NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

PREAMBLE

1. Sections Affected **Rulemaking Action**

R4-19-513 New Section

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

Authorizing statute: A.R.S. § 32-1606(A)(1)

Implementing statute: A.R.S. § 32-1601(11)(e)

3. The effective date of the rules:

December 20, 1999

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 4 A.A.R. 1288, June 5, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 2594, August 13, 1999

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

Name: Janet M. Walsh
Associate Director
Arizona State Board of Nursing

Address: 1651 E. Morten, Suite 150
Phoenix, AZ 85020

Telephone Number: (602) 331-8111, ext. 145

Fax Number: (602) 906-9365

6. An explanation of the rule, including the agency's reason for initiating the rule:

The Board initiated this proposed rulemaking in response to legal advice received from the Office of the Attorney General that writing an order in a patient's medical record constituted prescribing. Currently, there is no rule in Article 5 addressing advanced and extended nursing practice that provides for prescribing authority alone; R4-19-507 provides for prescribing and dispensing authority. As a result, the Board drafted this proposed rule in collaboration with the Arizona Association of Nurse Anesthetists to comply with the advice of the Office of the Attorney General.

Following the publication of the Notice of Proposed Rulemaking, the Board and the Arizona Association of Nurse Anesthetists collaborated with the Arizona Medical Association and the Arizona Nurses Association to draft alternate language that would be acceptable to these organizations. At its meeting on October 22, 1999, the Board approved the final language set forth in this Notice of Final Rulemaking.

Included in the rulemaking package is an abbreviation for certified registered nurse anesthetist. The abbreviation utilized in the package is CNRA. On June 18, 1999, the Board opened a docket on Article 1, Definitions, to add abbreviations of this type.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

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

Not applicable.

9. The summary of the economic, small business, and consumer impact:

The proposed rule will have minimal economic impact on a certified registered nurse anesthetist ("CRNA") who will be required to pay $50.00 to obtain prescribing authority. The proposed rule is expected to have substantial economic impact on the Board and will generate approximately $10,000.00 in revenue derived from applications for prescribing authority for approximately 200 CRNAs. The Board will incur minimal costs in developing and printing application forms, postage, and in reviewing the credentials of CRNAs who apply for prescribing authority. Additionally, the Secretary of State will incur costs for publication of the rule.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

R4-19-513(A): After "medication," insert: ", meaning to order drugs or medication for administration to a patient,".

R4-19-513(C): After "administered," insert: "by a licensed, certified, or registered health care provider,".

R4-19-513(C): After "procedure," insert: "performed in a health care facility; the office of a health care provider licensed pursuant to title 32, chapters 7, 11, 13, and 17; or ambulance."

R4-19-513(C): Strike: "that will be or has been undertaken."

The Board made technical changes based on the suggestions of GRRC staff. These changes are reflected in the preamble, the text of the rule, the Concise Explanatory Statement, and the Consumer, Small Business and Economic Impact Statement.

11. A summary of the principal comments and the agency response to them:

The Board received 127 comments regarding this proposed rulemaking before the close of record on September 24, 1999. One hundred and twenty-three comments supported the proposed rulemaking, and 4 comments expressed concern regarding some of the language in the proposed rulemaking. The following organizations expressed support for the proposed rulemaking: the Arizona Nurses Association, Arizona Association of Nurse Anesthetists, Arizona Organization of Nurse Executives, and Phoenix Memorial Health System. The Arizona Medical Association, Arizona Pharmacy Association, Arizona State Board of Medical Examiners ("BOMEX"), and Southern Arizona Nurse Practitioners expressed concern with some of the language published in the Notice of Proposed Rulemaking. To accommodate the concerns of the Arizona Medical Association and the Arizona Pharmacy Association, the Board did agree to modify the language in subsections (A) and (C). Before the close of record, the Arizona Pharmacy Association submitted correspondence stating that the concerns raised were addressed by the alternate language. The principal comments expressing concern with the language published in the Notice of Proposed Rulemaking are summarized below with the agency response to them:

- This proposed rulemaking needs to identify the nature of the practice and conditions as well as provide a clear identification of practice site.

- This proposed rulemaking fails to mention any oversight by another health care professional.

- BOMEX raised concerns about the possible interpretation of subsection (C) and suggested insertion of the word "only" in subsection (C) prior to the word "pre-operatively."

- The Southern Arizona Nurse Practitioners believe that a DEA number should be required before CRNAs write orders on a patient medical record.

- Finally, the Arizona Medical Association had concerns about the possible interpretation of subsection (C), as published in the Notice of Proposed Rulemaking, and urged that it be stricken and replaced with language developed collaboratively between the Board of Nursing, the Arizona Association of Nurse Anesthetists, the Arizona Society of Anesthesiologists, and the Arizona Medical Association.

In response to the concern of the Southern Arizona Nurse Practitioners that a DEA number should be required before a CRNA obtains prescribing authority, it is the Board's understanding that the Federal Drug Enforcement Agency ("DEA") does not issue a DEA number to a CRNA because the DEA definition of prescription does not include "an

order for medication which is then dispensed for immediate administration to the ultimate user." As a result, the Board is unable to require that a CRNA obtain a DEA number.

In response to BOMEX's concern that the language of subsection (C) does not clearly identify the circumstances under which a CRNA may prescribe drugs or medication, the Board believes that subsection (C) clearly provides that a CRNA with prescribing authority is limited to prescribing drugs or medication to be administered pre-operatively, post-operatively, or as part of a procedure and that the word "only" is not necessary to limit prescribing authority to those circumstances.

In response to the Arizona Pharmacy Association's concerns, the Board worked collaboratively with the Arizona Medical Association and the Arizona Association of Nurse Anesthetists to develop alternate language that would alleviate these concerns. The Board intends to clarify under subsection (A) that prescribing medication means to order drugs or medications for administration to a patient and under subsection (C) to clarify that the medications prescribed by a CRNA must be administered by a licensed, certified or registered health care provider and that the medication must be prescribed in certain specific settings, for example, a health care facility, a health care provider's office, and an ambulance. The Board believes that this alternate language adequately satisfies the concerns of the Arizona Pharmacy Association and the Arizona Medical Association. Additionally, the Arizona Pharmacy Association submitted correspondence before the close of record that the alternate language did adequately address its concerns.

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

Not applicable.

13. Incorporations by reference and their locations in the rules:

Not applicable.

14. Was this rule previously adopted as an emergency rule?

Not applicable.

15. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

ARTICLE 5. ADVANCED NURSING PRACTICE

Section
R4-19-513. Prescribing Authority of a Certified Registered Nurse Anesthetist

ARTICLE 5. ADVANCED NURSING PRACTICE

R4-19-513. Prescribing Authority of a Certified Registered Nurse Anesthetist

A. The Board shall authorize a CRNA to prescribe medication, meaning to order drugs or medication for administration to a patient, only if in the best interest of the public and the CRNA meets the following requirements:

1. Current licensure as a professional nurse in Arizona in good standing;
2. Graduation from an educational program accredited by the American Association of Nurse Anesthetists' Council on Accreditation of Nurse Anesthesia Educational Programs or a predecessor and that has the objective of preparing a nurse to practice nurse anesthesia;
3. Initial certification by the American Association of Nurse Anesthetists' Council on Certification of Nurse Anesthetists and recertification, as applicable, by the American Association of Nurse Anesthetists' Council on Recertification of Nurse Anesthetists;
4. Submission of a completed application form provided by the Board and an application packet that includes the following information and documentation:
   a. Name, address, and phone number;
   b. Professional nurse license number;
   c. Certification number;
   d. Business address and phone number;
   e. Documentation verifying current certification by the American Association of Nurse Anesthetists' Council on Certification of Nurse Anesthetists, or as applicable, by the American Association of Nurse Anesthetists' Council on Recertification of Nurse Anesthetists;
   f. Response to questions addressing the following subjects:
      i. Prior disciplinary action,
      ii. Pending investigation or disciplinary action;

iii. Pending criminal charges,
iv. Prior misdemeanor or undesignated offense conviction,
v. Prior felony conviction and date of absolute discharge of sentence,
vi. Use of a chemical substance, and
vii. Prior civil judgment resulting from malpractice or negligence in connection with practice in a health care profession;

g. Applicant's sworn statement verifying the truthfulness of the information provided; and
h. Applicable fees.

B. An applicant denied medication prescribing authority may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for prescribing authority. Board hearings shall comply with A.R.S. Title 41, Chapter 6, Article 10, and 4 A.A.C. 19, Article 6.

C. A CRNA granted prescribing authority may prescribe drugs or medication to be administered by a licensed, certified or registered health care provider pre-operatively, post-operatively, or as part of a procedure performed in a health care facility; the office of a health care provider licensed pursuant to A.R.S. Title 32, Chapters 7, 11, 13, and 17; or in an ambulance.

D. A CRNA with prescribing authority shall ensure that all prescription orders contain the following:
1. The CRNA's name;
2. The prescription date;
3. The name of the patient and patient identification number; and
4. The name of the medication, strength, dosage, and route of administration.

NOTICE OF FINAL RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 4. CORPORATION COMMISSION SECURITIES

PREAMBLE

1. Sections Affected — **Rulemaking Action**
R14-4-139 — New Section

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

Authorizing statutes: A.R.S. §§ 44-1821, 44-1845, 44-1941(C), and 44-1945(B)

Implementing statutes: A.R.S. §§ 44-1844 and 44-1845

Constitutional authority: Arizona Constitution Article XV §§ 4, 6, and 13

3. The effective date of the rules:
December 21, 1999

4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Rulemaking Docket Opening: 3 A.A.R. 2176, August 15, 1997

Notice of Proposed Rulemaking: 4 A.A.R. 1840, July 17, 1998

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

Name: Cheryl T. Farson, General Counsel

Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, Third Floor
Phoenix, AZ 85007-2996

Phone: (602) 542-4242

Fax Number: (602) 594-7470

6. An explanation of the rule, including the agency's reason for initiating the rule:
A.A.C. R14-4-139 (the "rule") provides an exemption from the registration requirements of A.R.S. §§ 44-1841 and 44-1842. The rule allows issuers to offer and sell up to $5 million of securities during any 12-month period to quali-

fied purchasers, as defined in the rule, provided certain conditions are met. Generally, qualified purchasers are accredited investors and individuals with substantial income and/or net worth.

For an issuer to take advantage of the rule, the sale of securities may not exceed $5 million in any 12-month period. A general announcement of the proposed offering may be made by any means but must include specified statements, including a statement that sales will be made only to qualified purchasers. At least 5 days prior to a sale or receipt of a commitment to purchase, the issuer must meet disclosure requirements as set forth in A.A.C. R14-4-126(C)(2). Prospective purchasers may not be solicited by telephone unless the issuer has inquired and reasonably believes that the prospective purchaser is a qualified purchaser.

Certain issuers are ineligible to use the rule. The issuer may not be an entity that has indicated that its business plan is to engage in a merger or acquisition with an unidentified entity or person. Additionally, the issuer, or any of its predecessors, affiliates, directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, or any underwriter of the securities cannot fall within the disqualification provisions of subsection (R) of the rule. The rule may not be used by an issuer to offer a "blind pool," as defined in A.R.S. § 44-1801(1).

Ten days prior to the 1st to occur of the publication of a general announcement of the proposed offering or the initial offer of the securities, the issuer must file with the Commission a notice describing the business of the issuer and the terms of the transaction, a consent to service of process, a copy of the general announcement, and a fee. The Commission may also require the submission of any offering documents. The offering documents and any certificates representing the issued securities must contain a legend regarding the restrictions on the transferability and sale of the securities. Securities issued pursuant to the rule cannot be resold without registration under the Arizona Securities Act or an exemption therefrom.

If any offer, sale, or resale fails to comply with the conditions of the rule, it may be an unregistered, unlawful offer or sale. Civil and administrative liabilities may attach under the Arizona Securities Act. In addition, the Director may revoke the availability of the rule with respect to a particular issuer, seller, or transaction if the Director determines that there is a reasonable likelihood that the sale of the securities would work or tend to work a fraud or deceit upon the purchasers thereof. If the Director makes such a determination, the seller of the securities may request a hearing in accordance with the provisions of Article 11 of the Arizona Securities Act.

The purpose of the rule is to aid small businesses and to stimulate capital formation and promote economic growth. the rule is patterned after an exemption adopted by the state of California for which the Securities and Exchange Commission ("SEC") has adopted a "wrap-around" exemption from registration on the federal level. The SEC has stated that it will adopt similar exemptions in connection with state registration exemptions patterned after the California exemption and the Commission anticipates that the SEC will adopt a wrap-around exemption in connection with this rule.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable.

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

The rule is desirable to assist small businesses in capital formation in a manner that does not impose unnecessary expenses. The rule is designed to benefit issuers by allowing them to seek capital from qualified purchasers in a significantly more cost-effective manner than with an offering of securities registered under Article 6 or Article 7 of the Arizona Securities Act. At the same time, since sales of securities are limited to qualified purchasers, the risk of substantial harm to the general investing public is limited. Moreover, the Commission retains antifraud jurisdiction over any offering under the rule. Thus, the significant statewide interest in promoting capital formation for small businesses should be advanced without loss of protection for investors.

9. The summary of the economic, small business, and consumer impact:

Pursuant to A.R.S. § 41-1055(D)(3), the Commission is exempt from providing an economic, small business, and consumer impact statement.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The Commission made certain technical and grammatical changes to the rule in response to a memorandum from the Office of the Secretary of State. Additionally, the Commission made the following changes:

Subsections (A)(1) and (2), definitions of "development stage company" and "net earnings," were deleted.

The phrase "excluding home, home furnishings, and automobiles" was added to the definition of "qualified purchasers" to clarify that the net worth requirements are exclusive of home, home furnishings, and automobiles.

The last sentence of subsection (B) was revised to read: "The exemption from A.R.S. § 44-1842 is not available for third parties or dealers."

A "development stage company" was deleted from the prohibition from use of the exemption contained in subsection (C)

Subsection (G) was revised from:

In any 12-month period, the sum of all cash and other consideration to be received for the securities shall not exceed $5,000,000, less the aggregate offering price for all other securities sold in the same offering of securities, whether pursuant to this Section or another exemption.

to:

The consideration received for securities in the same offering, whether pursuant to this Section or another exemption, shall not exceed $5,000,000 in any 12-month period.

The 1st sentence of subsection (H) was revised from:

A general announcement of the proposed offering may be made by any means but shall include only the following information, unless additional information is specifically permitted by the director.

to:

A general announcement of the proposed offering may be made by any means, but shall include only the following information, unless additional information is specifically permitted in writing by the director.

The time of the filing requirement in subsection (N) was revised from "concurrent with" to "no later than 10 business days prior to."

11. A summary of the principal comments and the agency response to them:

The Commission received a request from the office of the Secretary of State for technical changes, which were made pursuant to that request. The Commission did not receive other written comment to the rule.

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

None.

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

None.

14. Was this rule previously adopted as an emergency rule?

Not applicable.

15. The full text of the rule follows:

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 4. CORPORATION COMMISSION SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Sections

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

R14-4-139. Exempt Public Offerings for Qualified Purchasers; Definitions

A. As used in this Section, the following terms have the meaning indicated:

1. "Qualified purchaser" means:
   a. An "accredited investor" as defined in R14-4-126(B).
   b. A corporation, partnership, or other entity whose equity owners each individually meets the requirements of subsections (1)(a), (1)(c), or (1)(d).

c. With respect to the offer and sale of 1 class of voting common stock of an issuer or of preferred stock of an issuer entitling the holder to at least the same voting rights as the issuer's 1 class of voting common stock, provided that the issuer has only 1 class of voting common stock outstanding upon consummation of the sale, a natural person who, either individually or jointly with the person's spouse,
   i. Has a minimum net worth in excess of $250,000, excluding home, home furnishings, and automobiles, and had, during the immediately preceding tax year, gross income in excess of $100,000 and reasonably expects gross income in excess of $100,000 during the current tax year, or
   ii. Has a minimum net worth in excess of $500,000, excluding home, home furnishings, and automobiles.

d. The amount of each natural person's investment shall not exceed 10% of the natural person's net worth, excluding home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.

e. Any other purchaser designated as qualified by rule of the Commission.

2. "Securities Act" shall mean the Securities Act of Arizona.

3. "SEC" shall mean the United States Securities and Exchange Commission.

B. Offers and sales of securities made by an issuer in compliance with this Section are exempt from the registration requirements of A.R.S. §§ 44-1841 and 44-1842. The exemption from A.R.S. § 44-1842 is available for offers or sales of an issuer made only by the issuer's employees, officers, and directors who were not retained for the primary purpose of making offers or sales on behalf of the issuer. The exemption from A.R.S. § 44-1842 is not available for 3rd parties or dealers.

C. This exemption is not available to a "blind pool offering" within the meaning of A.R.S. § 44-1801(1), an issuer whose business plan is to engage in a merger or acquisition with an unidentified entity or person, or an issuer that is excluded from the exemption pursuant to subsection (R). The exemption is not available for any transaction or chain of transactions that, while in technical compliance with this Section, is part of a plan or scheme to circumvent the registration provisions of the Securities Act.

D. Offers and sales of securities shall be made only to qualified purchasers or to persons the issuer reasonably believes, after inquiry, to be qualified purchasers.

E. The issuer must reasonably believe, after inquiry, that each purchaser is purchasing the security for the purchaser's own account and not with the view to, or for sale in connection with, a distribution of the security.

F. Securities acquired in a transaction under this Section shall have the status of securities acquired in an exempt transaction under A.R.S. § 44-1844 of the Securities Act and cannot be resold without registration under the Securities Act or an exemption therefrom.

G. The consideration received for securities sold in the same offering, whether pursuant to this Section or another exemption, shall not exceed $5,000,000 in any 12-month period.

H. A general announcement of the proposed offering may be made by any means but shall include only the following information, unless additional information is specifically permitted in writing by the Director:

1. The name, address, and telephone number of the issuer;
2. The name, a brief description, and price, if known, of any security to be issued;
3. A brief description of the issuer's business;
4. The type, number, and aggregate amount of securities being offered;
5. The name, address, and telephone number of the person to contact for additional information; and
6. A statement that discloses all of the following terms and conditions:
   a. Sales will only be made to qualified purchasers.
   b. No money or other consideration is being solicited or will be accepted in connection with the general announcement.
   c. The securities are not registered with or approved by any state securities agency or the SEC and are offered and sold pursuant to an exemption from registration.
   d. The general announcement does not constitute an offer to sell, nor a solicitation of an offer to buy, the securities described in the announcement. Such an offer can be made only by means of a prospectus, offering memorandum, subscription document, or other offering documents pursuant to R14-4-139.

I. Dissemination of the general announcement described in subsection (H) to persons who are not qualified purchasers shall not disqualify the issuer from claiming the exemption under this Section.

J. In connection with an offer made under this Section, the issuer may provide information in addition to the general announcement under subsection (H), if such information:

1. Is delivered through an electronic database that is restricted to persons who have been identified as qualified purchasers; or
2. Is delivered after the issuer reasonably believes that the prospective purchaser is a qualified purchaser.

K. No telephone solicitation shall be permitted unless prior to placing the call the issuer reasonably believes, after inquiry, that the prospective purchaser to be solicited is a qualified purchaser.

L. At least 5 business days before a sale of securities to, or a commitment to purchase securities is accepted from, a qualified purchaser, the issuer shall meet the disclosure requirements of R14-4-126(C)(2).

M. The issuer shall place a conspicuous legend on the cover page of any offering document, which states that the securities have not been registered under the Securities Act, are offered only to qualified purchasers as defined in R14-4-139, and have not been approved by the SEC or the Commission. The issuer shall place a conspicuous legend on the cover page of any offering document and on any certificate representing the securities, which sets forth the restrictions on the transferability and sale of the securities.

N. No later than 10 business days prior to the publication of a general announcement of the proposed offering or the initial offer of the securities, whichever occurs 1st, the issuer shall file with the Commission a notice briefly describing the business of the issuer and the terms of the transaction, a consent to service of process, a copy of the general announcement, and the fee required by A.R.S. § 44-1861(G). Upon request of the Commission, the issuer may be required to submit a prospectus, offering memorandum, subscription document, or other offering documents or materials used in connection with the offer or sale of securities.

O. Failure to timely file the notice required in subsection (N) shall not, in and of itself, preclude reliance on the exemption afforded by this Section. If the Commission finds that such notice has not been timely filed with respect to more than 1 offering, the Commission may issue an order restricting the right to use exemptions under this Section.

P. The Director may deny or revoke the availability of this exemption if the Director determines that there is a reasonable likelihood that the sale of the securities would work or tend to work a fraud or deceit upon the purchasers. In the event the Director makes such a determination, the issuer may request a hearing in accordance with the provisions of Article 11 of the Securities Act by notifying the Commission within 10 days after notice of the Director's determination described in this subsection.

Q No action or inaction on the part of the Commission or Director with respect to any offer or sale of securities undertaken pursuant to this Section shall be deemed to be a waiver of any provision of this Section nor shall it be deemed to be a confirmation of the availability of this Section or the approval of any offering.

R. Disqualification

1. The exemption is not available to an issuer if it or any of its predecessors, affiliates, directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, or the underwriter:
   a. Has been convicted within the 10 years preceding the filing of the notice required by this Section, or at any time thereafter prior to the termination of the offering, of a felony or misdemeanor involving racketeering or a transaction in securities, or of which fraud is an essential element;
   b. Is subject to an order, judgment, or decree of any court of competent jurisdiction entered within 5 years of the date of filing of the notice required by this Section, temporarily, preliminarily, or permanently enjoining or restraining any conduct or practice in connection with the sale or purchase of securities, or involving fraud, deceit, or racketeering;
   c. Has been subject to any state or federal administrative order or judgment in connection with the purchase or sale of securities entered within 5 years preceding the filing of the notice required by this Section, or at any time thereafter prior to the termination of the offering;
   d. Is subject to the reporting requirements of the Securities Exchange Act of 1934 and has not filed all required reports during the 12 calendar months preceding the filing of the notice required by this Section; or
   e. Is subject to an order of any state or federal agency denying or revoking registration or licensure as a broker or dealer in securities or as an investment adviser or investment adviser representative, or is subject to an order denying or revoking membership in a national securities association registered under the Securities Exchange Act of 1934, or has been suspended for a period exceeding 6 months or expelled from membership in a national securities exchange registered under the Securities Exchange Act of 1934.
2. The Commission, in the Commission's discretion, may waive any disqualification prescribed by this subsection.
3. A disqualification prescribed by this subsection ceases to exist if:
   a. The basis for the disqualification has been removed by the jurisdiction creating it;
   b. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification; or
   c. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

1. Sections Affected — **Rulemaking Action**

R18-2-301	Amend
R18-2-304	Amend
R18-2-306	Amend
R18-2-309	Amend
R18-2-320	Amend

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

Authorizing and implementing statutes: A.R.S. §§ 49-104(A)(1) and (A)(11), 49-425, 49-426, and 49-426.01

3. The effective date of the rules:

December 20, 1999

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 4 A.A.R. 958, April 24, 1998

Notice of Rulemaking Docket Opening: 5 A.A.R. 2881, August 20, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 2916, August 27, 1999

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

Name: Mark Lewandowski or Martha Seaman, Rule Development Section

Address: ADEQ
3033 N. Central
Phoenix, AZ 85012-2809

Telephone Number: 602-207-2230 or 602-207-2222 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for that extension.)

Fax Number: 602-207-2251

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

Summary: In this rulemaking, ADEQ is amending Arizona rules that implement 40 CFR 70 federal operating permits program by incorporating 40 CFR 64 (the federal Compliance Assurance Monitoring (CAM) rules) into Arizona air quality rules. In addition, ADEQ clarified existing language concerning significant revisions for Class I sources so that CAM will be implemented in Arizona as in the rest of the country. ADEQ has modified the definition of major source, as proposed, due to EPA's expected action extending interim Part 70 approval for Arizona beyond the current June 1, 2000, expiration date. Finally, ADEQ has made minor technical changes to R18-2-301 and R18-2-304.

Compliance Assurance Monitoring (CAM): On October 22, 1997 (62 FR 54900), EPA promulgated new regulations and revised regulations to implement CAM for major stationary sources of air pollution required to obtain operating permits under Title V of the Clean Air Act of 1963 (Act) (Public Law 88-206; 42 U.S.C. 7401 et seq., as amended by the Clean Air Act Amendments of 1990, Public Law 101-549). The regulations implement requirements concerning enhanced monitoring and compliance certification under the Act. Subject to certain exemptions, the new regulations require an owner or operator of such sources to conduct monitoring that satisfies particular criteria established in the rule to provide reasonable assurance of compliance with applicable requirements under the Act. The monitoring is to focus on an emissions unit that relies on a pollution control device to meet an emission limit. Revisions to the operating permits program regulations in Part 70 clarified the relationship between the Part 64 requirements and periodic monitoring and compliance certification requirements. ADEQ is implementing this federal rule by incorporating 40 CFR 64 by reference, and amending its own operating permits program regulations at R18-2-306(A)(3), R18-2-309(2), and R18-2-320.

The changes to R18-2-306 and R18-2-309 mirror the changes EPA made to Part 70 in the federal CAM rule.

The change to R18-2-320 will help to ensure that CAM is implemented the same way in Arizona as the rest of the country. As part of the schedule for implementing CAM, 40 CFR 64.5 requires certain sources applying "for a significant permit revision under part 70," to submit proposed Part 64 monitoring to the permitting authority as part of the application. ADEQ's proposed amendment to R18-2-320 would clarify that 2 Arizona-specific triggers for significant revisions (added by ADEQ to its Class I permit rules, but not significant revisions under the federal Part 70) do not trigger the Part 64 submittal requirement. With this clarification, changes in fuels not described in the permit, and increases in potential to emit greater than "significant," would continue to require significant revisions for Class I sources, but could not be construed as a "significant revision under part 70," triggering the CAM information submittal requirement in 40 CFR 64.5(a)(2). This clarification will prevent Arizona sources from being required to comply with CAM earlier than they would if they were outside of Arizona. Arizona Part 70 sources making either of these 2 changes would still need a significant revision under Arizona rules and would still be subject to any other triggered applicable requirement.

Definition of "Major Source": In its proposed rule, ADEQ proposed to modify the definition of major source in R18-2-101(61) to return it to the way it was originally adopted on November 15, 1993. (This definition is now at R18-2-101(64) due to ADEQ's Facility Change rule, effective September 22, 1999.) The proposed change would have required fugitives to be counted for major source determination in all stationary source categories regulated by a standard under Section 111 or 112 of the Clean Air Act, not just if the standard was promulgated before August 7, 1980. Striking the August 7, 1980, distinction would have made the rule consistent with current 40 CFR 70.2. The preamble to the proposed rule contains a fuller discussion of the history behind this provision.

ADEQ received a number of comments from representatives of business and industry, asking ADEQ not to change the major source definition as proposed. On the day the record closed, it was learned that EPA would be extending interim approval for state Title V programs. Although EPA has not yet taken formal action and details regarding how long the extension will be are not yet known, ADEQ decided to leave the major source definition unchanged, to allow time for discussion of the issue. Thus, no changes were made to R18-2-101 in the final rule and it no longer appears in this rulemaking.

As proposed, an additional minor change was made to R18-2-304. The change was requested by EPA in a comment on a previous proposed Title V-related rule that was published in the November 28, 1997, *Register*. In response to that comment, ADEQ amended R18-2-320(D) to provide that when an existing source applied for a significant permit revision to revise its permit from a Class II permit to a Class I permit, the source would be required to submit a Class I permit application in accordance with R18-2-304, and have its entire permit reissued. However, ADEQ was unable to amend R18-2-304 at that time because no change to R18-2-304 had been proposed. The change to R18-2-304 in this rule clarifies that the permit application for the above change, to be complete, must cover the entire source, and not just the change that may have caused the source to require a Class I permit.

Finally, it was discovered during a recent rule review that the term "quantification" was inadvertently changed to "qualification" in R18-2-301(9). ADEQ has corrected R18-2-301 by replacing the term "qualification" with "quantification".

7. A reference to any study that the agency relied on in its evaluation of or justification for the rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable.

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

Not applicable.

9. The summary of the economic, small business, and consumer impact:

A. Identification of Proposed Rulemaking

Title 18, Chapter 2, Articles 1 and 3; sections R18-2-301, R18-2-304, R18-2-306, R18-2-309 and R18-2-320.

B. General Comments About Compliance Costs

ADEQ has determined that the incorporation by reference of compliance assurance monitoring (CAM) into Arizona rules should have no economic impact on businesses in Arizona. This is because there are no additional costs to the regulated community when a state agency incorporates an already effective federal standard. Compliance costs were triggered by the federal rule, and they were considered when the federal regulation was proposed and adopted (see 62 FR 54938-54940, 10/22/97). These rules impose no additional costs on the regulated community, small businesses, political subdivisions, or members of the public in Arizona.

The additional language relative to CAM in R18-2-320 prevents CAM from being triggered at an Arizona source under circumstances where it would not be triggered nationally. As such, ADEQ expects the revision to R18-2-320 to reduce compliance costs because it decreases monitoring, recordkeeping, or reporting burdens on agencies, political subdivisions, and businesses. Furthermore, the additional language should not increase the cost of implementation or enforcement for ADEQ. As a result, ADEQ has concluded that the revision to R18-2-320 is exempt from the preparation of an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(3), which allows an exemption for rules that decrease monitoring, recordkeeping, or reporting burdens and that result in costs of implementation or enforcement that are less than the reduction in burdens.

The proposed change to the major source definition would not be implemented under federal implementation, since under Part 71, fugitive counting for applicability purposes is required only for sources regulated under section 111 or 112 as of August 7, 1980. An example of sources that would have been affected by this Arizona rule change is mines. Mines were 1st regulated by EPA under section 111 in 1984 (49 FR 6464, Standards of Performance for Metallic Mineral Processing Plants) and currently they do not have to count fugitives in determining major source status under either Arizona law or 40 CFR 71. The impact of this change on mines could have been substantial, since some of them could have been forced to apply for Class I permits. ADEQ weighed this impact against the possible loss of its authority to implement the Title V operating permits program and had reached the preliminary conclusion that the benefits of this change outweighed the costs. ADEQ solicited data and comment regarding this conclusion. No information was received on economic impact.

On the day the record closed, it was learned that EPA would be extending interim approval for state Title V programs. Although EPA has not yet taken formal action and details regarding how long the extension will be are not yet known, ADEQ decided to leave the major source definition unchanged, to allow time for discussion of the issue. Thus, no changes were made to R18-2-101 in the final rule and it no longer appears in this rulemaking.

C. Rule Impact Reduction on Small Businesses

ADEQ is sensitive to the concerns of small businesses and the impact this rulemaking could have upon them. State law requires agencies to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. ADEQ considered each of the methods prescribed in A.R.S. §§ 41-1035 and 41-1055(B)(5)(c) for reducing the impact on small businesses. The methods considered are:

(1) Establish less stringent compliance or reporting requirements in the rule for small businesses.

(2) Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.

(3) Consolidate or simplify the rule's compliance or reporting requirements for small businesses.

(4) Establish performance standards for small businesses to replace design or operational standards in the rule.

(5) Exempt small businesses from any or all requirements of the rule.

The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in number 2 of this preamble. The specific objective is to implement the compliance assurance monitoring program for Class I sources.

The changes proposed in this rule apply only to major sources. ADEQ is not aware of any major source in Arizona that is a small business. Even if there was a small business that was also a major source, ADEQ has evaluated each of the five listed methods and has concluded that none of the methods are legal, since, by federal law, these rule changes must apply to major sources, whether or not the major source is a small business.

10. A description of the changes between the proposed rule, including supplemental notices, and the final rules:

Based on comments, changes were made to the proposed rules as follows:

ARTICLE 1. GENERAL

R18-2-101. Definitions

In addition to the definitions prescribed in A.R.S. §§ 49-101, 49-401.01, 49-421, 49-471, and 49-541, in this Chapter, unless otherwise specified:

. . .

64. “Major source” means:

. . .

c. A major stationary source, as defined in Section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to 1 of the following categories of stationary source:

. . .

xxvii.All other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

Note: Adding the "August 7, 1980" date back into R18-2-101 had the net effect of making no change to R18-2-101. Therefore, ADEQ no longer shows R18-2-101 as part of this rulemaking. See explanation in number 6 of the Notice of Final Rulemaking.

R18-2-309. Compliance Plan; Certification

All permits shall contain the following elements with respect to compliance:

. . .

2. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

. . .

c. A requirement that the compliance certification include all of the following (~~provided that~~ the identification of applicable information may cross-reference the permit or previous reports, as applicable):

i. The identification of each term or condition of the permit that is the basis of the certification;

ii. The identification of the ~~method(s)~~ or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and whether ~~such~~ methods or other means provide continuous or intermittent data. ~~Such~~ methods and other means shall include, at a minimum, the methods and means required under R18-2-306(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;

iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in subsection (ii). The certification shall identify each deviation and take it into account in the compliance certification. ~~The~~ certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR 64 occurred; and

iv. Other facts ~~as~~ the Director may require to determine the compliance status of the source.

d. A requirement that all compliance certifications be submitted to the Director~~, and for~~ Class I ~~permits,~~ to the Administrator ~~as well~~.

e. ~~Such a~~dditional requirements ~~as may be~~ specified ~~pursuant to~~ sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01.

3. No change.

4. No change.

5. No change.

6. No change.

In addition, other changes were made to the rules based on suggestions by GRRC staff to improve the rule's clarity, conciseness, and understandability. They are not shown here but appear in the full text of the rules in number 15 of the Notice of Final Rulemaking.

Certain changes were made because another ADEQ rule (Facility Change) amended some of the same sections as this rule and became final before this rule. The Facility Change rule, which was published in the *Register* on October 29, 1999, added new definitions at R18-2-101 and R18-2-301. It also amended text in R18-2-306 and R18-2-320. Due to the added definitions, the amended definition at R18-2-101(61) in this rule was renumbered to R18-2-101(64). The amended definition at R18-2-301(7) in this rule was renumbered to R18-2-301(9). In R18-2-306, "under" was substi-

tuted for "pursuant to" in two places to conform to rule writing conventions. In R18-2-320, a new subsection (B), added by the Facility Change rule, is shown in the final rule as unchanged existing text. Other minor changes from the Facility Change rule are not shown in this part, though all changes are present in part 15 of this rulemaking.

11. A summary of the principal comments and the agency response to them:

ADEQ received 3 comments from industry and business interests on the proposed change to the major source definition. All were opposed to the change based on the legality of EPA's requirement. One commenter suggested that the language, "to the extent required under 40 CFR 70" be added to the end of the specified subsection in the definition, reasoning that this would allow individual sources to challenge the legality of any major source determination without putting the rule itself at issue.

Follow-up comments by these same commenters pointed out that, since EPA is extending the interim approval expiration date for state Title V programs beyond June 1, 2000, ADEQ should not change the definition at this time. Commenters also mentioned the possibility that EPA may change the federal rule to be more consistent with ADEQ's rule in the meantime. ADEQ agrees with these last comments and has withdrawn R18-2-101 from this rulemaking.

ADEQ received unanimous support for incorporating CAM, though 1 commenter requested 2 clarifications.

CAM Clarification 1: In R18-2-306, a commenter asked that the language "if applicable" be inserted after "including 40 CFR 64" in R18-2-306(A)(3)(a), to clarify that monitoring and analysis procedures or test methods required under 40 CFR 64 are not required in each permit, only those Class I permits with units subject to the federal rule.

Response: There is already an "applicable" earlier in the sentence that refers to both monitoring and testing requirements and 40 CFR 64. Repeating the word would be unnecessary.

CAM Clarification 2: Insert the language "For emission units subject to 40 CFR 64," at the beginning of R18-2-309(2)(c)(iii), to clarify that the provisions of subsection (iii) do not apply at other emission units.

Response: ADEQ appreciates the comment and recognizes the need to separate CAM requirements from the general certification requirements that apply to all permits. ADEQ believes that the most appropriate place for the suggested language is at the beginning of the 3rd sentence in subsection (iii). Placing the language at the requested location appears to remove any requirement that compliance status be included in compliance certifications for Class II sources. This was a requirement in the existing rule (see former R18-2-309(2)(c)(ii)) and should remain so.

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

Not applicable.

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

40 CFR 64: R18-2-306(A)(3)

14. Was this rule previously adopted as an emergency rule:

No.

15. The full text of the rule follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

ARTICLE 3. PERMITS AND PERMIT REVISIONS

Section

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-301. Definitions

The following definitions, and the definitions contained in Article 1 of this Chapter and A.R.S. § 49-401.01 shall apply to this Article unless the context otherwise requires:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. "Quantifiable" means, with respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. ~~Qualification~~ Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
10. No change.
11. No change.
12. No change.

R18-2-304. Permit Application Processing Procedures

A. No change.
B. No change.
C. No change.
D. No change.
E. A complete application ~~is one that satisfies~~ shall comply with all of the following:
   1. To be complete, an application shall provide all information required ~~pursuant to~~ by subsection (B) ~~of this Section~~ (standard application form section). ~~, except that applications~~ An application for permit revision only need supply ~~such~~ information ~~only if it is~~ related to the proposed change, unless the source's proposed permit revision will change the permit from a Class II permit to a Class I permit. A responsible official shall certify the submitted information consistent with subsection (H) ~~of this section (section on certification of truth, accuracy, and completeness).~~ (Certification of Truth, Accuracy, and Completeness).
   2. No change.
   3. No change.
   4. No change.
   5. No change.
   6. No change.
   7. No change.
   8. No change.
   9. No change.
   10. No change.
F. No change.
G. No change.
H. No change.
I. No change.
J. No change.

R18-2-306. Permit Contents

A. Each permit issued by the Director shall include the following elements:
   1. No change.
   2. No change.
   3. Each permit shall contain the following requirements with respect to monitoring:
      a. All ~~emissions~~ monitoring and analysis procedures or test methods required under ~~the~~ applicable monitoring and testing requirements, including~~,~~:
         i. Monitoring and analysis procedures or test methods under 40 CFR 64;
         ii. ~~any other~~ Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act~~,~~; and
         iii. ~~including any monitoring~~ Monitoring and analysis procedures or test methods required under R18-2-306.01.
      b. 40 CFR 64 as adopted July 1, 1998, is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. If more

than 1 monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;

~~b.~~c. No change.

~~c.~~d. No change.

4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. No change.
10. No change.
11. No change.
12. No change.
13. No change.
14. No change.
15. No change.

B. No change.
C. No change.
D. No change.
E. No change.
F. No change.

R18-2-309. Compliance Plan; Certification

All permits shall contain the following elements with respect to compliance:

1. No change.
2. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
   a. The frequency for submissions of compliance certifications, which shall not be less than annually;
   b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;
   c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):
      i. The identification of each term or condition of the permit that is the basis of the certification;
      ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period; and~~;~~
      ~~iii. Whether compliance was~~ whether the methods or other means provide continuous or intermittent data. The methods and other means shall include, at a minimum, the methods and means required under R18-2-306(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;
      iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account for consideration in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred; and
      ~~iv. The method(s) used for determining the compliance status of the source, currently and over the reporting period; and~~
      ~~v.~~iv. Other facts ~~as~~ the Director may require to determine the compliance status of the source.
   d. A requirement that all compliance certifications be submitted to the Director~~, and for~~ Class I ~~permits,~~ permit compliance certifications shall also be submitted to the Administrator ~~as well~~.
   e. ~~Such additional~~ Additional requirements ~~as may be~~ specified ~~pursuant to~~ in sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01.
3. No change.
4. No change.
5. No change.
6. No change.

R18-2-320. Significant Permit Revisions

A. For Class I sources, a significant revision ~~procedures~~ shall be used for ~~applications~~ an application requesting a permit ~~revisions~~ revision that ~~do~~ does not qualify as a minor ~~revisions~~ permit revision or as an administrative ~~amendments~~ amendment. A significant revision that is only required because of a change described in R18-2-319(A)(6) or (7) shall not be considered a significant permit revision under part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall follow significant revision procedures.

B. A source with a Class II permit shall make the following changes only after the permit is revised following the public participation requirements of R18-2-330:

1. Establishing or revising a voluntarily accepted emission limitation or standard as described by R18-2-306.01 or R18-2-306.02, except a decrease in the limitation authorized by R18-2-319(B)(5);
2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;
3. A change to or addition of an emissions unit not subject to an emissions cap that will result in a net emission increase of a pollutant greater than the significance level in R18-2-101(104);
4. A change that relaxes monitoring, recordkeeping or reporting requirements, except when the change results from:
   a. ~~From removing~~ Removing equipment that results in a permanent decrease in actual emissions, if the source keeps on-site records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
   b. ~~From a~~ A change in an applicable requirement.
5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;
6. A change that will require any of the following:
   a. A case-by-case determination of an emission limitation or other standard;
   b. A source-specific determination of ambient impacts, or a visibility or increment analysis; or
   c. A case-by-case determination of a monitoring, recordkeeping and reporting requirement ~~or~~ .
7. ~~The~~ A change that requires the source to obtain a Class I permit.

C. Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision procedures and any rules adopted under A.R.S. § 49-426.03.

D. Significant permit revisions shall meet all requirements of this Article for applications, public participation, review by affected states, and review by the Administrator that apply to permit issuance and renewal.

E. When an existing source applies for a significant permit revision to revise its permit from a Class II permit to a Class I permit, it shall submit a Class I permit application in accordance with R18-2-304. The Director shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in R18-2-307 and R18-2-330.

F. The Director shall process the majority of significant permit revision applications received each calendar year within 9 months of receipt of a complete permit application but in no case longer than 18 months. Applications for which the Director undertakes accelerated processing under R18-2-326(N) shall not be included ~~for~~ in this requirement. This subsection does not change any time-frame requirements in Chapter 1.