any source of air contaminants to monitor, sample or perform other studies to quantify emissions of air contaminants or levels of air pollution that may reasonably be attributable to that source, if the Control Officer either:
 - 1. Determines that monitoring, sampling or other studies are necessary to determine the effects of the facility on levels of air pollution.
 - 2. Has reasonable cause to believe a violation of this Code, rules adopted pursuant to this Code or a permit issued pursuant to this Code has been committed.
 - 3. Determines that those studies or data are necessary to accomplish the purposes of this article, and that the monitoring, sampling or other studies by the source are necessary in order to assess the impact of the source on the emission of air contaminants.
- B. To the extent that a source may be reasonably expected to emit particulate matter, sulfur dioxide, VOCs, carbon monoxide, nitrogen dioxide, lead, or any other air contaminant

subject to regulation under an existing source performance standard set forth in A.A.C. Title 18, Article 5, under a work-practice requirement set forth in A.A.C. Title 18, Article 4, under a new source performance standard set forth in A.A.C. Title 18, Article 8, or under a hazardous air pollutant standard set forth in A.A.C. Title 18, Article 9, the Control Officer may require such source of air contaminants to monitor, sample or otherwise quantify affected emissions. The Board of Supervisors expressly finds that the best means for considering the cost and effectiveness of any requirement for monitoring, sampling or other quantification method with respect to any specific source of air contaminants will be by having the Control Officer first review the need for such monitoring, sampling or other studies on a case-by-case basis. Before imposing any specific requirement upon a source, the Control Officer shall make a written need of justification, setting forth the scientific feasibility of the requirement, the costs expected to be incurred by the source, the nature and extent of the impact of the emissions from the specific source upon air quality within the District, the expected accuracy of the data to be produced, the use to be made of that data, and a finding that the cost of the method is reasonable in light of the use to be made of the data.

- C. For those sources of air contaminants not subject to mandatory requirements under subsection B. of this section, the Control Officer may require a source of air contaminants, by permit or order, to perform monitoring, sampling or other quantification of its emissions or air pollution that may reasonably be attributed to such a source. Before requiring such monitoring, sampling or other quantification by permit or order, the Control Officer shall consider the relative cost and accuracy of any alternatives which may be reasonable under the circumstances such as emission factors, modeling, mass balance analyses or emissions projections. The Control Officer may require such monitoring, sampling or other quantification by permit or order if the Control Officer determines in writing that all of the following conditions are met:
 - 1. The actual or potential emissions of air pollution may adversely affect public health or the environment.
 - 2. An adequate scientific basis for the monitoring, sampling or quantification method exists.
 - 3. The monitoring, sampling or quantification method is technically feasible for the subject contaminant and the source.
 - 4. The monitoring, sampling or quantification method is reasonably accurate.
 - 5. The cost of the method is reasonable in light of the use to be made of the data.
- D. Orders issued or permit conditions imposed pursuant to this section shall be appealable to the Hearing Board in the same manner as that prescribed for orders of abatement in §§ 8-1-030 and 9-1-020 and for permit conditions in § 3-1-080.
- E. Unless a requirement to monitor, sample or perform other studies to quantify emissions of air contaminants or levels of air pollution is rescinded by the Hearing Board, the refusal of an owner or operator of a source to perform such monitoring, sampling or studies pursuant to this section constitutes a violation of this Code.
- F. When an existing, relevant EPA protocol exists, any monitoring, sampling or quantification requirement imposed under this section shall follow such protocol.

[Adopted effective November 3, 1993. Tentatively revised as indicated on 5/14/97; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96).]

3-1-160. Test methods and procedures

- A. Except as otherwise specified in this Code, the applicable procedures and testing methods contained in the Arizona Testing Manual; 40 CFR Part 52, Appendices D and E; 40 CFR

Part 60, Appendices A through F; and 40 CFR Part 61, Appendices B and C shall be used to determine compliance with the requirements established in this Code or contained in permits issued pursuant to this chapter.

- B. Except as otherwise provided in this subsection, the opacity of visible emissions shall be determined by Reference Method 9 of the Arizona Testing Manual. A permit may specify a method, other than Method 9, for determining the opacity of emissions from a particular emissions unit, if the method has been promulgated by the Administrator in 40 CFR Part 60, Appendix A.
- C. Except as otherwise specified in this chapter, the heat content of solid fuel shall be determined according to ASTM method D-3176-89, "Practice for Ultimate Analysis of Coal and Coke" and ASTM method D-2015-91, "Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter".
- D. Except for ambient air monitoring and emissions testing required under Chapters 6 and 7, alternate sampling techniques or other means to determine opacity, rate, composition, and/or concentration of emissions in any test plan submitted to the Control Officer may be approved by the Control Officer for the duration of that plan provided that the following four criteria are met:
 - 1. The alternative or equivalent test method measures the same chemical and physical characteristics as the test method it is intended to replace.
 - 2. The alternative or equivalent test method has substantially the same or better reliability, accuracy, and precision as the test method it is intended to replace.
 - 3. Applicable quality assurance procedures are followed in accordance with the Arizona Testing Manual, 40 CFR Part 60 or other methods approved by the Control Officer.
 - 4. This approval does not include nondelegable functions of the EPA Administrator, including but not limited to approval of alternative or equivalent test methods. As used in 40 C.F.R. 60: "Administrator" means the Control Officer of the Pinal County Air Quality Control District, except that the Control Officer shall not be authorized to approve alternate or equivalent test methods, alternative work standards or work practices, equivalency determinations or innovative technology waivers as covered in Section 111(h) "Design, equipment, work practice, or operational standard, alternative emission limitation," and Section 111(k) "Innovative technological systems of continuous emission reduction" of the FCAA."

[Adopted effective November 3, 1993; Tentatively revised as indicated on 5/14/97 and 12/13/00; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96).]

3-1-170. Performance tests

- A. Within 60 days after a source subject to the permit requirements of this chapter has achieved the capability to operate at its maximum production rate on a sustained basis but no later than 180 days after initial start-up of such source and at such other times as may be required by the Control Officer, the owner or operator of such source shall conduct performance tests and furnish the Control Officer a written report of the results of the tests.
- B. Performance tests, whether required in support of a permit application or as permit conditions, shall be conducted at the source's or facility's maximum capacity, unless otherwise specified by the Control Officer, and data reduced in accordance with the test method and procedures contained in the Arizona Testing Manual for Air Pollutant Emissions unless the Control Officer:
 - 1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
 - 2. Approves the use of an equivalent method;

3. Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or
 4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Control Officer's satisfaction that the source or facility is in compliance with the standard.
 5. Nothing in this section shall be construed to abrogate the Control Officer's authority to require testing.
- C. Performance tests shall be conducted under such conditions as the Control Officer shall specify to the plant operator based on representative performance of the source. The owner or operator shall make available to the Control Officer such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.
- D. The owner or operator of a permitted source shall provide the Control Officer two weeks prior notice of the performance test to afford the Control Officer the opportunity to have an observer present.
- E. The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:
1. Sampling ports adequate for test methods applicable to such facility.
 2. Safe sampling platform(s).
 3. Safe access to sampling platform(s).
 4. Utilities for sampling and testing equipment.
- F. Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs is required to be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the Control Officer's approval, be determined using the arithmetic means of the results of the two other runs. If the Control Officer is present, tests may only be stopped with the Control Officer's approval. If the Control Officer is not present, tests may only be stopped for good cause, which includes forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the operator's control. Termination of testing without good cause after the first run is commenced shall constitute a failure of the test.
- G. Except as provided in Subsection H., compliance with the emission limits established in this Code or as prescribed in permits issued pursuant to this Code shall be determined by the performance tests specified in this section or in the permit.
- H. In addition to performance tests specified in this section, compliance with specific emission limits may be determined by:
1. Opacity tests.
 2. Emission limit compliance tests specifically designated as such in the regulation establishing the emission limit to be complied with.
 3. Continuous emission monitoring or any equivalent method approved by the EPA or Control Officer, where applicable quality assurance procedures are followed and where it is designated in the permit or in an applicable requirement to show compliance.

- I. Nothing in this section shall be so construed as to prevent the utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.

[Adopted effective June 29, 1993. Amended effective November 3, 1993. Tentatively revised as indicated on 5/14/97; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96).]

3-1-173. Quality assurance

Facilities subject to the permit requirements of this chapter and those which are required to perform tests subject to the requirements of this Code shall submit a quality assurance plan to the Control Officer that meets the requirements of the Arizona Testing Manual, 40 C.F.R. Part 60 or other methods approved by the Control Officer within 12 months of the effective date of this section.

[Adopted effective November 3, 1993. Tentatively revised as indicated on 5/14/97; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96).]

3-1-175. Certification of truth, accuracy and completeness.

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

[Adopted effective November 3, 1993.]

3-1-177. Stack height limitation

- A. 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:
1. Begun, or caused to begin, a continuous program of physical on-site construction of the stack;
 2. 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
 3. Coal fired steam electric generating units, subject to the provisions of the Clean Air Act §118 (1990) which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.
- B. GEP stack height is calculated as the greater of the following four numbers in Subdivisions 1. through 4.:
1. 213.25 feet (65 meters).
 2. 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 (1992) and §3-3-220, $H_g = 2.5H$.
 3. For all other stacks,
 $H_g = H + 1.5L$, where
 H_g = 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 or District may require the use of a field study or fluid model to verify GEP stack height for the source; or
4. The height demonstrated by a fluid model or a field study approved by the Control Officer, 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.
 5. For a specific structure or terrain feature, "nearby" shall be:
 - a. For purposes of applying the formulae in Subdivisions 2. and 3. of this subsection, 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).
 - b. For conducting demonstrations under Subdivision 4. of this subsection, 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 ten 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 percent of the GEP stack height determined by the formula provided in Subdivision 3. of this subsection, or 85 feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.
 6. "Excessive concentrations" means, for the purpose of determining good engineering practice stack height under Subdivision 4. of this subsection:
 - a. For sources seeking credit for stack height exceeding that established under Subdivisions 2. and 3. of this subsection, 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 percent 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 Article 3 of this chapter, 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 percent 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 Chapter 2, Article 5 of this Code. The allowable emission rate to be used in making demonstrations under Subdivision 4. of this subsection shall be prescribed by the new source performance standard 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;
 - b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Subdivisions 2. and 3. of this subsection, either:
 - i. A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in Paragraph a. of this subdivision, except that emission rate specified by any applicable SIP shall be used; or

- ii. The actual presence of a local nuisance caused by the existing stack, as determined by the Control Officer; and
 - c. For sources seeking credit after January 12, 1979, for a stack height determined under Subdivisions 2. and 3. of this subsection, where the Control Officer requires the use of a field study or fluid model to verify 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 Subdivisions 2. and 3. of this subsection, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.
- C. The degree of emission limitation required of any source after the respective date given in Subsection A. of this section 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.
- D. 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 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 GEP stack height as determined herein and assuming the elevated terrain features to be equal in elevation to the GEP stack height. If this adjusted GEP stack height is greater than the 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.
- E. Before the District issues a permit or permit revision under this chapter to a source based on a good engineering practice stack height that exceeds the height allowed by Subsection B. of this section, the District shall notify the public of the availability of the demonstration study and provide opportunity for public hearing in accordance with the requirements of §3-3-210.

[Adopted effective June 29, 1993. Former Section 3-2-290 renumbered without change as Section 3-1-177 effective November 3, 1993.]

ARTICLE 2. PERMIT AMENDMENTS AND REVISIONS

3-2-180. Facility changes allowed without permit revisions

- A. A facility with a permit may make changes without a permit revision if all of the following apply:
1. The changes are not modifications under any provision of Title I of the Clean Air Act (1990) or §1-3-140.79.
 2. The changes do not exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions.
 3. The changes do not violate any applicable requirements or trigger any additional applicable requirements.
 4. The changes meet all requirements for processing as a minor permit revision under §3-2-190.

5. The changes do not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- B. 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 Subsections A., D. and E. of this section.
- C. Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted facility, as established in the permit pursuant to §3-1-081.A.12., where an applicable implementation plan provides for such emissions trades, without applying for a permit revision and based on the 7 working days notice prescribed in Subsection D. of this section. This provision is available in those cases where the permit does not already provide for such emissions trading, and shall not include any emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades.
- D. For each such change under Subsections A. through C. of this section, a written notice by certified mail shall be received by the Control Officer and, for sources requiring Class I permits, the Administrator a minimum of 7 working days in advance of the change. Notification of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided less than 7 working days in advance of the change but must be provided as far in advance of the change as possible, or if advance notification is not practicable, within 3 working days of the change.
- E. Each notification shall include:
 1. When the proposed change will occur.
 2. A description of each such change.
 3. Any change in emissions of regulated air pollutants.
 4. The pollutants emitted subject to the emissions trade, if any.
 5. 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.
 6. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply.
 7. Any permit term or condition that is no longer applicable as a result of the change.
- F. The permit shield described in §3-1-102 shall not apply to any change made pursuant to Subsections A. through C. of this section. 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.
- G. Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another as provided under §3-1-081.A.11. shall not require any prior notice under this section.
- H. Notwithstanding any other part of this section, 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 over the term of the permit, do not satisfy Subsection A.
- I. The Control Officer shall make available to the public monthly summaries of all notices received under this section.

[Adopted effective November 3, 1993. Amended August 13, 2003. Amended June 13, 2007.]

3-2-185. Administrative permit amendments

- A. Except for provisions pursuant to Title IV of the Clean Air Act (1990), an administrative permit amendment is a permit revision that does any of the following:
 - 1. Corrects typographical errors;
 - 2. 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;
 - 3. Requires more frequent monitoring or reporting by the permittee;
 - 4. Allows for a change in ownership or operational control of a source as approved under §3-1-090 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;
- B. Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Clean Air Act (1990).
- C. 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, and may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this section.
- D. The Control Officer shall submit a copy of Class I permits revised under this section to the Administrator.
- E. Except for administrative permit amendments involving a transfer under §3-1-090, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

[Adopted effective November 3, 1993. Amended August 13, 2003.]

3-2-190. Minor permit revisions

- A. Minor permit revision procedures may be used only for those changes at a source that satisfy all of the following:
 - 1. Do not violate any applicable requirement;
 - 2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
 - 3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source specific determination of ambient impacts, or a visibility or increment analysis;
 - 4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
 - a. A federally enforceable emissions cap which the source would assume to avoid classification as a modification under any provision of Title I of the Clean Air Act (1990);
 - b. An alternative emissions limit approved pursuant to regulations promulgated under §112(i)(5) of the Clean Air Act (1990);
 - 5. Are not modifications under any provision of Title I of the Clean Air Act (1990) that would result in a significant net emissions increase of any pollutant subject to regulation under this Code;
 - 6. Are not modifications under Chapter 7., Article 2. of this Code;

7. Are not changes in fuels not represented in the permit application or provided for in the permit;
 8. The increase in the source's potential to emit for any regulated pollutant is not significant as defined in §1-3-140.
 9. Are not required to be processed as a significant revision under §3-2-195.
- B. As approved by the Control Officer, minor permit revision procedures may be used for 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.
 - C. An application for minor permit revisions shall be on the standard application form contained in Appendix A. and include the following:
 1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 2. For Class I sources, the source's suggested draft permit;
 3. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that such procedures be used.
 - D. For Class I permits, within 5 working days of 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 §3-1-065.
 - E. The Control Officer shall follow the following timetable for action on an application for a minor permit revision:
 1. For Class I permits, 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 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 revision procedures.
 - d. Revise the proposed permit revision and transmit to the Administrator the new proposed permit revision as required in §3-1-065.
 2. Within 90 days of the Control Officer's receipt of an application for a revision of a Class II permit under this section, 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 permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures.
 - d. Revise and issue the proposed permit revision.
 - F. The source may make the change proposed in its minor permit revision application immediately after it files the application. After the source makes the change allowed by the preceding sentence, and until the Control Officer takes any of the actions specified in Subsection E. of this section, 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 source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.

- G. The permit shield under §3-1-102 shall not extend to minor permit revisions.
- H. Notwithstanding any other part of this section, the Control Officer may require a permit to be revised under §3-2-195 for any change that, when considered together with any other changes submitted by the same source under this section or §3-2-180 over the life of the permit, do not satisfy Subsection A.
- I. The Control Officer shall make available to the public monthly summaries of all applications for minor permit revisions.

[Adopted effective November 3, 1993. Amended August 13, 2003.]

3-2-195. Significant permit revisions

- A. Significant revision procedures shall be used for applications requesting permit revisions that do not qualify as minor revisions or as administrative amendments. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall follow significant revision procedures.
- B. All major modifications to major sources of conventional 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 revision procedures and shall meet the appropriate requirements of Chapter 3., Article 3. of this Code.
- C. All modifications to major sources of federally listed hazardous air pollutants shall follow significant revision procedures and shall meet the appropriate requirements of Chapter 7, Article 1. A physical change to a source or change in the method of operation of a source that complies with §112(g)(1) of the Clean Air Act (1990) shall be a modification required to be processed under this section but not for the purposes of requiring maximum achievable control technology.
- D. All modifications to sources subject to Chapter 7, Article 2 shall follow significant revision procedures.
- E. Significant permit revisions shall meet all requirements of this article for applications, public participation, review by affected States and review by the Administrator as they apply to permit issuance and renewal.
- F. When an existing source applies for a significant permit revision to revise its permit from a Class II permit to a Class I permit, it shall submit a Class I permit application in accordance with the provisions of this Code. The Control Officer shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit-content and permit-issuance requirements, including requirements for public, affected state, and EPA review, as set forth in this Code.
- G. The Control Officer shall process the majority of significant permit revision applications within 9 months of receipt of a complete permit application but in no case longer than 18 months.

[Adopted effective November 3, 1993. Revised May 27, 1998 and ratified July 29, 1998; Revised July 29, 1998; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96) and the District's Title V program as approved at 61 Fed. Reg. 55910 (10/30/96). Amended August 13, 2003.]

ARTICLE 3. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES

3-3-200. Purpose

The purpose of this article is to provide an orderly procedure for the review of new major sources of air pollution and of the major modification of existing major sources through the issuance of permits. No person shall commence construction of a new major source or the major modification of a source without first obtaining a permit or a permit revision from the Control Officer.

[Adopted effective June 29, 1993. former Section 3-2-180 renumbered as Section 3-3-200 and amended effective November 3, 1993.]

3-3-203. Definitions

For purposes of this article, the following definitions shall apply:

1. **ADVERSE IMPACT ON VISIBILITY** - Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of a Class I area, as determined according to §3-3-280.
2. **MAJOR SOURCE** -
 - a. Any stationary source located in a nonattainment area which 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

- b. Any stationary source located in an attainment or unclassifiable area which 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 Clean Air Act (1990) if the source is not classified as a categorical source; or
- c. Any physical change that would occur at a stationary source not otherwise qualifying under paragraphs a. or b. of this subdivision, as a major source if the change would constitute a major source by itself.
- d. Any stationary source which emits, or has the potential to emit, five or more tons of lead per year; or
- e. Any source classified as major undergoing modification that meets the definition of reconstruction.

- f. A major source that is major for volatile organic compounds shall be considered major for ozone.
 - g. 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.
3. 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. Only energy conversion facilities that utilize solid waste which provides more than 50 percent of the heat input shall be considered a resource recovery project under this article.

[Adopted effective November 3, 1993. Amended 5/27/15]

3-3-205. Application requirements

- A. An application for every permit or permit revision under this article shall, in addition to meeting all other applicable requirements of Chapter 3 of this Code, clearly set forth how the person proposing to commence construction of a major source or make a major modification to a major source proposes to effect compliance with each applicable requirement of:
 - 1. The more stringent of the applicable new source performance standards in Chapter 6 of this Code or any performance standard or emissions limitation applicable to Pinal County under the Arizona SIP;
 - 2. The visibility protection requirements contained in §3-3-280;
 - 3. The fugitive emission limitations set forth in Chapter 4 of this Code.
 - 4. Any emission limitation, design, equipment, work practice or operational standard, or combination thereof that is applicable to the source or modification provided that the degree of emission limitation required for control of any pollutant under this Code shall not be affected in any manner by:
 - a. Stack height in excess of GEP stack height except as provided in §3-1-177; or,
 - b. Any other dispersion technique, unless implemented prior to December 31, 1970.
 - 5. The applicable standards for hazardous air pollutants contained in Chapter 7 of this Code.
 - 6. A stationary source that will emit 5 or more tons of lead per year will not violate the ambient air quality standards for lead as contained in §2-1-070.
- B. Except for assessing air quality impacts within Class I areas, the air impact analysis required to be conducted in connection with the filing for a permit or permit revision shall initially consider only the geographical area located within a fifty (50) kilometer 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 fifty (50) kilometers, 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.

[Adopted effective June 29, 1993. Former Section 3-2-200 renumbered as Section 3-3-205 amended effective November 3, 1993.]

3-3-210. Application review process

In addition to or in lieu of the requirements of Article 1 of this chapter, the Control Officer shall comply with the following requirements:

1. Within sixty days after receipt of an application for a permit or permit revision subject to this article, or any addition to such application, the Control Officer shall advise the applicant of any deficiency by mail. The date of receipt of a the application shall be, for the purpose of this section, the date on which the Control Officer received all required information. The permit application shall not be deemed complete if the Control Officer fails to meet the requirements of this paragraph.
2. Within 6 months of the receipt of a complete permit or permit revision application, the Control Officer shall take preliminary action on the application. Such preliminary action shall include:
 - a. Making a preliminary determination whether construction should be approved, approved with conditions, or disapproved;
 - b. Making available in at least one location in the District a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;
 - c. Scheduling at least one public hearing for interested 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;
 - d. Notifying the public, by prominent advertisement in a newspaper of general circulation within the District, the availability of the application materials for review, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for the public to comment at the public hearing(s) as well as in writing within a time period of 30 days, or such longer duration as may be set forth in the notice;
 - e. Providing written notice, including each of the elements included in the published public notice, to the permit applicant, the Administrator, the ADEQ Director and to other officials and agencies having cognizance over the location where the proposed construction would occur, including at least:
 - i. The County Manager;
 - ii. The city or town managers of the city or town within which, and any city or town the boundaries of which are within 5 miles of the proposed or existing source that is the subject of the permit or permit revision application is located;
 - iii. 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
 - iv. Any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.
3. Within 12 months of the receipt of a complete permit or permit revision application, the Control Officer shall take final action on the application. A final action may be preceded by additional public hearings. Such final action shall include:
 - a. Considering all written comments received within the defined time period, as well as all oral comments received at the public hearing(s);
 - b. Making available, at the same location in the District where the applicant's materials were made available, all public comments received;

- c. Preparing a written determination as to whether the application should be approved, approved with conditions, or disallowed;
 - d. Notifying the applicant, by copy of the written final determination;
 - e. Making available, at the same location in the District where the applicant's materials were made available, a copy of the written final determination.
4. The Control Officer shall terminate a permit or permit revision issued under this section 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.

[Adopted effective June 29, 1993. Former Section 3-2-210 renumbered as Section 3-3-210 and amended effective November 3, 1993. Amended February 22, 1995.]

3-3-220. Permit and permit revision requirements for sources located in nonattainment areas

- A. Except as provided in Subsections C. through I. below, no permit or permit revision under this article shall be issued to a person proposing to construct a new major source or 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:
- 1. 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 lowest achievable emission rate for a reconstructed stationary source, the provisions of 40 C.F.R. §60.15(f)(4) (1992) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.
 - 2. The person certifies 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 Pinal County, are in compliance with, or 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 Clean Air Act (1990) and this Code.
 - 3. 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 §3-3-230.
- B. No permit or permit revision under this article shall be issued to a person proposing to construct a new major source or make a major modification to a major source located in a nonattainment area unless:
- 1. The person performs an analysis of alternative sites, sizes, production processes and environmental control techniques for such new major source or major modification; and
 - 2. The Control Officer determines that the analysis demonstrates that the benefits of the new major source or major modification outweigh the environmental and social costs imposed as a result of its location, construction or modification.
- C. 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 restriction on hours of operation, then the requirements of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

- D. 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 section on the basis of its direct emissions, permit or permit revision under this article to construct the new source or modification shall be denied unless the conditions specified in Subdivisions 1. and 2. of Subsection A. of this section are met for reasonably quantifiable secondary emissions caused by the new source or modification.
- E. A permit to construct a new source or modification shall be denied unless the conditions specified in Subdivisions 1., 2., and 3. of Subsection A. of this section 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 not either among the categorical sources listed in §1-3-140.25. or belongs to the category of sources for which new source performance standards under 40 C.F.R. Part 60 (1992) or national emission standards for hazardous air pollutants which were adopted prior to August 7, 1980 under 40 C.F.R. Part 61 (1992) promulgated by the Administrator prior to August 7, 1980.
- F. The requirements of A.3. of this section 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.
- G. 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 subject to this article under this section or the District has not relied on it in demonstrating attainment or reasonable further progress.

[Adopted effective June 29, 1993. Former Section 3-2-220 renumbered as Section 3-3-220 and amended effective November 3, 1993. Conditionally amended August 13, 2003.]

3-3-230. Offset and net air quality benefit standards

- A. Increased emissions by a major source or major modification subject to this article must 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. Such offset may be obtained by reductions in emissions from the source or modification, or from any other source in existence or projected within the allowable offset area, on the startup date of the new major source or major modification.
Credit for an emissions offset can be used only if it has not been relied upon in demonstrating attainment or reasonable further progress, and if it has not been relied upon previously in issuing a permit or permit revision under this article pursuant to §§ 3-3-205, 3-3-210 and 3-3-220 or not otherwise required under this Code or under any provision of the SIP.
- B. An offset shall not be sufficient unless total emissions for the particular pollutant for which the offset is required will be:
 1. Obtained from sources within the allowable offset area;
 2. Contemporary with the operation of the new major source or major modification;
 3. Less than the baseline of the total emissions for that pollutant, except in ozone nonattainment areas classified as moderate, serious or severe; and

4. Such reductions are 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 for that pollutant.
- C. In ozone nonattainment areas classified as marginal, total emissions of VOC and oxides of nitrogen from other sources shall offset those from the proposed or permitted major source or major modification by a ratio of at least 1.10 to 1.00. In ozone nonattainment areas classified as moderate, total emissions of volatile organic compounds and oxides of nitrogen from other sources shall offset those from the proposed or permitted major source or major modification by a ratio of at least 1.15 to 1.00. New major sources and major modifications in serious and severe ozone nonattainment areas shall conform to the requirements of this section and §3-3-240.
- D. Only intrapollutant emission offsets shall be allowed. Intrapollutant emission offsets for precursors of ozone or nitrogen dioxide shall include offset reductions in emissions of volatile organic compounds and oxides of nitrogen, respectively.
- E. For purposes of this section, "reasonable further progress" means 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 §3-3-275 to provide for attainment of the applicable air quality standards by the deadlines set under Title I, Part D of the Clean Air Act (1990), or in a SIP revision approved by the Administrator. Reasonable further progress shall be deemed to occur if the offset reductions are sufficient to satisfy the Control Officer that the construction of the new major source or major modification together with the offset will result in a net air quality benefit.
 1. For purposes of this section, "net air quality benefit" shall mean that during similar time periods either a. or b. below, 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:

$$\sum_{i=1}^N \frac{x_i - C}{N} \leq \sum_{j=1}^K \frac{x_j - C}{K}$$

C = The applicable Arizona ambient air quality standard.

X_i = The concentration level of the violation at the i^{th} receptor for such pollutant after offsets.

N = The number of violations for such pollutant after offsets. ($N \leq K$)

X_j = The concentration level of the violation at the j^{th} receptor from such pollutant before offsets.

K = The number of violations for such pollutant before offsets.

- b. The average of the ambient concentrations within the allowable offset area following the implementation of the contemplated offsets will be less than the average of the ambient concentrations within the allowable offset area without the offsets.
- F. Baseline further defined:
 1. For the purpose of this section, the baseline of total emissions for a particular pollutant from any source in existence or sources which have obtained a permit or permit revision under this article (regardless of whether or not such sources are in actual operation at the time of filing of the permit or permit revision application) shall be the total actual emissions at the time the application is filed. In addition, the baseline of total emissions

- for such pollutant 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 where:
- a. No emission limitations are applicable to a source from which offsets are being sought; or
 - b. The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area.
2. Where 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 the application for the permit or permit revision under this Article is filed and emissions offset credit shall be allowed only for control below the potential emission rate.
- G. 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 permit or permit revision application subject to this article is filed. If an existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved shall not be acceptable unless:
1. The source's permit or permit revision subject to this article specifically requires the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date; and,
 2. The source demonstrates to the satisfaction of the Control Officer that it has secured an adequate long-term supply of the cleaner fuel.
 3. Emission reductions shall be creditable, if such emission reductions meet the requirements of §3-3-230.L, which requires offsets be based on reductions in actual emissions.
- H. Offsets shall be made on either a pounds-per-hour, pounds-per-day, or tons-per-year basis, whichever is applicable, when all facilities involved in the emission offset calculations are operating at their maximum expected or allowed production rate and, except as otherwise provided in Subsection E. of this section, utilizing the type of fuel burned at the time the permit or permit revision application subject to this article 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.
- I. Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, provided that the work force to be affected has been notified of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new major source or major modification application is filed generally may not be used for emissions offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one year prior to the date of permit or permit revision application under this article, whichever is earlier, and the proposed new major source or major modification is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source or modification.
- J. The allowable offset area shall refer to the geographical area in which are located the sources whose emissions are being sought for purposes of offsetting emissions from a new

major source or major modification. For the pollutants sulfur dioxide, PM₁₀ 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.

- K. 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 federally and legally enforceable at the time of permit issuance. It shall be considered legally enforceable if the following conditions are met by the time such source or modification commences operation:
1. 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 article for the new major source or major modification, or is adopted as a part of this Code, or comparable rules and regulations of any other governmental entity or is contractually enforceable by the District.
 2. The emission reduction is adopted as a part of this Article or comparable rules of any other governmental entity or is contractually enforceable by the District and is in effect at the time the permit is issued.
- L. Offsets:
1. Notwithstanding any other provision of this rule pertaining to offsets, the owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under Article 3, dealing with permit requirements for new major emitting sources and major modifications to such sources, for increased emissions of any air pollutant only by obtaining emission reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the Control Officer may allow the owner or operator to obtain such emission reductions in another nonattainment area if:
 - a. The other area has an equal or higher nonattainment classification than the area in which the source is located and
 - b. Emissions from such other area contribute to a violation of the National Ambient Air Quality Standard in the nonattainment area in which the source is located.
Wherever obtained, such emissions reductions shall be, by the time a new or modified source commences operation, in effect and federally enforceable and shall assure that the total tonnage of increased emission of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.
 2. Emission reductions otherwise required by this Code shall not be creditable as emission reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by this Code shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of paragraph (L).

[Adopted effective June 29, 1993. Former Section 3-2-230 renumbered as Section 3-3-230, amended effective November 3, 1993, amended February 22, 1995. Conditionally amended on August 13, 2003.]

3-3-240. Special rule for ozone nonattainment areas classified as serious and severe

- A. The provisions of this section 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 section, all requirements of Chapter 3 of this Code apply.
- B. "Significant" means, for the purposes of a major modification of any stationary source of VOC or oxides of nitrogen, 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 in emissions from the source over the prior five consecutive calendar years, including the calendar year in which the increase is proposed. Emissions decreases shall only be creditable if they are simultaneous with the proposed modification.
- C. For any stationary source that emits or has the potential to emit less than 100 tons VOC per year, a significant increase in VOC from any discrete emitting unit, operation, or other pollutant emitting activity shall constitute a major modification unless the increase in emissions is offset from other units, operations or activities at the source at a ratio of 1.3 to 1.0 for the increase in VOC emissions from such unit, operation or activity within the facility only. If such a change qualifies as a major modification under this section, BACT shall be substituted for LAER. Net emissions increases in VOC above the internal offset described herein shall be subject to the offset requirements in Subsections E. and F. of this section.
- D. For any stationary source that emits or has the potential to emit 100 tons or more of VOC per year, any significant increase in VOC emissions from any discrete emitting unit, operation, or other pollutant emitting activity shall constitute a major modification. If the increase in emissions from such modification is offset from other units, operations or activities at the source at a ratio of 1.3 to 1.0 for the increase in VOC emissions from such unit, operation or activity, BACT shall be substituted for LAER. Net emissions increases in VOC above the internal offset described herein shall be subject to the offset requirements in Subsections E. and F. of this section.
- E. For any new major source or major modification which is classified as such 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 such source or modification shall be offset at a ratio of 1.2 to 1.0. Such offset shall be made in accordance with the provisions of §3-3-230.
- F. For any new major source or major modification which 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 such source or modification shall be offset at a ratio of 1.3 to 1.0. If the SIP requires all existing major sources of these pollutants in the nonattainment area to apply BACT, then the offset ratio shall be 1.2 to 1.0. All such offsets shall be made in accordance with the provisions of §3-3-230.

[Adopted effective June 29, 1993. Former Section 3-2-240 renumbered as Section 3-3-240 and amended effective November 3, 1993.]

3-3-250. Permit and permit revision requirements for sources located in attainment and unclassifiable areas

- A. Except as provided in Subsections B. through G. in this section and §3-3-270, Innovative Control Technology, no permit or permit revision under this article shall be issued to a person proposing to construct a new major source or 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:

1. A new major source shall apply best available control technology (BACT) for each conventional air pollutant for which the potential to emit is significant.
2. A major modification shall apply BACT for each conventional air pollutant 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 change in the method of operation in the unit.
3. For phased construction projects, the determination of 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 for the source.
4. 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 Chapter 6, and Chapter 7 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.
5. The person applying for the permit or permit revision under this article performs an air impact analysis and monitoring as specified in §3-3-260 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 §2-5-160, and minor and mobile sources for oxides of nitrogen and PM10:
 - a. Would not cause or contribute to air pollution in violation of any applicable maximum allowable increase over the baseline concentration in Chapter 2, Article 5 of this Code for any attainment or unclassified area; or
 - b. Would not contribute to an increase in ambient concentrations for a pollutant by an amount in excess of the significance level for such pollutant in any 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 or oxides of nitrogen, or a major modification to a major source of volatile organic compounds 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 fifty (50) kilometers 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 volatile organic compounds 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 volatile organic compounds emitted from the source are not expected to contribute to violations of the ozone standards in the adjacent nonattainment areas.

6. Air quality models:
 - a. All estimates of ambient concentrations required under this section shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" EPA-450/2-78-027R, U. S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, July 1986), and "Supplement B to the Guideline on Air Quality Models" (U. S. Environmental Protection Agency, September 1990). Both documents shall be referred to hereinafter as "Guideline" and are adopted by reference and on file with the District.
 - b. Where an air quality impact model specified in the "Guideline" is inappropriate, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment. Written approval of the EPA Administrator shall be obtained for any modification or substitution. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U. S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May 1978) should be used to determine the comparability of air quality models.
- B. 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 article demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant.
- C. 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 §1-3-140. 25. or belongs to the category of sources for which new source performance standards under 40 C.F.R. Part 60 (1992) or national emission standards for hazardous air pollutants under 40 C.F.R. Part 61 (1992) adopted by the Administrator prior to August 7, 1980.
- D. 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.
- E. 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 chapter, is in compliance with the conditions of that permit or permit revision, 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.

F. Special rules applicable to Federal Land Managers:

1. Notwithstanding any other provision of this section, 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 Class I area designated in Chapter 2, Article 4 of this Code 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 article shall be denied.
2. 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 article 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 article 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 Increase
(Micrograms per cubic meter)**

Sulfur Oxide

Period of exposure

Low terrain areas:

24-hour maximum	36
3-hour maximum	130

High terrain areas:

24-hour maximum	62
3-hour maximum	221

- G. The issuance of a permit or permit revision under this article in accordance with this section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under County, State, or federal law.
- H. 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 section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

[Adopted effective June 29, 1993. Former Section 3-2-250 renumbered as Section 3-3-250, amended effective November 3, 1993, amended February 22, 1995. Amended June 13, 2007.]

3-3-260. Air quality impact analysis and monitoring requirements

- A. Any application for a permit or permit revision under this article to construct a new major source or major modification to a major source shall contain an analysis of ambient air quality in the area that the new major source or major modification would affect for each of the following pollutants:
 - 1. For the new source, each pollutant that it would have the potential to emit in a significant amount;
 - 2. For the modification, each pollutant for which it would result in a significant net emissions increase.
- B. With respect to any such pollutant for which no Arizona ambient air quality standard exists, the analysis shall contain such 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.
- C. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a 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 the standard or any maximum allowable increase.
- D. 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 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.
- E. For any application which becomes complete, except as to the requirements of Subsection C. of this section, prior to February 9, 1982, the data that Subsection C. of this section requires shall have been gathered over at least the period from February 9, 1981, to the date the application becomes otherwise complete, except that:
 - 1. If the new source or modification would have been major for that pollutant under §3-3-250 as in effect on October 2, 1979, any monitoring data shall have been gathered over at least the period required by those regulations.
 - 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 Subsection C. requires shall have been gathered over that shorter period.
 - 3. If the monitoring data would relate exclusively to ozone and would not have been required under §3-3-250 as in effect on October 2, 1979, the Control Officer may waive the otherwise applicable requirements of this subsection to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over the full year.
- F. The owner or operator of a proposed stationary source or modification to a source of volatile organic compounds who satisfies all conditions of 40 C.F.R. 51, Appendix S §IV (1992), may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Subsections B. , C. , and D. of this section.
- G. 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.

- H. The owner or operator of a new major source or major modification shall meet the requirements of 40 C.F.R. Part 58, Appendix B, during the operation of monitoring stations for purposes of satisfying Subsections B. through G. of this section.
- I. The requirements of Subsections B. through H. of this section shall not apply to a new major source or major modification to an existing source with respect to monitoring for a particular pollutant if:
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:
 - Carbon Monoxide - 575 g/m³, 8-hour average;
 - Nitrogen Dioxide - 14 g/m³, annual average;
 - PM₁₀ - 10 g/m³, 24-hour average;
 - Sulfur Dioxide - 13 g/m³, 24-hour average;
 - Lead - 0.1 g/m³, 24-hour average;
 - Fluorides - 0.25 g/m³, 24-hour average;
 - Total Reduced Sulfur - 10 g/m³, 1-hour average;
 - Hydrogen Sulfide - 0.04 g/m³, 1-hour average;
 - Reduced Sulfur Compounds - 10 g/m³, 1-hour average;
 - Ozone - increased emissions of less than 100 tons per year of volatile organic compounds or oxides of nitrogen; or,
 2. The concentrations of the pollutant in the area that the new source or modification would affect are less than the concentrations listed in Subdivision 1. of this subsection.
- J. Any application for a permit or permit revision under this article to construct a new major source or major modification to a source shall contain:
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.
 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.

[Adopted effective June 29, 1993. Former Section 3-2-260 renumbered as Section 3-3-260 and amended effective November 3, 1993. Tentatively revised as indicated on 5/14/97; revisions remain contingent upon corresponding EPA-approval of a revision to the SIP as EPA-approved at 61 FR 15717 (4/9/96).]

3-3-270. Innovative control technology

- A. Notwithstanding the provisions of §§3-3-250.A. 1. , 3-3-250.A. 2. and 3-3-250.A. 3. 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 requirements otherwise applicable to the new source or modification.
- B. The Control Officer shall approve the installation of a system of innovative control technology if the following conditions are met:
1. 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;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under §3-3-250.A.2. by a date specified in the permit or permit revision under this article for the source. Such date shall not be later than four years from the time of start-up or seven years from permit or permit revision issuance under this article;
 3. The source or modification would meet requirements equivalent to those in § 3-3-250.A. 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 article.
 4. Before the date specified in the permit or permit revision under this article, the source or modification would not:
 - a. Cause or contribute to any violation of an applicable State ambient air quality standard; or,
 - b. Impact any portion of any Class I area; or
 - c. Impact any portion of any other area where an applicable ambient incremental standard is known to be violated in that portion.
 5. All other applicable requirements, including those for public participation contained in §3-3-210 have been met.
 6. The Control Officer receives the consent of the governors of other affected states.
- C. The Control Officer shall withdraw any approval to employ a system of innovative control technology made under this section if:
1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or,
 2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or,
 3. 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.
- D. 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 Subsection C. above, 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 through use of a demonstrated system of control.

[Adopted effective June 29, 1993. Former Section 3-2-270 renumbered as Section 3-3-270 and amended effective November 3, 1993.]

3-3-275. Air quality models

- A. Where the Control Officer requires a person requesting a permit or permit revision under this article to perform air quality impact modeling to obtain such permit or permit revision under this article, the modeling shall be performed in a manner consistent with the "Guideline".
- B. Where the person requesting a permit or permit revision under this article 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 shall make a written finding that:
 1. No model in the Guideline is appropriate for a particular permit or permit revision under this article under consideration; or
 2. The data base required for the appropriate model in the Guideline is not available; and

3. 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
4. The model proposed as a substitute or modification has been approved by the Administrator.

[Adopted effective June 29, 1993. Former Section 3-1-160 renumbered without change as Section 3-3-275 effective November 3, 1993.]

3-3-280. Visibility protection

- A. For any new major source or major modification subject to the provisions of this chapter, no permit or permit revision under this article shall be issued to a person proposing to construct or modify the source unless the applicant has provided:
 1. An analysis of the anticipated impacts of the proposed source on visibility in any Class I area which may be affected by the emissions from that source; and
 2. Results of monitoring of visibility in any Class I area near the proposed source for such purposes and by such means as the Control Officer determines is necessary and appropriate.
- B. A determination of an adverse impact on visibility shall be made based on consideration of all of the following factors:
 1. The times of visitor use of the Class I area.
 2. The frequency and timing of natural conditions in the Class I area that reduce visibility.
 3. All of the following visibility impairment characteristics:
 - a. Geographic extent.
 - b. Intensity.
 - c. Duration.
 - d. Frequency.
 - e. Time of day.
 4. The correlation between the characteristics listed in Subdivision 3. of this subsection and the factors described in Subdivisions 1. and 2. of this subsection.
- C. The Control Officer shall not issue a permit or permit revision pursuant to this article or Article 1 of this chapter for any new major source or major modification subject to this Code unless the following requirements have been met:
 1. The Control Officer shall notify the individuals identified in Subdivision 2. of this subsection within 30 days of receipt of any advance notification of any such permit or permit revision application under this article.
 2. Within 30 days after receipt of the permit or permit revision application under this article 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 the federal official charged with direct responsibility for management of any lands within any such area. The notice shall:
 - a. Include a copy of all information relevant to the permit or permit revision application under this article;
 - b. Include an analysis of the anticipated impacts of the proposed source on visibility in any Class I area which may be affected by emissions from the source; and
 - c. Provide for no less than a 30 day period within which written comments may be submitted.
 3. The Control Officer shall consider any analysis provided by the Federal Land Manager that is received within the comment period provided in Subdivision 2. of this subsection.

- a. 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 Class I area, the Control Officer shall, within the public notice required by §3-3-210, either explain the decision or specify where the explanation can be obtained.
 - b. 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 Class I area, the Control Officer shall not issue a permit or permit revision under this article for the proposed major new source or major modification.
4. When the proposed permit decision is made pursuant to §3-3-210 and available for public review, the Control Officer shall provide the individuals identified in Subdivision 2. of this subsection with a copy of the proposed permit decision and shall make available to them any materials used in making that determination.

[Adopted effective June 29, 1993. Former Section 3-2-280 renumbered as Section 3-3-280 and amended effective November 3, 1993.]

3-3-285. Special rule for non-operating sources of sulfur dioxide in sulfur dioxide nonattainment areas

- A. If an emitting unit that is a major source of sulfur dioxide located in a sulfur dioxide nonattainment area has not operated for more than 24 consecutive calendar months, it may only be restarted if the owner or operator of such source submits the following:
 1. A demonstration conforming to the air quality impact analysis requirements of §§3-3-250.A. 4. and 5. that emissions from that unit, including fugitive emissions, will not cause or contribute to a violation of the ambient standard for sulfur dioxide in §2-1-030;
 2. A demonstration that startup of that unit will not require reconstruction; and
 3. A startup plan that includes a source testing plan.
- B. Such demonstration shall be submitted at least 180 days prior to the expected day when the restarting of the non-operating unit will commence. The Control Officer may request additional information, as necessary to evaluate the submittals. The unit shall not be restarted unless the Control Officer approves the submittal.
- C. If the Control Officer disapproves the submittal required in Subsection A. of this section, or such submittal, including additional information requested by the Control Officer, is not tendered in a timely manner, the source shall be required to obtain a permit pursuant to the requirements for a new major source or major modification as contained in this article.
- D. The conduct of performance tests that comply with the requirements of §3-1-170 and demonstrate compliance with emission limits prescribed in a permit for that source or an applicable rule shall constitute operation of an emitting unit for the purposes of this section.

[Adopted effective November 3, 1993.]

ARTICLE 4. CONDITIONAL ORDERS

3-4-420. Standards of Conditional Orders

- A. Notwithstanding any other provision in this article, no person holding a Class I permit shall be eligible for a Conditional Order under this article. Further notwithstanding any other provision of this article, no conditional order may shield or excuse any person holding a

Class II permit from an obligation to apply for and obtain a Class I permit when such a requirement would otherwise arise under the provisions of this Code.

- B. The Control Officer may grant to any person holding a Class II permit a Conditional Order for each air pollution source which allows such person to vary from any provision of A.R.S. Title 49, Chapter 3, Article 3 (1992), any provision of this Code, or any nonfederally enforceable requirement of a Class II permit issued pursuant to this Code if the Control Officer makes each of the following findings:
1. Issuance of the Conditional Order will not endanger public health or the environment, impede attainment of the national ambient air quality standards or constitute a violation of the Clean Air Act (1990).
 2. Either of the following is true:
 - a. There has been a breakdown of equipment or upset of operations beyond the control of the petitioner which causes the source to be out of compliance with the requirements of this Code, the source was in compliance with the requirements of this Code before the breakdown or upset, and the breakdown or upset may be corrected within a reasonable time.
 - b. There is no reasonable relationship between the economic and social cost of, and benefits to be obtained from, achieving compliance.

[Adopted June 29, 1993 and effective September 1, 1993. Amended effective November 3, 1993. Revised May 27 1998 and ratified July 29, 1998, conditioned upon EPA approval of a revision to the District's Title V program as approved at 61 Fed. Reg. 55910 (10/30/96). Revised September 5, 2001, making Title V program approval the only condition precedent with respect to giving effect to all prior changes. Amended August 13, 2003.]

3-4-430. Petition, publication and public hearing

- A. A person who seeks a Conditional Order shall file a petition with the Control Officer. The petition shall contain at a minimum:
1. A description of the breakdown or upset.
 2. A description of corrective action being undertaken to bring the source back into compliance.
 3. An estimate of emissions related to the breakdown or upset.
 4. A compliance schedule with a date of final compliance and interim dates as appropriate.
 5. Sufficient justification and supporting documents if §3-4-420. 2. b. applies.
- B. If the issuance to a person of a Conditional Order for an air pollution source would result in a variation from a permit requirement for such source, the Control Officer shall set a hearing date within 30 days after the filing of the petition. The hearing date shall be within 60 days after the filing of the petition.
- C. Notice of the filing of a petition for a Conditional Order and of the hearing date on said petition shall be published in the manner provided in Chapter 9 of this Code. The notice shall state that any person may submit comments on the petition. A written comment shall state the name of the person and the person's agent or attorney and shall clearly set forth reasons why the petition should or should not be granted. Grounds for comment shall be limited to whether the petition meets the criteria for issuance of a Conditional Order prescribed in §3-4-420.

[Adopted June 29, 1993 and effective September 1, 1993. Amended effective November 3, 1993.]

3-4-440. Decisions, terms and conditions

- A. For a Conditional Order that requires a revision to the SIP, the Control Officer shall comply with the requirements contained in 40 C.F.R. 51, Subpart F (1992).

- B. For any other Conditional Order, within 30 days after the conclusion of the hearing held pursuant to §3-4-430.B. , or, if no hearing is held, within 60 days after the filing of the petition, the Control Officer shall deny the petition or grant the petition in such terms and conditions as the Control Officer deems appropriate.
- C. The terms and conditions which are imposed as a condition to the granting or the continued existence of a Conditional Order shall include but not be limited to:
 - 1. A detailed plan for completion of corrective steps needed to conform to the provisions of this Code and the requirements of the permit issued pursuant to this Code.
 - 2. A requirement that necessary construction shall begin as specified in the compliance schedule.
 - 3. Such written reports as may be required.
 - 4. The right to make periodic inspection of the facilities for which the Conditional Order is granted.
- D. A reasonable fee as may be prescribed by the Control Officer shall be deposited in the special public health fund.

[Adopted June 29, 1993 and effective September 1, 1993. Amended Subsection A. effective November 3, 1993.]

3-4-450. Term of Conditional Order

- A. A Conditional Order issued by the Control Officer shall be valid for such period as the Control Officer prescribes but in no event for more than 1 year in the case of a source that is required to obtain a permit pursuant to this Code and Title V of the Clean Air Act (1990), and 3 years in the case of any other source that is required to obtain a permit pursuant to this Code.
- B. A holder of a Conditional Order may petition the Control Officer to renew the order. The total term of the initial period and all renewals shall not exceed 3 years from the date of initial issuance of the order. Petitions for renewal may be filed at any time not more than 60 days nor less than 30 days prior to the expiration of the order. The Control Officer, within 30 days of receipt of a petition, shall renew the Conditional Order for 1 year if the petitioner is in compliance and conforming with the terms and conditions imposed. The Control Officer may refuse to renew the Conditional Order if, after a public hearing held within 30 days of receipt of a petition, the Control Officer finds that the petitioner is not in compliance and conforming with the terms and conditions of the Conditional Order. If, after a period of 3 years from the date of original issuance the petitioner is not in compliance and conforming with the terms and conditions, the Control Officer may renew a Conditional Order for a total term of 2 additional years only if the Control Officer finds that failure to comply and conform is due to conditions beyond the control of such petitioner.
- C. If the Control Officer amends or adopts any rule imposing conditions on the operation of an air pollution source which have become effective as to the source by reason of the action of the Control officer or otherwise, and which require the implementation of control strategies necessitating the installation of additional or different air pollution control equipment, the Control Officer may renew a Conditional Order for an additional term. The term of the renewal shall be governed by the preceding subsections of this section, except that the total term of the renewal shall not exceed 2 years.
- D. Except as otherwise provided in Subdivisions 1 and 2 of this subsection, a Conditional Order issued by the Control Officer shall be effective when issued.
 - 1. If the Conditional Order varies from the requirements of the applicable implementation plan, the Conditional Order shall be submitted to the

Administrator as a revision to the applicable implementation plan pursuant to the Clean Air Act §110(l) (1990), and shall become effective upon approval by the Administrator.

2. If the Conditional Order varies from the requirements of a permit issued for a facility that is required to obtain a permit pursuant to Title V of the Clean Air Act (1990), the Conditional Order shall be submitted to the Administrator if required by the Clean Air Act §505 (1990), and in such case shall be effective at the end of the review period specified in such section, unless objected to within such period by the Administrator.

[Adopted June 29, 1993 and effective September 1, 1993. Amended Subsection D. effective November 3, 1993.]

3-4-460. Suspension and revocation of Conditional Order

If the terms and conditions of the Conditional Order are being violated, the Control Officer may seek to revoke or suspend the Conditional Order granted. In such event, the Control Officer shall serve notice of such violation on the holder of the Conditional Order in the manner provided in Chapter 9. The notice shall specify the nature of such violation and the date on which a hearing will be held by the Hearing Board to determine if such a violation has occurred and whether the Conditional Order should be suspended or revoked. The date of said hearing shall be within 30 days from the date said notice is served upon the holder of the Conditional Order.

[Adopted June 29, 1993 and effective September 1, 1993.]

ARTICLE 5. GENERAL PERMITS

3-5-470. Applicability

The eligibility of any person to rely upon a general permit issued by the ADEQ Director as authority to construct or operate a source shall be determined according to the provisions of that general permit. A general permit may be either a Class I permit or Class II permit, as designated by the ADEQ Director pursuant to A.A. C. R18-2-501.

[Adopted effective November 3, 1993. Amended February 22, 1995. Revised 5/14/97.]

3-5-480. General permit administration

To the extent that the ADEQ Director may issue one or more general permits pursuant to A.R. S. §49-426.H (supp. 1993), the District shall be authorized to administer such general permits, including taking any or all of the following actions:

1. Receive applications from any person subject to the jurisdiction of the District, which application seeks an authorization to operate under the general permit;
2. Make application completeness determinations;
3. Require additional information from an applicant for an authorization to operate;
4. Make source applicability determinations;
5. Issue or refuse to issue authorizations to operate;
6. Transmit to the Administrator such applications, authorizations to operate or other matters as may be necessary or appropriate;
7. Collect and retain such application, permit and inspection fees, as may be authorized under this Code;

8. Publish public notice in a newspaper of the grant of any authorization to operate under a general permit, in the manner set forth in A.R. S. §49-426(H)(4) (Supp. 1993);
9. Take such enforcement action as may be necessary or appropriate to enforce the provisions of any general permit, in the same manner provided under this Code for an enforcement action with respect to an individual permit issued by the District;
10. Notify any source holding a District-issued authorization to operate of any revocation or revision by the Director of an underlying general permit, along with such information as may be required to either apply for an individual permit or comply with the revisions to the general permit;
11. Act to revoke a District-issued authorization to operate for cause, in the manner provided under §3-1-140 for the revocation of an individual permit. Within the meaning of this subsection, "cause" shall expressly include at least violation by the permittee of the terms of the general permit, or a showing that the permittee does not qualify for coverage under the general permit;
12. Defend or prosecute appeals before the Hearing Board regarding a denial of an authorization to operate, applicability determinations, revocation of an authorization to operate, or other contested matters pertaining to the issuance of an authorization to operate or enforcement of the provisions of the general permit, in accord with §3-1-080;

[Adopted effective November 3, 1993. Amended February 22, 1995.]

3-5-490. Application for coverage under general permit

- A. Any source within the jurisdiction of the District, which source is a member of the class of facilities covered by a general permit issued by the ADEQ Director, may apply to the Control Officer for authority to operate under such general permit. Applicants shall complete and submit the specific application form adopted by the ADEQ Director in conjunction with the issuance of the general permit, or if none has been adopted, the standard application form contained in Appendix A. to this Code. Any application shall, at a minimum, include the following:
 1. Information identifying and describing the source, its processes and operating conditions in sufficient detail to allow the Control Officer to determine qualification for coverage under, and to assure compliance with, the general permit.
 2. A compliance plan that meets the requirements of §3-1-083.
- B. For sources required to obtain a permit under Title V of the Clean Air Act (1990), the Control Officer shall provide the Administrator with a permit application summary form and any relevant portion of the permit application and compliance plan. To the extent possible, this information shall be provided in computer readable format compatible with the Administrator's national database management system.
- C. The Control Officer shall act on the application for coverage under the general permit as expeditiously as possible, but a final decision shall be reached within 180 days.
 1. Subject to the requirements of §3-1-089.C, an existing source that has filed a timely and complete application seeking coverage under a general permit, either as a renewal of authorization under the general permit or as an alternative to renewing an individual permit shall continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the Control Officer issues or denies the authorization to operate under the

general permit. The authority to operate under this subsection shall terminate 180 days after the application is filed if the Control Officer is unable to reach a timely final decision on the application due to the applicant's failure to submit information required or requested to process the application.

2. If the application from an existing source seeking coverage as an alternative to renewing an individual permit is denied, the source shall continue to comply with the terms and conditions of its individual source permit. The source shall apply for an individual permit within 180 days of receipt of notification from the Control Officer that coverage under the general permit has been denied. Provided that a timely and complete individual permit application is filed in accordance with §§3-1-050 and 3-1-055, prior to the expiration of the source's current individual permit and within 180 days of receipt of notification that it must apply for an individual permit, the source shall retain authority to continue operations. The Control Officer may defer acting on an application under this subsection if the ADEQ Director has provided notice of intent to renew or not renew the permit.

[Adopted effective November 3, 1993. Amended February 22, 1995. Revised May 27, 1998 and ratified July 29, 1998, conditioned upon EPA approval of a revision to the District's Title V program as approved at 61 Fed. Reg. 55910 (10/30/96). Revised May 30, 2001, with effectiveness of revisions contingent upon EPA-approval of corresponding revisions to approved SIP (See 61 FR 15757 (4/9/96)) and interim-approved Title V program (See 61 FR 55910 (10/30/96)). Revised September 5, 2001, making Title V program approval the only condition precedent with respect to giving effect to all prior changes. Amended October 27, 2004.]

3-5-500. Public notice

The Control Officer shall publish public notice in a newspaper of general circulation in the County for any new or renewal authorization to operate in the County under a general permit issued by the ADEQ Director. The notice shall be published not later than the fifteenth day of the month following the issuance of the authorization to operate.

[Adopted effective November 3, 1993. Amended February 22, 1995.]

3-5-510. Term of authorization to operate under a general permit

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 §3-5-550.C. In addition to the public notice required to issue a proposed permit under §3-5-500, the Control Officer shall notify in writing all sources who have been granted, or who have applications pending for, authorization to operate under the permit. The written notice shall describe the source's duty to reapply and may include requests for information required under the proposed permit.

[Adopted effective November 3, 1993. Amended February 22, 1995.]

3-5-520. 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.

[Adopted effective November 3, 1993]

3-5-530. General permit variances

- A. No person holding or seeking an authorization to operate under a Class I general permit issued by the ADEQ Director pursuant to A.A.C. R18-2-302. B. 1 shall be eligible for a variance under this section.
- B. Where MACT or HAPRACT has been established in a general permit for a source category designated pursuant to Chapter 7, Article 2 of these rules, the owner or operator of a source within that source category may apply for a variance from the standard. To be entitled to a variance, the person seeking the variance shall first make a showing in accord with §7-2-030.6 that the imposition of MACT or HAPRACT is not necessary to avoid adverse effects to human health or adverse environmental effects.
- C. If the owner or operator makes the showing required by §7-2-030.6 and otherwise qualifies for an authorization to operate under the general permit issued by the ADEQ Director, the Control Officer shall, in accordance with the procedures established pursuant to this article, approve the application and authorize operation under a variance from the standard of the general permit.
- D. Except as modified by the variance, the source shall comply with all conditions of the general permit.
- E. An applicant may appeal to the Hearing Board, in the manner set forth in §3-1-080 of this Code, any refusal by the Control Officer to allow a variance under this subsection.

[Adopted effective November 3, 1993. Amended February 22, 1995. Revised 5/14/97. Amended 6/13/07.]

3-5-540. General permit shield under an authorization to operate

To the extent that a general permit issued by the ADEQ Director establishes a permit shield pursuant to A.A.C. R18-2-508, a person holding an authorization to operate issued by the control Officer shall be entitled to the benefit of such a permit shield. Notwithstanding the foregoing provision, the source shall be subject to enforcement action for operation without a permit if the source is later determined not to qualify for an authorization to operate under the conditions and terms of the general permit.

[Adopted effective November 3, 1993. Amended February 22, 1995.]

3-5-550. Revocations of authority to operate under a general permit

- A. The Control Officer may require a source authorized to operate under a general permit to apply for and obtain an individual source permit at any time if:
 - 1. The source is not in compliance with the terms and conditions of the general permit; or
 - 2. 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
 - 3. The Control Officer obtains objective information which shows that the source does not qualify for coverage under the general permit.
- B. If the Control Officer wishes to revoke a source's authority to operate under subsection A of this section, the Control Officer shall provide written notice of intent to revoke to such source by certified mail, return receipt requested. Such notice shall meet the requirements set forth in §3-1-140 of this Code. The holder of the authorization to operate may contest the revocation, and appeal a revocation, in the manner set forth in §3-1-140 of this Code. A revocation under this subsection shall become effective at the time and in the manner specified in §3-1-140 of this Code.

- C. A source authorized to operate under a general permit may operate under the terms of the general permit until the earlier of the date of expiration of the general permit or 180 days after receipt of the notice of termination of any general permit. If the operator submits a timely and complete application for an individual permit in accordance with §§3-1-050, 3-1-055, and 3-5-490, while still authorized to operate under the terms of its general permit, the applicant may continue to operate under authority of the underlying general permit until the Control Officer issues or denies the individual permit.

[Adopted effective November 3, 1993. Amended February 22, 1995. Revised May 27, 1998 and ratified July 29, 1998, conditioned upon EPA approval of a revision to the District's Title V program as approved at 61 Fed. Reg. 55910 (10/30/96). Revised May 30, 2001, with effectiveness of revisions contingent upon EPA-approval of corresponding revisions to approved SIP (See 61 FR 15717 (4/9/96)) and interim-approved Title V program (See 61 FR 55910 (10/30/96)). Revised September 5, 2001, making Title V program approval the only condition precedent with respect to giving effect to all prior changes.]

3-5-560. District-issued General Permits - Transition Provision

A source operator or owner holding an authorization to operate under a general permit issued by the Control Officer prior to the February 22, 1995 shall be entitled to continue to operate on the basis of that authorization for the term of such general permit, provided such owner or operator continues to comply with the provisions of such general permit and the authorization to operate, including the payment of such fees as may be required therein. At the expiration of the Control-Officer-issued general permit, a source will either need to obtain an individual permit or authorization to operate under a general permit issued by the ADEQ Director, in accord with the other provisions of this Code.

[Adopted February 22, 1995.]

ARTICLE 6. FEDERAL ACID RAIN PROGRAM

3-6-565. Adoption of 40 C.F.R. Part 72 by reference

- A. The following subparts of 40 CFR Part 72, Permits Regulation, and all accompanying appendices adopted as of July 1, 2002 (and no future amendments) are incorporated by reference. These standards are on file with the District and shall be applied by the District.
1. Subpart A - Acid Rain Program General Provisions.
 2. Subpart B - Designated Representative.
 3. Subpart C - Acid Rain Applications.
 4. Subpart D - Acid Rain Compliance Plan and Compliance Options.
 5. Subpart E - Acid Rain Permit Contents.
 6. Subpart F - Federal Acid Rain Permit Issuance Procedures.
 7. Subpart G - Acid Rain Phase II Implementation.
 8. Subpart H - Permit Revisions.
 9. Subpart I - Compliance Certification.
- B. 40 CFR Parts 74, 75 and 76 and all accompanying appendices, adopted as of December 31, 1997 (and no future amendments) are incorporated by reference. These standards are on file with the District and shall be applied by the District.
- C. When used in 40 CFR Parts 72, 74, 75 or 76, "Permitting Authority" means the Pinal County Air Quality Control District and "Administrator" means the Administrator of the United States Environmental Protection Agency.
- D. If the provisions or requirements of the regulations incorporated in this section conflict with any of the other provisions of this Code, then the regulations incorporated in this section shall apply and take precedence.

ARTICLE 7. PERMIT FEES

3-7-570. Purpose

The purpose of this article is to establish permit fees to be charged owners or operators of stationary and portable sources subject to this Code.

[Adopted effective November 3, 1993.]

3-7-575. Fees for sources relying upon §3-1-045 for authority to operate - Transition provision

The Fortieth Arizona legislature, in Laws 1992, 2nd Regular Session, §65, effectively extended by operation of law the term of permits issued by the District prior to September 1, 1993, and the provisions of that session law were dutifully embodied in §3-1-045 of this Code. The extension of the term continues until final action is taken on a unitary permit under the revised provisions of ARS Title 49, Chapter 3, Article 3. By necessary implication, the extension-by-operation-of-law gives the District authority to assess a fee in the nature of a permit fee for the period of the extension. Accordingly, for the express purpose of covering the on-going costs of operating an air quality control district, the Board of Supervisors hereby assesses a quasi-permit fee upon any source operating in Pinal County pursuant to the authority established in the above-mentioned session law and §3-1-045 of this Code. The fee shall be an annual fee; for sources subject to §3-7-577, the fee shall be calculated and paid in accord with that section; for other sources, the fee shall be equal to the fee for the permit whose term has been extended, provided that no such fee shall exceed 100% of the total of emissions fees, permit processing fees and inspection fees for which the source would be liable if currently subject to an ADEQ permit requirement. Subsequent annual fees for sources not subject to §3-7-577 shall be paid in like amount on the anniversary date of the initial payment due date under this section, namely February 22. In the event that a source has paid an annual quasi-permit fee under this section, and final action shall be taken on a unitary permit application, then such source operator shall be entitled to an equitable offset against the fee for the unitary permit, which offset shall reflect the unexpired annual term covered by the annual quasi-permit fee.

[Adopted February 22, 1995. Amended June 20, 1996.]

3-7-576. Fees for sources subject to permit reopening - Transition provision

A source relying on this section for authority to operate shall continue to make such fee payments as are required under the permit and under this Code. In the event that a source has paid a periodic fee in accord with the requirements of this section, and during the term covered by such periodic fee, final action is taken on the reopened permit, then such source operator shall be entitled to an equitable offset against the fee for the reopened permit, which offset shall reflect the unexpired term covered by the prior periodic payment.

[Adopted effective February 22, 1995.]

3-7-577. Fees for sources subject to, or deemed subject to, a permit requirement under Title V - Transition provision

- A. Sources subject to this section shall pay a quasi-permit fee at a rate calculated in the same manner as would be a permit fee calculated under §3-7-590. The quasipermit fee imposed by this section shall apply to the following sources:
1. Any source whose emission inventory for the preceding calendar year shows that the source is in fact a "major source," as defined in this Code; and
 2. Any source deemed subject to a requirement to obtain a permit under Title V of the Act, as that phrase is defined in §3-7-590. B.
- B. The quasi-permit fee rate established under this paragraph shall become effective on 12:00:01 a.m. on July 1, 1996, provided that for any source affected by this section that has paid a periodic transition fee under rules in effect prior to July 1, 1996, then such source operator shall initially be subject to only a fee prorated to cover that part of the annual period between the effective date specified in this subparagraph, and the succeeding anniversary date the prior transition fee, namely February 22. Further, any permittee subject to such a prorated fee shall also be entitled to an equitable offset against the revised quasi-permit fee that takes effect on July 1, 1996, which offset shall reflect fees already paid for that same term.
- C. For initial fees additionally due from sources subject to the revised fee rate effective on July 1, 1996, 50% of the additional fee under this section shall be due on August 1, 1996, and the balance shall be due no later than December 31, 1996.
- D. Subsequent quasi-permit fees shall be due on a schedule referenced to the anniversary date defined in §3-7-575, namely February 22, as follows:
1. For total fees that do not exceed \$ 5,000, on that anniversary date;
 2. For total fees that equal or exceed \$ 5,000, in equal parts, with 50% due on that anniversary date, and 50% due 180 days thereafter.

[Adopted effective February 22, 1995. Amended June 20, 1996.]

3-7-578. Fees Increases; Effective Date; Phase-In

- A. For an individual source holding an issued permit on December 31, 2003, the fee increase scheduled to take effect beginning on January 1, 2004, shall be implemented in three (3) equal annual increments, with the annually increasing fees each due and payable on the succeeding permit-issuance anniversary dates following January 1, 2004.
- B. On and after January 1, 2004, for new sources, or for revisions involving modifications to existing sources causing the source to change classifications as defined in Appendix B, the source shall pay the full fee defined in Appendix B. Those fees shall be payable on the succeeding permit-issuance anniversary date following January 1, 2004.

[Adopted August 13, 2003.]

3-7-580. Application filing deposit fee for new sources

A deposit fee for processing a Class I, Class II or Class III permit application shall be assessed upon receipt of the application. The fee shall be not less than \$500.00 and shall not exceed \$4000.00 for new sources required to obtain a Class I permit pursuant to §3-1-040. B. 1. For new sources required to obtain a Class II permit pursuant to §3-1-040. B. 2. , the fee shall be not less than \$100.00 and shall not exceed \$500.00. For a Class III application, the filing deposit for a new source shall be \$100.00. The application filing deposit fee shall be based on the estimated time to process the application of a Class I or Class II permit and shall be credited against the

permit processing fee, reflecting the amount due for the total actual time spent on processing the application. For a Class III source, the deposit shall be credited against the initial administrative fee. All application filing deposit fees required by this section shall be nonrefundable.

[Adopted effective November 3, 1993. Amended August 13, 2003. Amended October 27, 2004.]

3-7-585. Annual fee adjustment

- A. The Board of Supervisors shall annually review the District' s cost accounting required under §3-7-595 and make changes as required to assure continued compliance with Title V fee requirements.
- B. In the event that prior to January 1 of any year the Board does not revise the fees or hourly rates set or referenced by this article on the basis of the preceding cost accounting under §3-7-595, then those fees and rates shall be automatically adjusted, to the nearest \$1 for annual fees only, as of that January to reflect the increase, if any, by which the Consumer Price Index for the most recent year exceeds the Consumer Price Index for the previous year. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers, published by the U.S. Department of Labor, as of the close of the 12 month period ending on August 31 of each year.

[Adopted effective November 3, 1993. Amended October 13, 2010]

3-7-590. Class I permit fees

- A. For a billable permit action, Class I sources shall pay a permit processing fee as defined in Appendix B, Section B. For a significant revision, the maximum permit processing fee shall be \$25,000. For a minor permit revision, the maximum permit processing fee shall be \$10,000.
- B. Beginning on the anniversary date of the initial permit issuance, Class I sources shall annually pay an administrative fee and an emission-based fee as defined in Appendix B, Section C. For fee purposes, actual emissions shall be quantified on the basis of subsection C of this rule.
- C. For purposes of this rule:
 - a. Actual emissions means the actual quantity of regulated pollutants emitted, including fugitive emissions, over the calendar year ending immediately prior to the date on which the annual fee is calculated, or any other period determined by the Control Officer to be representative of normal source operations, determined as follows:
 - 1. Emissions quantities reported pursuant to §3-1-103, or pursuant to an emissions inventory required prior to the effective date of §3-1-103, shall be used for purposes of calculating the permit fee to the extent they are calculated in a manner consistent with this paragraph. Acceptable methods for calculating actual emissions pursuant to §3-1-103 include the following:
 - a. Emissions estimates calculated from continuous emissions monitors certified pursuant to 40 C.F.R. Part 75, Subpart C and referenced appendices, as published in the Federal Register on January 11, 1993 which is incorporated herein by reference, and is on file with the District, or data quality assured pursuant to Appendix F of 40 C.F.R. Part 60.
 - b. Emissions estimates calculated from source performance test data.
 - c. Emissions estimates calculated from material balance using engineering knowledge of process.

- d. Emissions estimates calculated using AP-42 emissions factors.
 - e. Emissions estimates calculated by equivalent methods approved by the Control Officer. The Control Officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in Subparagraphs a. through d. of this paragraph.
2. Actual emissions shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.
 3. The first annual permit fee for new Class I sources that have not been required to report emission quantities pursuant to §3-1-103 shall be based on the emissions estimate listed in the permit application.
 4. For purposes of this section, regulated pollutants consist of the following:
 - a. Nitrogen oxides or any volatile organic compounds.
 - b. Conventional air pollutants, except carbon monoxide.
 - c. Any pollutant that is subject to any standard promulgated under §111 of the Clean Air Act (1990), including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur and reduced sulfur compounds.
 - d. Any federally listed hazardous air pollutant that is subject to a standard promulgated by the Administrator under §112 of the Clean Air Act (1990) or other requirement established under §112 of the Clean Air Act (1990), including §§112(g) and (j) of the Clean Air Act (1990). Federally listed hazardous air pollutants subject to requirements established under §112 of the Clean Air Act (1990) include the following:
 - i. Any pollutant subject to requirements under §112(j) of the Clean Air Act (1990). If the Administrator fails to promulgate a standard by the date established pursuant to §112(e) of the Clean Air Act (1990), any pollutant for which a source would be considered major under §112(a)(1) of the Clean Air Act (1990) shall be considered to be regulated on the date eighteen months after the applicable date established pursuant to §112(e) of the Clean Air Act (1990).
 - ii. Any pollutant for which the requirements of §112(g)(2) of the Clean Air Act (1990) have been met, but only with respect to the individual source subject to §112(g)(2) requirements.
 5. The following emissions of regulated pollutants shall be excluded from a source's actual emissions for purposes of setting fees:
 - a. Emissions of a regulated pollutant from the source in excess of 4,000 tons per year.
 - b. Emissions of any regulated pollutant that are already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM10.
 - c. Emissions from insignificant activities excluded from the permit for the source pursuant to §3-1-050. E.
 - d. Fugitive emissions of PM10 from activities other than crushing, belt transfers, screening or stacking.
 - e. Fugitive emissions of VOC from solution-extraction units.

- D. Each Class I source applying for a permit revision pursuant to §§3-2-190 or 3-2-195 shall remit to the District at the time the request or application is submitted, a fee deposit as follows:
1. 10,000.00 for a significant permit revision that is a result of a major modification.
 2. \$1000.00 for any other significant permit revision not covered in Subsection 1 above.
 3. \$500.00 for a minor permit revision.
- E. Notwithstanding any other provision of this section, the combination of fees payable annually to the District by a Class I source, shall not exceed 100% of the administrative fees, annual emissions fees, annual inspection fees, or annual test fees, for which the source would be liable if subject to regulation by ADEQ.
- F. The Control Officer may require periodic payment of permit processing fees based on the most recent accounting of time spent processing the permit.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended June 20, 1996. Revised May 14, 1997. Amended August 13, 2003. Amended October 27, 2004, Amended October 13, 2010]

3-7-591. Fees for sources operating under a unitary permit on June 20, 1996, which sources are subject to, or deemed subject to, a permit requirement under Title V - Initial fee payment schedule

- A. Sources subject to this section shall pay a permit fee at a rate calculated in the same manner as would be a permit fee calculated under §3-7-590. The revised current-year permit fee imposed by this section shall apply to the following sources:
1. Any source currently operating under a unitary permit, whose emission inventory for the preceding calendar year shows that the source is in fact a "major source," as defined in this Code; and
 2. Any source currently operating under a unitary permit, which source is deemed subject to a requirement to obtain a permit under Title V of the Act, as that phrase is defined in §3-7-590. B.
- B. The initial-year permit fee rate established under this paragraph shall become effective on 12:00:01 a.m. on July 1, 1996, provided that for any source affected by this section that has already paid a annual permit fee for the current term, then such source operator shall initially be subject to only a fee prorated to cover that part of the annual period between the effective date specified in this subparagraph, and the succeeding anniversary date of the issuance of that permit. Further, any permittee subject to such a prorated fee shall also be entitled to an equitable offset against the revised permit fee that takes effect on July 1, 1996, which offset shall reflect fees already paid for that same term.
- C. For initial fees additionally due from sources subject to the revised fee rate effective on July 1, 1996, 50% of the additional fee under this section shall due on August 1, 1996, and the balance shall be due by the earlier of the next regular mid-term payment date as allowed under §3-7-620, or the expiration date of the permit.
- D. Subsequent permit fees from sources affected by this section shall be due in accord with §3-7-620.

[Adopted June 20, 1996.]

3-7-595. Annual reporting of Class I permit fees and costs

The District shall conduct an annual cost accounting to identify revenues derived and costs incurred with respect to Class I permits. Data needed shall be collected over each twelve month period beginning November 15, 1994.

[Adopted effective November 3, 1993. Amended August 13, 2003.]

3-7-600. Class II permit fees

- A. For a billable permit action, Class II sources shall pay a permit processing fee as defined in Appendix B, Section B. The maximum permit processing fee shall not exceed \$25,000, and for a minor permit revision, the maximum permit processing fee shall not exceed \$10,000.
- B. Beginning on the anniversary date of initial permit issuance, and annually thereafter, Class II sources shall pay an administrative fee as defined in Appendix B, Sections D and E.
 - 1. Class II Title V sources shall pay an administrative fee as defined in Appendix B, Section D. Class II Title V sources shall include those sources that do require a permit but do not require a Class I permit, and are actually regulated under a standard promulgated under §§111 or 112 of the CAA.
 - 2. Other Class II sources, also known as Class II Non-Title V sources, shall pay an administrative fee as defined in Appendix B, Section E.
 - 3. As provided in Appendix B, Section D, Class II "synthetic minor sources" shall pay an administrative fee as defined in Appendix B, Section C. For purposes of this fee rule requirement, "synthetic minor sources" shall include only those source that have accepted voluntary permit limitations under §3-1-084, and have permit-allow able emissions that exceed 50% of the major source threshold for at least one regulated pollutant.
- C. Notwithstanding any other provision of this section, the total annual administrative fee for a Class II source shall not exceed 100% of the fees that would apply if the source was subject to regulation by ADEQ.
- D. The Control Officer may require periodic payment of permit processing fees based on the most recent accounting of time spent processing the permit.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended October 12, 1995. Amended June 20, 1996. Amended August 13, 2003. Amended October 27, 2004, Amended October 13, 2010]

3-7-602. Class III permit fees

Upon issuance of a new, renewal or revised permit, and annually thereafter, Class III sources shall pay an administrative fee as defined in Appendix B, Section F.

[Adopted effective August 13, 2003. Amended December 21, 2005.]

3-7-610. General permit fees - Class I and Class II sources

- A. Permit Processing Fee. The owner or operator of a source that falls subject to a county jurisdiction and applies for authority to operate under a general permit shall pay to the District \$500 with the submittal of the application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal.
- B. Administrative Fee. The owner or operator of a source subject to county jurisdiction and having authority to operate under a general permit shall pay, each calendar year, the applicable administrative fee from the table below, by March 31, or 60 days after the Control Officer mails the invoice, whichever is later.

General Permit Source Category	Administrative Fee
1. Class I Title V General Permits	Administrative Fee from Appendix B, Section C
2. Class II Title V Small Source	\$500.00
3. Other Class II Title V General Permits	Administrative fee of \$3,000.00
4. Class II Non-Title V Gasoline Service Station	\$500.00
5. Class II Non-Title V Crematories	\$1,000.00
6. Other Class II Non-Title V General Permits	\$2,000.00

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended October 12, 1995. Amended June 20, 1996. Revised 5/14/97. Amended August 13, 2003. Amended October 27, 2004.]

3-7-620. Annual permit fee payment

Unless a specific Code section provides otherwise, as in §3-7-578, the following payment conditions apply to sources required to pay permit-related administrative fees under this Code:

1. Before the issuance of an individual permit, the applicant shall pay to the District an initial permit processing fee, and any revision fees associated with the subsequent revision of such permit.
2. For subsequent years, the annual administrative fee, along with any other applicable fees shall be due on the anniversary date of permit issuance.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended October 12, 1995. Amended June 20, 1996. Amended August 13, 2003, Amended October 13, 2010]

3-7-625. Permit fee accounts

Permit fees received pursuant to §3-7-620 shall be deposited in separate revenue code accounts for Class I and II permits, respectively.

[Adopted effective November 3, 1993. Amended August 13, 2003.]

3-7-630. Accelerated application processing fee

An applicant for a Class I or Class II permit or any revisions to such permits may request that the Control Officer provide accelerated processing of the application by providing the Control Officer written notice 60 days in advance of filing the application. Any such request shall be accompanied by the standard application fees as described in this article plus an additional 50% surcharge, which shall be nonrefundable if the Control Officer undertakes to provide the accelerated processing as described below:

1. When an applicant has requested accelerated permit processing, the Control Officer may request an additional surcharge fee based on the estimated cost of accelerating the processing of the application, or, to the extent practicable, may seek to process the permit or permit revision in accordance with the following schedule:
 - a. For applications for initial Class I and II permits governed by §3-1-040 or significant permit revisions governed by §3-2-195, final action on the permit or permit revision shall be taken within 120 days after receiving notice that the application is complete.
 - b. For minor permit revisions governed by §3-2-190, final action on the permit shall be taken within 60 days after receiving an application.
2. Before granting an application for a permit or permit revision pursuant to this section, the applicant shall pay to the District all permit processing and other fees

due, and in addition, the difference between the actual cost of accelerating the permit application and the 50% surcharge submitted. Nothing in this section shall affect the public participation requirements of §3-1-107.

3. None of the surcharges for accelerated permit processing shall be applied toward the applicable maximum permit fee.

[Adopted effective November 3, 1993. Amended August 13, 2003.]

3-7-640. Review of final bill

- A. Any person who receives a final bill from the Control Officer for the processing of a permit or permit revision under this article may request an informal review of the hours billed and may pay the bill under protest. If the bill is paid under protest, the Control Officer shall issue the permit if it would be otherwise issuable after normal payment. The request shall specify the areas of dispute and be made in writing to the Control Officer within 30 days of the date of receipt of the final bill. Unless the Control Officer and applicant agree otherwise, the informal review shall take place within 30 days of the Control Officer's receipt of the request. Notice of the time and place of informal review shall be mailed to the requester at least ten working days prior to the informal review. The Control Officer shall review whether the amounts of time billed are correct and reasonable for the tasks involved. Disposition of the informal review shall be mailed to the requester within ten working days after the informal review.
- B. The Control Officer's decision after the informal review shall become final unless within thirty days after receipt of the decision the applicant requests in writing a hearing pursuant to §3-1-080.

[Adopted effective November 3, 1993. Revised July 12, 2000, with change contingent upon EPA approval of interim Title V program approval at 61 FR 55910 (10/30/96).]

3-7-650. Late fee charge

Owners or operators of permitted sources shall owe a late charge of 1.5% per month for any fees which remain unpaid 30 days after they are due.

[Adopted effective November 3, 1993. Amended February 22, 1995. Amended August 13, 2003.]

3-7-660. Hearing Board appeal fee

Subject to the exception set forth in §3-1-080.D. , the appeal fee for appealing the grant, denial or terms of a permit or permit revision, or an adverse applicability decision regarding eligibility for an authorization to operate under a general permit, to the Hearing Board shall be the greater of \$100.00 or 2% of the fee for the permit as approved by the Control Officer or otherwise provided by these rules, which the Board of Supervisors finds to be a reasonable and just estimate of the actual costs incurred by the District in conducting a hearing before the Hearing Board.

[Adopted effective November 3, 1993. Amended February 22, 1995.]

ARTICLE 8. OPEN BURNING

3-8-700. General provisions

A. Applicability

1. General Prohibition
Notwithstanding the provisions of any other rule in this Chapter, and subject to the exemptions set forth in this section, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow or maintain any open outdoor fire.
2. Conditional Statutory Exemptions
Provided a public officer, as defined in the subsections below, gives permission in writing for a fire, and immediately transmits a copy of such written permission to the Director of the Department of Environmental Quality and to the Control Officer, and further provided that the setting of any such fire shall be conducted in a manner and at such time as approved by the Control Officer, unless doing so would defeat the purpose of the exemption, the following fires are exempt from this Article:
 - a. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.
 - b. Fires set by or permitted by the state entomologist or county agricultural agents of the county for the purpose of disease and pest prevention.
 - c. Fires set by or permitted by the state or any of its agencies, departments or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.
3. Other Statutory Exemptions
The following fires are exempt from regulation under this Article:
 - a. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals. For purposes of this exemption, a "recreational purpose" fire is an outdoor fire, which burns material other than household waste or prohibited materials, and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height.
 - b. Fires set by or permitted by the federal government or any of its departments, agencies or agents.
4. Regulatory Exemptions
For the purposes of this rule and article, the following shall neither be regarded as nor deemed open burning:
 - a. The subterranean detonation of explosives.
 - b. The display of fireworks for recreational purposes or pyrotechnics for musical or cinematic/theatrical functions, provided any person detonating such fireworks or pyrotechnics has a permit approved by the Pinal County Board of Supervisors
 - c. Fires for the ceremonial destruction of flags.
5. Default Emission Rate Assumption
Unless specifically authorized under the preceding definitions of permit-authorized fires, fires set for the disposal of materials shall be presumed to have a

potential to emit greater than "de minimis amounts" of regulated air pollutants and shall require a stationary source permit as specified under §3-1-040.

B. Definitions.

"Agricultural Burning" means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for a profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.

"Air curtain destructor" means an incineration device which operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs.

"Approved waste burner" means an incinerator constructed of fire resistant material with a top cover or screen, which is closed when in use having opening in the sides or top no greater than one inch in diameter.

"Class I Area" means any one of the Arizona mandatory Federal Class I Areas defined in A.R. S. §49-401. 01.

"Control Officer" has the same meaning as in A.R. S. §49-471.

"Date of Issuance" the actual date that the open burning application is signed by the Control Officer or his/her representative.

"Dangerous material" is any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed or otherwise disposed of in a safe and controlled manner.

"Delegated authority" means any of the following:

1. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R. S. §49-501(E); or
2. A private fire protection service provider that has been assigned authority to issue open burning permits by one of the authorities listed in the preceding subsection of this definition.

"De Minimis amount" is the lesser of: the potential of a source to emit 1 ton per year of any air pollutant; or the potential of a source to emit 5.5 lbs/day of any air pollutant.

"Director" means the Director of the Department of Environmental Quality, or his/her designee.

"Effective date of Permit" is the actual date that open burning operations may commence, which will be no later than 10 days after the "Date of Issuance."

"Emission reduction techniques" are techniques for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.

"Household waste" means any solid waste including garbage, rubbish and sanitary waste from septic tanks that is generated from households including single and multiple family residences, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas, not including construction debris, landscaping rubble or demolition debris.

"Open outdoor fire", as used in this rule, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. "Flue", as used in this rule, means any duct or passage for air, gases or the like, such as a stack or chimney. Open outdoor fires can include agricultural, residential, commercial, and prescribed burning. Purposes for fires can include prevention of a fire hazard, instruction in the methods of fighting fires, watershed rehabilitation, disease and pest prevention.

"Prescribed burning" means the burning of vegetative material in predominantly undeveloped land to improve forested, open range or watershed condition.

"Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products; such as waste crankcase oil, transmission oil and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners, and solvents, stains and varnishes and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.

"Residential burning" means open burning of vegetative materials that is generated only from that property and conducted by or for the occupants of residential dwellings, but does not include the burning of household waste or prohibited materials.

C. Permit-authorized fires.

Provided a permit is first obtained from the Control Officer, no prohibited wastes or household wastes are burned unless otherwise specified, and a site map of the burn site is provided, the following fires are allowed under this Section:

1. Permitted residential fires:

- a. Generally Allowable Combustible Materials: Residential fires set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Residential burning must be conducted on a single contiguous property designed for and used exclusively as a private residence.
- b. Conditional Approval to Burn Domestic Household Waste Fires set in an approved waste burner for the disposal of those portions of domestic household waste generated at a private residence. Such fires are allowed:
 - i. On farms and ranches of 40 acres or more where no refuse collection and disposal service is available; or
 - ii. For household waste generated on-site, where no household waste collection and disposal service is available, and where the nearest other dwelling unit is at least 500 feet away. Unless a permit is specifically endorsed by the Control Officer to verify that waste pickup service is not available, and to expressly allow burning of domestic household waste, burning of such waste is **PROHIBITED**.
- c. Small Scale Residential Permit: Under a "small scale" residential open burning permit, the quantity of material that may be burned during the one-month permit shall not exceed 10 cubic yards of non-compacted material. A "small scale" residential permit may be renewed on a month-to-month basis, without limitation.
- d. Large Scale Residential permit: Under a "large scale" residential open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" residential permit may only be

- issued for a single location, defined by an assessor's parcel number, twice in a calendar year.
2. Permitted commercial fires:
 - a. Generally Allowable Combustible Materials: Commercial Fires may be set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Commercial burning must be conducted on a single contiguous property designed for and used exclusively as a single business.
 - b. Small Scale Commercial Permit: Under a "small scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 10 cubic yards of non-compacted material. A "small scale" commercial permit may be renewed on a month-to-month basis, without limitation.
 - c. Large Scale Commercial Permit: Under "large scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" commercial permit may only be issued for a single location, defined by assessor's parcel number, twice in a calendar year.
 - d. Commercial Land Clearing Permit:
 1. Open burning activities which include one-time land-clearing operations that involve non-compacted vegetative materials greater than those allowed above in section 2. a. through 2. c.
 2. Land clearing burns may be authorized by written permission from the Control Officer if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.
 - (a) The applicant shall submit a non-refundable application fee, as specified in Appendix C.
 - (b) The applicant shall also pay an additional non-refundable per-acre fee, as also specified in Appendix C.
 3. Authorization for the land clearing burn may be revoked by the Control Officer if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.
 4. If the permittee wishes to use an air curtain destructor for land clearing, such device should be operated pursuant to the manufacturer's specifications and the following limitations:
 - (a) Air curtain destructors shall not be operated closer than 500 feet from the nearest dwelling.
 - (b) Air curtain destructors must also comply with the applicable requirements of 40 C.F.R. Section 60. 2245 to 60. 2260.
 3. Permitted agricultural fires:

Fires set for weed control or abatement, clearing fields or ditches of vegetation, or the disposal of other naturally grown products of horticulture, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned.
 4. Permitted training exercise fires (non-governmental agencies/companies):

- Fires set for the instruction of fire fighting methods.
5. Permitted building-demolition, or building-material demolition fires:
 Fires set for the disposal of abandoned buildings or building materials, provided that no such permit shall be issued until after an on-site inspection by the District. Building demolition burns may be authorized by written permission from the Control Officer if there is no practical alternative, and if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.
 - (a) The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.
 - (b) The applicant shall pay an additional permit issuance fee, as also specified in Appendix C.
 6. Permitted fires for the destruction of dangerous materials:
 Fires set for the destruction of dangerous or hazardous materials are allowed when the materials are too dangerous to store and transport, provided that no such permit shall be issued until after an on-site inspection by the District. Fires set for the destruction of dangerous materials shall only be allowed where there is no safe alternative method of disposal, and when the burning of such materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.
 - (a) The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.
 - (b) The applicant shall pay an additional permit issuance fee, as also specified in Appendix C.
 7. Bonfire Permits:
 Provided no prohibited materials or household wastes, as defined in §3-8-700. B., are burned: a city, town, county statutory districts, or other political subdivision established by statute may obtain a no-cost bonfire permit for a community or civic event.
 - a. A written request from the public entity is required.
 - b. The quantity of material that may be burned during the permit term shall not exceed 20 cubic yards of non-compacted material.

D. Permit conditions.

All permits shall include the following:

1. Contact Information
 A means of contacting the permittee.
2. Permit term
 The term of the temporary open burning permit, which shall:
 - a. For a residential or commercial permit, not exceed one month from the effective date;
 - b. For an agricultural permit, not exceed one year from the effective date;
 - c. For a demolition permit or a destruction of hazardous materials permit, not exceed sixty (60) days from the effective date;
 - d. Not, regardless of term, authorize any violation of any burning ban that a local fire department/district may impose for purposes of public safety or other purposes.
 - e. For a training exercise permit, not exceed a permit specified 7-day period from the effective date.

- f. For a commercial land clearing burn permit, not exceed sixty (60) days from the effective date, provided that the permittee may, upon application but without cost, be allowed one sixty (60) day extension of such a land clearing permit.
 - g. For a bonfire, not exceed a 3-day period, which dates shall be specified in the permit.
 - h. No person affected by a "no burn" restriction or permit suspension shall be entitled to an extension of the burn permit term.
3. Permits subject to suspension orders.
All permits shall note that all burning be extinguished at the discretion of the Control Officer or his authorized representative during periods of inadequate atmospheric smoke dispersion, including:
- a. When an air stagnation advisory is issued by the Director of ADEQ or the National Weather Service;
 - b. When an air pollution emergency episode alert, warning, or emergency as required by §§2-7-230 to 2-7-720 is declared;
 - c. During periods of excessive visibility impairment which could adversely affect public safety or impair visibility in Class I areas; or
 - d. During periods of extreme fire danger, or during periods when smoke is blown into populated areas so as to create or threaten to create a public nuisance.
4. Emission Reduction Techniques
The permit applicant shall note on the permit application/permit form the types of emission reduction techniques that the permittee will use to minimize fire emissions.
5. Burn Management Provisions
All permits shall also contain the following conditions:
- a. Materials that may be burned.
 - b. Allowable burn times are:
8:00 a.m. to 4:00 p.m. April 1 through September 30
9:00 a.m. to 4:30 p.m. October 1 through March 31
 - c. Wind speed while burning shall not be less than 5 miles per hour (mph) or greater than 15 mph. If the wind increases during burning, all fires/smoke must be extinguished completely until the wind speed is again in the range of 5 mph to 15 mph.
 - d. The fire must be constantly attended, with reasonable control tools (water or dirt) on hand at all times, and the person conducting the burn must have a copy of the burn permit on-site during open burning.
 - e. When the burn is completed, the fire must be completely extinguished. All burning must cease by the times noted above.
 - f. A requirement that each open burn be started using items that do not cause the production of black smoke.
 - g. A requirement that the burning pit, burning pile, or approved waste burner be at least 50 feet from the nearest other dwelling unit.
 - h. The person conducting the open burning must notify the local fire-fighting agency, fire district or municipal fire department, or if none in existence, the state forester, prior to commencement of open burning.
 - i. Open burning shall be conducted only during atmospheric conditions which:

- i. Prevent dispersion of smoke into populated areas;
 - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
 - iii. Do not create a public nuisance or adversely affect public safety;
 - iv. Do not cause any adverse impact to visibility in a Class I area; and
 - v. Do not cause uncontrollable spreading of the fire.
 - j. The permittee shall not conduct open burning when:
 - i. The National Weather Service has issued an air stagnation advisory for the affected area;
 - ii. During periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas; or
 - iii. When any stage air pollution episode is declared under Code §§2-7-230 to 2-7-720.
 - k. The permit shall include a copy of the activities prohibited and the criminal penalties for reckless burning included in A.R. S. §13-1706.
- E. **Permit Reporting Requirements**
 The following information shall be provided to the Control Officer for each date open burning occurred, either on a daily basis on the day of the fire, or after the burn permit period ends, or in an annual report prior to April 1. The report shall be submitted in a format provided by the Director or Control Officer and include:
- 1. The date of the burn;
 - 2. The type and quantity of fuel burned for each date open burning occurred;
 - 3. The fire type, such as pile or windrow, for each date open burning occurred;
 - 4. For each date open burning occurred, the legal location, to the nearest township, range and section; or latitude and longitude, to the nearest degree minute; or street address; or parcel number.
- F. **Permissible delegation of authority**
- 1. The Control Officer may delegate the authority for the issuance of allowable open burning permits to responsible delegated authorities as defined in §3-8-700.B. Anyone delegated the authority for issuance of open burning permits shall maintain a copy of all currently effective permits issued including a means of contacting the person authorized by the permit to set an open fire in the event that an order for extinguishing of open burning is issued. This includes a no burn restriction when monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded in Area A, as defined in A.R. S. 49-541, and Chapter 4, Article 3, 4-3-060.C of the Pinal County Air Quality Control District (PCAQCD) Code of Regulations.
- G. **Open Burn Permit Suspensions**
- 1. A "no burn" restriction shall be imposed with respect to open burning regulated by Pinal County, whenever monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded. Such a "no burn" restriction applies to all burning regulated under this Code, even including burning by persons who may hold an otherwise valid open burning permit issued by Pinal County.
 - 2. That "no burn" restriction shall arise by operation of law whenever the Maricopa County Environmental Services or ADEQ declares such a "no burn" restriction in neighboring Maricopa County.

H. Violations

Failure to obtain a permit, or failure to comply with the conditions of a permit, shall be subject to civil and/or criminal penalties in any of the following statutes: A.R. S. §§13-1706, 49-502, 49-511, 49-512, 49-513, or 49-514.

I. Limited scope of rule.

Nothing in this rule shall authorize or permit any practice, which is a violation of any statute, ordinance, rule or regulation.

[Adopted effective June 29, 1993. Former Section 3-6-560 renumbered without change as Section 3-8-720 effective November 3, 1993. Revised effective February 22, 1995. Amended February 11, 2004. Amended October 27, 2004.]

3-8-710. Permit provisions and administration

A. Burn permit fees

1. Required fees

A fee shall be charged for a Temporary Open Burning permit according to the fee schedules found in Appendix C.

2. No Refunds

No person affected by a permit suspension or "no burn" restriction as allowed under these rules shall be entitled to a refund of any monies paid for an open burning permit.

B. Signature and acknowledgement

Every open burning permit shall be signed by the person obtaining the permit, and that signature shall constitute an acknowledgement that:

1. The person obtaining the permit bears responsibility for any failure to properly and adequately control any fire set pursuant to the permit;
2. The issuance by the Control Officer of a Temporary Open Burning Permit does not release the permittee from any of the requirements of a fire department/district having jurisdiction, and a permit so issued must be validated by said fire department/district to be effective. The permittee is solely responsible for complying with such fire department/district requirements or restrictions.
3. Even though burning may be separately restricted by a fire department/district, all fees paid are non-refundable, and burn permits will not be extended due to an open burning restriction.
4. Open burning at a time or in a manner contrary to the terms of the permit or an order from the Control Officer shall constitute one or more violations as set forth in §3-8-700.

C. Storage of materials prone to spontaneous combustion

Outdoor disposal or deposition of any non-agricultural materials (100 cubic yards or greater) capable of igniting spontaneously, with the exception of fossil fuels (coal), shall not be allowed, without providing adequate fire-fighting materials, such as sand, dirt, or water.

[Adopted effective June 29, 1993. Former Section 3-6-570 renumbered as Section 3-8-730 and amended effective November 3, 1993. Amended February 22, 1995. Amended December 13, 2000. Amended February 11, 2004. Amended October 27, 2004.]

ARTICLE 9. PORTABLE SOURCES

3-9-800. General provisions - Move Notices

- A. In accordance with A.A.C. R18-2-324, A portable source may be transported from one location to another within or across Pinal 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 prior to the portable source being transported to the new location. The notification required under this rule shall include:
1. A description of the portable source to be transported including the Pinal County permit number or the State of Arizona permit number for such portable source;
 2. A description of the present location;
 3. 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;
 4. The date on which the portable source is to be moved;
 5. The date on which operation of the portable source will begin at the new location; and
 6. The duration of operation at the new location.
- B. An owner or operator of a portable source with a current State of Arizona permit that moves such portable source into Pinal 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.

[Adopted effective December 21, 2005.]