

**Arizona Department of Environmental Quality  
Title V Operating Permit Program Evaluation**

**FINAL REPORT**

**June 2, 2006**

**Conducted by the**

**U.S. Environmental Protection Agency  
Region 9  
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JUNE 13, 2005

## **ACKNOWLEDGEMENT**

EPA Region 9 would like to acknowledge the cooperation of the staff and management of the Arizona Department of Environmental Quality (“ADEQ”) during this Title V Program Evaluation. We appreciate their willingness to respond to information requests and share their experiences regarding the development and implementation of ADEQ’s Title V program.

## EXECUTIVE SUMMARY

In response to the 2002 Office of Inspector General audit recommendations, the Environmental Protection Agency (“EPA”) has re-examined the ways it can improve state and local Title V operating permit programs and expedite permit issuance. Specifically, EPA developed an action plan for performing program reviews of Title V operating permit programs. EPA Headquarters (“HQ”) directed each Regional office to perform Title V program evaluations for each air pollution control agency beginning in fiscal year (“FY”) 2003.

EPA Region 9 oversees 47 separate air permitting authorities (35 in California, 3 in Nevada, 4 in Arizona, Hawaii, the Navajo Nation, and 3 in the Pacific Islands). Due to the significant number of permitting authorities, Region 9 has committed to performing one comprehensive Title V program evaluation per year on 10 of the largest permitting authorities, which would represent about 85% of the Title V sources in Region 9. The purpose of the program evaluations is to identify good practices, document areas needing improvement, and learn how EPA can help the permitting agencies improve their performance.

Region 9 recently conducted a Title V program evaluation at the Arizona Department of Environmental Quality -- Air Quality Division (“ADEQ-AQD”). This is the third Title V Program Evaluation Region 9 has conducted. The first one was conducted at the Pima County Department of Environmental Quality, and the second at the Maricopa County Environmental Services Department. ADEQ is the primary air pollution control agency for the State of Arizona. (See Appendix A, Air Pollution Agencies in Arizona.) The EPA Region 9 program evaluation team consisted of the following EPA personnel: Colleen McKaughan, Associate Director for Arizona; Gerardo Rios, Chief of the Air Permits Office; Ken Israels, Program Evaluation Advisor; Anna Yen, Permit Engineer and Lead Contact for Arizona; Emmanuelle Rapicavoli, Permit Engineer; and Mark Sims, ADEQ Program Evaluation Coordinator and Permit Engineer.

The evaluation was conducted in several stages. In the first stage, EPA sent ADEQ a questionnaire (see Appendix B, Title V Questionnaire and ADEQ Responses) focusing on Title V program implementation in preparation for the site visit to ADEQ’s office. The Title V questionnaire was developed by EPA nationally and covers the following program areas: (1) Title V Permit Preparation and Content; (2) General Permits; (3) Monitoring; (4) Public Participation and Affected State Review; (5) Permit Issuance/Revision/Renewal Processes; (6) Compliance; (7) Resources & Internal Management Support; and (8) Title V Benefits. ADEQ completed the questionnaire in advance of Region 9’s site visit to the Department.

During the second stage of the program evaluation, Region 9 conducted an internal review of EPA’s own set of ADEQ Title V permit files. ADEQ submits Title V permits to Region 9 in accordance with the Title V regulations. Region 9 maintains

Title V permit files containing these permits along with copies of associated documents, permit applications, and correspondence.

The third stage of the program evaluation was the site visit, which consisted of Region 9 representatives visiting the ADEQ Phoenix office to conduct further file reviews, interview ADEQ staff and managers, and review the Department's databases used for tracking permit-related information. The purpose of the interviews was to confirm what was in the completed questionnaire and to ask clarifying questions. The site visit took place May 23 through May 26, 2005. Region 9 also conducted several interviews by phone with ADEQ staff and managers prior to the site visit.

The fourth stage of the program evaluation was follow-up and clarification of issues for completion of the draft report. Region 9 compiled and summarized interview notes, made phone calls to clarify Region 9's understanding of various aspects of the Title V program at ADEQ, and obtained additional documentation. The program evaluation team met on a regular basis to work towards completion of the draft report. ADEQ provided comments on the draft report to the program evaluation team (see Appendix C). After review and consideration of ADEQ's comments (see EPA Response to ADEQ Comments, Appendix D), the program evaluation team completed the final report.

Based on Region 9's program evaluation of ADEQ, major findings are provided below:

1. ADEQ's permit processing time has improved over the years. ADEQ attributes this improvement to a new format for permits, investment of staff time to tour the facilities being permitted, permit templates, and the licensing time frames required by State law. (See Finding 2.3)
2. ADEQ writes organized, detailed, and effective Statements of Basis/Technical Support Documents. (See Finding 2.4)
3. The most significant obstacles to timely issuance of Title V permits are obtaining information from sources and relatively high staff turnover. (See Finding 2.5)
4. ADEQ uses a multi-pronged approach to public participation that tries to reach as many people as possible. For example, ADEQ translates public notices and publications into Spanish. (See Finding 4.6)
5. ADEQ does not have a process to ensure that pre-construction review requirements from ADEQ's State Implementation Plan ("SIP"), including analyses of Title I applicability, are met when processing off-permit changes and minor permit revisions. (See Finding 5.2)

6. ADEQ staff identified a lack of guidance for determining whether a revision should be processed as administrative, minor, significant, or off-permit. (See Finding 5.4)
7. ADEQ does not typically write a technical support document for minor permit revisions. (See Finding 5.7)
8. ADEQ, like the other Arizona air quality permitting programs, faces periods of high staff turnover that may be attributable to ADEQ's ability to offer salaries that compete with offers made by industry, consulting companies, and sometimes other air quality regulatory agencies to experienced staff, as well as the absence of a career ladder or other system which allows permit engineers to show growth in their positions. (See Finding 7.1)
9. Title V funds are tracked and accounted for in a precise and detailed manner. (See Finding 7.4)
10. ADEQ's Title V program is more effective due to clear communication and coordination among its various program offices. (See Finding 7.5)
11. As a result of the Title V program, ADEQ has greatly improved the quality of both its major source and minor source permit programs. (See Finding 8.1)
12. The ADEQ Title V program has made permit compliance problems much easier to identify and has improved compliance among the regulated community. (See Finding 8.3)
13. ADEQ's central file system located on the first floor of the building is poorly managed as far as air program documents are concerned. It is difficult to obtain requested folders and documents due to a lack of organization and a poorly suited database system. In addition, file room staff report that often they are not able to find requested files. (See Finding 9.1)

# 1. INTRODUCTION

## Background

In 2000, the Office of Inspector General (“OIG”) initiated an evaluation on the progress of issuing Title V permits by EPA and states at the request of the management at EPA Region 5. Region 5 was concerned about the progress that its state and local air pollution control agencies were making in issuing Title V permits under the Act. In planning the evaluation, OIG expanded the scope to include other EPA regions because problems in issuing Title V permits were not isolated to Region 5. The purpose of OIG’s evaluation was to identify factors delaying the issuance of Title V permits by selected state and local agencies and to identify practices contributing to timely issuance of permits by those same agencies.

After reviewing several selected state and local air pollution control agencies, OIG issued a report<sup>1</sup> on the progress of Title V permit issuance by EPA and States. In the report, OIG concluded that the key factors delaying the issuance of Title V permits included (1) a lack of resources, complex EPA regulations, and conflicting priorities contributed to permit delays; (2) EPA oversight and technical assistance had little impact on issuing Title V permits; (3) management support, partnerships, and site visits contributed to more timely issuance of Title V permits; and (4) state agency management support for the Title V program, state agency and industry partnering, and permit writer site visits to facilities contributed to the progress that agencies made in issuing Title V operating permits.

OIG’s report provided several recommendations for EPA to improve Title V programs and increase the issuance of Title V permits. In response to OIG’s recommendations, EPA made a commitment in July 2002 to carry out comprehensive Title V program evaluations nationwide. The goals of these evaluations are to identify areas where EPA’s oversight role can be improved, areas where air pollution control agencies are taking unique approaches that may benefit other agencies, and areas of an air pollution control agency’s program that need improvement. EPA directed each Regional office to perform Title V program evaluations for each air pollution control agency beginning in FY 2003. EPA HQ developed, with the assistance of the regional offices, an evaluation protocol.

EPA Region 9 oversees 47 separate air permitting authorities (35 in California, 3 in Nevada, 4 in Arizona, Hawaii, the Navajo Nation, and 3 in the Pacific Islands). Due to the significant number of permitting authorities, Region 9 has committed to performing one comprehensive Title V program evaluation per year on 10 of the largest permitting authorities, which would represent about 85% of the Title V sources in Region 9.

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<sup>1</sup> See Report No. 2002-P-00008, Office of Inspector General Evaluation Report, AIR, EPA and State Progress In Issuing Title V Permits, dated March 29, 2002.

## **Title V Program Evaluation at the Arizona Department of Environmental Quality**

Region 9 recently conducted a Title V program evaluation at the Arizona Department of Environmental Quality, Air Quality Division (“ADEQ-AQD”). This is the third Title V Program Evaluation Region 9 has conducted; the first addressed the Title V program administered by the Pima County Department of Environmental Quality, and the second addressed the Title V program administered by the Maricopa County Environmental Services Department (now the Maricopa County Air Quality Department). ADEQ is the primary air pollution control agency for the State of Arizona. (See Appendix A, Air Pollution Agencies in Arizona.) The EPA Region 9 program evaluation team consisted of the following EPA personnel: Colleen McKaughan, Associate Director for Arizona; Gerardo Rios, Chief of the Air Permits Office; Ken Israels, Program Evaluation Advisor; Anna Yen, Permit Engineer and Lead Contact for Arizona; Emmanuelle Rapicavoli, Permit Engineer; and Mark Sims, ADEQ Program Evaluation Coordinator and Permit Engineer.

The objectives of the evaluation were to assess how ADEQ implements its Title V permitting program, evaluate the overall effectiveness of ADEQ’s Title V program, identify areas of ADEQ’s Title V program that need improvement and areas where EPA’s oversight role can be improved, and highlight the unique and innovative aspects of ADEQ’s program that may be beneficial to transfer to other permitting authorities. The evaluation was conducted in several stages. In the first stage, EPA sent ADEQ a questionnaire (see Appendix B, Title V Questionnaire and ADEQ Responses) focusing on Title V program implementation in preparation for the onsite visit to ADEQ’s office. The Title V questionnaire was developed by EPA nationally and covers the following program areas: (1) Title V Permit Preparation and Content; (2) General Permits; (3) Monitoring; (4) Public Participation and Affected State Review; (5) Permit Issuance/Revision/Renewal Processes; (6) Compliance; (7) Resources & Internal Management Support; and (8) Title V Benefits.

During the second stage of the program evaluation, Region 9 conducted an internal review of EPA’s own set of ADEQ Title V permit files. ADEQ submits Title V permits to Region 9 in accordance with the Part 70 regulations. Region 9 maintains Title V permit files containing these permits along with copies of associated documents, permit applications, and correspondence.

The third stage of the program evaluation was the site visit, which consisted of Region 9 representatives visiting the ADEQ Phoenix office to conduct further file reviews, interview ADEQ staff and managers, and review the Department’s permit-related databases. The purpose of the interviews was to confirm what was in the completed questionnaire and to ask clarifying questions. The site visit took place during May 23-26, 2005. Region 9 also conducted interviews by phone with ADEQ staff and managers prior to the site visit.

The fourth stage of the program evaluation was followup for completion of the draft report. Interview notes were compiled and summarized and phone calls were made



and additional documents obtained to clarify Region 9's understanding of various aspects of the ADEQ Title V program.

### **ADEQ Description**

Established by the Arizona Legislature in 1986, ADEQ now administers a variety of programs to improve the health and welfare of the State's citizens, as well as to ensure the quality of Arizona's air, land and water resources meets healthful, regulatory standards. Four program divisions carry out ADEQ's core functions: air quality, water quality, tank programs, and waste programs. An administrative services division provides centralized support for the Department. ADEQ also maintains regional offices in Flagstaff and Tucson, with community liaisons posted in various parts of the state. The ADEQ Director's office directs and coordinates certain executive administrative functions including media relations, community relations, environmental justice programs, and legal and legislative affairs.

ADEQ Air Quality Division ("AQD") core responsibilities include developing and implementing programs designed to ensure that Arizona meets national air quality standards, regulating the emission of air pollutants from industries and facilities by issuing and ensuring compliance with permits that ensure emissions are within healthful limits, monitoring Arizona's air quality, investigating complaints and violations of Arizona's air quality laws, and developing state rules governing air quality standards. The AQD is organized by the following sections: Vehicle Emissions Section, Air Assessment Section, Planning Section, Permits Section, and Compliance Section. Stationary source air permits, including Title V permits, are issued through the Permits Section. Compliance and enforcement activities, such as facility inspections, source testing/source testing oversight, and preparing enforcement cases are handled by the Compliance Section. As mandated by the Clean Air Act Amendments of 1990, AQD has a Small Business Environmental Assistance Program ("SBEAP"), which operates under the oversight of the AQD Deputy Director, to provide assistance to business owners and operators in determining County, State, and Federal requirements that apply to businesses.

### **Coordination with other State of Arizona Air Pollution Control Agencies**

ADEQ is responsible for submitting the State Implementation Plan ("SIP") and Title V air permitting programs for Arizona to EPA. In addition to ADEQ, local air quality control agencies within the State of Arizona are operated by Maricopa County, Pima County, and Pinal County. State law and delegation agreements between ADEQ and the county air quality control agencies describe the roles and responsibilities of each agency, and delineate jurisdiction of sources within Arizona.

The Arizona Revised Statutes, Title 49, Chapter 3, Air Quality, provide authority for county air quality control agencies to permit sources of air pollution, including sources operating pursuant to Title V of the Act. Arizona law provides that ADEQ has jurisdiction over sources, permits and violations that pertain to (1) major sources in any

county that has not received New Source Review or Prevention of Significant Deterioration approval from the Administrator; (2) metal ore smelters; (3) petroleum refineries; (4) coal-fired electrical generating stations; (5) Portland cement plants; (6) air pollution by portable sources; (7) mobile sources;<sup>2</sup> and (8) sources located in a county which has not submitted a program as required by Title V of the Act or a county that had its program disapproved.<sup>3</sup> All other sources located in Maricopa, Pima, and Pinal Counties are under the jurisdiction of the Counties. Arizona law further provides authority for the Director of ADEQ to delegate to local air quality control agencies authority over sources under ADEQ jurisdiction.<sup>4</sup>

Arizona law provides authority for county air quality control agencies to review, issue, revise, administer, and enforce permits for sources required to obtain a permit.<sup>5</sup> It mandates that county procedures for review, issuance, revision and administration of permits for sources subject to the requirements of Title V of the Act be identical to the procedures for such sources permitted by the State. Under Arizona law, all sources subject to permitting requirements within the State of Arizona, exclusive of lands within the exterior boundaries of Indian reservations, are covered by either the state or county permitting program.

### **The ADEQ Title V Program**

EPA granted ADEQ Title V program interim approval effective November 29, 1996, and full approval effective November 30, 2001. See 40 C.F.R. Part 70, Appendix A. ADEQ completed issuance of Title V permits to all 48 initial Title V sources by October 2003. As of March 30, 2006, ADEQ issued 23 renewal Title V permits and expects to process later this year several more Title V permit renewal applications for sources whose original Title V permits are up for renewal.

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<sup>2</sup>However, per §209(a) of the Clean Air Act, “No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part.” See Section 209 of the Clean Air Act for more details.

<sup>3</sup> See Arizona Revised Statute (“ARS”) 49-402.

<sup>4</sup> See ARS 49-107.

<sup>5</sup> See ARS 49-480(B). This statute states the following: “Procedures for the review, issuance, revision and administration of permits issued pursuant to this section and required to be obtained pursuant to Title V of the Clean Air Act including sources that emit hazardous air pollutants shall be substantially identical to procedures for the review, issuance, revision and administration of permits issued by the department under this chapter. Such procedures shall comply with the requirements of sections 165, 173 and 408 and Titles III and V of the clean air act and implementing regulations for sources subject to Titles III and V of the clean air act. Procedures for the review, issuance, revision and administration of permits issued pursuant to this section and not required to be obtained pursuant to Title V of the clean air act shall impose no greater procedural burden on the permit applicant than procedures for the review, issuance, revision and administration of permits issued by the department under sections 49-426 and 49-426.01 and other applicable provisions of this chapter.”

## **EPA's Findings and Recommendations**

The following sections include a brief introduction, and a series of findings, discussions, and recommendations. The findings are grouped in accordance with the order of the program areas as they appear in the Title V questionnaire. However, this report does not include a section on General Permits, which was a topic covered in the questionnaire, since ADEQ does not issue General Permits under the Title V program. Furthermore, a section on records management (Section 9) was added to the report.

The findings and recommendations in this report are based on EPA's internal reviews performed prior to the site visit to ADEQ, the Department's responses to the Title V Questionnaire, phone interviews conducted prior to the site visit, interviews and file reviews conducted during the site visit which took place May 23-26, 2005, follow-up phone calls during the months after the site visit, and consideration of ADEQ's comments on the draft report.

## 2. PERMIT PREPARATION AND CONTENT

The purpose of this section is to evaluate the permitting authority's procedure for preparing Title V permits. 40 CFR 70.5 outlines the necessary elements of a Title V permit application. 40 CFR 70.6 outlines the requirements that must be included in each Title V permit. Title V permits must include all applicable requirements, and necessary testing, monitoring, recordkeeping, and reporting requirements sufficient to ensure compliance with the permit.

**2.1 Finding:** ADEQ has a defined quality assurance ("QA") process for review of Title V permits. ADEQ does not have its QA process documented in writing, but it has a routing slip/checklist for the review chain.

**Discussion:** Interviewees were consistent in their descriptions of ADEQ's QA process for review of Title V permits. After the permit engineer drafts a Title V permit, it goes to his/her direct supervisor for review. The supervisor then routes the permit for further review to the Permits Section Manager as well as to the Compliance Section and, if modeling is involved, the Assessment Section. The routing slip/checklist is filled out as it goes through the review chain and is then included in the permit file. The permit then goes through the 30-day public comment period, followed by EPA's 45-day review period. The final review is provided by the Air Quality Division Director before she signs the permit.

Thus, based on our field observations, ADEQ has a defined QA process for Title V permits and that staff are well-informed of the process although ADEQ does not have its QA process documented in a written procedure.

**Recommendation:** Though staff seem to be well-informed of the QA process, we recommend that ADEQ document its QA process in a written procedure. Particularly since the Permits Section has relatively high staff turnover, written procedures would facilitate a shorter "initiation period" for new staff.

**2.2 Finding:** ADEQ's only written guidance is a recently developed modeling protocol. ADEQ has not developed written guidance on permit content or a standard operating procedure on administrative processing of permits. ADEQ has provided training on certain aspects of the administrative processing of permits.

*Update: On January 11, 2006, ADEQ informed us that the Air Quality Permits Section has developed outlines demonstrating the format and required content of air quality permits and TSDs. (See Appendix E for sample outlines.)*

**Discussion:** Staff reported during interviews that, when writing initial Title V permits, they typically refer to already-issued permits of the same or a similar source category. ADEQ is beginning to work on permit renewals by using templates developed for certain source categories. The permit writer can customize

the template for a specific facility. This practice was followed for the El Paso Natural Gas compressor stations and increased the efficiency and consistency of the permit issuance process.

We also learned during interviews that ADEQ recently developed written guidance on modeling of ambient air quality impacts. This document provides information such as how to choose a particular modeling program for different situations. Though modeling analyses submitted by a source are reviewed by staff in the Assessment Section, some Permits Section staff still felt that this written guidance has been helpful in gaining general knowledge about the process.

Although the processing of permit applications and permits is complex, ADEQ does not have a written standard operating procedure (“SOP”) setting forth the various steps and administrative requirements for this responsibility. For example, upon receipt of a permit application for a new facility, staff must follow a specific procedure for having the data entered into AZURITE.<sup>6</sup> Furthermore, staff must be knowledgeable about strict state law requirements for licensing time frames (“LTFs”), including the details for administrative completeness review, substantive completeness review, the limited ability to stop the LTF clocks, and the possibility for the source to agree to a different LTF than the standard time frames. In addition, there are other administrative details that staff must follow, such as making sure that an invoice is generated after the permit is finalized and that fees have been paid before issuing the permit to the source. The availability of this information in an SOP would be helpful to new staff and serve as a reference for experienced staff.

We understand that ADEQ has offered training courses on LTFs, as well as the use of the AZURITE database’s LTF module for permitting staff and managers throughout the Department. In addition, we understand that status updates on LTFs for individual permits are communicated regularly between staff and managers. We acknowledge the usefulness of, and encourage, such training. In fact, we believe that a training course(s) covering the entire administrative procedure from the time a permit application is received to the time the permit is issued would be a useful addition to the training program for new staff. The SOP and training course(s) would be complementary tools to educate new staff.

**Recommendation:** We encourage ADEQ to continue to implement the practice of writing a template permit for a general category of facilities. Recognizing ADEQ’s efforts and initiative in developing permit and Technical Support Document (“TSD”) outlines to demonstrate format and content, we believe this is a good start and recommend that these outlines be further developed to include more detail. For example, in the TSD outline, specific references to PSD/NSR history (perhaps in Section I.B.) or CAM (perhaps in Section V.) would be useful. We have found that, during our 45-day reviews of permits and TSDs, these explanations are sometimes

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<sup>6</sup> See Finding 9.6 for more information about AZURITE.

missing or lacking adequate detail. As another example, we typically see a permit condition (usually in Section II.) that requires the source to submit reports of all monitoring and recordkeeping required by the permit upon submittal of compliance certifications. This would be useful to include in the outline. These outlines, when further developed, will not only help new staff but will also facilitate maintaining consistency in permit requirements.

As a complement to written guidance, new staff also need training to make full use of the guidance. Therefore, we recommend that ADEQ also provide training to new engineers on permit format and content, including periodic refresher courses. Written materials used during training sessions could be incorporated into the written guidance documents. In the same vein, we also recommend that ADEQ develop an SOP on the administrative processing of permit applications and permits. If ADEQ offers training on this topic, written materials developed for the training course could be used towards development of the SOP.

**2.3 Finding:** ADEQ’s permit processing time has improved over the years. ADEQ attributes this improvement to a new format for permits, investment of staff time to tour the facilities being permitted, permit templates, and the licensing time frames required by State law.

**Discussion:** ADEQ responded in the Title V Questionnaire with the following reasons for improved permit writing and processing time:

- A new style format by which permits are organized in sections by emissions unit or type of equipment. Each section then identifies all applicable emission standards and associated air pollution control, monitoring, recordkeeping, and reporting requirements.
- Staff engineers are encouraged to make extensive site tours before drafting the permit so that they have a practical perspective of how the facility operates.
- For source categories with multiple similar sources, templates are prepared to ensure consistency in permits.

Many at ADEQ feel that the licensing time frames rule (“LTF rule”) has also been a factor in more efficient processing of permit applications and faster issuance of final permits.<sup>7</sup> The LTF rule, by State law, essentially defines a timetable by which

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<sup>7</sup> Since August of 1999, ADEQ has been subject to a “licensing time frames” rule by State law. *See* A.A.C. Title 18, Chapter 1, Article 5. Specifically, ADEQ has two different kinds of “completeness” reviews, each one with a defined time period. The first type is an administrative completeness review (“ACR”) in which ADEQ checks whether the required components of an application have been submitted. The second type is a substantive review (“SR”) in which ADEQ qualitatively evaluates application components to determine if any additional information is needed to write the permit. This phase of review focuses on technical completeness. Once these two phases of review are completed within the specified time frames, ADEQ has an overall time frame it must meet in actual issuance of a final permit. If ADEQ does not meet the licensing time frames, the applicant does not have to pay the permit fees, and ADEQ could potentially be subject to penalties, to be paid to the State general fund.

ADEQ must issue its permits. It not only forces ADEQ to make timely decisions on permitting issues but also encourages sources to provide information promptly. ADEQ is currently about 99% compliant with LTFs. The Air Quality Division Director's goal is to be 100% compliant with LTFs.

**Recommendation:** EPA commends ADEQ on its continued improvement in permit processing time. ADEQ's LTF rule makes it even more imperative for the two agencies to have early discussions for large and/or complex permits. EPA will work with ADEQ on continued implementation of the "ADEQ/EPA Plan of Action for Title V Working Relationship" (see Appendix F), and will continue its early staff and management interactions with ADEQ for the large and/or complex permits.

**2.4 Finding:** ADEQ writes organized, detailed, effective Statements of Basis/ Technical Support Documents.

**Discussion:** TSDs provide the permittees, EPA, and the general public the information necessary to determine the requirements applicable to emission units at Title V facilities and the methods used to determine compliance with these requirements. TSDs also allow the reader to focus on the permit content's rationale, and increases the efficiency of EPA's review. See also Finding 8.2.

ADEQ writes a TSD for each Title V permit and significant permit revision. (See Finding 5.7 for information on minor revisions.) ADEQ's TSDs provide an appropriately detailed level of explanation behind permit conditions. ADEQ has a template, or skeleton, that contains the basic topics that need to be included in a TSD. Based on interviews, it appears that staff usually use previously written TSDs as templates.

**Recommendation:** EPA commends ADEQ on its well-written TSDs, which are some of the most well-written received by Region 9. The TSDs facilitate EPA and public review of Title V permits and result in more effective permits.

**2.5 Finding:** The most significant obstacles to timely issuance of Title V permits are obtaining information from sources and relatively high staff turnover.

**Discussion:** Interviewees informed us that, in almost all cases, ADEQ finds that it must request additional technical information from the applicant after receipt of the application. Waiting for additional information from the source can slow down the permitting process. For new sources, where modeling is required from the applicant, ADEQ has found that some sources do not know exactly what to submit, so ADEQ must request additional modeling information as well. Waiting for modeling information from the source adds to the delay in the permitting process. The newly developed written guidance on modeling could help these sources in the future.

Though the licensing time frames rule imposes a schedule for ADEQ to issue permits within a defined period of time and this rule has resulted in timely issuance of more permits by ADEQ, it can also make it more difficult for the permit engineer to obtain information. (See Finding 5.6 for additional information.)

Relatively high staff turnover has been a continuing challenge for ADEQ. (See Finding 7.1 for details.) Each new staff person has to mount a steep learning curve before he/she can contribute productively to writing and issuance of permits. The loss of experienced permit-writers may decrease efficiency and impact the ability to issue timely permits.

One interviewee also commented that EPA typically provides comments on Title V permits at the “11<sup>th</sup> hour of the 45<sup>th</sup> day” of our 45-day review period. While EPA is legally allowed a formal 45-day review period, EPA strives to provide initial comments as soon as possible to correct potential objection issues prior to the end of the 45-day review period. We believe we have improved our practice of providing comments to ADEQ prior to the end of our 45-day review period in the past two years since EPA and ADEQ reached agreement as set forth in the “EPA/ADEQ Plan of Action for Title V Working Relationship.” EPA’s receipt of a draft copy of Title V permits, particularly for large and/or controversial sources, before our formal 45-day review period begins, should help EPA resolve issues with ADEQ prior to the end of the 45-day review period, thus shortening the review time during EPA’s 45-day review period.

**Recommendation:** The written procedures that we are recommending (see Finding 2.2) could be helpful not only to ADEQ staff but to sources as well. ADEQ should continue to work on its staff turnover challenges. (See Finding 7.1 for additional details.) ADEQ’s LTF rule makes it even more imperative for our two agencies to have early discussions on large and/or complex permits. EPA encourages ADEQ to work with EPA early in the permit development process as well as to continue to send courtesy copies of draft permits to EPA as early as practicable before the 30-day public comment period for large and/or controversial sources. Whenever possible, through continued implementation of the “ADEQ/EPA Plan of Action for Title V Working Relationship,” EPA will continue to work towards shortening the length of time for providing comments to ADEQ during our formal 45-day review period.



### 3. MONITORING

The purpose of this section is to evaluate the permitting authority's procedure for meeting the Title V monitoring requirements. 40 CFR 70.6(a)(3) requires Title V permits to include monitoring and related recordkeeping and reporting requirements. Each permit must contain monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements. Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, the permit has to contain periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit. As necessary, permitting authorities may also include in Title V permits requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

Title V permits must also contain recordkeeping for required monitoring and require that each Title V source retain 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. With respect to reporting, permits must include all applicable reporting requirements and require (1) submittal of reports of any required monitoring at least every 6 months and (2) prompt reporting of deviations from permit requirements. All required reports must be certified by a responsible official consistent with 40 CFR 70.5(d).

Title V permits must also include compliance assurance monitoring ("CAM") provisions where CAM is required.<sup>8</sup> In addition to periodic and sufficiency monitoring, all Title V permits are required to evaluate the applicability of CAM and include a CAM plan as appropriate. CAM is typically applicable either at permit renewal, or for large pollutant emitting sources, upon the submittal of a significant Title V permit revision. CAM requires a source to develop parametric monitoring for certain units with control devices, which may be in addition to any periodic or sufficiency monitoring, to assure compliance with applicable requirements.

**3.1 Finding:** ADEQ's permits office consistently seeks the input of ADEQ compliance staff to ensure that its Title V permits contain adequate periodic monitoring.

**Discussion:** ADEQ staff indicated that the permits group consistently seeks the input of ADEQ compliance staff when developing monitoring conditions for Title V sources. When field/compliance staff have recommended changes to monitoring conditions, the permits group typically modifies the monitoring conditions in accordance with their recommendations. Usually these recommendations are for increased frequency of monitoring or testing, or for more appropriate monitoring or test methods. Because compliance/field staff have the benefit of being able to inspect these sources, this consultation practice

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<sup>8</sup>See 40 CFR Part 64.

has facilitated the development of improved monitoring conditions for many Title V sources.

We encourage ADEQ to continue the practice of consulting between permit, compliance, and field staff regarding the development of monitoring provisions for Title V permits. ADEQ should also document this practice in writing, perhaps as part of a standard operating procedure for permit processing and development.

**Recommendation:** EPA encourages ADEQ to continue its practice of seeking the advice of compliance staff regarding periodic monitoring of permitted sources.

**3.2 Finding:** ADEQ would like more guidance from EPA regarding CAM implementation for certain source categories.

**Discussion:** ADEQ permit staff and management stated that they need more guidance from EPA regarding the implementation of CAM. ADEQ expects to process later this year several applications for renewal permits. Many of these sources have units which will be subject to CAM. ADEQ permit engineers expressed a need for training and guidance on how to implement the CAM rule for these sources. ADEQ management indicated that they are interested in specific guidance from EPA and would also be interested in any training courses which EPA might be able to provide or recommend for ADEQ staff.

Thus far, ADEQ has proposed CAM plans for electrostatic precipitators used to control particulate matter on coal fired utilities, and will be processing permits for other industry sectors shortly. ADEQ may want to consider devoting some resources to the development of CAM templates for key industry sectors for which it has to issue renewals. EPA will do its best to be available to assist with the development of these templates as well as to coordinate any trainings or guidance which ADEQ may need to implement CAM for these sources.

**Recommendation:** EPA and ADEQ should coordinate to develop CAM guidance that would be useful for ADEQ and other Arizona air quality agencies. EPA Region 9 will work with EPA Headquarters to provide CAM training to ADEQ and the other Arizona agencies.

**3.3 Finding:** ADEQ does not have any written guidance to develop adequate periodic monitoring for various source categories.

**Discussion:** During EPA's field visit, ADEQ permit staff stated that ADEQ does not have any written guidance for different source categories that could be used to develop periodic monitoring for Title V permits. When developing periodic monitoring, permit engineers typically use for guidance past permits issued by ADEQ or EPA. ADEQ has developed an opacity monitoring schedule as part of the periodic monitoring requirements for similar sources of particulate matter

(“PM”). While this schedule has proved useful for certain PM sources, ADEQ staff indicated that they would benefit from a more comprehensive periodic monitoring guidance or templates for other source categories.

ADEQ should consider developing periodic monitoring guidance or templates for certain key source categories which ADEQ permits. This would be especially helpful for sources subject to ADEQ’s existing source performance standards, as many of these rules do not include appropriate monitoring requirements. Such guidance would help to ensure consistency among ADEQ’s permits and avoid disputes with sources over what type of periodic monitoring is appropriate.

**Recommendation:** ADEQ should consider developing periodic monitoring guidance for the specific source categories that it permits. Permits and compliance staff should work together toward its development. EPA is available to assist in developing such a guidance document.

**3.4 Finding:** Compliance staff suggested that ADEQ could develop source-specific forms for semi-annual monitoring reports.

**Discussion:** During EPA’s field visit, compliance staff suggested that ADEQ’s permit staff could develop source-specific forms in conjunction with permit issuance, which identify the required contents of the semi-annual monitoring reports each Title V source is required to submit. Title V sources are required, pursuant to 40 CFR 70.6(a)(3)(iii)(A), to submit a monitoring report every six months documenting all required monitoring and identifying any deviations from permit requirements.

According to ADEQ compliance staff, the majority of Title V sources do not fully understand what information these reports should contain. Staff suggested that in conjunction with the development of permit monitoring conditions, permit staff could identify the specific monitoring activities and data which need to be included in these reports. Sources would then be able to specifically identify the monitoring they completed during the term of the report as well as any deviations from specific monitoring related permit requirements. By developing a source-specific form for each permit, the content of these reports could be greatly improved.

**Recommendation:** ADEQ should consider developing a source-specific form which identifies specific content that should be included in semi-annual monitoring reports. ADEQ may want to consult with other air agencies that already have developed such forms for their sources. See also Finding 6.3.

#### 4. PUBLIC PARTICIPATION AND AFFECTED STATE REVIEW

This section examines ADEQ procedures used to meet public participation requirements for Title V permit issuance. 40 CFR 70.7(h) contains the federal Title V public participation requirements. Title V public participation procedures must apply to initial permit issuance, significant permit modifications, permit renewals, and synthetic minor permit issuance. Adequate public participation procedures must provide for public notice including an opportunity for public comment and public hearing on the proposed permit, permit modification, or renewal. Proposed permit actions must be noticed in a newspaper of general circulation or a State publication designed to give general public notice, to persons on a mailing list developed by the permitting authority, to those persons requesting in writing to be on the mailing list, and by other means necessary to assure adequate notice to the affected public.

The public notice should, at a minimum, identify the affected facility; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials, and all other materials available to the permitting authority that are relevant to the permit decision; a brief description of the required comment procedures; and the time and place of any hearing that may be held, including procedures to request a hearing. See 40 CFR 70.7(h)(2).

The permitting authority must keep a record of the public comments and of the issues raised during the public participation process so that EPA may fulfill the Agency's obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted. The public petition process, 40 CFR 70.8(d), allows any person to petition the EPA to object to a Title V permit if the EPA does not object to the permit in writing as provided under 40 CFR 70.8(c). Public petitions to object to any Title V permit must be submitted to EPA within 60 days after the expiration of the EPA 45-day review period, and any petition submitted to EPA must be based only on objections to the permit that were raised during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period.

**4.1 Finding:** It is unclear whether ADEQ routinely notifies affected states when taking permitting actions. ADEQ notifies tribes in the same way as neighboring municipalities.

**Discussion:** A.A.C. R18-2-307(D) requires the Director to notify affected states at or before the time that a permit is proposed for public comment. During our evaluation, ADEQ's staff did not identify a consistent process that required that affected states be notified. A review of several permit records lead to the conclusion that some notification is being provided, but it was unclear as to whether

or not affected states were routinely notified of Title V permitting decisions. ADEQ's process for notifying tribes, however, appeared to be sufficient.

**Recommendation:** EPA encourages ADEQ to develop a policy or guidance document that informs staff of the need to routinely notify affected states of relevant permitting activities.

- 4.2 Finding:** The Air Quality Division is responsible for keeping information on the air portion of the ADEQ website up-to-date. ADEQ puts public notices and press releases on its website. Although there is a well-defined process for updates, updating is not done routinely.

**Discussion:** The ADEQ website is a powerful tool to make Title V information available to the general public. ADEQ does an excellent job of ensuring that public notices and press releases are posted on a timely basis. At the time of the evaluation, some of the Title V information on ADEQ's Web site appeared to be out-of-date.

**Recommendation:** EPA encourages ADEQ to consider developing a process for ensuring that its Web site has the most recent permitting information available. This information could include: proposed and final Title V permits, technical support documents, citizen petition procedures, responses to public comments, and general Title V information and guidance.

- 4.3 Finding:** ADEQ generally grants extensions to public comment periods when asked by the public.

**Discussion:** ADEQ has received requests for extensions to public comment periods and has granted them in almost all cases. The Arizona Clean Fuels permit is an example of this practice.

**Recommendation:** EPA encourages ADEQ to continue granting extensions of public comment periods on permitting actions when appropriate.

- 4.4 Finding:** ADEQ does not have a process for notifying the public regarding the start of the public's 60-day petition period under Title V.

**Discussion:** Under 40 CFR 70.8(d), anyone who provided comments during the public comment period for a part 70 permit is provided the ability to petition EPA on any issues raised during the public comment period. While part 70 does not require that permitting agencies actively notify the public of their ability to petition EPA, we believe that it is good practice to make the public aware of the administrative process. We should note that to date, this has not been an issue that has been raised by the public within ADEQ's permitting jurisdiction.

**Recommendation:** EPA recommends that ADEQ develop a method for notifying commenters of their ability to petition EPA and the timing associated with the petition process.

- 4.5 Finding:** ADEQ issues press releases when there is significant public interest or compliance issues associated with its permitting actions.

**Discussion:** ADEQ has developed a policy that includes publishing press releases related to permitting actions that are identified as having significant public interest or past (or present) compliance issues associated with the issuance of new or revised Title V permit.

**Recommendation:** EPA encourages ADEQ to continue this practice.

- 4.6 Finding:** ADEQ uses a multi-pronged approach to public participation that tries to reach as many people as possible. For example, ADEQ translates public notices and publications into Spanish.

**Discussion:** ADEQ appears to understand the value of an inclusive public notice approach that uses as many means of communicating its permitting actions as possible. ADEQ conducts Spanish language outreach when necessary. Public notice, ad space, and publications are translated into Spanish using in-house expertise. ADEQ appears to understand the need for such an approach to ensure that the public is afforded the opportunity to be informed of its permitting actions and the resulting increase in credibility that results from this approach.

**Recommendation:** EPA encourages ADEQ to continue this practice.

- 4.7 Finding:** ADEQ has done several environmental justice (“EJ”) analyses.

**Discussion:** As a result of community concerns, ADEQ has performed several EJ analyses that incorporated environmental as well as demographic information to ensure that impacts of its permitting decisions were well characterized. As an example, ADEQ performed an extensive EJ analysis of the Arizona Clean Fuels project, a proposed refinery outside of Yuma, Arizona. Copies of this analysis may be obtained from ADEQ.

**Recommendation:** EPA encourages ADEQ to continue these types of analyses as appropriate.

- 4.8 Finding:** When permits are re-proposed for substantive changes like changing allowable emissions, permit application changes or changes in location, ADEQ publishes a revised public notice.

**Discussion:** When a permittee revises its permit application or requests a change in its allowable emissions or changes its project location after ADEQ has published an

initial public notice, ADEQ will publish a new public notice that reflects these types of changes. An example of this practice occurred when the Arizona Clean Fuels project changed location.

**Recommendation:** EPA encourages ADEQ to maintain this practice.

**4.9 Finding:** ADEQ would like EPA to provide training guidance on recommended public participation and public involvement procedures.

**Discussion:** During the course of our evaluation, ADEQ expressed a need for EPA training or guidance to ensure that ADEQ consider as many approaches as possible when seeking public participation in the Title V permitting process.

**Recommendation:** EPA will work with ADEQ to provide public involvement training. For additional information and brochures concerning public participation and involvement, see <http://www.epa.gov/publicinvolvement/brochures/>.

## 5. PERMIT ISSUANCE / REVISION / RENEWAL

This section focuses on the permitting authority's progress in issuing initial Title V permits and the Department's ability to issue timely permit renewals and revisions consistent with the regulatory requirements for permit processing and issuance. 40 CFR 70.7 describes the required Title V program procedures for permit issuance, revision, and renewal of a Title V permit. Title V of the Clean Air Act Amendments of 1990 sets deadlines on permitting authorities for issuing all initial Title V permits. EPA, as an oversight agency, is charged with ensuring that these deadlines are met as well as ensuring that permits are issued consistent with Title V requirements.

**5.1 Finding:** ADEQ completed its initial permit issuance and does not foresee any significant roadblocks to timely Title V permit renewals.

**Discussion:** ADEQ completed issuance of all initial Title V permits in October 2003. This met the deadline that ADEQ had committed to in a 2001 letter to EPA. ADEQ has also submitted a schedule to EPA which provides deadlines for ADEQ to complete timely issuance of all its renewal permits.

As of March 30, 2006, ADEQ has issued 23 renewal Title V permits and expects to process later this year several more Title V permit renewal applications for sources whose original Title V permits are up for renewal. ADEQ has stated that one of the major roadblocks to issuance of its permits (both revisions and renewals) is not receiving timely and adequate information from sources. Please see Finding 5.6 for further information, including recommendations to improve the timeliness of permit issuance.

**Recommendation:** EPA encourages ADEQ to continue the timely issuance of Title V permit revisions and renewals, as well as to continue to find additional means of educating applicants on how to submit complete permit applications, as discussed in Finding 5.6. Additionally, ADEQ should ensure that it maintains adequate staffing levels and resources to continue renewing Title V permits in a timely manner.

**5.2 Finding:** ADEQ does not have a process to ensure that pre-construction review requirements from ADEQ's State Implementation Plan ("SIP"), including analyses of Title I applicability, are met when processing off-permit changes and minor permit revisions.

**Discussion:** ADEQ currently issues combined pre-construction and operating permits to all of its sources. ADEQ's federally-approved SIP, however, contemplates a bifurcated permitting program that consists of separate installation and operating permits that are to be issued to its sources. In discussions with EPA, ADEQ has indicated its intent to revise its current rules to address outstanding approvability issues so that it can submit those to EPA for approval in its SIP. To assist ADEQ, EPA provided ADEQ with suggestions regarding



changes to Rules R9-2-317 (Facility Changes Allowed Without a Permit Revision) and R9-2-319 (Minor Permit Revisions) to ensure consistency with ADEQ's SIP-approved NSR rules, most recently in a letter dated May 4, 2006. See Appendix G. EPA is encouraged by ADEQ's plans to revise its rules and believes that the resolution of this SIP gap is necessary to fully implement ADEQ's unitary permitting program.

ADEQ's current SIP Rule R9-3-301 requires certain sources to obtain an installation permit prior to commencing construction of a new source and for certain modifications to existing sources. ADEQ's non-SIP-approved rules, however, allow Title V sources to commence certain construction projects without ensuring compliance with the SIP's pre-construction review requirement. Part 70 allows sources to make off-permit changes and minor modifications without requiring a permit revision. Underlying these provisions, however, is the assumption that the source has already obtained the necessary pre-construction permits to make the change. In our May 4, 2006, letter we include recommendations for revising ADEQ's Part 70 Rules R18-2-317 and R18-2-319 to ensure consistency with ADEQ's SIP-approved NSR program.

Similarly, ADEQ does not have a well-defined process for ensuring that off-permit changes and minor permit revisions are not Title I modifications. When ADEQ receives an off-permit change notification from a source, the notice is assigned to a permit engineer who reviews the request. A description of the change is entered into the AZURITE system database, and then the notice is placed in the source's file. However, a justification for the change as an off-permit change is not consistently recorded in AZURITE. ADEQ does not formally approve these notices. Similarly, minor permit revisions and their technical support documents do not typically include adequate analyses of Title I applicability. Typically, ADEQ accepts the source's estimates of its emissions increases without further analysis (See Findings 5.7-5.8 for further information).

Furthermore, although ADEQ's SIP does not require pre-construction permits for the majority of non-major facility changes at major sources, EPA believes that it is important to document the basis for any determination that a pre-construction permit is not required prior to the approval of each off-permit change and each minor permit revision that ADEQ issues to major sources of air pollution.

EPA found examples of both permit revisions and off-permit changes that did not contain adequate analyses in the permit record of both pre-construction permit and Title I applicability. In some cases these changes involved a netting transaction or required a source to obtain an emissions limit to avoid new source review requirements. For example, during EPA's review of the renewal permits for the El Paso Natural Gas ("EPNG") compressor stations, EPA found instances in which EPNG installed or replaced new turbines and/or turbine components without first obtaining a permit revision or providing an adequate analysis of Title I applicability. Instead, EPNG provided ADEQ with a seven-day notice,

pursuant to ADEQ Rule R18-2-317, to document the installation of the new equipment. ADEQ or EPNG, however, did not demonstrate that these changes were not Title I modifications. ADEQ should have required EPNG, pursuant to A.A.C R18-2-317 §(A)(1), to provide a demonstration showing that the installation of these turbines did not either result in a significant net emissions increase, nor require an installation permit prior to construction.

EPA believes that additional documentation from both ADEQ and industry should be provided in order to ensure that the requirements of ADEQ SIP Rule R9-3-301 are met before making changes that are believed to qualify as off-permit or minor permit revisions according to A.A.C. R18-2-317 and R18-2-319. This practice will ensure that Title V permits and revisions include all applicable requirements, including any pre-construction review permits. EPA is concerned that ADEQ's Title V operating permit change provisions conflict with ADEQ's SIP which may require installation permits before changes at a source can be made. Ignoring the requirements of SIP Rule R9-3-301 may leave a source vulnerable to enforcement action for failing to obtain a proper installation permit.

**Recommendation:** ADEQ must ensure that sources proposing to make off-permit changes and minor permit revisions comply with the requirements of ADEQ's SIP. Additionally, ADEQ must change its practice such that it requires sources to sufficiently demonstrate that all proposed changes are not Title I modifications. This issue should be addressed on a case-by-case basis for future facility changes and permit revisions. For minor permit modifications, such determinations should be documented by ADEQ in a technical support document. For off-permit changes, ADEQ should also adequately document the determinations either through a memorandum to the file or by consistently recording off-permit determinations and justifications in AZURITE. Finally, we encourage ADEQ to make revisions to its current rules consistent with EPA's May 4, 2006, letter.

**5.3 Finding:** ADEQ has a well-defined procedure for internal permit review and issuance for all initial permits, permit revisions and renewals.

**Discussion:** ADEQ has established an effective procedure for internal permit review and permit issuance. All permits and revisions are typically first reviewed by peers in the permits office, then by first and second line supervisors, and finally by compliance staff. After a permit has been through ADEQ's internal review, it is sent out for a 30-day public comment period, followed by a 45-day EPA review period. Once ADEQ has responded to public and EPA comments and the permit is ready for issuance, an invoice is sent to the source. Sources have sixty days to pay the remaining balance on their permit processing fee. When ADEQ receives payment for the outstanding fees, the permit or revision is signed by the Director. If a source fails to pay its fee balance, ADEQ initiates appropriate enforcement action to bring the source into compliance. A hard copy of the final, signed permit is sent to both the source and EPA.

**Recommendation:** ADEQ should continue to implement its internal permit review and issuance procedure.

**5.4 Finding:** ADEQ staff identified a lack of guidance for determining whether a revision should be processed as administrative, minor, significant, or off-permit.

**Discussion:** ADEQ stated in response to EPA’s questionnaire that it processes the majority of its permit changes as “off-permit changes allowed without a permit revision” and more than 94% of its permit changes are processed as minor, administrative or off-permit. ADEQ staff, during interviews with EPA, identified cases where a source submitted an application for either an off-permit change or a minor revision that should have been submitted as a significant permit revision. According to staff, in many cases ADEQ required the source to resubmit the appropriate application; in some cases, however, it did not. ADEQ permit staff stated that ADEQ has not yet developed a guidance or protocol to assist ADEQ permit staff in determining the appropriate category for permit changes. Staff, instead, refer to the provisions or “gatekeepers” in Rules R18-2-317 and R18-2-319 when making a determination.

There appears to be uncertainty among ADEQ permit and compliance staff as well as the regulated community regarding how to classify permit revisions. In addition, because ADEQ does not have an adequate procedure for determining if pre-construction review requirements are being met (see Finding 5.2), it is especially important that ADEQ develop adequate guidance or a standard protocol for determining whether a change qualifies as off-permit, minor, or significant, and has met all pre-construction review requirements.

Significant permit revisions require a public notice and comment period and do not allow the source to implement the change before the permit modification is approved by ADEQ and reviewed by EPA, while minor revisions and off-permit changes do not require public notice or pre-approval from ADEQ before the source can initiate the change. Developing a guidance document or protocol that outlines the criteria for each type of revision and all the required regulatory analyses when making a change, would help both ADEQ staff and the regulated community better understand how to treat facility and permit changes consistent with ADEQ’s existing rules and SIP. Such a document would also help to ensure that all permit changes that are required to be public noticed and pre-approved by the Director, meet these requirements.

**Recommendation:** ADEQ should develop and implement a guidance document for determining if a permit revision is significant, minor or off-permit consistent with Part 70, ADEQ Rules R18-2-317, R18-2-318, R18-2-319 and R18-2-320, and ADEQ’s existing SIP. This issue should be addressed on a case-by-case basis for future permit revisions.

**5.5 Finding:** ADEQ has updated its process for submittal of permit revisions to EPA for its 45-day review.

**Discussion:** In the past, ADEQ had not consistently sent all of its minor and significant Title V permit revisions to EPA for review. Since 2001, ADEQ has updated its practice and now sends all permit revisions to EPA for its 45-day review. During EPA’s site visit, however, some permit engineers were unaware that all minor permit modifications at Title V sources should be sent to EPA for review, as required by 40 CFR 70.7(e)(2)(iv).

**Recommendation:** ADEQ should continue to send all proposed permit revisions, including minor permit revisions, to EPA for review and should clarify this policy among its staff.

**5.6 Finding:** One of the major barriers to permit issuance (including initial issuance, revisions and renewals) identified by staff is not receiving necessary information from the source.

**Discussion:** ADEQ staff stated the major barrier to issuing timely permits is not receiving enough information from sources. According to ADEQ staff, sources do not include adequate information in their applications for ADEQ permit engineers to process their permits.

Many engineers pointed to the LTF rule as having been a hindrance to obtaining necessary information from sources on various occasions. The LTF rule allows ADEQ to stop the LTF clock only once during the “substantive review period.”<sup>9</sup> ADEQ can make additional requests for information, but the clock will continue to run, and ADEQ must continue to work on the permit or face consequences, including refunding fees, fee excusal, and penalties.<sup>10</sup> While the LTF rule assists in assuring that permits are processed in a timely manner, it is unclear to EPA what mechanisms ADEQ has to obtain information from a source in a timely manner once it has exhausted its opportunity to stop the LTF clock during the substantive review period.

EPA notes that 40 CFR part 70 requires permitting authorities to be able to obtain necessary information to evaluate or take final action on Title V permit

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<sup>9</sup> Although ADEQ can stop the LTF clock during the administrative completeness review (“ACR”), this review is merely to check that all components of an application have been submitted. Our understanding is that ADEQ interprets this application completeness determined during the ACR as equivalent to the completeness check required by the first half of 40 CFR 70.5(a)(2). Our understanding is that ADEQ interprets the completeness check during the substantive review (“SR”) as being equivalent to the second half of 40 CFR 70.5(a)(2), which states: “If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response.”

<sup>10</sup> See LTF rule, Arizona Administrative Code (AAC) R-18-1-501 through R-18-1-525.

applications. Sources that fail to provide information as requested by the permitting authority are at risk of losing their application shields and the ability to operate without a permit. 40 CFR 70.5(a)(2). The LTF rule may be inconsistent with these requirements.

**Recommendation:** ADEQ should look for ways to ensure that it receives adequate information from its sources at the initial application submittal and during the substantive review phase. ADEQ should consider changes to its standard application form and/or developing guidance or policy documents to address areas which industry frequently fails to include in its applications. See also Finding 2.5 for further information.

EPA also requests that ADEQ analyze the obligations imposed by the LTF rule in comparison to the requirements of 40 CFR 70.5(a)(2) to ensure that the LTF rule is not inconsistent with EPA's requirements. ADEQ must also ensure that the LTF rule does not adversely impact the ability of permits staff to obtain information necessary for the issuance of permits that assure compliance with all applicable requirements.

**5.7 Finding:** ADEQ does not typically write a technical support document for minor permit revisions.

**Discussion:** ADEQ does not typically write a separate TSD or "statement of basis" for minor permit revisions. ADEQ instead submits to EPA a procedural checklist for minor permit issuance along with the new permit conditions. 40 CFR 70.7(a)(5) provides "the permitting authority shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The permitting authority shall send this statement to EPA and anybody else who requests it."

It is important that ADEQ adequately support all of its permitting decisions, including minor permit revisions. Many of the minor permit revisions that ADEQ issues involve the installation of new equipment which may require an analysis of major modification applicability or trigger new applicable requirements. For each change a facility is requesting to be processed as a minor permit revision, ADEQ should include a written analysis of any emissions changes, any new applicable requirements, including a Title I applicability analysis if appropriate, and any monitoring included in the revision to assure compliance with applicable requirements.

**Recommendation:** EPA recommends that ADEQ prepare TSDs for all minor permit revisions and include them in permit review submittals to EPA. The scope and detail of the TSD should be commensurate with the complexity of the proposed project, particularly if it involves installation of new equipment or pollution controls.

**5.8 Finding:** ADEQ does not consistently include a justification for allowing a source to make a change as an off-permit revision, pursuant to ADEQ Rule R18-2-317, in the permit record.

**Discussion:** ADEQ's practice for off-permit changes (changes processed under ADEQ Rule R18-2-317 and sometimes referred to as "317 changes"), is to enter each off-permit change in the AZURITE database and to file the notification letter with the "parent" permit. However, ADEQ is not consistent about ensuring that a justification for allowing the change without a permit revision is recorded somewhere in the permit record. When entering the data into AZURITE, the AZURITE screen allows a space for comments, but it is up to the permit engineer to enter the justification in that space. During a demonstration of AZURITE, we observed that, in many cases, the permit engineer simply entered a description of the change but included no justification for having allowed the change without a permit revision.

Similar to Finding 5.7, it is important that ADEQ adequately support its permitting actions, including its decisions to allow sources to make changes pursuant to R18-2-317. ADEQ should document its review and analysis of all requests for off permit changes.

**Recommendation:** EPA recommends that in addition to including a description of each off-permit change and/or a justification in the AZURITE system, ADEQ also ensure that a written justification is included in the permit file for each source which makes a qualifying off-permit change pursuant to R18-2-317. This procedure should be memorialized in a written policy or otherwise documented in ADEQ's standard operating procedures.

## 6. COMPLIANCE

This section addresses ADEQ practices and procedures for issuing Title V permits which ensure permittee compliance with all applicable requirements. Title V permits must contain sufficient requirements to allow the permit authority, EPA, and the general public to adequately determine whether the permittee complies with all applicable requirements.

Compliance is a central part of the Title V permit program. Compliance assures a level playing field and does not allow a permittee an unfair economic advantage over its competitors who comply with the law. Adequate conditions in a Title V permit which both determine and assure compliance with all applicable requirements also result in greater confidence in the permitting authority's Title V program among both the general public and the regulated community.

**6.1 Finding:** During ADEQ's internal Title V draft permit review process, permit staff provide compliance staff an opportunity to review draft permits, and permit staff are receptive to changes to permit conditions suggested by compliance staff.

**Discussion:** ADEQ staff and management reported to EPA that during the Title V permit development and review process, permit and compliance staff engage in detailed discussions concerning draft permit conditions. Permit staff revise compliance-related Title V conditions per these discussions, and as a result ADEQ Title V permits contain monitoring, testing, recordkeeping, and reporting requirements necessary for ADEQ to determine source compliance with applicable requirements.

Good communications between staff and management in the ADEQ permits and compliance offices result in clearer, more enforceable Title V permit conditions which benefit both ADEQ and the permittees. Ultimately, stronger Title V permit conditions result in improved compliance among the regulated community.

**Recommendation:** EPA commends the excellent communication between the ADEQ permit and compliance offices. The result is clearer, more enforceable Title V permit conditions and better compliance among the regulated community. We encourage ADEQ to continue fostering that practice.

**6.2 Finding:** Title V compliance certifications, deviation reports, and semiannual monitoring reports have been very helpful to ADEQ compliance staff.

**Discussion:** ADEQ staff generally reported to EPA that compliance certifications, deviation reports, and semiannual monitoring reports have been very helpful to compliance staff for source compliance determinations and for inspection and enforcement targeting activities. Specific benefits include: 1) improved targeting of ADEQ inspection and compliance/enforcement activities because the Title V reporting documents provide comprehensive and thorough information

concerning source compliance (for example, compliance staff reported that ADEQ is currently investigating boat manufacturers that may not be in compliance with various Title V permitting requirements); 2) improved compliance among the regulated community because sources and ADEQ have become more knowledgeable and sophisticated concerning source compliance requirements; and 3) more uniform understanding of and compliance with Title V permit conditions across various source categories to the benefit of both ADEQ and the regulated sources.

**Recommendation:** EPA commends ADEQ in its review and use of Title V compliance certifications, deviation reports, and semiannual monitoring reports, and encourages ADEQ to continue this practice.

**6.3 Finding:** Title V reporting templates or checklists may make Title V reporting simpler, especially for smaller Title V sources.

**Discussion:** Staff suggested to EPA that ADEQ should consider developing templates or checklists for both Title V semiannual reports and compliance certifications. While large Title V sources have the sophistication and resources to develop comprehensive Title V reports, ADEQ reported that smaller Title V sources required significant assistance to develop the proper compliance certifications and semiannual reports. Staff recommended that ADEQ consider developing source-specific or source category templates/checklists to ease ADEQ's compliance assistance burden and to ensure that the Title V reports contain all the necessary compliance information.

**Recommendation:** EPA encourages ADEQ to consider developing source-specific or source category-specific templates or checklists for Title V compliance certifications and semiannual reports.

**6.4 Finding:** ADEQ has not changed its standard Title V permit application form to include Compliance Assurance Monitoring ("CAM") requirements for renewal permits.

**Discussion:** Pursuant to the CAM rule, most Title V permit owners and operators must submit CAM plans to ADEQ with their Title V permit renewal applications. In general, CAM applies at a Title V source to each large pollutant specific emission unit that meets a three-part test: the unit must 1) be subject to an emission limitation or standard, 2) use a control device to achieve compliance, and 3) have pre-control emissions that exceed or are equivalent to the major source threshold. See 40 CFR § 64.2(a).

CAM plans must also contain various elements. See 40 CFR § 64.4. OAQPS has developed a draft CAM Technical Guidance Document that describes the rule implementation process, includes example control device monitoring illustrations, and has case studies from actual situations. The CAM Technical Guidance



Document can be found on the EPA Technology Transfer Network at <http://134.67.104.12/html/emtic/cam.htm>.

**Recommendation:** EPA encourages ADEQ to review its standard Title V permit application form to ensure that applicants include a CAM plan as part of the original application.

**6.5 Finding:** ADEQ permits and compliance staff are not generally aware of Title V permit compliance plans, compliance plan requirements, or compliance schedules.

**Discussion:** Although ADEQ incorporates, when necessary, appropriate compliance schedule requirements into Title V permits (for example -- Apache Nitrogen and Phelps Dodge Miami), both ADEQ compliance and permit staff were not generally aware of Title V compliance schedule requirements.

Note: Title V permit compliance schedule requirements are contained in 40 CFR §§ 70.5(c)(8) and 70.6(c)(3), (4). In addition, A.A.C. R18-2-309(5) requires all ADEQ air quality permits to contain a compliance plan, and when necessary, a compliance schedule.

**Recommendation:** EPA recommends that ADEQ include in its general Title V training for permits and compliance staff a module concerning compliance schedule/compliance plan requirements.

## 7. RESOURCES AND INTERNAL MANAGEMENT

The purpose of this section is to evaluate how the permitting authority is administering its Title V program. With respect to Title V administration, EPA's program evaluation (1) focused on the permitting authority's progress toward issuing all initial Title V permits and the permitting authority's goals for issuing timely Title V permit revisions and renewals; (2) identified organizational issues and problems; (3) examined the permitting authority's fee structure, how fees are tracked, and how fee revenue is used; and (4) looked at the permitting authority's capability of having sufficient staff and resources to implement the Title V program.

An important part of the each permitting authority's Title V program is to ensure that the permit program has the resources necessary to develop and administer the program effectively. In particular, a key requirement of the permit program is that the permitting authority establish an adequate fee program. Regulations concerning the fee program and the appropriate criteria for determining the adequacy of such programs are set forth under 40 CFR 70.9 of the Title V regulations.

**7.1 Finding:** ADEQ, like the other Arizona air quality permitting programs, faces periods of high staff turnover that may be attributable to ADEQ's ability to offer salaries that compete with offers made by industry, consulting companies, and sometimes other air quality regulatory agencies to experienced staff, as well as the absence of a career ladder or other system which allows permit engineers to show growth in their positions.

**Discussion:** During our evaluation, both management and staff indicated that ADEQ has experienced several periods of high turnover among its permit engineers. Periodic episodes of high turnover can result in a less efficient Title V program, as newly hired staff members are not as efficient at processing permit applications. In addition, new staff members generally require expensive and specialized training in addition to professional experience before being able to efficiently process the more complex permits, including Title V operating permits and permits for new and modified major sources.

Staff members explained that, in their opinion, the primary factor that contributes to periodic episodes of high turnover relate to the salaries offered by industry, consultants, and in some cases, other air quality regulatory agencies in Arizona, to engineers with more than two years of relevant permitting experience. Some interviewees indicated that they believed ex-staff members might have remained with the State had there been a ladder that could be used to gauge and display growth with respect to their career. While most interviewees acknowledged that the stability of their position was appreciated, most complained that the only reward for doing good work is to be assigned more difficult and complex work, while their pay and title remain the same as those of a newly hired engineer. The conclusion that many interviewees expressed was that the only way to ensure career growth, both in

terms of title and income, is to either receive a promotion into management or to leave ADEQ.

**Recommendation:** It is EPA's experience with other programs that staff turnover can erode an agency's institutional knowledge regarding permitted facilities, which can create delays in the issuance of both new and renewed Title V permits.<sup>11</sup> Based upon discussions with ADEQ's permitting staff, EPA believes that establishment of a career ladder, or another system in which engineers can demonstrate growth through their careers, might reduced the frequency and severity of staff turnover.

**7.2 Finding:** The Arizona Attorney General's office represents and advises ADEQ on air quality permitting, enforcement, and program development matters and participates in any meeting at which ADEQ meets with a permittee or others who have legal counsel.

**Discussion:** It appears that the Arizona Attorney General's Office provides adequate support to ADEQ on a wide range of air quality matters. However, the extent of the Attorney General's Office workload at times restricts its ability to provide extensive and concentrated attention on complex cases that occasionally arise. Some examples include complex permits involving highly specialized industries. Both the Attorney General's Office and ADEQ stated that a minimal additional staffing increase (0.5 FTE or "Full Time Equivalent") for the Attorney General's Office would be desirable to handle more complex issues that require extensive attention.

**Recommendation:** ADEQ gets adequate support from the Arizona Attorney General's Office for a wide range of matters. The two organizations, however, should consider ways of securing a minimal additional staffing increase for the Attorney General's Office to assist in handling some of the more complex issues that require extensive time and attention.

**7.3 Finding:** EPA believes that ADEQ's current permit staffing is adequate for the air quality permitting work load.

**Discussion:** ADEQ currently has fourteen permit engineers, of which six FTE are assigned to Title V permit work. EPA believes that this current level of staffing is adequate for ADEQ's current work load, but is uncertain as to whether or not additional staff may be needed in order to ensure timely issuance of renewal Title V permits.

**Recommendation:** EPA encourages ADEQ to ensure that staffing in the Air Quality Permits Section continues to be adequate for addressing the work load.

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<sup>11</sup> See Maricopa County Environmental Services Department Title V Operating Permit Program Evaluation Final Report dated May 18, 2005, and Pima County Department of Environmental Quality Title V Operating Permit Program Evaluation Final Report dated September 21, 2004.

**7.4 Finding:** Title V funds are tracked and accounted for in a precise and detailed manner.

**Discussion:** The Title V (Part 70) regulations require that permit programs ensure that Title V fees that are collected are adequate to cover Title V permit program costs and are used solely to cover the permit program costs.<sup>12</sup> ADEQ has a clear accounting of its Title V program costs. In addition, Title V revenues are tracked separately from all other revenues collected by ADEQ. Two examples:

(1) Consultant Study. ADEQ hired a consultant to provide an independent review of the Air Permits Administrative Fund (fund for both Title V and non-Title V programs) because the fund had experienced deficits since at least 2000. The study concluded, in part, that the hourly permit processing fees should be raised to reflect the true cost of permit processing, annual administrative and emission fees should be raised to address the current deficit, and the timing of issuing invoices should be changed. ADEQ successfully followed these recommendations. Prior to this study, the fund was operating at a deficit of approximately \$1.5 million. ADEQ has eliminated the fund deficit. The FY-05 end-of year fund numbers are revenues of \$1.91 million and expenditures of \$1.87 million.

(2) Recent switch to budgeting by program. During our field interviews, ADEQ noted that it was in the process of revising the budgeting system from tracking costs and revenues by accounting code to tracking by program. Tracking by program will allow ADEQ to more easily distinguish between Title V and non-Title V costs and revenues. Since ADEQ's Air Permits Administrative Fund includes both Title V and non-Title V costs and revenues, this improvement is important. We understand that ADEQ recently made this transition.

**Recommendation:** EPA encourages ADEQ to maintain its existing good accounting practices.

**7.5 Finding:** ADEQ's Title V program is more effective due to clear communication and coordination among its various program offices.

**Discussion:** During the course of our review, both management and staff at ADEQ cited good communication and coordination among enforcement, compliance, technical support and permitting in the preparation of Title V permits. EPA believes that improved communication and collaboration among the various offices at ADEQ is essential to effective implementation of the Title V program. The presence of such an environment at ADEQ has led to successful implementation of the Title V program.

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<sup>12</sup> See 40 CFR 70.9(a).

**Recommendation:** EPA encourages ADEQ's management and staff to continue to work to ensure that functionality and effectiveness is maintained among the various offices within the Department that share responsibility for a credible Title V program.

## 8. TITLE V BENEFITS

The purpose of this section is to evaluate how the permitting authority's existing air permitting and compliance programs have benefited from the administration of the permitting authority's Title V program. The Title V permit program is intended to generally clarify which requirements apply to a source and enhance compliance with any Clean Air Act requirements, such as NSPS or SIP requirements. The program evaluation for this section is focused on reviewing how the permitting authority's air permitting program changed as a result of Title V, resulted in improved records management and compliance, and encouraged sources to pursue pollution prevention efforts.

**8.1 Finding:** As a result of the Title V program, ADEQ has greatly improved the quality of both its major source and minor source permit programs.

**Discussion:** During EPA's field visit, both ADEQ management and staff reported to EPA that the Title V program has led to great improvements in the quality and consistency of both major source and minor source permits compared to existing pre-Title V ADEQ installation and operating permits. In addition, Title V has resulted in ADEQ reviewing and updating its major source permits, some of which were more than 15 years old. ADEQ major source permits are now consistent in that all ADEQ Title V permit typically contain the following sections: 1) Summary; 2) Attachment A -- General Provisions; 3) Attachment B -- Specific Conditions; 4) Attachment C -- Applicable Requirements; 5) Attachment D -- Insignificant Activities; and 6) Attachment E -- Reporting Forms.

Since the introduction of the Title V program, major source permit conditions are now more thorough, comprehensive, and consistently applied. ADEQ has also carried these permitting practices over to its minor source permit program, resulting in comparable improvements to its minor source permits. ADEQ also reports that Title V has been a great benefit to the way ADEQ conducts its permitting business and that the consistency brought to permits (both in general and for source category permits) by the Title V program has also been very beneficial to the permittees in understanding their permit obligations and in speeding the permit application and issuance process.

**Recommendation:** EPA commends ADEQ on the great improvements it has made to both its major source and minor source permit programs.

**8.2 Finding:** ADEQ Technical Support Documents are comprehensive and well-written.

**Discussion:** ADEQ Title V permit TSDs for initial, renewal, and significant modifications are thorough, comprehensive, and well-written. An ADEQ TSD typically contains the following sections: 1) Introduction; 2) Process Description; 3) Emissions; 4) Applicable Regulations Verification; 5) Periodic Monitoring; 6) Testing Requirements; and 7) Insignificant Activities. The TSDs are clear,

concise, and easy to follow. The TSDs provide the permittees, EPA, and the general public the information necessary to determine the requirements applicable to emission units at Title V facilities and the methods used to determine compliance with these requirements.

**Recommendation:** EPA commends ADEQ for its high quality TSDs. ADEQ TSDs could be used as a model for Title V TSDs in other air pollution control agencies.

**8.3 Finding:** The ADEQ Title V program has made permit compliance problems much easier to identify and has improved compliance among the regulated community.

**Discussion:** ADEQ management and staff reported that the Title V program and the improved consistency of conditions incorporated into Title V permits have made identification of compliance problems much easier for ADEQ. In addition, Title V has resulted in the regulated community being much more sophisticated and aware of its compliance obligations, which has led to improved compliance with permit conditions and applicable requirements. In particular, ADEQ reported that Title V has led to greatly improved compliance among facilities in source categories not consistently regulated in the past.

**Recommendation:** EPA encourages ADEQ to continue its efforts to more easily identify permit compliance problems and improve compliance among the regulated community.

**8.4 Finding:** ADEQ is currently in the process of posting all its pending and issued Title V permits on its website, [www.azdeq.gov](http://www.azdeq.gov).

**Discussion:** ADEQ has posted on its website approximately half of its issued Title V permits. During EPA's field visit, ADEQ reported that staff will continue the process of posting the Title V permits on its website as time and staff priorities allow.

Posting of pending and issued Title V permits on the ADEQ website provides easy access to the permits for EPA, other air pollution control agencies, the regulated community, and the general public. The ADEQ website not only provides easy access to the Title V permit and supporting documents, but also provides a schedule of the entire Title V permitting process from receipt of application to the final issuance of the permit. The ADEQ website provides company name, facility name, permit number, application received date, public notice start/end dates, EPA review start/end dates, and final action date. The final permit and final supporting documents can be downloaded from the ADEQ website.

The website also provides a very convenient “track a permit” feature. For someone interested in tracking a specific permit, this web feature allows the person to search by entering an application ID number, applicant name, a PLACE (“PLACE” as used in the AZURITE database) name, a PLACE city, or a permit license category as defined in A.A.C. R-18-1-501.

**Recommendation:** EPA encourages ADEQ to continue posting its Title V permits on its website and commends ADEQ for the “track a permit” feature. This is a useful tool for members of the public who want information on a specific permit or company. EPA also recommends that ADEQ consider posting on its website the deadlines for 60-day public petitions to EPA.



## 9. RECORDS MANAGEMENT

This section examines the system ADEQ has in place for storing, maintaining, and managing Title V permit files. The contents of Title V permit files are public records, unless the source has submitted records under a claim of confidentiality. ADEQ has a responsibility to the public in ensuring that Title V public records are complete and accessible.

In addition, ADEQ must keep Title V records for the purposes of having the information available upon EPA's request. 40 CFR 70.4(j)(1) states that "any information obtained or used in the administration of a State program shall be available to EPA upon request without restriction and in a form specified by the Administrator...."

The minimum Part 70 record retention period for permit applications, proposed permits, and final permits is 5 years. 40 CFR 70.8(a)(1) states: "The permit program shall require that the permitting authority provide to the Administrator a copy of each permit application..., each proposed permit, and each final Part 70 permit." 40 CFR 70.8(a)(3) then states: "Each State permitting authority shall keep for 5 years such records and submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this part." However, in practical application, permitting authorities have often found that discarding Title V files after five years is problematic in the long term.

**9.1 Finding:** ADEQ's central file system located on the first floor of the building is poorly managed as far as air program documents are concerned. It is difficult to obtain requested folders and documents due to a lack of organization and a poorly suited database system. In addition, file room staff report that often they are not able to find requested files.

**Discussion:** The central file room contains files from all divisions of ADEQ. Our focus was on the permits- and compliance-related files of the Air Quality Division ("AQD"). The central file room is staffed by its own employees and managed by an Administrative Services Officer in the Records Management Unit. Employees must make a request to the central file room to check out certain files. There is a lag time of typically 2 to 3 hours between the time of the request to the time the employee receives the requested files, provided that the file room staff were able to find the files. Staff-level employees are not allowed access to the central file room. Interviewees informed us that managers can obtain access to the room if they request permission from the file room staff.

During interviews, we learned that requests for files often lead to a response from the file room staff that they could not find the files. When asked to estimate the frequency at which file room staff could not find requested files, one manager gave us an estimate of about 20 to 25% of total requests. If the files are found, it is often difficult to locate a particular document because multiple file folders (sometimes

30 to 40) often belong to one source and the central file room does not seem to have an organizational system for how the documents are divided between these multiple file folders. Furthermore, there does not appear to be an organizational system for the documents within each individual folder. See Finding 9.2 for more details.

Each file in the central file room is identified by a unique “RIMS” number. The files and RIMS numbers are contained in a database that the file room staff update and maintain. In making a request to see a particular file, an employee has to supply a RIMS number for that file folder. Theoretically, a RIMS number can be found in the central file room’s database if the source name and permit number are known. However, sometimes the database is unsuccessful in returning a RIMS number, perhaps because of inaccuracies in the database. Otherwise, an employee can ask for all the files on a particular source; however, some sources may have up to forty file folders. The lack of an organizational system for the multiple file folders belonging to a source makes it difficult to identify an individual folder to request when looking for a particular document or set of documents, thereby making it difficult also to identify the RIMS number.

Interviewees stated that at one time AQD was able to access and maintain its own files. However, upon ADEQ’s move to the current building, files from all divisions were centralized. AQD staff and managers have informed us that, since the move, they have had many problems obtaining files and finding documents within files. Some employees believe that some files were lost during the move. Others believe that the files are all there; the problem is identifying the file folder that contains the document one is trying to locate.

**Recommendation:** ADEQ should improve its records management system. Some possible approaches are: 1) allowing AQD to maintain and control its permit and compliance files; and 2) developing an improved electronic database system.

The records management system and electronic database should be organized in a way that allows employees, in a relatively short amount of time, to identify a particular file folder which would contain the category of documents in which the employee is interested. This would also allow ADEQ to expeditiously retrieve files in response to public requests to review files. The current system is inefficient.

**9.2 Finding:** There appears to be no organizational system within each file folder. In addition, it is not evident how documents are divided between the various file folders pertaining to one facility.

**Discussion:** Prior to EPA’s site visit (May 23-26, 2005), EPA requested that permit files for 12 Title V sources be made available for our review upon our arrival at ADEQ’s offices. During our review of these files, we noticed that key documents, such as a final signed permit and TSD were missing from at least one file. In addition, we could not identify any type of organizational system to the file folders.

For example, permits-related documents and compliance-related documents were often combined in the same file folder. Multiple copies of some documents are filed, sometimes within the same file folder, sometimes in multiple folders. Folders were not labeled with any descriptive title other than the source's name.

EPA notes that the AQD Permits Section provides to staff "Guidance on Construction of Air Quality Permit Files." See Appendix H. This guidance provides clear procedures for organizing the permits documents within the file. This guidance did not, however, provide any procedures for organizing compliance documents within the file.

**Recommendation:** EPA encourages ADEQ to reorganize the file folders so that permit records are separate from compliance records, encourages AQD Permits Section to follow its Guidance on Construction of Air Quality Permit Files, and encourages AQD to update this guidance to include procedures for organizing compliance documents within the files. EPA also encourages ADEQ to organize the records management system and electronic database in a way that allows employees, in a relatively short amount of time, to identify a particular file folder which would contain the category of documents in which the employee is interested.

**9.3 Finding:** A member of the public viewing requested files in the viewing room is not closely supervised.

**Discussion:** A member of the public who makes a request to see files from the central file room must view the files in a public viewing room within the central file room on the first floor. He/she can make a request to have copies made of certain documents but is not allowed to leave the room with any documents. File room staff at the front desk provide some enforcement of this rule; however, no file room staff are generally present in the viewing room with the public, and only one or two file room employees may be monitoring the viewing room from the front desk even if more than one person is reviewing documents. In addition, an individual may be provided a voluminous amount of files to review at one time. Therefore, though the individual may not be able to walk out of the viewing room with an entire file because the front desk is staffed, an individual could easily walk out with individual documents.

**Recommendation:** ADEQ needs tighter controls for the viewing area of the central file room. We recommend that a policy be set to require a file room staff person or designated "Records Supervisor" of the appropriate division to be physically in the public viewing room while a member of the public reviews files.

Another suggestion can be found at Pima County Department of Environmental Quality ("PDEQ"). Its policy is not to allow anyone to bring in bags or briefcases

into the public viewing area. If the individual would like some copies, he/she tags the pages, and PDEQ makes the copies for the person.

**9.4 Finding:** The AQD Permits Section is diligent about keeping complete permit records.

**Discussion:** Though not all files that we reviewed during our site visit were complete, we feel that, overall, the Permits Section is diligent about filing relevant records in the permit files. Most of the files we reviewed, though lacking an organizational system, contained key documents. We noticed that the Permits Section also takes care to file printouts of relevant emails. Through our interviews, staff and managers were consistent in their answers when asked which documents they consider to be part of the permanent permit record. Therefore, it appears that the bigger issue lies with the central filing room. (See Findings 9.1 and 9.2)

**Recommendation:** EPA encourages AQD Permits Section to continue to follow its Guidance on Construction of Air Quality Permit Files.

**9.5 Finding:** AQD has an approved records retention and disposition schedule. On June 13, 2005, the Arizona State Library, Archives and Public Records, Records Management Division, issued a Records Retention and Disposition Schedule (“AYL-AQDPC”) which superseded older records retention and disposition schedules for AQD permits and compliance records. The June 13, 2005, Schedule consolidates the AQD permits and compliance records retention schedules.

**Discussion:** The June 13, 2005, Records Retention and Disposition Schedule replaced the June 28, 1996, AQD Permits Section Schedule and the August 11, 1999, AQD Compliance Section Schedule. See Appendix I. For permits, the new retention schedule generally requires 10 years of off-site records retention, then 1) 20 years records retention at the records center for permitted minor source facilities, or 2) permanent records retention at the records center for permitted major and synthetic minor source facilities.

**Recommendation:** EPA commends AQD for keeping an updated written records retention and disposition schedule. EPA encourages AQD to provide training on the updated records retention schedule to all staff and managers who work on permits- and compliance-related activities. File room staff should also be encouraged to take this training.

**9.6 Finding:** ADEQ has an effective, streamlined database called AZURITE. AQD uses it to provide tracking of permitting and compliance actions.

**Discussion:** The database, Arizona Unified Repository for Informational Tracking of the Environment (“AZURITE”), was created specifically for the department and is used by the various divisions within ADEQ. For Title V purposes, it provides

tracking of permitting and compliance actions. The database was created by a contractor and is currently maintained by ADEQ's Information Systems Development Unit ("ISDU").

For each source, AZURITE includes information such as the date a permit application is received, the number of days remaining under the licensing time frame agreement for administrative completeness review and substantive completeness review, the dates each of these reviews is completed, issue dates of permits and permit revisions, billable hours spent by each employee on activities required for writing of the permit, and compliance actions. The system has the capability of storing and linking documents. For example, compliance documents, such as Notices of Violation ("NOVs") and Notices of Opportunity to Correct ("NOCs"), can be pulled up and viewed in AZURITE. AQD does not store permit documents in AZURITE, though interviewees informed us that it could be done.

AZURITE has the capability of processing queries. For example, a query could be run to list all off-permit changes during a certain time period. AZURITE can also generate reports. For example, the New Source Review Manager regularly generates a report for all active permits showing the number of days remaining in the licensing time frame agreement.

Fee information in AZURITE is limited. AZURITE displays information on whether the processing fee has been paid for a permit; however, it does not show corresponding information on the annual emissions fee. (Information on payment of the application fee is not necessary since submittal of a permit application and fee is necessary to trigger entering the data into AZURITE in the first place.) To obtain information on payment of the annual fee, AQD needs to access a separate database called the Revenue Management System (RMS) used by accounts receivable. Information from RMS is not linked to AZURITE. Though anyone in AQD can access RMS for viewing and printing documents, not everyone in AQD has RMS installed on their own computer.

**Recommendation:** EPA commends ADEQ on its AZURITE system. AZURITE appears to be a powerful tool; ADEQ should take full advantage of its many capabilities. Potential improvements include storing the actual permit documents in the system and linking fee information from accounts receivable.

AQD's compliance documents are all accessible via AZURITE. Though compliance documents are smaller in size, it appears that AZURITE is capable of storing permit documents as well. EPA encourages ADEQ to investigate the feasibility of making all permit documents accessible through AZURITE. This change would facilitate information access and ensure access to the correct version of the permit.

EPA also recommends that fee information from accounts receivable be linked to AZURITE. AQD should be able to access data such as payment of permit fees.

We suggest that ADEQ talk to Maricopa County to learn about how the County has linked financial information in its EMS system.

**9.7 Finding:** ADEQ does not provide training on what constitutes a public record. It is uncertain if this training course should be mandatory for all permit engineers.

**Discussion:** It is important that ADEQ keep complete records for each Title V permit. Since these are all public records, the public has a right to view the records associated with each permitted facility. While ADEQ provides a training class on what constitutes a public record, it is unclear as to whether or not this training class is a mandatory training for each individual who is responsible for developing and handling public records. It is also unclear as to whether or not staff is required to periodically attend these classes in order to ensure compliance with Department policy and state law. In addition, ADEQ has developed guidance on how Title V permit files are to be organized (as discussed in Finding 9.2), but it is unclear as to whether or not the AQD Permits Section periodically trains staff on the implementation of this guidance.

**Recommendation:** EPA recommends that ADEQ develop a schedule of mandatory training for each permit engineer, and include requirements for training on public and confidential documents on a periodic basis.

## GLOSSARY OF ACRONYMS & ABBREVIATIONS

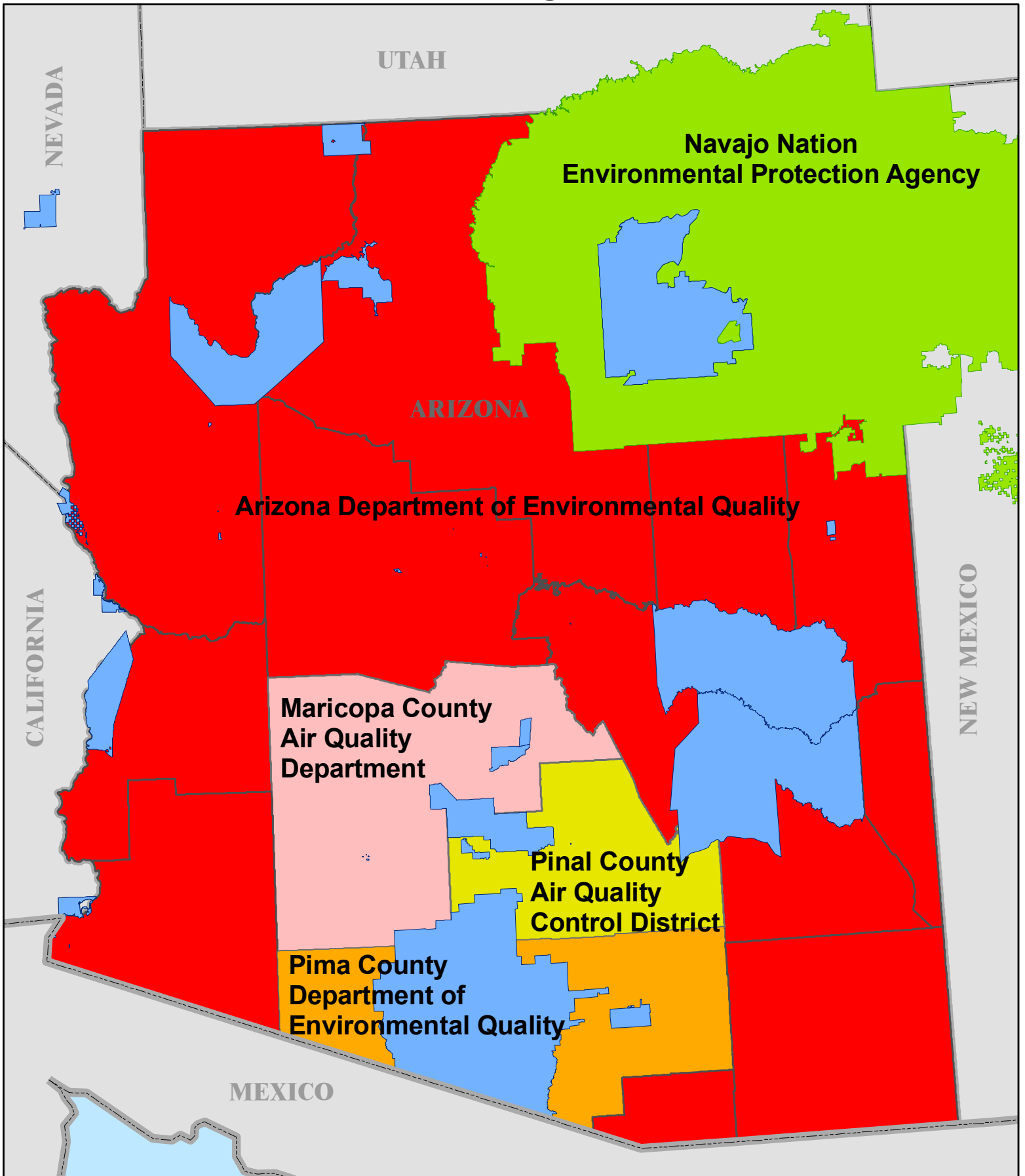
AAC	Arizona Administrative Code
ACR	Administrative Completeness Review
ADEQ	Arizona Department of Environmental Quality
AG	Arizona Office of Attorney General
AQD	Air Quality Division (A Division of ADEQ)
ARS	Arizona Revised Statutes
AZURITE	Name of a permit/compliance database used by AQD
CAA	Federal Clean Air Act, 42 U.S.C. Section 7401 et. seq.
CAM	Compliance Assurance Monitoring
COLA	Cost of Living Adjustment
EJ	Environmental Justice
EMS	Environmental Management System (used by Maricopa County Environmental Services Department)
EPA	U.S. Environmental Protection Agency
EPNG	El Paso Natural Gas
FTE	Full-Time Equivalent
FY	Fiscal Year
HQ	EPA Headquarters
ISDU	Information Systems Development Unit
LTF	Licensing Time Frame
NOC	Notice of Opportunity To Correct
NOV	Notice of Violation
NSPS	New Source Performance Standards, 40 CFR Part 60
NSR	New Source Review
OAQPS	EPA Office of Air Quality Planning and Standards
OIG	EPA Office of Inspector General
PDEQ	Pima Department of Environmental Quality
PM	Particulate Matter
PSD	Prevention of Significant Deterioration
QA	Quality Assurance
RIMS	Numbering system used by ADEQ central file room to identify files
RMS	Revenue Management System
SR	Substantive Review
SBEAP	Small Business Environmental Assistance Program
SIP	State Implementation Plan
SJVUAPCD	San Joaquin Valley Unified Air Pollution Control District
SOP	Standard Operating Procedure
TSD	Technical Support Document (also Statement of Basis)

## **APPENDICES**



**Appendix A -- AIR POLLUTION CONTROL AGENCIES IN ARIZONA**

# Air Pollution Control Agencies in Arizona

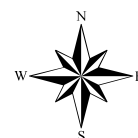


Other Arizona Counties Under ADEQ Jurisdiction

Maricopa County  
Pima County

Navajo Nation  
Tribal Areas Outside ADEQ Jurisdiction

0 50 100 150 200 Miles



AIR0601338.1 April 2006

**Appendix B -- TITLE V QUESTIONNAIRE AND ADEQ RESPONSES**

**Responses To:  
EPA Title V Program Evaluation Questionnaire  
Arizona Department of Environmental Quality  
April 29, 2005**

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## A. Title V Permit Preparation and Content

1. What % of your initial applications contained sufficient information so the permit could be drafted without seeking additional information? What efforts were taken to improve quality of applications if this % was low?

Since August of 1999, ADEQ has been issuing two different kinds of “completeness” notifications, in accordance with the provisions of its Licensing Time Frames rules. The first type of notification is conducted during our administrative completeness review (ACR) time frames. ADEQ will either issue an administrative completeness notification or a request for additional information during the ACR. Given the fact that the amount of time allotted to the ACR time frame mirrors the amount of time provided for an air quality completeness determination, ADEQ has treated the ACR completeness notification as the air quality completeness notification required by A.A.C. R18-2-304(E)(4). Typically ADEQ will deem an application to be complete if the application addresses all of the required components of a Title V permit application (as defined in A.A.C. R18-2-304).

The second type of notification is conducted during our Substantive Review (SR) time frames. ADEQ will either issue a request for additional information under the SR time frames, or will proceed to a final licensing decision. Any request for additional information under the SR time frames will focus on the technical completeness of the required components of a Title V permit application.

In general, the majority of the Title V permit applications (including the initial Title V permit applications) submitted to ADEQ has been deemed administratively complete. In nearly every case, however, ADEQ has determined that it was necessary for the source to provide the Department with additional information before a final permit could be issued. In the case of the initial Title V permit applications which were received in 1993-1994, ADEQ determined it was necessary for sources to update their applications before a final permitting decision could be made.

In order to improve the quality of applications, ADEQ has added a set of instructions to its Standard Permit Application form (please visit our Web site at the following location for a copy of this packet: <http://www.azdeq.gov/environ/air/permits/download/gncrmyap.pdf>). Even given this detail, however, there is likely to be a case-by-case need for additional information on most applications that are processed.

Y U N “ 2. For those title V sources with an application on file, do you require the sources to update their applications in a timely fashion if a significant amount of time has passed between application submittal and the time you draft the permit?

Y U N “ a. Do you require a new compliance certification?

Y U N “ 3. Do you verify that the source is in compliance before a permit is issued and if so, how?

The Department lists the compliance status in the Technical Support Document. The compliance status is determined by working with the Compliance Section to determine if any Notices of Violation have been issued.

Y U N “ a. In cases where the facility is out of compliance, are specific milestones and dates for returning to compliance included in the permit, or do you delay issuance until compliance is attained?

Milestones are written into the permit to ensure that the company comes back into compliance.

4. What have you done over the years to improve your permit writing and processing time?

New style format where each section of the permit references specific equipment and identifies all applicable emission standards and associated air pollution control, monitoring, recordkeeping and reporting requirements.

Staff engineers are encouraged to do extensive site tours before drafting the permit so that they have a practical perspective of how the facility operates.

For source categories with multiple similar sources, templates are prepared to ensure consistency in the permits.

Y U N “ 5. Do you have a process for quality assuring your permits before issuance? Please explain.

There are multiple internal reviews that a permit goes through before it is proposed for issuance. The permit goes through at least three levels of management and also goes through compliance review. The source is given time to review the permit as well.

6. Do you utilize any streamlining strategies in preparing the permit such as:

Y U N "

- a. Incorporating test methods, major and minor New Source Review permits, MACTs, other Federal requirements into the Title V permit by referencing the permit number, FR citation, or rule? Explain.

Although the Department does conduct some streamlining in its permits, it will typically only incorporate test methods by reference into the Title V Permit. Inclusion of other items (such as original permit requirements, applicable rules, etc.) into the permit is not done by reference due to the fact that this creates ambiguity and some confusion in determining which applicable requirements remain relevant to the current operations of the facility.

While incorporation of the applicable requirements into a single, comprehensive document does lead to increased permit length, the Department's position is that this creates more clarity for both the applicant and the inspector. This is especially important because of the question and answer format EPA has employed for the newer NESHAP rules, which leaves a great deal of the rule open to interpretation.

Y U N "

- b. Streamlining multiple applicable requirements on the same emission unit(s) (i.e., grouping similar units, listing the requirements of the most stringent applicable requirements)? Describe.

Whenever possible, ADEQ will streamline multiple applicable requirements out of the permit in favor of the most stringent of the applicable requirements. This streamlining is conducted with great care, however, as the monitoring, record keeping and reporting conditions that are included in the permit must remain sufficient for demonstrating compliance with all of the applicable requirements that have been streamlined out of the permit. In addition, ADEQ will not streamline applicable requirements for the same pollutant if the averaging periods for the pollutant in question are different and the applicant can not adequately demonstrate that one limit is more stringent than the other.

ADEQ also employs such techniques as grouping similar emissions units into a single section of the permit. In order to group these emissions units, however, the applicant must



demonstrate that the applicable requirements for each unit are reasonably similar, and that the monitoring, record keeping and reporting strategies for the different emissions units are also reasonably similar.

c. Describe any other streamlining efforts.

7. What do you believe are the strengths and weaknesses of the format of the permits (i.e. length, readability, facilitates compliance certifications, etc.)? Why?

<b>Strengths</b>	<b>Weaknesses</b>
Comprehensive Document	Length
Unit by Unit Structure	Redundancy
Logical and Clear	
Separation of Administrative and Specific Emissions Requirements	
Retention of Historical Knowledge	

It is the Department's position that the strengths listed above far outweigh the weaknesses that are necessarily related to the type of format that the Department employs. A single comprehensive document that contains all of the applicable requirements lends itself to increased enforceability and less confusion about which part of a rule or previous permit continue to apply. ADEQ has also developed and employed a logical structure to the permit that allows the reader to clearly identify what conditions apply to each unit. This format does lend itself to some redundancy (and thereby increased length), but these negatives should be more than offset in terms of the benefits associated with clarity and ease of review (and enforceability) that the permit creates. Finally, the current format makes it easier for inspectors and technical review engineers in the Air Quality Compliance Section to develop and use checklists while conducting inspections, reviewing reports, records, compliance certifications and other documents submitted by the Permittee.

8. How do you fulfill the requirement for a statement of basis? Please provide examples.

Staff engineers prepare detailed technical support documents for the Title V documents. These documents provide background information about the terms and provisions of the Title V permit. An example would be the section devoted to the monitoring and testing provisions in the permit; the section provides insight into the thought process on how those provisions were developed and how they will provide assurance of compliance for underlying standards. Please

see technical support documents for the Phelps Dodge Morenci's and APS Cholla's Title V permits as good examples. These documents can be obtained on the ADEQ Web site at <http://www.azdeq.gov/environ/air/permits/titlev.html#activity>.

9. Does the statement of basis<sup>1</sup> explain:
- Y **U** N " a. The rationale for monitoring (whether based on the underlying standard or monitoring added in the permit)?
- Y **U** N " b. Applicability and exemptions, if any?
- Y **U** N " c. Streamlining (if applicable)?
- Y **U** N " 10. Do you provide training and/or guidance to your permit writers on the content of the statement of basis?
- N/A 11. Do any of the following affect your ability to issue timely initial title V permits:
- Not applicable. All initial Title Vs have been issued by ADEQ.
- Y " N **U** a. SIP backlog (i.e., EPA approval still awaited for proposed SIP revisions)
- Y " N **U** b. Pending revisions to underlying NSR permits
- Y " N **U** c. Compliance/enforcement issues
- Y " N **U** d. EPA rule promulgation awaited (MACT, NSPS, etc.)
- Y " N **U** e. Issues with EPA on interpretation of underlying applicable requirements
- Y " N **U** f. Permit renewals and permit modification (i.e., competing priorities)
- Y " N **U** g. Awaiting EPA guidance
- i. If yes, what type of guidance?

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<sup>1</sup> The Statement of Basis sets forth the legal and factual basis for the permit as required by 70.7(a)(5). The permitting authority might use another name for this document such as Technical Support Document, Determination of Compliance, Fact Sheet.

Y " N U

ii. If yes, have you communicated this to EPA?

A. If yes, how did you request the guidance?

If yes, please specify what type of EPA guidance, and how you requested the guidance

Note: If yes to any of the above, please explain.

Not Applicable

12. Any additional comments on permit preparation or content?

No.

### B. General Permits (GP)

Y " N U

1. Do you issue general permits?

ADEQ does issue minor source general permits, but has never issued a Title V general permit.

a. If no, go to next section

b. If yes, list the source categories and/or emission units covered by general permits.

Y " N U

2. In your agency, can a title V source be subject to multiple general permits and/or a general permit and a standard "site-specific" Title V permit?

a. What percentage of your title V sources have one or more general permits have more than one general permit?

\_\_\_\_\_ %

Y " N U

3. Do the general permits receive public notice in accordance with 70.7(h)?

a. How does the public or regulated community know what general permits have been written? (E.g., are the general permits posted on a Web site, available upon request, published somewhere?)

4. Is the 5 year permit expiration date based on:

Y " N U

a. The date the general permit is issued?

Y " N U

b. The date you issue the authorization for the source to operate under the general permit?

5. Any additional comments on general permits?

No.

### C. Monitoring

1. How do you ensure that your operating permits contain adequate monitoring (i.e., the monitoring required in §§ 70.6(a)(3) and 70.6(c)(1)) if monitoring is not specified in the underlying standard or CAM?

The emission standards are carefully evaluated for each emission unit and subsequently, monitoring parameters are chosen to track compliance with the standard. The underlying thought is that the permit needs to contain adequate monitoring and testing to track on-going compliance with standards and more stringent the standards are, the more frequent the monitoring should be to reasonably track compliance.

Y " N U

a. Have you developed criteria or guidance regarding how monitoring is selected for permits? If yes, please provide the guidance.

Y U N "

2. Do you provide training to your permit writers on monitoring? (e.g., periodic and/or sufficiency monitoring; CAM; monitoring QA/QC procedures including for CEMS; test methods; establishing parameter ranges)

3. How often do you "add" monitoring not required by underlying requirements? Have you seen any effects of the monitoring in your permits such as better source compliance?

Quite often. Adding these monitoring conditions provide the Department with a reasonable assurance of compliance. Additionally, they provide meaningful data for the Permittee to support their compliance certifications.

Y U N "

4. Are you incorporating CAM monitoring into your permits?

## D. Public Participation and Affected State Review

### Public Notification Process

Y **U** N “ 1. Do you publish notices on proposed title V permits in a newspaper of general circulation?

Y “ N **U** 2. Do you use a state publication designed to give general public notice?

No, we use two newspapers of general circulation in the county where the facility is located.

3. On average, how much does it cost to publish a public notice in the newspaper (or state publication)?

\$500 (per publication)

Y **U** N “ 4. Have you published a notice for one permit in more than one paper?

a. If so, how many times have you used multiple notices for a permit?

Always in two newspapers.

b. How do you determine which publications to use?

Largest 2 circulating newspapers in the county are chosen.

c. What cost-effective approaches have you utilized for public publication?

Posting the public notice on the ADEQ Web site.

Y **U** N “ 5. Have you developed a mailing list of people you think might be interested in title V permits you propose? [e.g., public officials, concerned environmentalists, citizens]

a. How does a person get on the list?

They need to submit a request to the Department by calling or writing.

b. How does the list get updated?

The name is added to the mailing list and the person is

noticed on future Title V actions.

- c. How long is the list maintained for a particular source?

Until the time that the person requests that he or she be taken off the list.

- d. What do you send to those on the mailing list?

Everything about the public notice.

- Y U N “ 6. Aside from publications described above, do you use other means of public notification?

If yes, what are they (e.g., post notices on your webpage, e-mail)?

Web page, flyers

- Y U N “ 7. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

- Y U N “ 8. Do your public notices clearly state when the public comment period begins and ends?

9. What is your opinion on the most effective avenues for public notice?

Newspapers, Web site and flyers

- Y U N “ a. Are the approaches you use for public notice effective?

- Y U N “ 10. Do you provide notices in languages besides English? Please list.

Spanish in communities where a substantial section of the community speaks Spanish.

### Public Comments

- Y U N “ 11. Have you ever been asked by the public to extend a public comment period?

- Y U N “ a. If yes, did you normally grant them?  
b. If not, what would be the reason(s)?

Y U N " 12. Has the public ever suggested improvements to the contents of your public notice, improvements to your public participation process, or other ways to notify them of draft permits? Describe.

Yes, to post notices on the Department Web site and to post flyers in the community.

Y U N " 13. Do you provide the public a copy of the statement of basis if they request it? If no, explain.

14. What percentage of your permits have received public comments?

25% approximately

Y U N " 15. Over the years, has there been an increase in the number of public comments you receive on title V permits? Is there any pattern to types of sources getting comments?

Yes, more for new sources.

Y U N " 16. Have you noticed any trends in the type of comments you have received? Please explain.

Most comments are centered around zoning, water, light and noise issues.

a. What percentage of your permits change due to public comments?

Quite a few based on the issue addressed in the comment.

Y U N " 17. Have specific communities (e.g., environmental justice communities) been active in commenting on permits?

Y " N U 18. Do your rules require that any change to the draft permit be re-proposed for public comment?

a. If not, what type of changes would require you to re-propose (and re-notice) a permit for comment?

According to Arizona Administrative Code, Title 18, Chapter 2, Article 3, Rule 330(A) (A.A.C. R18-2-330(A), the following permitting actions require public notice:

1. A permit issuance or renewal of a permit,
2. A significant permit revision,

3. Revocation and reissuance or reopening of a permit,
4. Any conditional orders pursuant to R18-2-328,
5. Granting a variance from a general permit pursuant to A.R.S. § 49-426.06(E) and R18-2-507.

If ADEQ were to make changes to a draft permit that had been previously proposed for public comment, any change that met the criteria set forth for significant permit revisions in A.A.C. R18-2-320 would be required to undergo an additional public comment period. Please see the Arizona Secretary of State Web site at the following location for a copy of this rule: [http://www.azsos.gov/public\\_services/Title\\_18/18-02.htm#Article\\_3](http://www.azsos.gov/public_services/Title_18/18-02.htm#Article_3).

EPA 45-day Review

Y " N U 19. Do you have an arrangement with the EPA region for its 45-day review to start at the same time the 30-day public review starts? What could cause the EPA 45-day review period to restart (i.e., if public comments received, etc)?

a. How does the public know if EPA's review is concurrent?

N/A

Y " N " 20. Is this concurrent review process memorialized in your rules, a MOA or some other arrangement?

N/A

Permittee Comments

Y U N " 21. Do you work with the permittees prior to public notice?

Y U N " 22. Do permittees provide comments/corrections on the permit during the public comment period? Any trends in the type of comments? How do these types of comments or other permittee requests, such as changes to underlying NSR permits, affect your ability to issue a timely permit?

Yes, most comments are centered around monitoring and testing provisions. In most cases, source comments are helpful in issuing a timely permit because all substantive issues are resolved prior to public notice.



Public Hearings

23. What triggers a public hearing on a title V permit?

[A request by the public or the source.](#)

Y **U** N

a. Do you ever plan the public hearing yourself, in anticipation of public interest?

Availability of Public Information

Y **U** N **"**

24. Do you charge the public for copies of permit-related documents?

If yes, what is the cost per page?

[25 cents per page \(black and white\). Oversized and color are extra.](#)

Y **"** N **U**

a. Are there exceptions to this cost (e.g., the draft permit requested during the public comment period, or for non-profit organizations)?

Y **U** N **"**

b. Do your title V permit fees cover this cost? If not, why not?

25. What is your process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, 6-month monitoring reports, compliance certifications, statement of basis) especially during the public comment period?

[The Department maintains a records center where anyone may request to review permit documents. During the public comment period, permits and supporting documents are located at specific repositories near the facility that are open to the public.](#)

Y **U** N **"**

a. Are any of the documents available locally (e.g., public libraries, field offices) during the public comment period? Explain.

[See answer to # 25](#)

26. How long does it take to respond to requests for information for permits in the public comment period?

[All requests will be routed through the ADEQ Records Center. Their policy dictates that all requests be handled within 5 business days.](#)

Y **"** N **U**

27. Have you ever extended your public comment period as a result of

information requests?

It has not happened.

a. Where is this information stored?

See answer to # 26

Y " N U

b. Do information requests, either during or outside of the public comment period, affect your ability to issue timely permits?

| Y U N "

c. Have you ever extended the public comment period because of a request for a public hearing?

Y U N "

28. Do you have a Web site for the public to get permit-related documents?

a. What is available online?

The Department has permit related documents online (such as application packets and draft documents), as well as general information about the program. The Department is striving to post all public notices online, as well as the draft and final Title V permits.

b. How often is the Web site updated? Is there information on how the public can be involved?

The Web site is updated as necessary. The Department is currently working on posting all public notices on the Web site.

Y " N U

29. Have other ideas for improved public notification, process, and/or access to information been considered? If yes, please describe.

Y " N U

30. Do you have a process for notifying the public as to when the 60-day citizen petition period starts? If yes, please describe.

Typically ADEQ has not conducted any notification regarding the 60 day period during which the public can petition EPA to object to a permit. Instead, ADEQ notifies the public that a final licensing decision has been made, and that the decision is an appealable agency action. It then instructs people on how to conduct an appeal of the permitting decision.

Y " N U

31. Do you have any resources available to the public on public

participation (booklets, pamphlets, Web pages) ?

- Y " N U 32. Do you provide training to citizens on public participation or on title V?

Not formally.

- Y U N " 33. Do you have staff dedicated to public participation, relations, or liaison?

- a. Where are they in the organization?

We have staff members who do outreach work from both the Phoenix office as well as the regional offices.

- b. What is their primary function?

To provide outreach for community about environmental issues.

#### Affected State Review and Review by Indian Tribes

34. How do you notify affected States of draft permits?

In writing.

- a. How do you determine what States qualify as "affected States" for your draft permits?

Within 50 kilometers of the facility being permitted.

35. How do you notify tribes of draft permits?

In writing.

36. What percentage of your permits get comments from affected States? from Tribes?

Few.

37. Is there any pattern to the type of draft permit that gets affected State / Tribal comment? Are there common themes in comments from affected States or Tribes?

No.

38. Suggestions to improve your notification process?

None.

Any additional comments and public notification?

No.

## E. Permit Issuance / Revision / Renewal

### Initial Permit Issuance

N/A 1. If not all initial permits have been issued, do you have a plan to ensure your permits are issued in a reasonable time frame? If not, what can EPA do to help?

Not applicable.

### Permit Revisions

2. Did you follow your regulations on how to process permit modifications based on a list or description of what changes can qualify for:

Y U N " a. Administrative amendment? (See § 70.7(d)(vi))

Y U N " b. §502(b)(10) changes? (See §70.4(b)(12))

Y U N " c. Significant and/or minor permit modification? (See §70.7(e))

Y U N " d. Group processing of minor modifications?

N/A 3. If the EPA Regional office has formally asked you to re-open a permit, were you able to provide EPA with a proposed determination within 90 days? (40 CFR 70.7(g)(2))

If not, why not?

There have been no requests from EPA.

4. For those permits that have been issued, and where the permitted facility has undergone a change, how many changes to the title V permit have you processed?

a. What percentage of changes at the facilities are processed

as:

i. Significant

6% (8 revisions)

ii. Minor

16% (21 revisions)

iii. Administrative

7% (9 amendments)

b. Of all changes that you have, how many (or what percentages) were:

i. Off-permit

Changes without a revision = 72% (95 changes), made pursuant to A.A.C. R18-2-317.

ii. 502(b)(10)

See response to 4.b.i above.

5. How many days, on average, does it take to process (from application receipt to final permit amendment):

a. A significant permit revision?

155 business days (approximately 217 calendar days)

b. A minor revision?

114 business days (approximately 160 calendar days)

c. An administrative revision?

21 business days (approximately 30 calendar days)

Y U N "

6. Have you taken longer than the part 70 timeframes of 18 months for significant revision, 90 days for minor permit revisions and 60 days for administrative? Explain.

In most instances where ADEQ has taken longer than the part 70

timeframes allow for processing a significant permit revision, minor permit revision, or administrative amendment, the delay is due to the Department's identification of a deficiency in the permit application which necessitates a response from the applicant. Otherwise, since August of 1998, the State's Licensing Time Frames (LTF) rules drive ADEQ to make final licensing decisions within the time limits identified above. Please see the rule on the Secretary of State Web site at [http://www.azsos.gov/public\\_services/Title\\_18/18-01.htm](http://www.azsos.gov/public_services/Title_18/18-01.htm).

7. What have you done to streamline the issuance of revisions?

In order to streamline issuance of revisions, as well as all permits, ADEQ and EPA Region IX have entered into a "Plan of Action" which identifies a number of methods for reducing the amount of time necessary to review and approve permits.

8. What process do you use to track permit revision applications moving through your system?

Our agency database (AZURITE).

- Y " N U 9. Have you developed guidance to assist permit writers and sources in evaluating whether a proposed revision qualifies as an administrative amendment, off-permit change, significant or minor revision, or requires that the permit be reopened? If so, provide a copy.

Not formally.

- Y U N " 10. Do you require that source applications for minor and significant permit modifications include the source's proposed changes to the permit?

Yes for minor permit revisions.

- Y U N " a. For minor modifications, do you require sources to explain their change and how it affects their applicable requirements?

- Y U N " 11. Do you require applications for minor permit modifications to contain a certification by a responsible official, consistent with 70.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used?

12. When public noticing proposed permit revisions, how do you identify which portions of the permit are being revised? (e.g., narrative

description of change, highlighting, different fonts).

We have used highlighting or italics in the past to identify the specific portions being revised.

13. When public noticing proposed permit revisions, how do you clarify that only the proposed permit revisions are open to comment?

The structure of the public notice process is inherently self-limiting. Only the proposed revisions are noticed.

#### Permit Renewal or Reopening

- Y U N “ 14. Have you begun to issue permit renewals?

15. What are your plans for timely issuance of the renewals?

Our licensing time frames rule dictate our permit processing time frames and will ensure the timely issuance of the renewal permits.

- Y “ N U 16. Do you have a different application form for a permit renewal compared to that for an original application? (e.g., are your application renewal forms different from the forms for initial permits)

- a. If yes, what are the differences? Are 1st time requirements (like CAM, off permit changes, etc.) in a renewal application being included in the renewal?

- Y U N “ 17. As issuance of renewal permits been “easier” than the original permits? Explain.

In general, ADEQ has found that the renewal of its Title V Permits has been easier than the issuance of the original permits, for the following reasons:

#### A. Title V Is No Longer New

When the Title V permitting program was first put into rule in 1993, there was little experience with the concepts and procedures that were necessary to address before issuing such a permit. Since that time there have been a number of guidance documents presented, and Agencies across the Country have benefited from each other's experiences.

#### B. Structure and Contents of the Permit Are Similar

As time goes by, the format and content of Title V permits seem to evolve. In general, most of this evolution seems to have taken place, and ADEQ appears to have settled on a preferred format, as well as preferred content for its permits.

C. Minor Source Program Training

At the time that ADEQ adopted the Title V program into its rules, it also standardized the requirements for all of the permits that it issues. Because there is one set of rules that govern the administrative requirements for both major source and minor source permits, ADEQ is able to train new Title V permit engineers using some of its less complex minor sources.

18. How are you implementing the permit renewal process (ie., guidance, checklist to provide to permit applicants)?

We work informally with our applicants providing guidance on the type of information that we would be looking for in the renewal application.

We do pre-application meetings with facilities, if requested, to provide the necessary guidance.

19. What % of renewal applications have you found to be timely and complete?

Almost all.

20. How many complete applications for renewals do you presently have in-house ready to process?

Eight

- Y U N “ 21. Have you been able to or plan to process these renewals within the part 70 timeframe of 18 months? If not, what can EPA do to help?

- Y U N “ 22. Have you ever determined that an issued permit must be revised or revoked to assure compliance with the applicable requirements?



## F. Compliance

### 1. Deviation reporting:

- a. Which deviations do you require be reported prior to the semi-annual monitoring report? Describe.

All deviations from permit requirements must be reported under A.A.C. R18-2-306(A)(5)(b). Reporting of excess emissions is required under A.A.C. R18-2-310.01.

Y **U** N "

- b. Do you require that some deviations be reported by telephone?

Reporting of excess emissions is required within 24 hours by telephone or facsimile.

Y **U** N "

- c. If yes, do you require a follow-up written report? If yes, within what timeframe?

For excess emissions, a written, signed report is required within 72 hours after the initial 24-hour notification.

Y " N **U**

- d. Do you require that all deviation reports be certified by a responsible official? (If no, describe which deviation reports are not certified).

Y " N **U**

- i. Do you require all certifications at the time of submittal?

The initial 24-hour notification for excess emissions need not be certified.

Y **U** N "

- ii. If not, do you allow the responsible official to "back certify" deviation reports? If you allow the responsible official to "back certify" deviation reports, what timeframe do you allow for the follow-up certifications (e.g., within 30 days; at the time of the semi-annual deviation reporting)?

The 72-hour follow-up excess emissions report must be certified.

### 2. How does your program define deviation?

The permit deviation rule and corresponding permit conditions

require “prompt reporting of deviations from permit requirements.”  
There is no further definition.

Excess emissions are defined as “emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.” A.A.C. R18-2-101(38)

Y **U** N “

a. Do you require only violations of permit terms to be reported as deviations?

b. Which of the following do you require to be reported as a deviation (Check all that apply):

Y **U** N “

i. Excess emissions excused due to emergencies (pursuant to 70.6(g))

Y **U** N “

ii. Excess emissions excused due to SIP provisions (cite the specific state rule)

A.A.C. R18-2-310.01.

Y “ N **U**

iii. Excess emissions allowed under NSPS or MACT SSM provisions?

Y “ N **U**

iv. Excursions from specified parameter ranges where such excursions are not a monitoring violation (as defined in CAM)

Y “ N **U**

v. Excursions from specified parameter ranges where such excursions are credible evidence of an emission violation

Reporting of such excursions in and of themselves is not required. However, if the parameter ranges are defined as permit requirements, either directly or through incorporation by reference of an O&M plan, then reporting of the excursions as permit deviations would be required.

Y “ N **U**

vi. Failure to collect data/conduct monitoring where such failure is “excused”:

Note: none of the following would ordinarily be included in the “prompt” reporting of a permit deviation. This information, however, would generally be included

in periodic reports submitted under the permit and the applicable requirement.

Y " N U

A. During scheduled routine maintenance or calibration checks

Y " N U

B. Where less than 100% data collection is allowed by the permit

Y " N U

C. Due to an emergency

Y " N U

vii. Other? Describe.

3. Do your deviation reports include:

Y U N "

a. The probable cause of the deviation?

Y U N "

b. Any corrective actions taken?

Y U N "

c. The magnitude and duration of the deviation?

Required for excess emissions. Not specifically required for other permit deviations.

Y U N "

4. Do you define "prompt" reporting of deviations as more frequent than semi-annual?

Yes notice is required within 2 working days, as in the case of emergency reporting.

Y U N "

5. Do you require a written report for deviations?

Y U N "

6. Do you require that a responsible official certify all deviation reports?

7. What is your procedure for reviewing and following up on:

a. Deviation reports?

A member of the Air Quality Division's Compliance Section (CS) reviews all deviations reports to determine whether any sort of enforcement, including informal enforcement, is merited and if so makes a recommendation to CS management. If additional information is needed, the

reporting source is contacted by CS staff. The deviation is entered in an excess emissions database maintained by CS. The database allows for the analysis of long-term excess emissions and permit deviation trends.

b. Semi-annual monitoring reports?

Same as in a, except that records of the staff review of these reports entered in the Department's central database, Azurite.

c. Annual compliance certifications?

Same as in b.

8. What percentage of the following reports do you review?

a. Deviation reports

100%

b. Semi-annual monitoring reports

100%

c. Annual compliance certification

100%

9. Compliance certifications

Y U N "

a. Have you developed a compliance certification form? If no, go to question 7.

We have over time developed a number of industry-specific forms that are provided on request to sources.

Y U N "

i. Is the certification form consistent with your rules?

ii. Is compliance based on whether compliance is continuous or intermittent or whether the compliance monitoring method is continuous or intermittent?

On whether compliance is continuous or intermittent.

Y " N U

iii. Do you require sources to use the form? What percentage do?

We have no figures on what percentage of sources use the forms.

Y " N U

iv. Does the form account for the use of credible evidence?

Y U N "

v. Does the form require the source to specify the monitoring method used to determine compliance where there are options for monitoring, including which method was used where more than one method exists?

10. Excess emissions provisions:

Y U N "

a. Does your program include an emergency defense provision as provided in 70.6(g)? If yes, does it:

The rule, A.A.C. R18-2-306(E), is substantially identical to 70.6(g).

Y U N "

i. Provide relief from penalties?

Y " N U

ii. Provide injunctive relief?

Like 70.6(g), the rule by its terms does not explicitly exclude actions for injunctive relief from the affirmative defense. We would consider any EPA guidance or an administrative or judicial decision holding that the defense is not available in actions for injunctive relief in pursuing enforcement, but that issue thus far has not arisen.

Y " N U

iii. Excuse noncompliance?

It provides an affirmative defense.

Y U N "

b. Does your program include a SIP excess emissions provision? If no, go to 6.c. If yes does it:

A.A.C. R18-2-310 was specifically negotiated with EPA and stakeholders as part of the settlement of litigation brought by the Arizona Mining Association to challenge EPA's disapproval of that rule's predecessor as part of the Arizona Title V program.

Y **U** N “ i. Provide relief from penalties?

Y **U** N “ ii. Provide injunctive relief?

To clarify, the rule specifically allows the enforcement authority to seek injunctive relief, even if the source qualifies for the affirmative defense provided in the rule.

Y “ N **U** iii. Excuse noncompliance?

The rule provides an affirmative defense for excess emissions resulting from malfunction, startup or shutdown but states that such emissions constitute a violation.

c. Do you require the source to obtain a written concurrence from the EPA before the source can qualify for:

Y “ N **U** i. The emergency defense provision?

Y “ N **U** ii. The SIP excess emissions provision?

Y “ N **U** iii. NSPS/NESHAP SSM excess emissions provisions?

11. Is your compliance certification rule based on:

Y “ N **U** a. The '97 revisions to part 70 - i.e., is the compliance certification rule based on whether the compliance monitoring method is continuous or intermittent; or:

Y **U** N “ b. The '92 part 70 rule - i.e., is the compliance certification rule based on whether compliance was continuous or intermittent?

12. Any additional comments on compliance?

No.

## G. Resources & Internal Management Support

Y **U** N “ 1. Are there any competing resource priorities for your “title V” staff in issuing Title V permits?

a. If so, what are they?

Yes. Staff engineers also work on minor source permits and take on specific projects which take away time from their work on the Title V permits.

2. Are there any initiatives instituted by your management that recognize/reward your permit staff for getting past barriers in implementing the title V program that you would care to share?

No

3. How is management kept up to date on permit issuance?

Briefings are provided to upper management on a regular basis.

- Y U N " 4. Do you meet on a regular basis to address issues and problems related to permit writing?

- Y U N " 5. Do you charge Title V fees based on emission volume?

- a. If not, what is the basis for your fees?  
b. What is your Title V fee?

Flat fee + emission based fee. The flat fee varies based on the source category.

6. How do you track title V expenses?

Billable hours.

7. How do you track title V fee revenue?

Tracking is done by our business team leader.

8. How many Title V permit writers does the agency have on staff (number of FTE's)?

Six.

- Y " N U 9. Do the permit writers work full time on Title V?

- a. If not, describe their main activities and percentage of time on title V permits.

There might be more than 6 engineers who are responsible for Title V work, but some of them also do non-Title V work.

Their hours on Title V work amounts to using 6 FTE staff working exclusively on Title V permits.

- b. How do you track the time allocated to Title V activities versus other non-title V activities?

Based on the hours logs that staff engineers maintain.

Y " N U 10. Are you currently fully staffed?

11. What is the ratio of permits to permit writers?

Approximately 10 to 1 including non-Title V permits.

12. Describe staff turnover.

Staff turnover is something that varies greatly depending upon the market for engineers. Typically periods of national economic growth directly correspond to periods of high staff turnover and instability for ADEQ's Air Quality Permits Section. Conversely, periods of economic stability or retraction correspond to periods where staff turnover tends to be very low.

In most instances, staff turnover is related to job opportunities either in industry, consulting, or in rarer instances, governmental agencies. Typically those that leave cite salary as the primary reason for departure.

In general, ADEQ can expect to have most permit engineers remain on staff for a period of 2-5 years.

- a. How does this impact permit issuance?

In general, staff turnover leads to longer permit issuance times. Although minor source permit engineers are also capable of writing Title V permits, workload priority is always assigned to new projects, or those projects that have the fewest days remaining under ADEQ's Licensing Time Frames rules. Overall, the amount of time necessary to process any permit application (Title V or otherwise) goes up significantly when staff turnover is high.

- b. How does the permitting authority minimize turnover?

In order to minimize turnover, ADEQ does its best to provide engineers with reasons to remain a state employee. These



reasons can include the following:

1. An increase in salary when possible
2. Flexible work hours
3. Telecommuting schedule
4. Training opportunities
5. A consistent work week limited to 40 hours

Y " N U 13. Do you have a career ladder for permit writers?

a. If so, please describe.

Y U N " 14. Do you have the flexibility to offer competitive salaries?

To a small extent, as all salary offers are limited by the current salaries for existing staff.

Y U N " 15. Can you hire experienced people with commensurate salaries?

See Response to #14 above.

16. Describe the type of training given to your new and existing permit writers.

Permit writers are offered external training opportunities such as those offered through WESTAR or EPA. In addition, internal training, such as mentoring, one-on-one training, and group meetings are used to help permit writers become more proficient at writing permits.

17. Does your training cover:

Y U N " a. How to develop periodic and/or sufficiency monitoring in permits?

Y U N " b. How to ensure that permit terms and conditions are enforceable as a practical matter?

Y U N " c. How to write a Statement of Basis?

Y " N U 18. Is there anything that EPA can do to assist/improve your training? Please describe.

19. How has the PA organized itself to address Title V permit issuance?

In general the overall process for Title V permit review and issuance

is as follows:

1. Air Quality Permit engineer reviews application, drafts permit, supporting documentation;
2. Air Quality Permit Unit manager reviews draft permit and supporting documentation for accuracy and completeness;
3. Air Quality Compliance engineer reviews the draft permit and supporting documentation for enforceability issues, drafts inspection checklist;
4. Air Quality Permit Section manager reviews draft permit and supporting documentation for accuracy and completeness;
5. Company reviews draft permit and supporting documentation and provides feedback;
6. Air Quality Division Director reviews draft permit and supporting documentation;
7. Public comment period is commenced;
8. Permit, along with responsiveness summary (when necessary) sent to EPA for 45-day review period;
9. Air Quality Division Director issues final permit.

It should be noted that this outline only discusses the process of approval, and does not show the back-and-forth communication that occurs at every step. At each step there is likely to be a series of comments from the reviewer, and changes addressing those comments will be made to the permit before it proceeds to the next step.

20. Overall, what is the biggest internal roadblock to permit issuance from the prospective of Resources and Internal Management Support?

#### Staff Turnover

#### Environmental Justice Resources

- Y U N “ 21. Do you have Environmental Justice (EJ) legislation, policy or general guidance which helps to direct permitting efforts?

If so, may EPA obtain copies of appropriate documentation?

Please review EJ assessment prepared for the Arizona Clean Fuel Permit.

- Y U N “ 22. Do you have an in-house EJ office or coordinator, charged with oversight of EJ related activities?

Ed Ranger, Office of Special Counsel

Y U N “ 23. Have you provided EJ training / guidance to your permit writers?

It should be noted that most of the EJ issues are handled by management.

Y U N “ 24. Do the permit writers have access to demographic information necessary for EJ assessments? (e.g., soci-economic status, minority populations, etc.)

25. When reviewing an initial or renewal application, is any screening for potential EJ issues performed? If so, please describe the process and/or attach guidance.

In general, ADEQ does not perform an Environmental Justice review for a community unless the community first identifies itself as an Environmental Justice community. Although screening is difficult, especially in the communities nearer to the U.S.–Mexico border, the Department does engage in some screening activities. These activities include the following:

1. Identifying communities where Environmental Justice Issues have been raised before; and
2. For new major sources - reviewing census data to determine whether or not the demographics of a community would warrant potential Environmental Justice analysis.

In addition, ADEQ employs community liaisons that are helpful in identifying the concerns and needs of smaller communities in the State. These liaisons are particularly helpful in determining whether or not there is significant opposition or support of a potential new project.

#### H. Title V Benefits

1. Compared to the period before you began implementing the Title V program, does the Title V staff generally have a better understanding of:

Y U N “ a. NSPS requirements?

Y U N “ b. The stationary source requirements in the SIP?

Y U N “ c. The minor NSR program?

- Y U N “            d.     The major NSR/PSD program?
- Y U N “            e.     How to design monitoring terms to assure compliance?
- Y U N “            f.     How to write enforceable permit terms?
2.     Compared to the period before you began implementing the Title V program, do you have better/more complete information about:
- Y U N “            a.     Your source universe including additional sources previously unknown to you?
- Y U N “            b.     Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)?
- Y U N “            c.     Your stationary source emissions inventory?
- Y U N “            d.     Applicability and more enforceable (clearer) permits?
3.     In issuing the Title V permits:
- Y U N “            a.     Have you noted inconsistencies in how sources had previously been regulated (e.g., different emission limits or frequency of testing for similar units)? If yes, describe.
- Y U N “            b.     Have you taken (or are you taking) steps to assure better regulatory consistency within source categories and/or between sources? If yes, describe.

[By stakeholder meetings to discuss monitoring, recordkeeping and reporting requirements.](#)

4.     Based on your experience, estimate the frequency with which potential compliance problems were identified through the permit issuance process:

Never   Occasionally   Frequently   Often

- |   |   |          |          |   |
|---|---|----------|----------|---|
| a.     Prior to submitting an application | “ | “        | <b>U</b> | “ |
| b.     Prior to issuing a draft permit    | “ | <b>U</b> | “        | “ |
| c.     After issuing a final permit       | “ | <b>U</b> | “        | “ |

[ADEQ's Title V Permit review process typically places an emphasis](#)

on ensuring that all of the applicable requirements are contained in a single, comprehensive permit. In order to understand the source's compliance status, the Air Quality Permits Section works with the Air Quality Compliance Section to develop a report of all the compliance and enforcement related activity that has gone on since the last permit issuance, and relates that information to the public as part of the Technical Support document.

In general, most compliance issues are identified, either through the Air Quality Compliance Section's review of the draft permit, or through the normal operations of the Air Quality Compliance Section. The Permits Section will occasionally identify compliance related issues during the drafting of the permit, but most issues are identified outside of the permitting process, either through the compliance certification, or through inspections of the facility.

5. Based on your experience with sources addressing compliance problems identified through the Title V permitting process, estimate the general rate of compliance with the following requirements prior to implementing Title V:

		Never	Occasionally	Frequently	Often
a.	NSPS requirements (including failure to identify an NSPS as applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b.	SIP requirements	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c.	Minor NSR requirements (including the requirement to obtain a permit)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d.	Major NSR/PSD requirements (including the requirement to obtain a permit)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Unfortunately, due to staff turnover, none of the current members of the Air Quality Permits Section worked for ADEQ prior to the implementation of the Title V permitting program. In qualitative terms, the sources that hold Title V permits from ADEQ tend to be sophisticated, and have a good general understanding of the rules and regulations that apply to their operations. While there was likely to be some non-compliance with applicable requirements before the implementation of the Title V program, it seems unlikely that the non-compliance rate was much higher than it is today.

6. What changes in compliance behavior on the part of sources have

you seen in response to Title V? (Check all that apply.)

- Y  N  " a. Increased use of self-audits?
- Y  N  " b. Increased use of environmental management systems?
- Y  N  " c. Increased staff devoted to environmental management?
- Y  N  " d. Increased resources devoted to environmental control systems (e.g., maintenance of control equipment; installation of improved control devices; etc.)?
- Y  N  " e. Increased resources devoted to compliance monitoring?
- Y  N  " f. Better awareness of compliance obligations?
- Y  " N  " h. Other? Describe.

N/A

- Y  " N  7. Have you noted a reduction in emissions due to the Title V program?

While changes in actual emissions from Title V facilities have occurred since the implementation of the program, it is difficult to ascertain whether or not the Title V program itself has led to a reduction in actual emissions from the facility as Title V does not explicitly call for the inclusion of new emission limitations and standards in permits. Instead, the more robust monitoring, record keeping and reporting conditions in the permits make certain that each facility's actual emissions are reported more accurately.

- Y  " N  a. Did that lead to a change in the total fees collected either due to sources getting out of title V or improving their compliance?

- Y  " N  b. Did that lead to a change in the fee rate (dollars/ton rate)?

- 8. Has title V resulted in improved implementation of your air program in any of the following areas due to Title V:

- Y  N  " a. Netting actions

- Y  N  " b. Emission inventories

- Y  " N  c. Past records management (e.g., lost permits)

- Y U N " d. Enforceability of PTE limits (e.g., consistent with guidance on enforceability of PTE limits such as the June 13, 1989 guidance)
- Y U N " e. Identifying source categories or types of emission units with pervasive or persistent compliance problems; etc.
- Y U N " f. Clarity and enforceability of NSR permit terms
- Y U N " g. Better documentation of the basis for applicable requirements (e.g., emission limit in NSR permit taken to avoid PSD; throughput limit taken to stay under MACT threshold)
- N/A h. Emissions trading programs
- N/A
- Y U N " i. Emission caps
- N/A j. Other (describe)
- N/A

9. If yes to any of the above, would you care to share how this improvement came about? (e.g., increased training; outreach; targeted enforcement)?

The Title V permitting program has led to improved implementation of ADEQ's Air Quality program, as described above. The primary reason for this is due to the increased amount of documentation that is available, as well as the increased accuracy of the information recorded and reported in accordance with Title V permits. ADEQ has greater faith in the Emissions Inventories submitted by Title V sources. In addition, the extra documentation and monitoring that the sources are required to do has led to increased enforceability of the program, and a greater historical knowledge of decisions that have been made over the years.

Y U N " 10. Has Title V changed the way you conduct business?

- Y U N " a. Are there aspects of the Title V program that you have extended to other program areas (e.g., require certification of accuracy and completeness for pre-construction permit applications and reports; increased records retention; inspection entry requirement language in NSR permits). If yes, describe.

The Department has used the Title V program as a model for its minor source program. Minor source permits are structured and reviewed in a manner very close to Title V, including the use of a technical support document.

Y U N "

- b. Have you made changes in how NSR permits are written and documented as a result of lessons learned in Title V (e.g., permit terms more clearly written; use of a statement of basis to document decision making)? If yes, describe.

The unitary permits written by the Department are written in a more enforceable manner. Permit terms are written more clearly, and a technical support document is used to provide documentation for the decisions that are made.

Y U N "

- c. Do you work more closely with the sources? If yes, describe.

The Department works closely with sources in order to identify the applicable requirements of a facility as well as developing a monitoring, recordkeeping, and reporting strategy. The Department allows each permit that it issues to be reviewed by the source prior to public comment.

Y U N "

- d. Do you devote more resources to public involvement? If yes, describe.

The Department uses meetings, hearings, flyers, fact-sheets, and a Web site in order to assist in public involvement. In addition, as necessary, management involvement with the community is coordinated as well as research into environmental justice concerns.

Y U N "

- e. Do you use information from Title V to target inspections and/or enforcement?

Through an enforcement checklist.

Y " N U

- f. Other ways? If yes, describe.

Y U N "

11. Has the Title V fee money been helpful in running the program? Have you been able to provide:

Y U N "

- a. Better training?

Y U N "

- b. More resources for your staff such as CFRs and computers?



- Y **U** N “ c. Better funding for travel to sources?
- Y **U** N “ d. Stable funding despite fluctuations in funding for other state programs?
- Y **U** N “ e. Incentives to hire and retain good staff?
- N/A f. Are there other benefits of the fee program? Describe.
- N/A
- Y **U** N “ 12. Have you received positive feedback from citizens?
- Y **U** N “ 13. Has industry expressed a benefit of Title V? If so, describe.
- Y “ N **U** 14. Do you perceive other benefits as a result of the Title V program? If so, describe.
- Y “ N **U** 15. Other comments on benefits of title V?

**Good Practices not addressed elsewhere in this questionnaire**

Are any of the practices employed that improve the quality of the permits, or other aspects of title V program that are not addressed elsewhere in this questionnaire?

No.

**EPA assistance not addressed elsewhere in this questionnaire**

Is there anything else EPA can do to help your title V program?

No.

**Appendix C – ADEQ COMMENTS ON DRAFT REPORT**

**Arizona Department of Environmental Quality  
Title V Operating Permit Program Evaluation**

**Responses to Draft Report**

**January 11, 2006**

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## EXECUTIVE SUMMARY

ADEQ does not have substantive comments on the text portions of this document, and only requests that the major findings be changed to conform to the discussions and requests identified in specific sections. ADEQ's proposes that the list of major findings read as follows:

1. No change is requested.
2. No change is requested.
3. No change is requested.
4. No change is requested.
5. Based upon the discussion and recommendation provided in Finding 5.2, ADEQ requests that this major finding be revised to read as follows:

ADEQ does not provide sufficient justification through its Technical Support Documents or memorandums to the file to help the public and EPA concur with the determination that pre-construction requirements in ADEQ's SIP are met when processing off-permit changes and minor permit revisions. (See Finding 5.2)

6. Based upon the discussion and recommendation in Finding 5.4, ADEQ requests that this be removed from the list of major findings.
7. No change is requested.
8. Based upon the requested revisions to the finding, discussion and recommendation in Finding 7.1, ADEQ requests that this major finding be revised to read as follows:

ADEQ, like the other Arizona air quality permitting programs, faces a challenge of periods of high staff turnover that may be attributable to ADEQ's inability to offer salaries that compete with offers made by industry, consulting companies, and some times other air quality regulatory agencies to experienced staff, as well as the absence of a career ladder or other system which allows permit engineers to show growth in their positions.

9. No change is requested.
10. No change is requested.
11. No change is requested.
12. No change is requested.
13. ADEQ requests that this finding, discussion and recommendation be revised to account for the discussion provided in Section 9.1.

## 1. INTRODUCTION

ADEQ does not have any substantive comments on this portion of the document, and provides only the following general comments:

### **Title V Program Evaluation at the Arizona Department of Environmental Quality**

While the second program evaluation was conducted for Maricopa County's Environmental Services Department, it may be worth noting that the Department is also known as the Maricopa County Air Quality Department.

### **ADEQ Description**

The Arizona Department of Health Services is the primary State department responsible for protection of public health. ADEQ recommends changing this opening sentence of the first paragraph to state the following:

“Established by the Arizona Legislature in 1986, ADEQ now administers a variety of programs to improve the health and welfare of the State's citizens, as well as to ensure the quality of Arizona's air, land and water resources meets healthful, regulatory standards. “

## 2. PERMIT PREPARATION AND CONTENT

- 2.1 ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 2.2 ADEQ has provided the necessary tools for developing and writing air quality permits to its staff outside of a formal written guidance process. Although written documents have been provided in a more informal setting, the Department has not referred to such tools as written guidance. As such, ADEQ requests EPA consider the following information as a basis for potential changes to the discussion and recommendation:

**Discussion:** In addition to developing templates for similar sources in categories of Title V permit renewals (i.e. compressor station permits, coal fired power plants, etc.), the Air Quality Permits Section has also developed outlines demonstrating the format and required contents for air quality permits and technical support documents (examples are provided in Attachment 1). This has helped bring a higher level of continuity to the products developed in the Section. In addition, it is difficult to provide additional guidance beyond what is already in Arizona Administrative Code (A.A.C.) Title 18, Chapter 2, Article 3, Rule 306 Subsection A (R18-2-306(A)) regarding required permit contents. The rule appears to be clear on its surface, making additional written guidance unnecessary. Additionally, permit engineers are asked to read and comprehend all of the rules that apply to the applications that they are processing, and seek additional clarification from a supervisory should questions arise.

With respect to Standard Operating Procedures (SOPs), the Department agrees that additional documentation discussing various topics from the use of AZURITE to specific permit guidance would be helpful. Written guidance, however, is not the only tool that ADEQ uses to help prepare staff for understanding some of the unique requirements that this Agency must meet. ADEQ has offered training courses for Licensing Time Frames (LTF), as well as the use of AZURITE database's LTF module for permitting staff and managers throughout the Department. In addition, weekly reports of the amount of time remaining within the overall time frames are provided to each staff member individually, and collective information is provided to the appropriate unit manager. These lists are then discussed between the manager and the individual staff member on an as-needed basis to ensure that the LTF rules are complied with. This system appears to work well, as the Air Quality Permits Section has been 99% or more compliant in the 6 years that the rules have been in effect.

**Recommendation:** ADEQ requests that the recommendation be re-worded to acknowledge that some written guidance on the format of permits has been provided to staff, and that EPA encourage written guidance in cases where the applicable rules might be unclear. ADEQ acknowledges the usefulness of on-going training on these matters, and requests that the recommendation encourage specific internal (and external when available) training be given to new engineers on permit format and content, in addition to periodic internal refresher courses.

- 2.3** ADEQ agrees with this finding and discussion. ADEQ requests that the recommendation be re-worded to focus on continued implementation of the ADEQ/EPA Plan of Action for Title V Working Relationship, along with continued early interaction between staff and management at ADEQ and EPA.
- 2.4** ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 2.5** ADEQ agrees in general with this finding and recommendation but disagrees with the portions of the discussion regarding licensing time frames rules increasing the difficulty for permit engineers to obtain additional information. If the LTF rules have accomplished anything, it is the addition of extra teeth to ADEQ's ability to obtain requested information from the source, as the rules require ADEQ to make timely decisions to either issue or deny a permit application. If the information being requested is critical to the development of an air quality permit, the Department can threaten and pursue denial of the permit application based on a source's unresponsiveness. This ensures that all permitting decisions continue to be made in a timely fashion. Please also see the discussion in Section 5.6

Based upon the above information, ADEQ requests that the discussion be revised by removing the paragraph regarding Licensing Time Frames. In addition to the language already present, ADEQ requests that the recommendation also focus on the continued implementation of the "ADEQ/EPA Plan of Action for Title V Working Relationship".



### 3. MONITORING

- 3.1 ADEQ agrees with the finding and discussion but requests the following change to the recommendation:

**Recommendation:** EPA encourages ADEQ to continue its practice of seeking the advice of compliance staff regarding periodic monitoring of permitted sources.

- 3.2 ADEQ agrees with this finding in part, but would also like to offer additional explanation regarding the issue. As EPA has indicated, ADEQ management will be working on preparing template CAM plans and will seek EPA input regarding the acceptability of those plans. However, the comment that was made regarding this issue might have been slightly misunderstood. ADEQ management understands that the staff concerns on this issue relate to the timeliness of EPA feedback to ADEQ's proposals. In the recent SRP Coronado Title V action, and despite several attempts during the permit drafting stages to engage EPA on the acceptability of SRP's proposed CAM plan, the specific issues were not discussed almost until the end of 45-day review period. In light of this additional clarification, ADEQ proposes that the discussion and recommendation be revised to state the following:

**Discussion:** ADEQ permit staff and management stated that earlier interaction with EPA regarding proposed CAM plans for specific source categories would be appreciated. This earlier interaction could be conducted in accordance with the "EPA/ADEQ Plan of Action for Title V Working Relationship" and could lead to resolution of differences in interpretation and technical deficiencies before the 45-day review period deadline placed a greater emphasis on the resolution on these issues.

**Recommendation:** Pursuant to the "EPA/ADEQ Plan of Action for Title V Working Relationship" EPA agrees to coordinate with ADEQ to develop CAM guidance that will help resolve disagreements in interpretation, as well as provide early identification of technical deficiencies so that future issues can be resolved early in EPA's 45-day review period.

- 3.3 ADEQ has provided the necessary tools for developing adequate periodic monitoring to its staff outside of a formal written guidance process. As such, ADEQ agrees with this finding, and does not suggest changes to the discussion and recommendation portions of this comment. ADEQ management will attempt to develop written guidance that identifies how to develop acceptable monitoring, record keeping and reporting strategies for specific source categories, but expects that such guidance will be a resource intensive task which will take time to complete. In the interim, ADEQ management will continue to provide guidance to staff engineers to draft periodic monitoring provisions to track compliance with emission limits and standards.
- 3.4 ADEQ agrees with this finding, but is concerned that the permitting staff might not be the appropriate people to develop the documents identified in the discussion and recommendation. In addition, ADEQ has determined that if this service is to be provided

for Title V sources, it should also be made available to non-Title V sources that have similar requirements in their permits. Based upon these concerns, ADEQ requests the following changes to the discussion and recommendation:

**Discussion:** Pursuant to A.A.C. R18-2-306(A)(5), Arizona Title V sources are required to submit monitoring reports documenting all required monitoring and identifying any deviations from permit requirements that have occurred every six months. During EPA's field visit, compliance staff suggested that the development of source-specific forms which identify the required contents of the semi-annual monitoring reports that is required of each Title V source be developed at the time that the permit documents are being drafted.

According to ADEQ compliance staff, the majority of Title V sources do not fully understand what information these reports should contain. Staff suggested that a document identifying the specific monitoring activities and data which need to be included in the report may assist sources in complying with this requirement. By developing a source-specific form for each permit, the content of these reports, as well as the source's compliance status might be greatly improved.

**Recommendation:** EPA encourages ADEQ to determine whether or not developing a source-specific reporting form identifying the required monitoring components in an air quality permit should be developed for each permitted source. EPA is aware of other Agencies having developed such forms, and suggests that ADEQ consult with EPA for a list of contacts that may be able to provide examples of such documents.

## 4. PUBLIC PARTICIPATION AND AFFECTED STATE REVIEW

- 4.1 ADEQ disagrees in part with this finding, the discussion and recommendation, and requests that each section be revised based upon the letters enclosed in Attachment 2 in order to reflect the following:

**Finding:** It is unclear whether ADEQ routinely notifies affected states when taking permitting actions. ADEQ notifies tribes in the same way as neighboring municipalities.

**Discussion:** A.A.C. R18-2-307(D) requires the Director to notify affected states at or before the time that a permit is proposed for public comment. During our evaluation, ADEQ's staff did not identify a process which consistently acknowledged that affected states are required to be notified. A review of several permit records lead to the conclusion that some notification is being provided, but it was unclear as to whether or not affected states were routinely notified of Title V permitting decisions. ADEQ's process for notifying tribes, however, appeared to be sufficient.

**Recommendation:** EPA encourages ADEQ to develop a policy or guidance document that informs staff of the need to routinely notify affected states of relevant permitting activities.

- 4.2 ADEQ agrees with this finding, but requests the following changes to the final sentence in the discussion and the introduction to the recommendation:

**Discussion:** At the time of the evaluation, some of the Title V information on ADEQ's Web site appeared to be out-of-date.

**Recommendation:** EPA encourages ADEQ to consider developing a process for ensuring that its Web site has the most recent permitting information available. This information could include...

- 4.3 ADEQ agrees with this finding and discussion, but requests that the introduction to the recommendation be reworded as follows:

**Recommendation:** EPA encourages ADEQ to continue granting extensions...

- 4.4 ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.

- 4.5 ADEQ agrees with this finding and discussion, but requests that the introduction to the recommendation be reworded as follows:

**Recommendation:** EPA encourages ADEQ to continue this practice.

**4.6** ADEQ agrees with this finding and discussion, but requests that the introduction to the recommendation be reworded as follows:

**Recommendation:** EPA encourages ADEQ to continue this practice.

**4.7** ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.

**4.8** ADEQ agrees with this finding and discussion, but requests that the introduction to the recommendation be reworded as follows:

**Recommendation:** EPA encourages ADEQ to maintain this practice.

**4.9** ADEQ agrees in general with this finding, discussion and recommendation. ADEQ also agrees that public involvement is a high priority, and that additional training is always useful. The Department notes, however, that public involvement training has been provided to all levels of management in the different divisions, as managers are typically the parties that are most responsible for interacting with the public. ADEQ welcomes additional training opportunities, but requests that this finding, discussion and recommendation be reworded to note that EPA will work with the Department to provide additional public involvement training.

## 5. PERMIT ISSUANCE / REVISION / RENEWAL

- 5.1 ADEQ agrees with the finding, discussion and recommendation, but requests that the recommendation be revised to read as follows:

**Recommendation:** EPA encourages ADEQ to continue the timely issuance of Title V permit revisions and renewals, as well as to continue to find additional means of educating applicants on how to submit complete permit applications, as discussed in Finding 5.6. Additionally, ADEQ should ensure that it maintains adequate staffing levels and resources to continue renewing Title V permits in a timely manner.

- 5.2 ADEQ disagrees in part with this finding, discussion and recommendation, based upon the following analysis of the applicable State Implementation Plan (SIP) rules which are provided in Attachment 3, as well as the following reasoning:

While the Department agrees that a SIP gap exists between the current ADEQ rules and the approved Arizona SIP, the Department does not agree that the pre-construction requirements of R9-3-301 are in danger of being violated by allowing sources Title V flexibility under A.A.C. R18-2-317 and 319. The Arizona SIP, R9-3-301.A states:

“No person shall commence construction of a new major or minor source, or any stationary source that will emit 5 or more tons of lead per year, or a major alteration of a source or the construction or modification of air pollution control equipment, or alteration of a point source that emits 5 or more tons of lead per year without first obtaining an installation permit for the Director.”

Based upon the definitions in R9-3-101, R9-3-301 does not require that a company seek an installation permit for a facility change that is not a “major alteration”. The term “major alteration”, according to R9-3-101(91)(c), is “synonymous and interchangeable” with the definition of “major modification”, which is defined in R9-3-101(91) as a “physical change or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to [the SIP]”.

Further review of R9-3-301 revealed that the SIP is silent on the issue of facility changes that result in emission increases that are less than the significance levels. Thus A.A.C. R18-2-319.G, which states “The source may make the change proposed in its minor permit revision application immediately after it files the application”, does not violate any SIP requirements, since there are no preconstruction requirements for these types of facility changes. The same logic would hold true for facility changes pursuant to A.A.C. R18-2-317.

The only situation where preconstruction permit requirements are included in the SIP for non-major facility changes is for “the construction or modification of air pollution control equipment” (R9-3-301.A). However, R9-3-301.I states:

“Upon receipt of an application, the Director shall make a preliminary determination whether the permit should be approved or disapproved and whether, if approved, conditions should be attached to such approval”.

This language authorizes the Director to determine if preconstruction permit conditions are required. Clearly, if a pollution control device is being constructed, there will likely be voluntarily accepted permit conditions that would require the change to be processed as a significant revision. If the change is an alteration of a control device, permit conditions would only be necessary if the pollution control device is substantially different from the existing equipment. In other words, if the permit already contains the necessary conditions for operation of the control device, there would be no need to have additional preconstruction permit requirements. Accordingly, A.A.C. R18-2-317.B follows this line of reasoning by allowing for changes in air pollution control equipment, as long as the equipment is “identical or substantially similar” and it meets the other requirements of A.A.C. R18-2-317.A, D, and E. Any change that involves substantive changes to existing monitoring, reporting, or recordkeeping requirements would have preconstruction requirements under R9-3-301(I) and would therefore constitute a significant permit revision pursuant to A.A.C. R18-2-320.

Based on this analysis, the Department has determined that it is important to clarify in future technical support documents, the difference between a significant revision and a major modification, as well as minor revision and a minor modification. ADEQ suggests that a good rule of thumb when determining whether or not preconstruction requirements should apply is as follows:

- All major modifications require significant permit revisions.
- Some minor modifications may require significant permit revisions.
- Some minor modifications may be processed as minor permit revisions and do not require preconstruction permits before the modification can take place.

ADEQ commits to more clearly identifying the type of modification and revision that is being applied to each source in future Technical Support Documents, as well as providing the justification for such determinations.

The Department does agree that additional documentation of the Department’s analysis of permit revisions and off-permit changes should be increased. ADEQ commits to requiring additional information from sources, so that companies provide more documentation regarding how a proposed change meets the requirements of A.A.C. R18-2-317 and 319, including documentation showing that the change is not a modification under Title I of the Act. In response, the Department will add the appropriate documentation to a Technical Support Document or a memorandum routed through management to the file, describing the analysis that was performed and the Department’s justification for its conclusion. This additional information will ensure that proper documentation of the Department’s approval of facility changes without revision, and those changes to air pollution control equipment are adequately justified for both the public record and future review.

Pursuant to the discussion above, ADEQ requests that the finding, discussion and conclusion be revised as follows:

**Finding:** ADEQ does not provide sufficient justification through its Technical Support Documents or memorandums to the file to help the public and EPA concur with the determination that pre-construction requirements in ADEQ's SIP are met when processing off-permit changes and minor permit revisions.

**Discussion:** ADEQ currently issues combined pre-construction and operating permits to all of its sources. ADEQ's approved SIP, however, contemplates a bifurcated permitting program that consists of separate installation and operating permits that are to be issued to its sources. Because ADEQ has not yet submitted to EPA an approved revision to its SIP to incorporate post-1990 CAA amendment changes to its NSR program, it is unclear to EPA whether or not Title V permitting flexibility is inappropriately provided to sources that are making changes that could seemingly require an installation permit.

Similarly, ADEQ does not have a well defined process for documenting the justification as to why off-permit changes and minor permit revisions do not require pre-construction permits. When ADEQ receives an off-permit change notification from a source, the notice is assigned to a permit engineer who reviews the request. A description of the change is entered into the AZURITE system database, and then the notice is filed. However, a justification for the change as an off-permit change is not consistently recorded in AZURITE. ADEQ does not formally approve these notices, nor does there appear to be any management oversight of them. Similarly, minor permit revisions do not typically include adequate analysis of Title I applicability. Typically, ADEQ accepts the source's estimates of its emissions increases without further analysis (See Findings 5.7-5.8 for further information).

EPA found examples of both permit revisions and off-permit changes that did not contain adequate documentation of the analysis of pre-construction permit applicability. In some cases these changes appeared to involve netting transactions, or required a source to obtain an emission limit to avoid new source review requirements. For example, during EPA's review of the renewal permits for El Paso Natural Gas (EPNG) compressor stations, EPA found instances in which EPNG installed or replaced new turbines and/or turbine components without first obtaining a permit revision or providing an analysis of Title I applicability. Instead, it appeared that EPNG provided ADEQ with a seven-day notice, pursuant to ADEQ Rule R18-2-317, to document the installation of the new equipment. ADEQ or EPNG, however, did not document the demonstration that these changes were not Title I modifications. ADEQ should have required EPNG, pursuant to A.A.C. R18-2-317(A)(1), to provide a demonstration showing that the installation of these turbines did not either result in a significant net emissions increase, nor require an installation permit prior to construction.

EPA believes that additional documentation from both ADEQ and industry should be provided in order to ensure that the requirements of ADEQ SIP Rule R9-3-301 are met before making changes that are believed to qualify as off-permit or minor permit revisions

according to A.A.C. R18-2-317 and R18-2-319. EPA is concerned that ADEQ's Title V operating permit change provisions may conflict with ADEQ's SIP which may require installation permits before changes at a source can be made.

**Recommendation:** In order to ensure that Title V permits include all of the applicable requirements, including pre-construction permit conditions, EPA recommends that additional documentation be provided, justifying the determination that a pre-construction permit is not required prior to the approval of each minor permit revision and off-permit change that ADEQ provides to major sources of air pollution.

- 5.3** ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 5.4** ADEQ disagrees in part with this finding, discussion and recommendation. While it is true that 94% of changes to permits were processed as either minor, administrative or off-permit changes, this does not indicate that the changes were processed inappropriately. Clearly there have been several cases where an applicant has submitted a change as a minor revision, when the change was truly a significant revision. In such instances, the Department will inform the applicant of the need to submit a significant permit revision application, and give the applicant the opportunity to either withdraw the permit before the Department proceeds with the denial of the application for a minor permit revision. As discussed in Section 5.2, ADEQ concludes that additional documentation justifying the decisions made regarding minor permit revisions and off-permit changes can be improved. Since many of the sources that are regulated under Title V are knowledgeable about the rules, and hire consultants and legal counsel to ensure that they are taking the appropriate path, ADEQ contends that review of a percentage of revisions in each possible category of revisions is a basis for suggesting that ADEQ is not appropriately administering its program.

Additionally, because many sources have expressed a desire to make changes that require public comment to a minimum, the percentages reported in ADEQ's responses to EPA's Questionnaire do not paint a complete picture. Many Title V facilities will use the permit renewal process as an opportunity to make changes to their facility that would otherwise have required a significant permit revision. Since the renewal process meets the requirement to issue an installation and operating permit at the same time, and provide the public with an opportunity to review, many sources believe that this streamlines the revision process, and therefore wait until the renewal time frame to make significant changes to their facility.

ADEQ does agree that the Department has not developed written guidance or protocol documents to assist permit engineers in determining the appropriate category change. Because of the concerns that EPA raises in Section 5.2, ADEQ is in the process of developing checklists to assist the engineers in documenting their review of application submitted pursuant to R18-2-317 and 319. ADEQ also agrees that written guidance on the differences between significant and minor permit revisions should be developed and provided to staff to aid in the determination as to whether or not Title V flexibility can be



appropriately provided to sources requesting minor permit revisions. Written guidance on the specific contents of A.A.C. R18-2-317, 318, 319, and 320, however, should not be necessary as the rules appear to be clear on their surface, and staff should be responsible (and encouraged) to read, interpret and apply the language of the rules themselves. The air quality permitting process is thought intensive, and if staff believes that there is sufficient justification for choosing a specific process over another, management has the opportunity to review that documentation and ensure that the case-by-case interpretation results in consistent application of the rules.

Finally, ADEQ's staff has been, on many occasions, asked to provide management with feedback about the decisions that are being made, especially those that appear to be controversial or in grey areas of the rules. In each instance where it is clear that a staff member might be uncomfortable about a decision or a direction, staff has been encouraged to discuss their concerns. ADEQ's management is genuinely interested in listening to any concern that staff might have about the decisions that are made on permits that they are working on, and therefore requests more specific examples of unrest that it may cause staff, so that these issues can be clearly understood and properly vetted in the future.

Based upon this discussion, ADEQ recommends the following finding, discussion and recommendation:

**Finding:** ADEQ staff identified a lack of guidance for determining whether a permit revision should be processed as administrative, minor, significant or off-permit.

**Discussion:** ADEQ staff, during interviews with EPA, identified cases where a source submitted an application for either an off-permit change or a minor permit revision that they believed should require a significant permit revision. According to staff, in many cases, ADEQ required the source to resubmit the appropriate application; in some cases, however, staff explained that it did not. ADEQ permit staff stated that there was no official guidance or protocol to assist permit staff in determining the appropriate category for permit changes. Instead, staff referred to the provisions or "gatekeepers" in A.A.C. R18-2-317 and R18-2-319 when making a determination.

There appears to be some uncertainty among ADEQ permit and compliance staff, as well as the regulated community regarding how to classify an application for a permit revision. Significant permit revisions require a public notice and comment period and do not allow the source to implement the change before the permit modification is approved by ADEQ and reviewed by EPA. Minor permit revisions and off-permit changes, on the other hand, do not require public notice or pre-approval from ADEQ before the source can initiate the change. Developing a guidance document or protocol that outlines both the criteria for each type of revision, and the require regulatory analysis when making a change may help in creating a clearer public record that documents how ADEQ processes permit changes in accordance with its rules and applicable SIP.

**Recommendation:** EPA recommends that ADEQ provide additional documentation and justification for minor permit revisions and off-permit changes as suggested in Section

5.2. EPA also recommends that ADEQ develop written guidance, or a written protocol that permit staff can use to fully document the process and decisions made on each permit application that is received. Such documentation will lead to a more complete public record, and ensure that the decisions made on each permit application have clearer justifications.

**5.5** ADEQ agrees with this finding and recommendation, but is concerned in part with portions of the discussion, and requests a minor clarification and revision to the recommendation.

While the discussion portion of this comment states that ADEQ has “updated its practice recently and now appears to send all permit revisions to EPA for its 45-day review”, the term recently seems to indicate that this has only taken place in the past year or two. ADEQ requests examples from EPA where it found that revisions to Title V permits were not being provided to EPA for its 45-day review, so that it can review this issue and ensure that it does not continue. ADEQ management is keenly aware of the need to provide all revisions to Title V permits to EPA for its review, and asks staff whether or not EPA had comments on any revision before recommending that the Director issue a permit revision. ADEQ can only interpret staff’s lack of knowledge that minor permit revisions required EPA review as a result of staff never having reviewed a minor permit revision application for a Title V source.

Based upon this discussion, ADEQ requests that EPA revise the discussion and recommendation as follows:

**Discussion:** During EPA’s site visit, interviews with some of ADEQ’s permit staff revealed that some permit engineers were unaware of the requirements that EPA be notified of off-permit changes and administrative amendments pursuant to A.A.C. R18-2-317(D) and 318(D) respectively, as well as the requirements to provide EPA with a 45-day review period for minor and significant permit revisions pursuant to A.A.C. R18-2-319(F) and 320(D) respectively. Based upon this information, EPA is concerned that ADEQ, in the past, may not have consistently provide the appropriate notification or review period for all of the changes that are made to Title V permits.

**Recommendation:** EPA encourages ADEQ to continue to ensure the proper notification of EPA with respect to all off-permit changes and administrative amendments, in addition to sending all proposed permit revisions, including minor permit revisions, to EPA for review. EPA also recommends that ADEQ clarify these requirements with staff.

**5.6** ADEQ agrees with this finding, but disagrees with portions of the discussion and recommendation.

As discussed in ADEQ’s response to Section 2.5, it is unclear how the LTF rule is a hindrance to obtaining information from Permittees. While it is accurate to state that obtaining information from sources can be a barrier to the quick issuance of a permit, ADEQ’s LTF rule adds clarity to the term “timely issuance”, as the rule and the associated

clock make it very clear where the barriers to issuing a permit reside. As discussed in ADEQ's response to Section 2.5 the LTF rule is actually a powerful tool that can be used to encourage companies to submit information, as ADEQ is required to make a licensing decision, not necessarily issue a permit, prior to the expiration of the LTF clock. Licensing decisions include both permit issuance and denial, and failure to respond to requests for information can lead ADEQ to a licensing decision based upon the components of the application as it was submitted. If significant pieces of the application are missing, or ADEQ can not issue a permit that meets the requirements of A.A.C. R18-2-304(B) and Arizona Revised Statutes (A.R.S.) §49-427, ADEQ could be forced to deny an application based upon the applicant's unresponsiveness to requests for information. As mentioned in EPA's discussion, pursuant to A.A.C. R18-2-306(J), such a denial has the potential to affect the source's ability to continue legal operation of its facility, pursuant to which should lead to increased accountability on the part of the applicant.

The Department also feels that the standard permit application is adequate at detailing the information that companies must submit as part of the permit application. This form is required to be submitted by A.A.C. R18-2-304(B), and contains instructions on what information an application needs to be considered Administratively Complete pursuant to A.A.C. R18-2-304. For the purposes of LTF Administrative Completeness, ADEQ generally conducts a clerical review of the application to ensure that the application at least addresses the components necessary for a completeness determination pursuant to A.A.C. R18-2-304. Once deemed administratively complete after this clerical review of the application, the Department enters into the Substantive Review period, during which a more detailed review of the application may reveal insufficient information, justification, or analysis in order to make a licensing decision. Changing the standard permit application from is not likely to ensure that applicants provide all of the information necessary to complete the case-by-case review of their application. Additionally, the burden of demonstrating that the application complies with all of the applicable requirements resides with the applicant, and the LTF should assist in obtaining this information.

Based upon this discussion, ADEQ recommends the following changes to the discussion and recommendation:

**Discussion:** ADEQ staff stated the major barrier to issuing timely permits is not receiving enough information from sources. According to staff, many sources do not include adequate information in their permit applications in order to allow the Department to issue a permit. Many engineers thought that the LTF rules also acted as a hindrance to the timely issuance of Title V permits.

Upon further review of ADEQ's LTF rules, and based upon ADEQ's explanation of its authority under such rules, EPA has determined that LTF does not hinder, but rather enhances ADEQ's ability to obtain information that is necessary to process permit applications. In the absence of an applicant's response, ADEQ's LTF rules allow ADEQ to proceed to a final licensing decision based upon the components submitted in the application. If the components are incomplete, or insufficient to allow ADEQ to issue a

permit, ADEQ has the authority to deny the application after making reasonable attempts to obtain that information.

**Recommendation:** EPA recommends that ADEQ look for additional ways to ensure that applicants provide adequate information that will allow the Department to issue permits within the overall LTF clock.

- 5.7 ADEQ agrees with this finding, discussion and requests a minor editorial revision to the introduction of the recommendation. In response, ADEQ will commit to providing more detail in its technical review documents for minor permit revisions. While the checklist contains some useful information regarding the proposed project and whether it meets the gatekeepers outlined in the rule, ADEQ acknowledges that there will be value in providing more detail about the legal and factual basis for the proposed permit conditions.

**Recommendation:** EPA recommends that ADEQ prepare TSDs for minor permit revisions and include them in permit review submittals to EPA...

- 5.8 ADEQ agrees with this finding, discussion and requests only a minor editorial revision to the introduction of the recommendation. In response, the Department agrees that additional information and justification for changes made pursuant to A.A.C. R18-2-317 should be included in the record.

**Recommendation:** In addition to including a description of each off-permit change and/or justification in the AZURITE system, EPA recommends that ADEQ also ensure that a written justification is included in the permit file for each source which makes an off-permit change pursuant to A.A.C. R18-2-317...

## 6. COMPLIANCE

- 6.1 ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 6.2 ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 6.3 ADEQ agrees with the finding, discussion and only requests a minor editorial revision to the introduction of the recommendation:

**Recommendation:** EPA encourages ADEQ to consider developing source-specific or source category-specific templates or checklists for Title V compliance certifications and semiannual reports.

- 6.4 ADEQ agrees in part with this finding and discussion, but requests revision of the recommendation pursuant to ADEQ's discussion in Section 5.6, and the fact that the burden for identifying and understanding applicable requirements lies primarily with the source. Consistent with this discussion, ADEQ requests that the recommendation be revised to read as follows:

**Recommendation:** EPA encourages ADEQ to review its standard permit application form to ensure that applicants include a CAM plan as part of the original application.

- 6.5 ADEQ is concerned that this finding, discussion and recommendation may not be entirely accurate. A.A.C. R18-2-309(5) requires all air quality permits to contain a compliance plan, and when necessary, a compliance schedule. ADEQ's approach to ensuring that all of its air quality permits meet this requirement is to include such requirements in various conditions in Attachment "A": General Provisions of each permit.

Additionally, staff may not be aware of these requirements because Attachment "A" is often times considered by staff to be boiler plate language, and is rarely reviewed during the internal and external review processes. Unless there is a specific need for a compliance schedule, very few members of the compliance or permits section staff are required to create compliance plans and schedules.

Finally, it is most common for ADEQ to identify non-compliance with a permit term or condition as a result of an inspection or complaint. Staff from the Air Quality Compliance Section will then follow the Agency's Compliance and Enforcement Handbook (available on ADEQ's Web site at <http://www.azdeq.gov/function/forms/docs.html#hand>) in order to resolve the issue. The Air Quality Permits Section would then become involved only when a permit revision application is filed to close out an existing Notice of Violation, or to incorporate conditions from a Consent Order or Judgement.

Because it is unusual for an instance of non-compliance to be identified by the Permits Section when a permit application is under review, this element of an air quality permit is

not well known to permitting staff. ADEQ management is aware of such requirements, however, and will ensure that the appropriate compliance plans and schedules are incorporated into air quality permits when necessary. Based upon this discussion, ADEQ recommends the following language for the finding, discussion and recommendation:

**Finding:** ADEQ permits and compliance staff were not generally aware of Title V permit compliance plans, compliance plan requirements and compliance schedules.

**Discussion:** During EPA's site visit, interviews with staff in the Compliance and Permits section revealed that staff is not generally aware of compliance plans, compliance plan requirements, or compliance schedules, even though ADEQ does incorporate, when necessary, such elements into its Title V permits (examples include the Apache Nitrogen and Phelps Dodge Miami permits). After further discussion, EPA attributes this lack of knowledge to the methodology that ADEQ uses to address compliance issues. According to ADEQ, the identification of non-compliance typically occurs through a site inspection or as a response to a complaint. Instead of including provisions to address these concerns as a compliance plan in a permit (if there is an open permit at the time), ADEQ follows its Compliance and Enforcement Handbook to address and resolve the identified non-compliance.

**Recommendation:** While EPA understands ADEQ to handle events of non-compliance through its Compliance program, the compliance plan, compliance plan requirements, and compliance schedule remain useful tools that may be necessarily implemented in the future. EPA encourages ADEQ to include a module concerning compliance plans and schedules in its general training of air quality permit engineers.

## 7. RESOURCES AND INTERNAL MANAGEMENT

- 7.1 ADEQ does not disagree with the finding, discussion or recommendation, but requests that they be revised to read as follows:

**Finding:** ADEQ, like the other Arizona air quality permitting programs, faces a challenge of periods of high staff turnover that may be attributable to ADEQ's ability to offer salaries that compete with offers made by industry, consulting companies, and some times other air quality regulatory agencies to experienced staff, as well as the absence of a career ladder or other system which allows permit engineers to show growth in their positions.

**Discussion:** During our evaluation, both management and staff indicated that ADEQ has experienced several periods of high turnover amongst its permit engineers. Periodic episodes of high turnover can result in a less efficient Title V program, as newly hired staff members are not as efficient at processing permit applications. In addition, new staff members generally require expensive and specialized training in addition to professional experience before being able to efficiently process the more complex permits, including Title V, as well as permits that allow for economic growth, including permits for new and modified major sources.

Staff members explained that, in their opinion, the primary factor that contributes to periodic episodes of high turnover relate to the salaries offered by industry, consultants, and in some cases, other air quality regulatory agencies inside of Arizona, to engineers with more than two years of relevant permitting experience. Some interviewees indicated that they believed ex-staff members might have remained with the State, had there been a ladder that could be used to gauge and display growth with respect to their career. While most interviewees acknowledged that the stability of their position was appreciated, it can be demoralizing, and difficult to socially disprove the perceived stigma that government employees are lazy, and lack ambition and work ethic when it is nearly impossible to show growth in their position. Most complained that the only reward for doing good work is to be assigned more difficult and complex work, while their pay and title remain the same as a newly hired engineer. The conclusion that many interviewees expressed was that the only way to ensure career growth, both in terms of title and income, is to either receive a promotion into management or to leave ADEQ.

**Recommendation:** It is EPA's experience with other programs that staff turnover can erode an Agency's institutional knowledge regarding permitted facilities which can create delays in the issuance of both new and renewed Title V permits. Based upon discussions with ADEQ's permitting staff, EPA believes that establishment of a career ladder, or another system in which engineers can demonstrate growth through their career, might reduced the frequency and severity of staff turnover.

- 7.2 ADEQ requests further discussion with EPA to determine the source and context of this comment so that the Department may fully understand EPA's draft recommendation and then formulate a thoughtful response.

**7.3** ADEQ agrees in part with this finding, discussion and recommendation. During interviews, it may have been mentioned that ADEQ was in the process of reducing the number of positions that the Department had been authorized to fill. ADEQ wishes to clarify that the FTE cuts that might have been mentioned were required through out the Department, and that all of the cuts were absorbed by vacant positions. Because there was never a threat to filled positions, ADEQ requests that this finding, discussion and recommendation be revised as follows:

**Finding:** EPA believes that ADEQ's current permit staffing is adequate for the air quality permitting work load.

**Discussion:** ADEQ currently has fourteen permit engineers, of which six FTE equivalents are assigned to Title V permit work. EPA believes that this current level of staffing is adequate for ADEQ's current work load, but is uncertain as to whether or not additional staff may be needed in order to ensure timely issuance of renewal Title V permits.

**Recommendation:** EPA encourages ADEQ to ensure that staffing in the Air Quality Permits Section continues to be adequate for addressing the work load.

**7.4** ADEQ agrees with the finding, discussion and requests the following editorial change of the recommendation:

**Recommendation:** EPA encourages ADEQ to maintain its existing good accounting practices.

**7.5** ADEQ agrees with the finding, discussion requests the following editorial change of the recommendation:

**Recommendation:** EPA encourages ADEQ's management and staff to continue to work to ensure that functionality and effectiveness is maintained among the various offices within the Department that share responsibility for a credible Title V program.



## **8. TITLE V BENEFITS**

- 8.1** ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 8.2** ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 8.3** ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.
- 8.4** ADEQ agrees with the finding, discussion and recommendation, and does not propose any changes to the text.

## 9. RECORDS MANAGEMENT

### 9.1 ADEQ partially concurs and partially disagrees with EPA's finding, discussion and recommendation.

The agency agrees that it is necessary for an organizational system for files including individual documents and reports to be developed for program files and notes that the individual programs will address this concern. ADEQ does not concur with the recommendation that AQD should be allowed to maintain and control its permit and compliance files. ADEQ has adopted a centralized filing system to enable the public and regulated community to obtain all ADEQ files through a single portal, the ADEQ Records Management Center (RMC). ADEQ does not concur with the finding about the database system. A new database, Hummingbird RM/DM was installed after the audit time frame to aid in identification of records within a centralized agency filing system. ADEQ does not concur with the finding that ADEQ staff do not have access to their files. Processes were in place prior to the audit as can be seen through Attachments 4 and 5 which have been provided for the audit team's review.

ADEQ also does not concur with time frames quoted for retrieval of Air records and the percentage of files not found by RMC staff. During the last 13 months the average turn around time for agency wide internal customer requests was 29.07 minutes with Air being a little higher at 42.16 minutes because Air files are maintained using different guidelines. In November 05 the average file retrieval times for agency wide internal customers are 17 minutes and 20.33 minutes for Air files.

As noted in the EPA findings, an AQD manager indicated that 20% to 25% of requested files could not be found by RMC staff. Requested file volumes from the Air Quality Division totaled 1124 for the past 13 months, and of those, 451 volumes were not presented when requested. Files that were not presented when requested were not available for several reasons: 1) file was checked out by another staff member, 2) file was under external review, 3) Out for copying, 4) Request was for information only or transfer, 5) file was not found on the shelf but in the system, and 6) file was not housed in the RMC or maintained in the RMC database. A numerical breakdown of the reasons for not presenting files at the time of request is as follows:

<b><u>Reason for Not Presenting File Upon Request</u></b>	<b><u>Number of Occurrences</u></b>
File Checked Out to Other Staff	344
File Under External Review	4
Not in RMC Database	80
Request was for Information Only	14
Out to AOT (Contract Copier)	2
Not Located or Found on Shelf but in System	7

As demonstrated above, only 7 records were unable to be found due to an inability to locate them on the shelf. This number represents less than 1% of the overall requests processed during that 13 month period. Supporting data are available for the past 13

months and can be provided for review by the audit team upon request. As such, ADEQ requests that this finding, discussion and recommendation be revised to account for the discussion provided above.

- 9.2** ADEQ partially concurs and partially disagrees with EPA's finding, recommendation and discussion for reasons discussed in Response 9.1.

As a side note, at the time of EPA's site visit, the Air Quality Permits Section was already providing guidance to staff on the organization and contents of each record that is submitted to the centralized file room. Copies of this guidance are provided in Attachment 4 to this document.

- 9.3** ADEQ disagrees with EPA's finding, recommendation and discussion.

The RMC maintains a room used exclusively for external reviews and it is staffed with a dedicated staff member to oversee all external reviews, which are carried out per agency policies and procedures. The RMC also utilizes video monitoring capabilities which were installed in Fiscal Year 2003. This monitoring system comprises two fixed cameras and one movable camera that continually tape customer reviews. Also in Fiscal Year 2003, procedures went into place for personal belongings (bags, purses, briefcases, loose papers) to be left at a table at the back of the RMC review area, allowing reviewers only a writing utensil, and a pad of paper while reviewing files. If anything else is needed, a specific request must be made by the customer (i.e. hand scanner, camera). The appropriate policies and procedures regarding external review can be provided for review by the audit team upon request.

- 9.4** ADEQ agrees with this finding and discussion, but does not believe EPA's recommendation is necessary.

ADEQ agrees that training in the area of Public Records is an important part of our job. ADEQ currently conducts training on "Public Records" and this class is available to the entire agency. The course is presented by an Assistant Attorney General and the agency Custodian of Records four times per year. Please see Response to 9.7 for additional information.

- 9.5** ADEQ understands this comment to be related to the knowledge that managers and staff of Air Quality Permits Section had at the time of the evaluation. Pursuant to this understanding, ADEQ agrees that the finding, discussion and recommendation were accurate at the time period of EPA's site visit. Since that site visit, however, ADEQ has completed revision of its File Retention and Disposition Schedule for the Air Quality Permits Section. The Schedule has been approved by the Director of the Arizona State Library, and a copy of this document can be found in Attachment 5. ADEQ requests that the finding, discussion and recommendation be updated to acknowledge this completed policy. In addition, ADEQ and the Arizona State Library and Public Records (ASLAPR) do expedite requests for review and revision of retention plans per A.R.S. § 14.3150. Training on retention plans takes place during the process outlined in 9.4 and is open to all

agency staff.

ADEQ also requests that elements of the discussion in the discussion in Section 9.7 be moved to this finding. ADEQ agrees that its staff and managers should be more aware of the basic information within the records retention policies, and while they are consulted when these policies are developed, management in particular should be encouraged to be able to discuss the general elements of these policies either through memory, or by keeping a copy of this policy in a location that can be easily accessed.

- 9.6** ADEQ agrees with this finding and discussion but requests the following changes to the recommendation:

**Recommendation:** ADEQ requests that the third sentence of the second paragraph be amended to read as follows: “EPA encourages ADEQ to investigate the feasibility of making all permit documents accessible through AZURITE.”

ADEQ also requests that the first sentence of the third paragraph be revised to read as follows: “EPA also recommends that fee information from accounts receivable be linked to AZURITE.”

- 9.7** ADEQ disagrees with this finding, portions of the discussion and recommendation.

Because each Division of ADEQ generates public records, ADEQ has offered Department wide public records training for its staff. In those instances, ADEQ invites an assistant Attorney General to the Department to explain what constitutes a public record, and how to implement ADEQ’s policies on public records. These trainings are held on a periodic basis, are announced in the quarterly training calendar (the November 2005 – January 2006 calendar is included as an attachment), and are open to all ADEQ employees. The next scheduled class, entitled Public and Confidential Documents is scheduled for Tuesday, January 24, 2006, as can be seen in the calendar enclosed in Attachment 6.

Based upon this information, and the fact that a retention policy (as discussed in 9.5) is now final, ADEQ requests that this finding, discussion and recommendation be revised as follows:

**Finding:** ADEQ does provide training on what constitutes a public record, but it is uncertain if this training course is considered mandatory for all permit engineers.

**Discussion:** It is important that ADEQ keep complete records for each Title V permit. Since these are all public records, the public has a right to view the records associated with each permitted facility. While ADEQ provides training on what constitutes a public record, it is unclear as to whether or not this training class is a mandatory training for each individual who is responsible for developing and handling public records. It is also unclear as to whether or not staff is required to periodically attend these courses in order to ensure compliance with Department policy and state law. In addition, ADEQ has developed guidance on how Title V permit files are to be organized (as discussed in 9.2),

but it is unclear as to whether or not the Air Quality Permits Section periodically trains staff on the implementation of this guidance.

**Recommendation:** EPA recommends that ADEQ develop a schedule of mandatory training for each permit engineer, and include requirements for training on public and confidential documents on a periodic basis.

**Appendix D -- EPA RESPONSE TO ADEQ COMMENTS**

## Appendix D

### EPA Region 9 Responses to ADEQ Comments on the Draft Title V Program Evaluation Report

EPA has reviewed ADEQ's comments and provides the following responses. For the findings in which ADEQ made comments but are not addressed herein, we have generally made to those findings the changes that ADEQ requested. We have also attached the ADEQ comments as Appendix C to the final report.

1. Executive Summary Finding 6

EPA does not agree with ADEQ's comment to remove this finding from the Executive Summary. See EPA's response to ADEQ's comments to Finding 5.4 below for more discussion.

2. Finding 2.2

In response to ADEQ's comments, EPA has added an update in italics to the finding, added the last paragraph to the discussion section of the finding, and provided more detail in the recommendation section of the finding.

3. Finding 2.5

EPA has not revised the discussion section of the finding about the Licensing Time Frame ("LTF") Rule per ADEQ's comment. EPA based the LTF discussion language on staff interviews during the field visit. Staff stated to EPA that the LTF Rule in some cases hindered permit engineers from obtaining additional information during the substantive review period. See Response to Comments Finding 5.6 for more discussion concerning additional information requests during the substantive review period.

4. Finding 3.2

EPA has not revised the finding per ADEQ's comments. EPA based Finding 3.2 on the general interest expressed by both ADEQ staff and management for more CAM guidance and training from EPA. However, EPA appreciates ADEQ's comment about the need for our two agencies to engage earlier in the 45-day review period concerning specific CAM issues, and EPA agrees to address CAM interactions with ADEQ by working with ADEQ to update the "EPA/ADEQ Plan of Action for Title V Working Relationship."

5. Finding 3.4

EPA has not revised the finding per ADEQ's comments. EPA based this finding upon what we heard from ADEQ staff during the field interviews. Staff told us that they thought source-specific forms for semi-annual monitoring reports could greatly improve the content quality of these reports. EPA also agrees with ADEQ that these types of forms may be beneficial to non-Title V sources as well. We therefore encourage ADEQ to consider developing source-specific forms for semi-annual monitoring reports, but we leave the details of that development strictly to ADEQ.

6. Finding 5.2

EPA agrees with ADEQ that additional documentation of the Department's analysis of permit revisions and off-permit changes would be beneficial. EPA is encouraged by ADEQ's commitments to requiring additional information from its sources and to adding the appropriate documentation to a Technical Support Document or a memorandum to the file so that EPA, ADEQ, and the public are assured that a proposed change meets the requirements of A.A.C. R18-2-302, -317, and -319 and does not require a permit pursuant to ADEQ's SIP Rule R9-3-301. This practice will ensure that proper documentation of the Department's approval of facility changes without revision, and minor permit revisions, are adequately justified for both the public record and future review.

Most recently, in a letter dated May 4, 2006 (see Appendix G), EPA provided suggested changes to Rules R18-2-317 and -319 which would ensure consistency between ADEQ's NSR rules and the Part 70 permit revision requirements.

In light of EPA's further review of SIP Rule R9-3-301, we have made certain changes to Finding 5.2. However, we have retained discussions that we believe to be consistent with our field notes, staff interviews, and general program oversight.

7. Finding 5.4

EPA has not revised the finding per ADEQ's comments. Although EPA understands and appreciates ADEQ's comments, EPA based this finding upon staff interviews where staff expressed uncertainty about how to classify permit revisions and commented on the lack of program guidance. In addition, staff expressed that the gatekeeper language in Rules R18-2-317 and R18-2-319 were not necessarily self-explanatory in helping staff determine the type of permit revision. Staff stated that they needed guidance to help them determine how to properly classify permit revisions.



8. Finding 5.6

EPA has not revised this finding per ADEQ's comments. The basis for this finding came from several ADEQ staff comments that the LTF clock could only be effectively stopped once during the substantive review period. After that time, the LTF clock would continue to run even if staff later identified the need for subsequent additional information. Staff therefore felt pressured to issue Title V permits even in cases where they felt they did not have complete information from the source.

9. Finding 6.5

EPA has not revised the finding per ADEQ's comments. Although EPA understands ADEQ's comments, EPA did not intend for this finding to address ADEQ's practice or methodology concerning the inclusion of compliance schedules into Title V permits. This finding merely addresses the general unfamiliarity of ADEQ staff with Title V permit compliance schedules and EPA recommends only that ADEQ consider a general training for staff of Title V permit compliance schedule/compliance plan requirements.

10. Finding 9.1

EPA has not revised the finding per ADEQ's comments. EPA based this finding upon information provided by most of the AQD employees interviewed during the field visit. With this finding, EPA encourages ADEQ to consider improvements to its records management system in order for employees to be better able to find and retrieve permit files in a shorter period of time.

11. Finding 9.3

EPA has not revised the finding per ADEQ's comments. Although EPA appreciates ADEQ's comment that it has file viewing room policy and procedures in place, EPA based this finding on one EPA employee's personal observations during a file review in the public viewing area. Although the EPA employee did not note whether two fixed cameras and one movable camera were operating at the time in the viewing area, he did have the opportunity to take personal papers into the viewing area, noted that he was not closely watched by viewing room staff, and also noted that he could easily have placed ADEQ documents in among his own personal papers.

**Appendix E -- SAMPLE PERMIT/TSD FORMAT AND CONTENT OUTLINES**

**PERMIT OUTLINE**

\*\*\*\*\**Remove those portions that do not apply to your facility*\*\*\*\*\*

**SUMMARY:** *(brief description of the source including location, operating processes, major equipment, and any significant operating limitations)*

**TABLE OF CONTENTS:** *(make sure to revise page numbers after completing the permit)*

**ATTACHMENT “A”: GENERAL PROVISIONS**

(make sure it is the most recent version - located at: [J:/aqd/permits/common/permits/# Permit Templates 2005/Attachment A](#))

**ATTACHMENT “B”: SPECIFIC CONDITIONS**

**I. RELATIONSHIP OF PERMIT TO APPLICABLE STATE IMPLEMENTATION PLAN**

*(For new sources only.)*

**II. FACILITY WIDE LIMITATIONS**

- A. Facility Wide Emission Limits**
- B. Hours of Operation** *(if it is a facility wide limit)*
- C. Operating Limitations**
- D. Monitoring/Record keeping/Reporting Requirements**

**III. SPECIFIC SOURCE**

*(Start with largest source and move to smallest.)*

- A. Applicability**
- B. Operating Limitations**
  - 1. Hours Limitations
  - 2. Fuel Limitations
  - 3. Monitoring/Record keeping/Reporting Requirements
  - 4. Permit Shield
- C. Particulate Matter (PM/PM<sub>10</sub>) and Opacity**
  - 1. Emission Limitations/Standards
  - 2. Air Pollution Control Requirements
  - 3. Monitoring/Record keeping/Reporting Requirements
  - 4. Testing Requirements
  - 5. Permit Shield

**D. Nitrogen Oxides (NO<sub>x</sub>)**

1. Emission Limitations/Standards
2. Air Pollution Control Requirements
3. Monitoring/Record keeping/Reporting Requirements
4. Testing Requirements
5. Permit Shield

**E. Carbon Monoxide (CO)**

1. Emission Limitations/Standards
2. Air Pollution Control Requirements
3. Monitoring/Record keeping/Reporting Requirements
4. Testing Requirements
5. Permit Shield

**F. Sulfur Dioxide (SO<sub>2</sub>)**

1. Emission Limitations/Standards
2. Air Pollution Control Requirements
3. Monitoring/Record keeping/Reporting Requirements
4. Testing Requirements
5. Permit Shield

**G. Volatile Organic Compounds (VOC)**

1. Emission Limitations/Standards
2. Air Pollution Control Requirements
3. Monitoring/Record keeping/Reporting Requirements
4. Testing Requirements
5. Permit Shield

**H. Hazardous Air Pollutants (HAP)**

1. Emission Limitations/Standards
2. Air Pollution Control Requirements
3. Monitoring/Record keeping/Reporting Requirements

- 4. Testing Requirements
- 5. Permit Shield

**IV. SPECIFIC SOURCE**

(See III above - repeat as many times as necessary)

**V. FUGITIVE DUST REQUIREMENTS**

(See template language located at [J:/aqd/permits/common/permits/# Permit Templates 2005/Approvedpermitlanguage](#))

**A. Applicability**

**B. Particulate Matter (PM/PM<sub>10</sub>) and Opacity**

- 1. Emission Limitations/Standards
- 2. Air Pollution Control Requirements
- 3. Monitoring/Record keeping/Reporting Requirements
- 4. Testing Requirements
- 5. Permit Shield

**VI. MOBILE SOURCE REQUIREMENTS**

(See template language located at [J:/aqd/permits/common/permits/# Permit Templates 2005/Approvedpermitlanguage](#))

**VII. OTHER PERIODIC ACTIVITY REQUIREMENTS**

(See template language located at [J:/aqd/permits/common/permits/# Permit Templates 2005/Approvedpermitlanguage](#))

**VIII. CONDITIONS SPECIFIC TO PORTABLE SOURCES**

(See template language located at [J:/aqd/permits/common/permits/# Permit Templates 2005/Approvedpermitlanguage](#))

**ATTACHMENT “C”: EQUIPMENT LIST**

*(See example below.)*

**Additional Notes**

All emission limits or operating limits must have the appropriate monitoring, testing, record keeping, and reporting requirements associated with them.

The Permit Shield should not include requirements from Article 3 of the Arizona Administrative Code.

**ATTACHMENT "C": EQUIPMENT LIST**

**Air Quality Control Permit No. *XXXXXX***

**For**

*Company Name*

<b>EQUIPMENT TYPE</b>	<b>MAX. CAPACITY</b>	<b>MAKE</b>	<b>MODEL</b>	<b>SERIAL NUMBER</b>	<b>DATE OF MFG.</b>

**OUTLINE OF A TECHNICAL SUPPORT DOCUMENT**

\*\*\*\*\**Remove those portions that do not apply to your facility*\*\*\*\*\*

**I. INTRODUCTION**

(A brief description of the source including the location)

**A. Company Information**

- 1. Facility Name
- 2. Facility/Mailing Address

**B. Background**

(For existing sources only - brief description of past permitting actions if deemed noteworthy)

**C. Attainment Classification**

**II. FACILITY DESCRIPTION**

(Describe the operating process in detail including major equipment and any significant operating limitations)

**A. Process Description**

**B. Air Pollution Control Equipment**

**III. COMPLIANCE HISTORY**

(For existing sources only, the Compliance Section should provide this - example tables will be provided)

**A. Testing & Inspections**

**B. Excess Emissions**

**IV. EMISSIONS**

(Summarize the emissions calculated for the facility and include a summary table(s).)

**V. APPLICABLE REGULATIONS**

(Summarize all applicable regulations included in the permit.)

**VI. BEST AVAILABLE CONTROL TECHNOLOGY ANALYSIS**

**A. Introduction**

(Describe how the control technology was determined (i.e. BACT, LAER, etc.)

**B. Specific Equipment**

- 1. PM<sub>10</sub>
- 2. NO<sub>x</sub>
- 3. CO
- 4. SO<sub>2</sub>
- 5. VOC

**VII. PREVIOUS PERMIT CONDITIONS**

*(For existing sources only)*

**VIII. MONITORING REQUIREMENTS**

**IX. TESTING REQUIREMENTS**

*(If justification is necessary)*

**X. IMPACTS TO AMBIENT AIR QUALITY**

*(Should be provided by Assessment Section.)*

**XI. INSIGNIFICANT ACTIVITIES**

*(Should include activity, determination, and justification)*

**XII. LIST OF ABBREVIATIONS**

*(Abbreviations should always be spelled out in the document the first time they are used - a generic list is provided below.)*

AAAQG .....	Arizona Ambient Air Quality Guideline
A.A.C. ....	Arizona Administrative Code
ADEQ .....	Arizona Department of Environmental Quality
ADHS .....	Arizona Department of Health Services
AQD.....	Air Quality Division
AQG.....	Air Quality Guidelines
Btu/ft <sup>3</sup> .....	British Thermal Units per Cubic Foot
CO.....	Carbon Monoxide
CO <sub>2</sub> .....	Carbon Dioxide
DEGF .....	Degrees Fahrenheit
DEGK .....	Degrees Kelvin
FERC .....	Federal Energy Regulatory Commission
ft.....	Feet
g .....	Grams
HAP .....	Hazardous Air Pollutant
hp .....	Horsepower
hr.....	Hour



IC .....	Internal Combustion
lb .....	Pound
m .....	Meter
MMBtu.....	Million British Thermal Units
$\mu\text{g}/\text{m}^3$ .....	Microgram per Cubic Meter
MMCFD.....	Million Cubic Feet Per Day
NAAQS.....	National Ambient Air Quality Standard
$\text{NO}_x$ .....	Nitrogen Oxide
$\text{NO}_2$ .....	Nitrogen Dioxide
$\text{O}_3$ .....	Ozone
Pb .....	Lead
PM.....	Particulate Matter
$\text{PM}_{10}$ .....	Particulate Matter Nominally less than 10 Micrometers
Psia.....	Pounds per square Inch (absolute)
PTE .....	Potential-to-Emit
s.....	Seconds
$\text{SO}_2$ .....	Sulfur Dioxide
TPY .....	Tons per Year
TSP .....	Total Suspended Particulate
USEPA .....	United States Environmental Protection Agency
VOC.....	Volatile Organic Compound
yr.....	Year

**Appendix F -- ADEQ/EPA PLAN OF ACTION FOR TITLE V WORKING  
RELATIONSHIP (September 2004)**

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## ADEQ/EPA PLAN OF ACTION FOR TITLE V WORKING RELATIONSHIP September 2004

### INTRODUCTION

At the July 11, 2003, State/Environmental Protection Agency (EPA) Meeting, both ADEQ and EPA agreed to prepare a written plan of action for the purposes of improving our Title V working relationship. On September 10, 2003, ADEQ and EPA met for a one-day retreat and developed a draft plan of action. The agreements developed during the retreat are outlined below. A good working relationship is important to both agencies. Both agencies want to make sure that we are efficient, consistent, reasonable, and clear in our expectations, and that our interactions with each other result in predictable outcomes. During the retreat, both agencies recognized that we needed to provide additional time for discussion in our Title V review process, and that the current procedures did not always give us the time we needed. The following plan of action includes steps that both agencies feel will help us resolve issues more successfully.

### ROLES AND RESPONSIBILITIES

- ADEQ is the lead permitting agency for Arizona. ADEQ provides leadership on issues in Arizona not only for the sources that it regulates but also for sources regulated by other air quality agencies within the State.
- EPA Region 9's role is oversight and review of permits for all air agencies within Region 9. The Region 9 Office works to ensure consistency throughout Region 9 and across the country. EPA's role means that EPA provides comments - both positive and negative - to ADEQ and the other air quality agencies on Title V permits and NSR/PSD permits.

### PRINCIPLES

- Both agencies intend to carry out their respective roles and responsibilities in a collaborative manner.
- Both agencies want to resolve issues during the review process in order to avoid objections to permits
- Both agencies are committed to making timely decisions. ADEQ and EPA need to discuss permits earlier in the process and include all affected parties so that issues are resolved more easily and there are no surprises.

## PLAN OF ACTION

- EPA will support ADEQ when EPA has no issues with a permit they have reviewed. This could be in the form of a letter or e-mail which states that EPA found no issues with the permit.
- EPA will notify ADEQ by letter or e-mail when the 45-day review period is closed.
- When EPA has issues with a permit, the EPA staff engineer will raise its questions to ADEQ's staff engineer first to see if additional information will resolve the issues. When EPA has issues with a permit, it is sometimes a matter of EPA not fully understanding how ADEQ arrived at some of their decisions and needing further clarification. EPA will provide to ADEQ a detailed explanation of the issues that we have identified to help ADEQ respond to EPA's questions. If the staff engineers cannot resolve the issues, they will elevate the issues to EPA and ADEQ supervisors and everyone will continue to work together to resolve the issues. The EPA Associate Director and ADEQ Permits Section Manager will be informed at that point and will join in the discussions, as appropriate. If the issues remain unresolved, Division Directors at both agencies will be alerted. The timing of this depends on impending deadlines such as the 45-day review period or the licensing time frame deadline.
- ADEQ and EPA had previously agreed to document conversations on individual Title V permits. Both agencies have agreed that we will continue to document our conference calls and in particular any agreements that are reached between the agencies. Both agencies have been documenting agreements, primarily through email exchanges, and this approach seems to work very well.
- ADEQ and EPA will avoid unilateral discussions with a company when the discussion involves a critical decision. EPA does not need to be involved in every discussion that ADEQ has with a permittee. If EPA intends to have a conversation with a company about a critical issue, then ADEQ will be invited to participate, and vice versa. Meetings will be scheduled so that both agencies will have the opportunity to fully participate.
- As a long-term objective, both Agencies will explore the possibility of a temporary IPA/reverse IPA program which would provide permit engineers from both agencies a chance to understand the workings of the other agency.
- The Agencies will try to resolve issues using the following approaches:

### 1. Balancing Workload

- ADEQ will continue to prepare and share a list of upcoming renewals with EPA on an annual basis. ADEQ will also share all applications for new permits and

significant revisions as they are received, along with the Licensing Time Frames (LTF) deadline for making a final decision. This will be used by both agencies for workload planning.

## **2. Pre-Application Meetings**

- EPA will become an active participant in pre-application meetings for new sources and renewals. ADEQ will set the ground rules for the applicants, such as to provide material in advance of the meeting to both ADEQ and EPA. Information will be shared by both agencies.

## **3. Identify Key Milestones and Have Discussions Between Agencies At Those Milestones**

- Some Title V permits may not be all that complicated, so EPA will let ADEQ know on a case-by-case basis the permits which do not need discussion at each milestone. This will focus time and effort on the permits where more collaboration is needed.
- Determination of application completeness
- Modeling analysis (modeling protocol and submission of modeling results)
- All required interactions with Fish and Wildlife Services and Federal Land Managers (e.g., Endangered Species Act Requirements, Class I increments, AQRVs, Class II visibility and nitrate deposition issues)
- Applicability Determinations (e.g., PSD/NSR/Title V applicability, especially those where the facility might be exempt or asking for applicability determinations based on the reform regulations (for the delegated portion of the program or for the case when the state has modified its SIP), completion of applicable requirement determinations, review of netting analysis, review of significant impacts analysis, and BACT and LAER analysis, offset packages)
- Completion of draft permit and technical support document
- Additional periodic updates

## **4. Interact Before Public Notice Begins**

- ADEQ will provide a copy of the draft permit and TSD to EPA at the commencement of public comment, or earlier if possible.
- ADEQ will involve EPA in meetings concerning permit applications that occur after the pre-application meeting, where ADEQ and EPA agree that the involvement of both agencies is necessary.

- ADEQ and EPA will communicate about the need for additional review time depending on the complexity of the permit application. ADEQ will send an early informal copy of the permit when complex and/or controversial issues are expected to arise.

**5. Create Additional Review Time**

- ADEQ will send EPA a commitment letter outlining the issues and agreeing not to issue the permit until the outstanding issues have been resolved. The letter has to state how the issues will be addressed and that EPA will reopen the permit if the issues are not resolved. The letter would be signed by the ADEQ Air Division Director and sent to EPA's Air Division Director. The content should be agreed upon by both agencies.

**ADMINISTRATIVE PROVISIONS**

**1. Terms of agreement**

- a. This agreement is effective upon signature by both EPA and ADEQ
- b. This agreement may be terminated by either agency upon mutual written agreement. The agency intending to dissolve the agreement must give 60 days notice prior to termination.

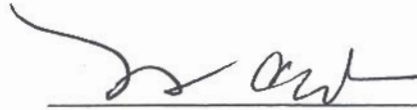
**2. Modifications**

This plan of action may be modified at any time by mutual written agreement between ADEQ and EPA. Both agencies agree to meet or teleconference to discuss and negotiate, as necessary, any changes that are needed to assure that permitting program communications between ADEQ and EPA continue to be optimal.

**SIGNATURES**

On behalf of the Arizona Department of Environmental Quality, I accept the terms and conditions of this Plan of Action.

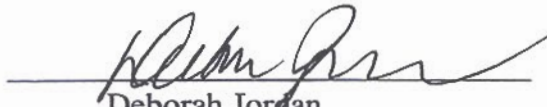
Date: 10/21/04



Nancy C. Wrona  
Air Quality Division  
Arizona Department of Environmental Quality

On behalf of the Environmental Protection Agency, I accept the terms and conditions of this Plan of Action.

Date: October 20, 2004



Deborah Jordan  
Director, Air Division  
Environmental Protection Agency  
Region 9

**Appendix G -- MAY 4, 2006, EPA LETTER (NSR REFORM AND SIP GAP) –  
RULE 317/319 PERMIT CHANGES**





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**75 Hawthorne Street  
San Francisco, CA 94105-3901**

**MAY 04 2006**

Ms. Nancy Wrona  
Arizona Department of Environmental Quality  
ADEQ Central Office, Mailcode 3415A-1  
1110 West Washington Street  
Phoenix, AZ 85007

Dear Nancy,

I am writing to follow up on our meeting of October 12, 2005, at which we discussed ADEQ's plans with respect to EPA's 2002 new source review (NSR) reform regulations. At that meeting ADEQ indicated its intention to resolve the outstanding issues related to its August 15, 1994 State Implementation Plan (SIP) submittal before revising its rules to adopt the 2002 reforms. EPA committed to providing your agency with an update of the outstanding issues related to the 1994 submittal and our recommendations for developing a SIP submittal that can be approved by EPA. We apologize for the delay in our response. We had to research several issues and consult with Headquarters on several others. Attachment 1 to this letter discusses the issues we have identified in the NSR-related rules for your review.

In addition, the August 1994 submittal contained some rules that have been superseded by a more recent version of the rule. We are assuming that ADEQ would prefer that EPA take action on the most recently adopted version of the rule, so the most recent version of each rule should be included when ADEQ submits the NSR SIP package.

Once ADEQ is ready to submit the NSR SIP revision, EPA requests that ADEQ submit a clean copy of each rule to provide a clear and unambiguous record of the action that EPA is taking. A "clean" copy of a rule should have the following characteristics: (a) It should be a stand-alone document with text starting at the top of a page; (b) it should identify the local air agency and contain the adoption/amendment date history; (c) it should contain no shaded areas, strikeouts, or missing text; (d) if the version submitted to EPA is different than the rulebook version, the version submitted should have undergone the public review/adoption process; and (e) it should be submitted in both electronic and hard copy format. Clean copies of the rules will expedite the review process at our end.

We appreciate your commitment to revising the SIP and look forward to working with you and your staff. If you have any questions or would like to discuss these matters

in further detail, please contact either me (415-972-3133) or Colleen McKaughan (520-498-0118). In addition, both Gerardo Rios, Chief, Permits Office at (415) 972-3974 and Andrew Steckel, Chief, Rulemaking Office at (415) 947-4115 are available to assist you.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Jordan", with a long, sweeping flourish extending to the right.

Deborah Jordan  
Director, Air Division

Enclosures

## **Attachment #1 Outstanding Issues**

The following issues must be addressed before EPA can approve these rules into the SIP.

- 1) Rules R18-2-317 and R18-2-319: ADEQ must ensure that pre-construction permitting requirements are fulfilled when issuing minor permit revisions and approving facility changes allowed without a permit revision. ADEQ should ensure that the requirements in Rules R18-2-317 and 319 are consistent with the minor source program. Some suggested approaches to ensure this consistency are provided below.
  - a. Rule R18-2-319 (Minor Permit Revisions): Section F allows a source to commence construction of a minor permit revision immediately after the source files its application. This section should be revised to ensure that if a permit is required for a change under ADEQ's minor NSR program, the source would not be able to avoid its pre-construction permitting obligations by relying on the Part 70 modification track. Section F could be revised as follows: "The source may make the change proposed in its minor permit revision application immediately after it files the application, provided the change does not require a pre-construction review permit pursuant to Rule R18-2-302."
  - b. Rule R18-2-317 (Facility Changes Allowed Without a Permit Revision): Like Rule 319, Rule 317 allows a source to make certain changes without pre-approval from the Director. Section A should be revised to ensure that if a permit is required for a change under ADEQ's minor NSR program, the source would not be able to avoid its pre-construction permitting obligations by relying on the Part 70 off-permit change provision. Section A could be revised to add an additional condition as follows: "6. The changes do not require the source to obtain a pre-construction permit pursuant to Rule R18-2-302."
  - c. Additionally, Section B of Rule R18-2-317 allows "the substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment" to qualify as an off-permit change. This provision is not consistent with the Part 51 definition of modification. While 40 CFR §51.165(a)(1)(v)(C)(1) and 40 CFR § 51.166(b)(2)(iii)(a) allow a more narrow exemption from major source permitting for routine maintenance, repair and replacement, there is no provision in Part 51

which grants a similarly broad exemption from pre-construction permitting requirements as found in Section B of Rule 317. ADEQ should revise or delete Section B of this rule to ensure consistency with Part 51.

- 2) Section C.3 of Rule R18-2-302 contains an exemption to permitting requirements for “agricultural equipment used in normal farm operations,” excluding sources subject to 40 CFR Part 70 (title V) or to a standard under 40 CFR Parts 60 or 61. The Clean Air Act requires all major sources to obtain pre-construction permits (see CAA §§ 165(a) and 172(c)(5)). Section C.3, however, would allow new major sources or major modifications at major sources to commence construction without obtaining the proper major NSR permit. To correct this deficiency, ADEQ could either delete the exemption contained in section C.3 or modify the exemption to additionally exclude sources required to obtain a major new source review (NSR) permit or comply with a standard pursuant to 40 CFR part 63.
- 3) Rule R18-2-303 § A.2 states that “An installation or operating permit issued before September 1, 1993 . . . , continues in effect until the Director issues or denies a Class I or Class II permit to the source.” (Emphasis added). EPA is concerned that this section does not ensure that the terms and conditions of installation permits issued prior to September 1, 1993 remain in effect through the issuance of either a Class I or Class II permit. EPA suggests that ADEQ clarify that when ADEQ issued initial unitary permits to its existing sources (i.e. those sources which had a pre-September 1993 installation or operating permit), that the construction related requirements from the previous installation permit did not expire and instead became part of the new unitary permit. We also recommend that ADEQ further clarify that the new unitary permit was issued pursuant to both ADEQ’s approved Title V program and ADEQ’s approved SIP.
- 4) Rules R18-2-311, R18-2-312, R18-2-313, R18-2-314, and Appendix 9 contain provisions that allow the Director to approve alternate procedures or test methods without EPA approval. These rules must be revised to include pre-approval by the Administrator for the use of an alternate procedure or test method where a federal requirement applies.
- 5) Rule R18-2-324 and Rule R18-2-101.84: Section D of Rule R18-2-324 allows portable sources to change location provided they submit a notification 10 days in advance to the Director. While we understand that in practice ADEQ only issues portable source permits for minor sources, ADEQ’s rule should ensure that new major sources and major modifications are not permitted to relocate without obtaining a pre-construction pursuant to ADEQ’s Rules R18-2-403 and R18-2-406. EPA recommends the following

changes to rules Rule R18-2-324 and Rule R18-2-101.84 to ensure this consistency.

- a. The definition of “portable source” (found in Rule R18-2-101.84) should be revised to exclude all major sources of air pollution that would be required to obtain a Class I permit pursuant to R18-2-302, including sources subject to the pre-construction permit requirements in Rules R18-2-403 and R18-2-406.
  - b. Rule R18-2-324 must ensure that portable sources that change locations do not collocate with an existing source. Such a situation could result in the creation of a new major source or in a major modification at an existing major source. EPA recommends that Rule R18-2-324 be revised to prohibit portable sources from collocating with an existing source, where such relocation would result in the creation of a new major source or in a major modification at an existing major source.
  - c. We are also concerned that sources that obtain their initial portable permit in an attainment area and subsequently move to a non-attainment area may trigger major NSR upon moving to the non-attainment area due to a lower major source threshold. EPA recommends that Rule R18-2-324 be revised to prohibit portable sources that obtained their original permit in an attainment area from relocating to a non-attainment area without first evaluating major NSR applicability and subsequently obtaining a new permit which includes requirements reflective of the lower major source threshold in the non-attainment area.
- 6) Rules R18-2-403, R18-2-404, R18-2-405, and R18-2-411 contain deficiencies that EPA has identified in Pinal County Air Quality Control District’s (PCAQCD) Rules 3-3-220, 3-3-230, 3-3-240, and 3-3-285, respectively. These rules address the permitting of major sources in non-attainment areas and the reactivation of sources of sulfur dioxide in sulfur dioxide non-attainment areas. EPA has provided detailed guidance to PCAQCD to correct these issues. A copy of our letter to PCAQCD, dated October 22, 2004, is enclosed for your reference. We understand that PCAQCD has made substantial progress in addressing these issues and has contacted your staff regarding its draft revisions. We believe additional coordination between your agencies could facilitate an efficient resolution of these issues.

Listed below in Table 1 are the rules contained in the 1994 submittal and EPA's recommendations.

**Table 1--Recommended Actions on ADEQ's 1994 Rule Submittal**

<b><u>Submitted Rule</u></b> <b><u>R18-2-xxx</u></b>	<b><u>Title</u></b>	<b><u>Adoption Date of Submitted Rule</u></b>	<b><u>Adoption Date of Most Recent Rule</u></b>	<b><u>Recommended Actions</u></b> <b><u>(Reason Provided in Notes)</u></b>	<b><u>Current SIP Rule</u></b> <b><u>R9-3-xxx</u></b>
101	Definitions	11/15/93	12/02/03	ADEQ should correct the Outstanding issues identified above in Note #5 and resubmit.	101
102	Incorporated Materials	11/15/93	08/12/99	ADEQ should submit the most current version of this rule.	N/A
215	Ambient Air Quality Monitoring Methods and Procedures	09/26/90	09/26/90	ADEQ should submit a clean copy of this rule.	215
216	Interpretation of Ambient Air Quality Standards and Evaluation of Air Quality Data	09/26/90	09/26/90	ADEQ should submit a clean copy of this rule.	216
217	Designation and Classification of Attainment Areas	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	217
218	Limitation of Pollutants in Classified Attainment Areas	11/15/93	02/28/95	ADEQ should submit the most current version of this rule.	N/A
220	Air Pollution Emergency Episodes	09/26/90	09/26/90	ADEQ should submit the most current version of this rule.	219
302	Applicability; Classes of Permits	11/15/93	06/04/93	ADEQ should submit the most current version of this rule.	301
303	Transition from Installation and Operating Permit Program to Unitary Permit Program	11/15/93	11/15/93	ADEQ should correct the approvability issues identified above in Note #3 and resubmit.	N/A

304	Permit Application Processing Procedures	11/15/93	12/20/99	ADEQ should submit the most current version of this rule.	N/A
305	Public Records; Confidentiality	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
306	Permit Contents	11/15/93	12/20/99	ADEQ should submit the most current version of this rule.	306
308	Emission Standards and Limitations	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
309	Compliance Plan; Certification	11/15/93	06/17/04	ADEQ should submit the most current version of this rule.	N/A
311	Test Methods and Procedures	11/15/93	11/15/93	ADEQ should correct the Outstanding issues identified above in Note #4 and resubmit.	310
312	Performance Tests	11/15/93	11/15/93	ADEQ should correct the Outstanding issues identified above in Note #4 and resubmit.	312
313	Existing Source Emission Monitoring	11/15/93	02/15/01	ADEQ should correct the Outstanding issues identified above in Note #4 and resubmit.	313
314	Quality Assurance	11/15/93	11/15/93	ADEQ should correct the Outstanding issues identified above in Note #4 and resubmit.	N/A
317	Facility Changes Allowed without Permit Revisions	11/15/93	09/22/99	ADEQ should correct the approvability issues identified above in Note #2 and resubmit.	N/A
318	Administrative Permit Amendments	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
319	Minor Permit Revisions	11/15/93	09/22/99	ADEQ should correct the Outstanding issues identified above in Note #1 and resubmit.	N/A
320	Significant Permit Revisions	11/15/93	12/20/99	ADEQ should submit the most current version of this rule.	N/A
321	Permit Reopenings; Revocation and Reissuance; Termination	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
323	Permit Transfers	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	317

324	Portable Sources	11/15/93	11/15/93	ADEQ should correct the Outstanding issues identified above in Note # 5 and resubmit.	N/A
325	Permit Shields	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
327	Annual Emission Inventory Questionnaire	11/15/93	12/07/95	ADEQ should submit the most current version of this rule.	N/A
329	Permits Containing the Terms and Conditions of Federal Delayed Compliance Orders or Consent Decrees	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
330	Public Participation	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
332	Stack Height Limitation	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
401	Definitions	11/15/93	09/22/99	ADEQ should submit the most current version of this rule.	N/A
402	General	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
403	Permits for Sources Located in Nonattainment Areas	11/15/93	11/15/93	ADEQ should correct the Outstanding issues identified above in Note #6 and resubmit.	302
404	Offset and Net Air Quality Benefit Standards	11/15/93	03/18/02	ADEQ should correct the Outstanding issues identified above in Note #7 and resubmit.	303
405	Special Rule for Sources of VOC or Oxides of Nitrogen in Ozone Nonattainment Areas Classified as Serious or Severe	11/15/93	09/22/99	ADEQ may withdraw the submitted version or correct the approvability issues identified above in Note #6 and resubmit.	N/A
406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	11/15/93	02/28/95	ADEQ should submit the most current version of this rule.	304



407	Air Quality Impact Analysis and Monitoring Requirements	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	305
408	Innovative Control Technology	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
409	Air Quality Models	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	311
410	Visibility Protection	11/15/93	11/15/93	ADEQ should submit a clean copy of this rule.	N/A
411	Special Rule for Non-operating Sources of Sulfur Dioxide in Sulfur Dioxide Nonattainment Areas	11/15/93	11/15/93	ADEQ may withdraw the submitted version or correct the Outstanding issues identified above in Note #6 and resubmit.	N/A
Appendix 1	Standard Permit Application Form and Filing Instructions	11/15/93	08/01/95	ADEQ should submit the most current version of this rule.	N/A
Appendix 9	Monitoring Requirements	09/26/90	06/15/95	ADEQ should correct the Outstanding issues identified above in Note #4 and resubmit.	N/A
Appendix 10	Evaluation of Air Quality Data	06/19/81	06/19/81	ADEQ should submit a clean copy of this rule.	N/A

**Attachment #2**  
**Rules That Are Not Appropriate for Inclusion in the SIP**

In addition to reviewing the NSR-related rules in ADEQ's 1994 submittal, EPA has reviewed the other rules in the submittal package. We believe several of these rules, as identified in Table 2 below, are not necessary or appropriate for inclusion in the SIP. Listed below are the reasons for EPA's recommended actions regarding the rules listed in Table 2:

1. These rules are not appropriate for the SIP because they regulate local procedures.
2. These rules are not appropriate for the SIP because EPA has independent enforcement authority.

We recommend that ADEQ formally request by letter to EPA that the indicated rule submittals be withdrawn from consideration for SIP approval.

**Table 2--Recommended Actions on ADEQ Rule Submittal**

<u>Submitted Rule R18-2-xxx</u>	<u>Title</u>	<u>Adoption Date of Submitted Rule</u>	<u>Adoption Date of Most Recent Rule</u>	<u>Recommended Actions (Reason Provided in Notes)</u>	<u>Current SIP Rule R9-3-xxx</u>
103	Applicable Implementation Plan; Savings	11/15/93	11/15/93	ADEQ should withdraw the submitted version. (See Note #1 above)	N/A
201	Particulate Matter	09/26/90	09/26/90	ADEQ should withdraw the submitted version. (See Note #2 above)	201
202	Sulfur Oxide	09/26/90	09/26/90	ADEQ should withdraw the submitted version. (See Note #2 above)	202
203	Ozone	09/26/90	09/26/90	ADEQ should withdraw the submitted version. (See Note #2 above)	204
204	Carbon Monoxide	09/26/90	09/26/90	ADEQ should withdraw the submitted version. (See Note #2 above)	205
205	Nitrogen Dioxide	09/26/90	09/26/90	ADEQ should withdraw the submitted version. (See Note #2 above)	206
206	Lead	09/26/90	09/26/90	ADEQ should withdraw the submitted version. (See Note #2 above)	207

210	Attainment, Nonattainment, and Unclassifiable Area Designations	11/15/93	09/27/04	ADEQ should withdraw the submitted version. (See Note #2 above)	N/A
219	Violations	09/26/90	09/26/90	ADEQ should withdraw the submitted version. (See Note #1 above)	218



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION IX**  
**75 Hawthorne Street**  
**San Francisco, CA 94105-3901**

October 22, 2004

Don Gabrielson  
Pinal County Air Quality Control District  
P.O. Box 987  
Florence, AZ 85232

RE: Pinal County Rules 3-3-220, 3-3-230, 3-3-240, 3-3-285

Dear Mr. Gabrielson:

Thank you for the opportunity to review your proposed revision to the Arizona State Implementation Plan (SIP) for Pinal County. We have reviewed the four rules cited above that comprise the non-attainment new source review portion of your plan.

We are providing you specific comments regarding each rule in the attached document. However in general, the proposed rules, especially rule 3-3-230, contain contradictory provisions that are not consistent with the Clean Air Act ("Act" or "CAA"). We have provided suggestions for rewriting the rules 3-3-220 and 3-3-230 so that they are consistent with the new source review (NSR) requirements of the Act. Once these rules have been rewritten and the revisions adopted, they may be submitted as a SIP revision. As further outlined in the enclosure, we believe rules 3-3-240 and 3-3-285 are inappropriate for inclusion in the SIP and should be withdrawn.

If you have any questions regarding our comments feel free to contact Emmanuelle Rapicavoli of the permits office at (415) 972-3969.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerardo C. Rios".

Gerardo C. Rios,  
Chief, Permits Office  
Air Division

Enclosure

**Attachment "A"**  
**EPA Comments on Pinal NSR Rules**

**1) Rule 3-3-220:**

a) Section A.1 states that "In determining lowest achievable emission rate for a reconstructed stationary source, the provisions of 40 CFR §60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source." Federal regulations do not allow cost to be considered for any reason when making a LAER determination (See 51.165(a)(1)(xiii)), thus this sentence must be removed.

b) Section A.2 requires the source to certify "that all existing major sources owned or operated by that person ... in Pinal County, are in compliance with," their permits and all CAA regulations. The reference to "Pinal County" must be changed to "the State of Arizona." CAA §173(a)(3) requires the certification to be statewide, not county wide.

c) Section A.3. makes reference to the "allowable offset area." As further detailed later in section (2)(k) of this document, these references should be changed to the "Pinal County non-attainment area."

d) The last sentence of Section E contains an awkward construction. We believe your intent is to exclude fugitive emissions in determining major source applicability except for those source categories which EPA's regulations require to include fugitives. We recommend the following revision, consistent with EPA's definition of major source: "However, these conditions shall not apply to a new major source or 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 any other category of sources which, as of August 7, 1980 is being regulated under section 111 or 112 of the Act."

e) Section F exempts temporary sources from the requirement to obtain offsets, however "temporary" is not defined in the SIP. Furthermore, this exemption is not permitted under 40 CFR §51.165. There is no regulatory basis for this exemption and thus it must be deleted.

**2) Rule 3-3-230:**

a) Section A allows offsets to be obtained from "any other source in existence or projected within the allowable offset area." The inclusion of the term "projected" would allow for offsets to be generated from sources not in existence at the time of construction

of the new source or modification. CAA §173(c) requires that emissions offsets come from existing sources. Therefore, the phrase "or projected" must be removed.

b) The last sentence in Section A should also include Pinal Rule 3-3-250 so that reductions relied upon for a PSD permit could not later be credited towards the generation of emissions reduction credits in a new non-attainment area.

c) Section B.1. again makes reference to "the allowable offset area." As further detailed in section (2)(k) of this document, these references must be changed to the "Pinal County non-attainment area."

d) Because all ozone non-attainment areas (including marginal) have statutorily defined offset ratios other than 1:1, we recommend deleting the later portion of condition B.3. as follows: "...non-attainment areas. classified as moderate, serious, or severe."

e) Section C appears to anticipate Pinal having various ozone non-attainment area classifications. Portions of Pinal County are now included in the Phoenix area 8-hour non-attainment area which is classified as basic. Pinal's rule defining offset ratios should reflect their current ozone non-attainment area classification.

f) Section D states "Intra-pollutant emission offsets for precursors of ozone or nitrogen dioxide shall include offset reductions in emissions of volatile organic compounds and oxides of nitrogen, respectively." This statement appears to imply that the only precursor to ozone is VOC, which is not correct. This sentence must state that VOC emissions shall be offset by reductions in VOC and NO<sub>x</sub> emissions shall be offset by reductions in NO<sub>x</sub>.

g) For Section E.1, The following ambiguity must be addressed:

In 1.a., after "mathematical expression is satisfied" and before the ending colon (":"), insert:

" where both sides of the inequality use identical modeled receptor grids with equal areal density at the violating receptors"

The rationale for this change is to ensure that the violation count is not artificially inflated in the pre-offset case (or deflated in the post-offset case). That is, if one placed many receptors in the area of violations before offsets, and only a few in the post-offset violation area, the number of violating receptors would appear to decrease but only because of an artificial change in the receptor grid, not because of an air quality improvement. This situation is not completely hypothetical; often after the initial high concentration area is found, the area is remodeled with a finer (denser) grid of smaller extent. If something similar is not done for the post-offset case, the number of violations

will appear artificially low.

h) Sections F and G of this rule attempt to define the baseline to be used to determine an emissions reduction credit. The current rule structure appears to misinterpret the language of 40 CFR§ 51.165(a)(3)(i) to allow a source to use allowable emissions as a baseline under certain conditions instead of actual emissions. When defining an emissions offset baseline, Pinal's rule should remain consistent with §173(c) of the Act which states that "such emissions reductions... shall assure that the total tonnage of increased emissions 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," (emphasis added). The current rule structure contains various conflicting conditions outlined below. Including such contradictory provisions creates unnecessary confusion. These sections must be rewritten to be consistent with the Act.

i) The first sentence of condition F.1. appears to contradict the second. The baseline for determining an emissions reduction should always be the actual emissions unless the source is out of compliance with its emissions limit, in which case actual emissions cannot exceed emissions allowed under the applicable permit or SIP.

ii) Condition F.2 also contradicts the first sentence of condition F.1 because it appears to allow the use of a source's potential to emit (PTE) as the baseline in cases where the allowable emissions exceed a source's PTE. However, the baseline for determining credit must always be based upon a source's actual emissions, unless the source is out of compliance with its emissions limits, in which case the baseline cannot exceed emissions allowed under the applicable permit or SIP. Furthermore, the provision allows the baseline to be defined in terms of a potential emissions "rate" instead of actual emissions which is inconsistent with EPA's definition of baseline.

iii) Part G contains similar contradictory language. The first section of the provision allows offsets to be based on allowable emissions instead of actual emissions. While section 3 states that offsets must be based on reductions in actual emissions.

i) Section H allows offsets to be calculated on either a pound per hour, pound per day or ton per year basis. Emissions offsets are normally only determined on a ton per year basis. Issuing credits on a more short term basis, such as pound per hour or pound per day, does not account for seasonal variability or physical or operational limitations that may have limited a source's ability to emit on a longer term basis. In addition, this section further allows the emission offset calculations to be based upon all facilities "operating at their maximum expected or allowed production rate." Offset credit for a

particular source must be based upon actual emissions. Offsets required for a new or modified source must be based upon the maximum potential to emit of the new source or modification.

j) Section I is inconsistent with 40 CFR § 51.165(a)(3)(ii)(C). Offsets generated by the shutdown of an existing source or the curtailment of production or operating hours must be permanent, quantifiable, federally enforceable, based upon actual emissions, and in an area that has an EPA approved attainment plan. Section I appears to allow these credits to be generated if “the work force to be affected has been notified of the proposed shutdown or curtailment.” There is no regulatory basis for this allowance.

Section I also allows offsets to be generated for shutdowns or curtailments prior to the date the application was filed, if they applicant can demonstrate that the shutdown or curtailment occurred after August 7, 1977 and the proposed new source or modification is “a replacement” for the shutdown or curtailment. However, the applicable federal regulation at 40 CFR § 51.165(a)(3)(ii)(C) only allows offsets to be creditable if the shutdown occurred after the date specified in the attainment plan and if such date is on or after the date of the most recent emissions inventory used in the attainment demonstration. Again we see no regulatory basis for the language in Section I.

k) Section J defines the “allowable offset area” as the following:

*“geographical area in which are located the sources whose emissions are being sought for purposes of offsetting emissions from a new major source or modification. For the pollutants sulfur dioxide, PM<sub>10</sub>, and carbon monoxide, the allowable offset area shall be determined by atmospheric dispersion modeling. If the emission offsets are obtained from a 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 non-attainment areas for those pollutants within which the new major source or modification is to be located.”*

Defining the “allowable offset area” as some area, other than the non-attainment area where the major source or modification is constructing, to be determined by “atmospheric dispersion modeling,” potentially allows offsets to be created by reductions in an attainment area for use in a non-attainment area. The Act specifically prohibits this type of transaction. See CAA §173(c). While section L of this rule contains a similar provision to that in CAA §173(c), the term “allowable offset area” is used throughout rules 230 and 220 to establish the requirements for creating and using offsets. Both Section J, as well as all references to “allowable offset area” used throughout rules 220 and 230, should be deleted from the rule so that they do not contradict the requirements of section L.



l) Section K requires that an emission reduction used to offset emissions be both legally and federally enforceable. The latter part of the condition outlines the criteria for determining "legal enforceability." The inclusion of the requirement that offsets be "legally enforceable" is unnecessary and confusing because the criteria for determining federal enforceability are more rigorous than those for determining legal enforceability. For example, in order for a reduction to be federally enforceable it must be included as part of a permit issued pursuant to the SIP or an approved Title V program; whereas the criteria for determining "legal enforceability" is only that the reduction be contractually enforceable by the District. Section K must be modified or deleted, as outlined above, so that its provisions do not conflict with or confuse the requirements of Section L.

**3) Rule 3-3-240:**

a) Portions of Pinal County were recently included in the Phoenix area 8 hour ozone non-attainment area. However Pinal County does not currently contain any serious or severe ozone non-attainment areas. Given Pinal County's current attainment status, the inclusion of this rule in the SIP would be inappropriate at this time. EPA does not typically approve anticipatory rules into SIPs.

b) Section F states that "if the SIP requires all existing major sources of these pollutants in the non-attainment area to apply BACT, then the offset ratio shall be 1.2 to 1.0." Again, this provision is not appropriate for inclusion in the SIP. A determination that all major sources in the non-attainment area have installed BACT must be made by both the Control officer and the Administrator. Until such time as such a determination is made, this provision should not be included in the SIP.

**4) Rule 3-3-285:**

a) This rule fails to include the criteria in EPA's reactivation policy for determining whether the source was permanently shutdown before it was reactivated. If a "non-operating" source was indeed permanently shutdown, the source must evaluate PSD and NSR applicability, in addition to the other requirements in this rule, if they wish to reactivate the source. This rule must either be deleted or modified to be consistent with EPA's reactivation policy<sup>1</sup>.

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<sup>1</sup>See EPA's order responding to a Title V petition regarding the Monroe Electric Generating Plant. In re Monroe Electric Generating Plant, (Order of the Administrator, June 11, 1999). This order is available on the internet at:  
[http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/entergy\\_decision1999.pdf](http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/entergy_decision1999.pdf)

**Appendix H -- GUIDANCE ON CONSTRUCTION OF AIR QUALITY PERMIT  
FILES**

# FILE ROOM PROCEDURES

## How Will Permits be Filed?

1. After permit has been issued, it is the permit engineer's responsibility to put the permit file in the correct order for filing. Please note that this file format should begin upon submittal of the draft permit to the Unit Manager for review. The correct order differs based on the level of difficulty of the file (i.e., Class II versus Class I). In general, try to follow the following format (top to bottom) for all files with the exception of more difficult files:

### Right Side of the Folder

- Final Permit (with letter and certificate)
- Responsiveness Summary and Public Letters (if applicable)

### Left Side of the Folder

- Sign-Off Sheet
  - Technical Support Document
  - Technical Review Document
  - Completeness Checklist
  - Public Notice Information
  - Application
  - Correspondence (grouped by date with most recent first)
  - Technical Review
  - Modeling
  - Calculations
  - Miscellaneous Information (including AZURITE forms, etc.)
2. The engineer will include this information in the orange folder with a filing request on top.
  3. These folders will go to the file clerk who is responsible for filing the permits in the file room.

## How Do I File Documents Into an Existing Permit File?

1. Submit a request for the permit file. Once you have received the file from the file room, you are responsible for filing the document in the appropriate manner. At the same time, you should review the file to ensure that it is still in the proper order as described above
2. Once you have filed the documents and cleaned up the file (if necessary), return the file to the file clerk so that it can be returned to the file room.

## **How Do I File Application Withdrawals, Negative Determinations, and Application Denials?**

All files that have been given an LTF # should be filed in the file room. Any Negative Determination of Permit Applicability will eventually be placed into in-house storage. Until further notice, these files should be submitted to Trevor Baggiore.

### **Other Miscellaneous Issues:**

1. Shirley has graciously accepted the role of the file clerk.
2. Do not submit more than 3 permits per week as new permit files.
3. All new files should be reviewed for confidentiality before being submitted to the file clerk. If you have any questions on confidentiality, speak with your Unit Manager.
4. When checking out files, before you return them, check them to make sure that they are still in the right order and fix them if they are not.
5. Do not write on original documents, and it is not necessary to keep draft documents or duplicate copies. Please note that every file should have copies of the public notice copy of the permit, the EPA version of the permit, and the final version, and each should be clearly labeled as such.
6. A new file clean-up program will be started with regards to previously issued Class I and Title V permit files. Unit Managers will forward more details as they become available.
8. All permit files which consist of more than one orange folder (including separate binders) must be passed by your Unit Manager prior to it being submitted to the file clerk for filing.

**Appendix I -- RECORDS RETENTION AND DISPOSITION SCHEDULE --  
JUNE 13, 2005**

# RECORDS RETENTION AND DISPOSITION SCHEDULE

Arizona State Library, Archives and Public Records  
**RECORDS MANAGEMENT DIVISION**  
 1919 West Jefferson Street  
 Phoenix, Arizona 85009  
 Phone: 602-542-3741 Fax: 602-542-3890  
 E-mail: rmd@lib.az.us

*Preserving  
Arizona*

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PAGE 1 of 2

State Agency Password <b>AYL-AQDPC</b>	Political Subdivision	Agency Name <b>Department of Environmental Quality</b>		
Org. Unit/Division <b>Air Quality Compliance Permits/Compliance</b>		Office	Phone <b>602-771-4336</b>	
Address <b>1110 W Washington</b>		City <b>Phoenix</b>	State <b>AZ</b>	Zip <b>85007</b>
Submitted By (Name) <b>Rebecca Reed</b>		Title <b>Records Manager</b>	Signature <i>Rebecca D. Reed</i>	

Pursuant to ARS §41-1351, the following retention periods represent the maximum time records may be kept. Unless records relate to pending or current litigation, or are necessary for an audit, keeping records beyond their retention period is illegal. If you believe that special circumstances warrant the extension of any of these retention periods that records should be kept longer than the period listed below or that any of these record series may be appropriate for transfer to the Archives, please contact the Records Management Division to inquire about a change to the retention period. Only the Records Management Division has the authority to extend records retention periods.

No.	RECORD SERIES	R.S. Code	RETENTION (YR.)			REMARKS (Include start point of retention.)
			Off.	R.C.	Total	
1.	Permitted major and Synthetic Minor (SM) Source Facilities (includes asbestos, National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Majors and SM with notifications of renovation/demolition activity)		10	-	Perm	After no longer permitted or facility permanently shuts down. Transfer to State Archives. (ARS §49-424, see ARS §49-421 thru 432)
2.	Permitted Minor Source Facilities	230125	10	20	30	After no longer permitted or facility permanently shuts down
3.	Significant Asbestos NESHAP Enforcement Cases for Permitted Minor Facilities		10	-	Perm	After case closed. Transfer to State Archives. (ARS §49-424, see ARS §49-421 thru 432)
4.	Non-Permitted Facilities (non-Asbestos)	000125	10	20	30	After facility permanently shuts down
5.	Asbestos NESHAP Files (Renovation/Demolition Notifications related to non-permitted minor facilities)		10	-	Perm	After due diligence search for asbestos completed. Transfer to State Archives. (OSHA 1926-1101.H)

**Supersedes Schedules Dated:  
 June 28, 1996 and August 11,  
 1999.  
 Replaces AYL-AQCOM and AYL-AIR**

Approved by:  Director, Arizona State Library, Archives and Public Records	Approval Date: <p style="text-align: center; font-size: 1.2em;">JUN 13 2005</p>
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# RECORDS RETENTION AND DISPOSITION SCHEDULE

State Agency Password <b>AYL-AQDPC</b>	Political Subdivision	Agency Name <b>Department of Environmental Quality</b>
Org. Unit/Division <b>Air Quality Compliance Permits/Compliance</b>		Office

Pursuant to ARS §41-1351, the following retention periods represent the maximum time records may be kept. Unless records relate to pending or current litigation, or are necessary for an audit, keeping records beyond their retention period is illegal. If you believe that special circumstances warrant the extension of any of these retention periods records should be kept longer than the period listed below or that any of these record series may be appropriate for transfer should be transferred to the Archives, please contact the Records Management Division to inquire about a change to the retention period. Only the State Library Records Management Division has the authority to extend records retention periods.

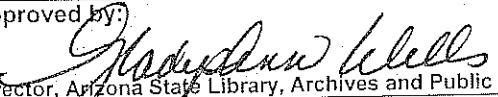
No.	RECORD SERIES	R.S. Code	RETENTION (YR.)			REMARKS (Include start point of retention.)
			Off.	R.C.	Total	
6.	Burn Permits a. Open Burn	250148	5	5	10	After calendar year issued (State Implementation Plan (SIP) Study) (ARS §49-404, et al; 40 CFR 51)
	b. HazMat Burn (includes historical air data, long term environmental studies, trend data and SIP)	650148	20	10	30	After date of burn
7.	Reading Files (office copies of correspondence, research materials and other related records)		5	-	5	After fiscal year created
8.	General Correspondence (not related to facility files)		3	-	3	After sent or received

Supersedes Schedules Dated:  
June 28, 1996 and August 11, 1999.  
Replaces AYL-AQCOM and AYL-AIR

Approval Date:

JUN 13 2005

Approved by:

**X**   
Director, Arizona State Library, Archives and Public Records