

**Maricopa County Environmental Services Department  
Title V Operating Permit Program Evaluation**

**FINAL REPORT**

**May 18, 2005**

Conducted by the

U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, California 94105

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
1. INTRODUCTION .....	Page 1
2. TITLE V PERMIT PREPARATION AND CONTENT .....	Page 7
3. MONITORING .....	Page 19
4. PUBLIC PARTICIPATION AND AFFECTED STATE REVIEW .....	Page 22
5. PERMIT ISSUANCE / REVISION / RENEWAL .....	Page 28
6. COMPLIANCE .....	Page 38
7. RESOURCES AND INTERNAL MANAGEMENT .....	Page 44
8. TITLE V BENEFITS .....	Page 56
9. RECORDS MANAGEMENT .....	Page 59
GLOSSARY OF ACRONYMS & ABBREVIATIONS .....	Page 65
APPENDICES .....	Page 66
Appendix A - AIR POLLUTION AGENCIES IN ARIZONA	
Appendix B - TITLE V QUESTIONNAIRE AND MCESD RESPONSES	
Appendix C - MCESD AND COUNTY ORGANIZATION CHARTS	
Appendix D - LETTER FROM EPA TO MCESD ON PRACTICAL ENFORCEABILITY OF SYNTHETIC MINOR LIMITS (NOVEMBER 2, 2001)	
Appendix E - SETTLEMENT AGREEMENT BETWEEN MCESD, OUR CHILDREN'S EARTH FOUNDATION, AND SIERRA CLUB (JUNE 16, 2003)	
Appendix F - PERMIT ISSUANCE TABLES 1 TO 4	
Appendix G - MCESD'S CURRENT RECORDS RETENTION POLICY	
Appendix H - SUMMARY OF KEY DOCUMENTS MISSING FROM MCESD PERMIT FILES	

## **ACKNOWLEDGMENTS**

EPA Region 9 would like to acknowledge the cooperation of the staff and management of the Maricopa County Environmental Services Department (MCESD) 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 MCESD's Title V program. We would also like to extend a thank you to those outside of MCESD who provided input on MCESD's Title V program implementation.

## EXECUTIVE SUMMARY

---

*EPA has been informed that MCESD intends to reorganize its air quality program as a separate unit. As of this writing, details on the new structure are developing. In the absence of firm detail on the possible reorganization, EPA believes that the findings in this report are equally valid for the prior organization as formal recommendations, as well as for the successor organization for use as guideposts in forming a new, more effective air quality program.*

---

In response to the 2002 Office of Inspector General audit recommendations, the Environmental Protection Agency (EPA) has reexamined 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 43 separate air permitting authorities (35 in California, 3 in Nevada, 4 in Arizona, and Hawaii). Due to the significant number of permitting authorities, Region 9 committed to performing comprehensive Title V program evaluations on 10 of the largest permitting authorities by fiscal year 2008, 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 Maricopa County Environmental Services Department (MCESD). This is the second Title V Program Evaluation Region 9 has conducted. The first one was conducted at the Pima County Department of Environmental Quality. MCESD is a local air pollution control agency within the state of Arizona. (See Appendix A, Air Pollution Agencies in Arizona.) The Region 9 program evaluation team consisted of Colleen McKaughan, Associate Director for Arizona; Gerardo Rios, Chief of the Air Permits Office; Ken Israels, Program Evaluation Advisor; Anna Yen, Maricopa Program Evaluation Coordinator and EPA Permit Engineer for Arizona; Emmanuelle Rapicavoli, EPA Permit Engineer and Lead Contact for Arizona; and Mark Sims, EPA Permit Engineer.

The evaluation was conducted in several stages. In the first stage, EPA sent MCESD a questionnaire (see Appendix B, Title V Questionnaire and MCESD Responses) focusing on Title V program implementation in preparation for the site visit to MCESD'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. MCESD 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 MCESD Title V permit files. MCESD 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. During this time, Region 9 also sent a letter to MCESD requesting copies of the complete permit files at MCESD for eleven named sources. Region 9 compared these MCESD files to the region's own files and reviewed the MCESD files for key contents.

The third stage of the program evaluation was the site visit, which consisted of Region 9 representatives visiting the MCESD office to conduct further file reviews, interview MCESD 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 August 23 through August 27, 2004. Region 9 also conducted several interviews by phone with MCESD staff and managers prior to the site visit.

The fourth stage of the program evaluation was followup and clarification of issues for completion of the draft report. Region 9 compiled and summarized interview notes and made phone calls to clarify Region 9's understanding of various aspects of the Title V program at MCESD. During this time, a survey was also sent out to key stakeholders. The responses were compiled, and the program evaluation team met on a regular basis to work towards completion of the draft report.

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

1. MCESD has failed to meet both the statutory deadline and a later mutually agreed upon deadline for issuance of its initial Title V permits. MCESD to date has not yet completed the task of issuing all initial Title V permits. While MCESD has made substantial progress in the last two years towards issuing their remaining initial Title V permits, it is still far behind in initial permit issuance compared to the majority of permitting programs nationwide. Furthermore, the backlog of initial permits has prevented the department from issuing timely renewal permits for five of its sources. (See Findings 5.1 and 7.1) In addition to a late start on writing Title V permits and insufficient permitting staff, contributing factors to the delay in initial Title V permit issuance include:
  - a. MCESD allows industry to negotiate conditions in their Title V permits for an indefinite amount of time. Management does not make key decisions and, thus, does not reach resolution on the issues in a timely manner. This practice has been

- evident particularly for sources in the wood furniture and cabinet manufacturing sector. (See Finding 2.4)
- b. MCESD has withdrawn proposed permits only to resubmit them to EPA without revisions that address EPA's comments. (See Finding 2.5)
  - c. Inconsistent decision-making results in confusing guidance to Title V staff. (See Finding 2.6)
  - d. A lack of managers in MCESD's organizational structure has hindered the Title V Group. (See Finding 2.7)
  - e. A lack of experienced permitting engineers, due to high staff turnover, has been a chronic problem. (See Finding 2.8)
2. MCESD's procedure and management of final permit issuance is seriously flawed. Some examples include the following:
    - a. A final Title V permit received by EPA was different than the final permit received by the source. (See Finding 5.2)
    - b. MCESD frequently does not issue revised permits for minor permit revisions; instead, they simply sign the source's application. (See Finding 5.3)
    - c. Minor permit revisions are signed by the permit engineer rather than the Director or a manager with delegated authority. (See Finding 5.4)
  3. MCESD processes more than 90% of its permit revisions under procedures for minor revisions, which do not include a requirement to notify the public. The program evaluation process identified many instances in which significant permit revisions were incorrectly processed as minor revisions. (See Findings 4.5 and 5.5)
  4. MCESD has issued synthetic minor permits that are inconsistent with EPA guidances on limiting potential to emit (PTE). (Finding 2.10)
  5. MCESD's fee rule, Rule 280, prevents MCESD from issuing a final initial Title V permit to an existing source until the source has paid the balance of fees due. It has delayed the issuance of some initial permits because certain sources have refused to pay fees due to disagreement with some terms of the permit. Furthermore, MCESD does not enforce against sources that refuse to pay fees. (See Finding 5.6)

6. Title V funds are commingled with non-Title V permit fees and enforcement penalties. In addition, MCESD does not have a clear accounting of its Title V costs. As a result, it is difficult to tell if Title V funds are sufficient to cover Title V permit program costs. Similarly, it is difficult to tell whether Title V permit fees are used solely to cover Title V permit program costs. (See Finding 7.4)
7. The broad span of duties for the Director of MCESD results in inadequate attention to the air program. Furthermore, MCESD's funding mechanisms should be made more flexible. (On November 10, 2004, the County Administrative Officer announced changes to form a separate air quality department, whose Director will focus solely on air issues. This department will be grouped with Regional Development Services which is under the leadership of Joy Rich.) (See Findings 7.2 and 7.3)
8. MCESD's Enforcement Office is located outside the jurisdiction of the Air Quality Division and is not focused on air quality issues. EPA strongly recommends forming an air quality enforcement office with duties limited only to those that are air-related. (See Findings 6.8 and 7.10)
9. Morale is poor among those at MCESD who work on Title V-related activities. Based on interviews with both present and former employees of MCESD, EPA found that poor management issues, a lack of opportunities for career development, and poor compensation contribute to low morale at MCESD. (See Finding 7.6)
10. Training on Title V issues is inadequate. There is no standard set of courses to ensure that permit engineers are prepared to address issues as they arise. (See Finding 7.7)
11. MCESD takes an unnecessarily narrow interpretation of its authority. (See Finding 2.9)
12. MCESD's Title V program is adversely affected by lack of communication and coordination among the enforcement, compliance, technical support and permitting offices. This type of communication is essential to preparing high quality, enforceable permits. (See Finding 7.9)
13. Many of the staff at MCESD, as well as individuals outside of MCESD, claim documents are missing from Title V permit files. Furthermore, Title V management reportedly directed Title V staff not to include emails in the Title V permit files. Title V files are public files, and relevant emails should be included in the Title V permit file. (See Findings 9.3 and 9.5)
14. Information maintained by the Enforcement Office is not readily accessible to the Compliance Section and Permits Section. Often, the Enforcement Office does not

- communicate settlement information back to Compliance or Permits staff. (See Finding 6.6)
15. MCESD seeks the advice of the County Attorney's office for permitting issues; however, competing priorities affect the amount of time that the County Attorney can spend on air quality issues. When staff meet with permittees and their attorneys, the County Attorney is not always present at the meetings. County Counsel should be present at all meetings at which permittees bring legal counsel. In addition, the Air Quality Division should have its own dedicated legal counsel. (See Findings 6.7 and 7.11)
  16. To track Title V permit applications and permits, MCESD uses a streamlined, effective database system called EMS, created specifically for MCESD. EMS helps Title V staff and managers track milestones, and it integrates activities of different sections of MCESD and the Finance Department. (See Finding 8.1)
  17. MCESD responded, in the Title V Questionnaire, that it has devoted more resources to public involvement as a result of Title V by hiring a full-time public information officer (PIO). However, the PIO serves the entire department and is often involved in handling "crises" (e.g., West Nile virus) rather than Title V-specific public outreach. (See Findings 4.7 and 8.2)
  18. The Director and staff are attentive to environmental justice (EJ) issues. In addition, MCESD responded in the Title V questionnaire that the PIO is charged with oversight of EJ-related activities. However, the PIO's responsibilities are broad, and, based on interviews, it does not appear that the PIO has much time to devote to EJ responsibilities. MCESD does not have a formal EJ program. (See Findings 4.8 and 4.9 )



## 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 more 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 fiscal year (FY) 2003. EPA HQ developed, with the assistance of the regional offices, an evaluation protocol.

---

<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.

EPA Region 9 oversees 43 separate air permitting authorities (35 in California, 3 in Nevada, 4 in Arizona, and Hawaii). Due to the significant number of permitting authorities, Region 9 committed to performing comprehensive Title V program evaluations on 10 of the largest permitting authorities by fiscal year 2008, which would represent about 85% of the Title V sources in Region 9.

### **Title V Program Evaluation at Maricopa County**

Region 9 recently conducted a Title V program evaluation at the Maricopa County Environmental Services Department (MCESD). This is the second Title V Program Evaluation Region 9 has conducted; the first addressed the Title V program administered by the Pima County Department of Environmental Quality. MCESD is a local air pollution control agency within the state of Arizona. (See Appendix A, Air Pollution Agencies in Arizona.) The Region 9 program evaluation team consisted of Colleen McKaughan, Associate Director for Arizona; Gerardo Rios, Chief of the Air Permits Office; Ken Israels, Program Evaluation Advisor; Anna Yen, Maricopa Program Evaluation Coordinator and EPA Permit Engineer for Arizona; Emmanuelle Rapticavoli, EPA Permit Engineer and Lead Contact for Arizona; and Mark Sims, EPA Permit Engineer.

The objectives of the evaluation were to assess how MCESD implements its Title V permitting program, evaluate the overall effectiveness of MCESD's Title V program, identify areas of MCESD's program that need improvement and areas where EPA's oversight role can be improved, and highlight the unique and innovative aspects of MCESD'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 MCESD a questionnaire (See Appendix B, Title V Questionnaire and MCESD Responses) focusing on Title V program implementation in preparation for the onsite visit to MCESD'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 MCESD Title V permit files. MCESD 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. During this time, Region 9 also sent a letter to MCESD requesting copies of the complete permit files at MCESD for eleven named sources. Region 9 compared these MCESD files to the Region's own files and reviewed the MCESD files for key contents.

The third stage of the program evaluation was the site visit, which consisted of Region 9

representatives visiting the MCESD office to conduct further file reviews, interview MCESD 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 August 23 - 27, 2004. Region 9 also conducted several interviews by phone with MCESD 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 to clarify Region 9's understanding of various aspects of the Title V program at MCESD. During this time, a survey was also sent out to key stakeholders. The responses were compiled, and the program evaluation team met on a regular basis to work towards completion of the draft report.

### **MCESD Description**

MCESD is a department within the County government responsible for protecting public health and the environment of Maricopa County. MCESD includes the following divisions: Business and Community Services, Environmental Health Services, Water and Waste Management, and, until November 2004, Air Quality. In addition, there are some groups outside of these divisions that report directly to the Director of MCESD. Some examples include Enforcement, Bio-Terrorism Response and Preparedness, Business and Financial Services, and Human Resources. (See Appendix C, MCESD and County Organization Charts.)

By state statute, the Director of MCESD serves also as the Air Pollution Control Officer (APCO) and Environmental Control Officer. The Air Quality Division is split up into the following sections or groups: Emissions Inventory, Air Monitoring, Air Permitting, Compliance, and Planning & Analysis. Stationary source air permits, including Title V permits, are issued through the Air Permitting section. Compliance activities, such as facility inspections and source testing oversight, to assure that stationary sources are complying with their air permits are handled through the Compliance Section. Enforcement activities involving preparing and arguing cases in court are handled outside the Air Quality Division by the Enforcement Office. As mandated by the Clean Air Act Amendments of 1990, MCESD has a Small Business Environmental Assistance Program (SBEAP), which operates under the Business and Community Services Division, to provide assistance to business owners and operators in determining the County, State, and Federal requirements that apply to businesses.

Also reporting directly to the Director of MCESD is the Public Information Officer (PIO). The PIO handles communications for the entire department. MCESD does not have an in-house environmental justice (EJ) office or coordinator, but according to MCESD's responses to the Title V questionnaire, the PIO is charged with oversight of EJ-related activities. MCESD has a complaints line to which the public can call in and file a formal complaint. Out of the Business and Community Services Division, a complaint manager along with two staff persons answer the

phone calls and process incoming complaints for the entire department.

### **Coordination with the State of Arizona**

The Arizona Department of Environmental Quality (ADEQ) is responsible for submitting the State Implementation Plan (SIP) and Title V air permitting programs for Arizona to EPA. MCESD is a local air pollution control agency within the state. State law and a delegation agreement between ADEQ and MCESD describe the roles and responsibilities of each agency, and delineate jurisdiction of sources within Maricopa County. On November 12, 1993, ADEQ, on behalf of MCESD, submitted Maricopa County's proposed operating permits program, pursuant to Title V of the Clean Air Act (the Act) and the Arizona Comprehensive Air Quality Act, for approval to EPA.

The Arizona Revised Statutes, Title 49, Chapter 3, Air Quality, provide authority for county air quality control districts 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 County are under the jurisdiction of the County. Arizona law further provides authority for the Director of ADEQ to delegate to local agencies authority over sources under ADEQ's jurisdiction.<sup>4</sup>

Arizona law provides authority for local agencies to review, issue, revise, administer and enforce permits for sources required to obtain a permit.<sup>5</sup> It mandates that the county procedures

---

<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

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 by a county's permitting program.

### **MCESD's Title V Program**

EPA granted MCESD's Title V program final interim approval on November 29, 1996 and full approval on November 30, 2001<sup>6</sup>. According to the November 12, 1993 Title V program submittal, MCESD estimated that approximately 25 to 50 sources would be defined as major sources under the Title V program. At the time, this number included all existing permitted sources and anticipated new sources. As of December 2004, MCESD had received 56 initial Title V applications for existing sources. Due to closure of some facilities and some sources taking synthetic minor limits, MCESD currently expects to issue a total of 40 initial Title V permits to existing sources. For new sources, MCESD issues combined permits that contain requirements for new construction or installation, including Major New Source Review (NSR) and Prevention of Significant Deterioration (PSD) program requirements, and operation of the source under the Title V program. MCESD has issued eight combined Title V and NSR/PSD permits to new sources since their program approval in 1996.

### **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 MCESD does not issue General Permits under the Title V program. Furthermore, a section on records management (Section 9) was added to the report.

---

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.”

<sup>6</sup> See 61 FR 55910, (Oct. 30, 1996); 66 FR 63175, (Dec. 5, 2001).

The findings and recommendations in this report are based on EPA's internal reviews performed prior to the site visit to MCESD, 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 August 23 through August 27, 2004, survey responses, and followup phone calls during the months after the site visit.

## 2. TITLE V 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:** MCESD has a process for quality assuring ("QA process") Title V permits, but it has changed with each management change in the Air Quality Division. Furthermore, the QA process has not consistently included a requirement to obtain feedback from other groups, such as the Major/Minor Inspection Group and the Technical Services Group (a.k.a. Source Testing Group) of the Compliance Section.

**Discussion:** MCESD's QA process for Title V permits consists primarily of having the Title V Unit Manager review each permit. For a very short period of time, an experienced staffperson of the Compliance Section was brought in to help review permits, but workload constraints ended this approach. Now a former unit manager is conducting the reviews again.

Some permits are sent to the Compliance Section's Major/Minor Inspection Group and Source Testing Group for review, though not on a consistent basis. It appears that, regardless of who is in charge of conducting the permit reviews, it is up to the permit engineer to initiate review by the other groups and that it is not a formal part of the QA process.

Communication between the Title V Group and the Compliance Section is not as open and regular as it should be, though it is reportedly much improved over the last several years. There is no formal coordination process in place. Including the Compliance Section in the QA process would likely enhance the practical enforceability of MCESD's permits.

**Recommendation:** MCESD should formalize its QA process. (See also Finding 2.2.) MCESD's QA process should formally include review by the Major/Minor Inspection Group and, when the permit includes testing requirements, the Source Testing Group.

**2.2 Finding:** MCESD has not documented its complete QA process in writing.

**Discussion:** MCESD has two separate documents that include portions of its QA process. It is EPA's understanding that, until September 17, 2004, MCESD had only the upper

management portion of the QA process in writing. This portion of the QA process is described in a written procedure for administrative processing of Title V permits.<sup>7</sup> The written procedure includes many different aspects of administrative processing, such as procedures for public notice, public hearing requests, billing, and permit issuance. The section titled "Upper Management Review" describes only the procedure for forwarding permit documents to the Air Quality Division Manager and the Department Director for their review. This document does not describe permit review by Title V immediate supervisors, nor does it contain any mechanism to allow review by the Compliance Section.

On September 17, 2004, MCESD put into effect a written Title V Standard Operating Procedure (SOP) to expedite the issuance of initial Title V permits. This SOP includes, in a section titled "Quality Control," a QA procedure by engineers but does not require review by a manager. The only portion of the "Quality Control" section which requires guidance by a manager is in the statement, "Issues that cannot be settled within the [Title V] Group shall be forwarded to the Air Division Manager." Furthermore, the SOP does not contain a mechanism to allow review by the Compliance Section.

EPA commends MCESD for development of a Title V SOP. The SOP, however, should include the entire QA process, from review within the Title V Group to review by other groups and upper management.

**Recommendation:** MCESD should document the complete QA process in a single written SOP. The SOP should include Title V permit review by a manager knowledgeable in Title V permitting. EPA notes that MCESD has lacked sufficient management to implement an SOP revised in this manner. (See recommendation of Finding 2.7.) The SOP should also include a requirement to request review by the Compliance Section. Written procedures for administrative processing of Title V permits should be updated.

- 2.3 Finding:** MCESD has not developed written guidance on permit content. Though written procedures and checklists exist to help a new engineer figure out the next step in the process, these documents are guidance for administrative processing of a Title V permit rather than the drafting of it.

**Discussion:** A written procedure for administrative processing of Title V permits exists.<sup>7</sup> Part of the procedure includes filling out checklists such as an issuance checklist and a public hearing checklist. MCESD also drafted and put into effect a new Title V SOP, as of September 17, 2004, to expedite the issuance of initial Title V permits. However, these

---

<sup>7</sup>Untitled. The document contains the following footer: i:\permits\Title\_V\W\_procdr.doc  
3/15/04



documents do not provide guidance to engineers in the actual drafting of the permit. Furthermore, not all staff were aware of the written procedures.

For help in the actual writing of the permit, Title V permit engineers stated that they use the EPA Region 9 Title V Permit Review Guidelines.<sup>8</sup> A few permit engineers also refer to the manual from APTI's "Introduction to Permitting" training course for guidance. For NSR issues, they rely on EPA's 1990 Draft New Source Review Workshop Manual.<sup>9</sup> In addition, permit condition templates developed by MCESD are available. These templates are essentially rule-based boilerplate language which can then be modified to suit each specific permit.

New engineers rely on already-issued permits and more senior engineers to learn what to include in permits. However, while many of those resources are useful, MCESD has not developed a set training curriculum for new engineers.

**Recommendation:** EPA recommends that MCESD develop written guidance on permit content. Staff also need training to be able to make full use of the guidance. (See Finding 7.6 for details on training.) MCESD should continue to use existing written guidance such as procedures on processing permits, rule-based templates, and checklists. In addition, EPA recommends that MCESD management make their staff aware of these written guidance documents and encourage use of these documents on a routine basis.

**2.4 Finding:** MCESD allows industry to discuss permit conditions in their Title V permits for an indefinite amount of time. Management does not make key decisions and, thus, does not reach resolution on the issues in a timely manner.

**Discussion:** MCESD's practice of allowing industry to discuss permit conditions for an indefinite amount of time leads to two main problems: 1) an unreasonable period of time to write and issue a permit, which is a contributing factor to MCESD's failure to meet its commitment to issue all initial Title V permits, and 2) a tendency towards changing permit conditions even though such changes might compromise the practical enforceability of the permit.

For example, in May 2003 and again in August 2003, the wood furniture and cabinet manufacturers ("woodworking facilities") proposed a sieve analysis test procedure to

---

<sup>8</sup>Region 9 Title V Permit Review Guidelines, Draft (Rev 1), September 9, 1999.

<sup>9</sup>New Source Review Workshop Manual - Prevention of Significant Deterioration and Nonattainment Area Permitting, Draft. October 1990.

MCESD that they hoped to use in lieu of source testing. Region 9 had previously told MCESD, via various letters, that an initial source test should be required for all woodworking facilities to establish an initial level of compliance with MCESD's SIP Rule 311 for particulate matter. The MCESD Source Testing Group, Region 9, and EPA's Office of Air Quality Planning and Standards in North Carolina all concluded in 2003 that the sieve analysis was not adequate. MCESD's Air Quality Division Manager also informed the Department Director that the sieve analysis was not an appropriate mechanism for determining compliance with Maricopa's SIP and, thus, should not be allowed as an alternative to source testing. Nevertheless, MCESD continued to discuss the sieve analysis as a possible compliance option, delaying the issuance of an acceptable permit. As of November 2004, MCESD had issued only 6 of 11 permits for woodworking facilities.

EPA supports a policy of open dialog and communication between permitting authorities and their permittees. Certainly, permittees should be allowed input during the permitting process. This policy, however, can be distorted such that relevant discussions devolve into extended negotiations that can derail timely issuance of a permit.

**Recommendation:** MCESD should develop a structured internal policy that clarifies at what point in the process and how much time a source has to provide input on its permit. As part of MCESD's policy, MCESD needs to establish clear boundaries as to when the source can provide input. MCESD upper management should make decisions on issues once the source has submitted its comments and/or the source has met with MCESD. In addition, MCESD should keep written records of all negotiation discussions with the source.

- 2.5 Finding:** MCESD's withdrawal of proposed permits only to resubmit them to EPA without revisions that address EPA's comments unnecessarily delays permit issuance. In addition, MCESD frequently allows a significant amount of time to pass between permit withdrawal and reproposal to EPA.

**Discussion:** In some instances in which EPA informed MCESD that EPA had cause to object to the permit, MCESD opted to withdraw the permit before the end of the 45-day period. After a period of time, MCESD resubmitted the permit to EPA for another 45-day review period. However, upon review of the permit, EPA discovered that MCESD failed to address the issues which would lead to an objection by EPA or other comments previously raised by EPA.

For example, MCESD originally proposed the initial Title V permit for Luke Air Force Base to EPA on December 10, 2003. EPA submitted draft comments prior to the conclusion of its 45-day review to MCESD. MCESD subsequently withdrew the permit from review on January 20, 2004. MCESD re-proposed the permit to EPA two months

later on March 17, 2004. Upon review of the re-proposed permit, EPA found that the permit still failed to assure compliance with all applicable requirements. As a result, on April 30, 2004, EPA objected to the permit. On July 21, 2004, MCESD finally sent EPA a revised permit which satisfactorily addressed EPA's comments. More than seven months elapsed from the time a proposed permit was first submitted to EPA to the time MCESD finally submitted a permit to which EPA would not object.

MCESD also allows a significant amount of time, sometimes up to a year or longer, to elapse before resubmitting a revised permit to EPA after it has been withdrawn. For example, the Title V permit for Premier Industries was withdrawn from EPA review on January 7, 2004. EPA has not yet received a revised proposed permit which addresses EPA's objection issues.

**Recommendation:** If MCESD withdraws a permit to make relevant revisions, these revisions should be made as soon as possible. A revised permit should be re-proposed to EPA within a matter of weeks rather than months.

An alternate option, which is preferable to EPA, would be to submit a draft copy (courtesy copy) of the permit to EPA before the 45-day review period, such as at the beginning of the public comment period. This approach would allow both agencies to discuss issues early in the process. As a result, issues would more likely be resolved before the end of the 45-day review period and withdrawing the permit would not be necessary.

EPA also suggests that EPA and MCESD meet to develop a plan of action, consistent with agreements we have made with some other permitting agencies. A plan of action would summarize agreements made between the two agencies, such as an optimized procedure for establishing good communication throughout permit development and review.

**2.6 Finding:** Inconsistent decision-making results in confusing guidance to Title V staff and has been a contributing factor to the delay in Title V permit issuance.

**Discussion:** Title V staff look to management for guidance. Once staff are advised on how to handle a particular situation, they can likely resolve similar situations in the future on their own. When the decision-making is inconsistent, however, staff must ask management for guidance in any situation that goes beyond basic analysis. This lack of consistency at MCESD has been a major impediment to issuance of Title V permits.

Interviewees informed us that MCESD often makes decisions inconsistently from permit to permit for similar situations. One example of inconsistent decision-making involves the determination of whether a revision is significant or minor. On many occasions, staff have disagreed with management's determinations. EPA has reason to believe that many of the

revisions that MCESD has deemed minor should really have been processed as significant revisions. (See Finding 5.5 for more details.)

We understand that the former Air Quality Division Manager and the Title V Unit Manager often discussed the more complex permitting questions with each other and that they kept a written record of critical permitting decisions they made in order to stay consistent from permit to permit. It is unknown if the written record of permitting decisions has been kept up since the former Air Quality Division Manager left MCESD.

**Recommendation:** EPA encourages the Title V Unit Manager and future Permits Section Manager to continue the practice of recording critical permitting decisions. This document should be updated each time a key permitting decision is made by management and should be kept in a location (we suggest electronically) easily accessible to all Title V staff.

**2.7 Finding:** A lack of managers in the organizational structure has hindered the Title V Group and has been a contributing factor to the delay of Title V permit issuance.

**Discussion:** The lack of both a Permits Section Manager and an Air Quality Division Manager has been detrimental to the Title V Group and to the Air Quality Division as a whole. Interviewees informed us that the Permits Section Manager has been vacant for more than seven years and that the Air Quality Division Manager was not given the authority to hire for that position.<sup>10</sup> The former Air Quality Division Manager took on some of the day-to-day responsibilities of a Permits Section Manager; this arrangement, however, is not optimal. An Air Quality Division Manager should not be expected to have the time to take on the responsibilities of two positions. Timely issuance of initial Title V permits might have been accomplished if a Permits Section Manager had been hired.

MCESD needs a Permits Section Manager with both technical and management skills. A person with air permitting technical knowledge and experience would be able to help resolve critical issues in a more timely manner since, in many cases, the issues would not need to be elevated any further. Interviewees have informed us that the Title V and Non-Title V Groups implement their programs in very different ways. Permit engineers in both groups have stated that more consistency between the two groups would help them in their work as well as minimize confusion for sources. A Permits Section Manager with both the technical background and management skills would be able to work with both groups to increase consistency between their two programs.

---

<sup>10</sup>In fact, the MCESD organization chart does not even show a Permits Section Manager position.

The Air Quality Division Manager position has been vacant for well over a year. Despite active recruiting by MCESD, the position still has not been filled. A gap that was already felt by the lack of a Permits Section Manager was made even bigger with the lack of an Air Quality Division Manager. While the Air Quality Division Manager position was vacant, Title V permitting issues were elevated from the Title V Group (and the Title V Unit Manager at the time) directly to the MCESD Director. This is highly inefficient since the MCESD Director has many other responsibilities and does not have specialized knowledge in Title V permitting.

An Air Quality Division Manager should be involved in any issues that cannot be resolved at the Permits Section Manager level. Besides the many other roles of the Air Quality Division Manager, such as implementation of the State Implementation Plan, expenditure forecasting and budget planning for the Division, updating the MCESD Director on the latest issues, and meeting with the Board of Supervisors and other government entities, the Air Quality Division Manager would also be the person to make sure that the different offices and groups within the Air Quality Division communicated with each other on a routine basis.

Having a Permits Section Manager and an Air Quality Division Manager would improve the consistency in decision-making. Furthermore, filling both the Permits Section Manager and Air Quality Division Manager positions could potentially alleviate current bottlenecks in the system. Other permitting agencies within Region 9 have more managers at the unit level to handle NSR sources, Title V sources, and minor sources.

**Recommendation:** EPA strongly recommends that MCESD actively recruit a person with strong technical and managerial skills for the position of Air Quality Division Manager. It is imperative that MCESD invest the time and resources necessary for finding a high quality candidate.

The Air Program also needs a Permits Section Manager with permitting and technical experience as well as management skills. Ideally, the successful manager will be able to balance the need for quality permits with the proper attention to the issuance process and its management.

MCESD must offer a competitive salary in order to be able to attract suitable candidates. (See Finding 7.6 for more on salaries.)

Additionally, the Air Program needs more managers at the unit level. Other permitting agencies have adopted this model and have had success managing Title V, NSR, and minor source permitting programs.

**2.8 Finding:** A lack of experienced permitting engineers, due to high staff turnover, has been a contributing factor to the delay of Title V permit issuance.

**Discussion:** High staff turnover within the Title V Group has led to a scarcity of experienced permitting engineers in the group. Without experienced permit engineers, staff need to rely on managers for guidance. A shortage of managers in the organizational structure, however, leaves little time for managers to provide the necessary guidance (see Finding 2.7). With the lack of experienced engineers and managers, staff have difficulty resolving issues, resulting in a delay in permit issuance.

See Finding 7.6 for further details on the high level of dissatisfaction among MCESD employees.

**Recommendation:** MCESD should take steps to improve retention of qualified staff. See Findings 7.6 and 7.7 for further details on salaries and training for staff.

**2.9 Finding:** MCESD takes an unnecessarily narrow interpretation of its authority.

**Discussion:** MCESD has tended to interpret its rules narrowly. For example, if no existing regulation or rule contains explicit reference to a particular monitoring or recordkeeping requirement, MCESD often concludes that it has no authority to include that requirement in the permit. However, there are many instances in which the regulatory language is broad and the permitting agency has discretion to include specific requirements that will accomplish the broader objective. For example, MCESD staff reported to EPA that, at one point, management concluded that an equipment list was not a necessary component of a Title V permit. This conclusion was made despite input to the contrary by various managers who have specific Title V experience. Although there are no rules or regulations explicitly requiring equipment lists to be included in a Title V permit, an equipment list is necessary to accomplish the broader objective of assuring compliance by specific units with specific applicable requirements. A Title V permit must identify not only the applicable requirement but also the specific emissions units to which those requirements apply. It is necessary also to know what a facility has installed and characterizing information like the brand, model, size, serial number, capacity, etc. This type of information helps an inspector to determine when a unit has been replaced or if a unit has been installed without a permit.

Though it is important not to overstep the boundaries of agency authority, MCESD often interprets its own rules too narrowly to the extent that a permit may not assure compliance with all applicable requirements.

**Recommendation:** Management should provide guidance to staff on interpretation of MCESD rules in a manner consistent with past decisions. For example, the conclusion by

management that an equipment list is not necessary in a permit was not consistent with decisions in the past to include such a list in each Title V permit. Staff should be able to rely on someone at the management level and/or at the County Attorney's office to provide consistent guidance on interpretation of MCESD rules in a manner which will allow permits to include conditions that assure compliance with applicable requirements. Upper management should rely on the experience and knowledge of those managers with specific Title V experience.

**2.10 Finding:** MCESD has issued synthetic minor permits that are inconsistent with EPA guidance on limiting potential to emit (PTE).

**Discussion:** MCESD has issued synthetic minor permits that contained facility-wide emission limits within the range of 96 to 99.9 tons per year, just below the federally applicable major source threshold for that time period. These permits are often inconsistent with EPA guidance on limiting PTE. These permits will be up for renewal soon. The Non-Title V Group plans to correct these permits so that limits are consistent with EPA guidance.

Many of the synthetic minor permits do not contain permit conditions that will assure compliance, such as production limits, limits on hours of operation, and/or recordkeeping requirements. EPA guidance recommends against blanket emission limits without accompanying production and/or operational limits.<sup>11</sup>

EPA guidance states that emission limits should be accompanied by production and/or operational limits such as limitations on "quantities of raw material consumed, fuel combusted, hours of operation, or conditions which specify that the source must install and maintain controls that reduce emissions to a specified emission rate or to a specified efficiency level." Such production and operational limits should also have adequate recordkeeping requirements to assure compliance.<sup>12</sup>

On June 8, 1998, and again on November 2, 2001 (see Appendix D), EPA sent letters to

---

<sup>11</sup>"Guidance on Limiting Potential to Emit in New Source Permitting," EPA Memo from Terrell E. Hunt and John S. Seitz, June 13, 1989.

<sup>12</sup>Further EPA guidance on limiting PTE is set forth in (1) "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)," EPA Memo from John S. Seitz and Robert I. Van Heuvelen, January 25, 1995, and (2) "Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and §112 Rules and General Permits," EPA Memo from Kathie A. Stein, January 1995.

MCESD providing guidance on establishing enforceable limits on a source's PTE. These letters provided examples of different mechanisms MCESD can use to effectively limit a source's PTE to less than the major source threshold. Despite these letters and guidance documents, MCESD has continued to issue permits that are inconsistent with EPA's PTE guidance.

One example is the permit for Henry Products, Inc. (HPI), an expanded polystyrene (EPS) manufacturer, issued on April 15, 1998 and then revised on September 29, 1999. The permit limits Henry's emissions to 49.9 tons per year, 0.1 tons below the major source threshold. However, the permit fails to incorporate any practicably enforceable conditions to effectively limit HPI's emissions to below 49.9 tons per year. The only enforceable conditions are a limit on the pentane content of the bead (6%) and an annual production limit of 1698 tons of EPS. These production and pentane content limits only limit HPI's pentane emissions to 101.88 tons per year. While HPI did have a boiler that, in the past, destroyed pentane emissions, the permit did not contain any practicably enforceable conditions that required HPI to achieve a capture or control efficiency for pentane reduction, nor did the permit or technical support document adequately justify the 23% pentane left as residual in the final product used in calculating HPI's emissions.

MCESD's practice of setting emissions limits close to the major source threshold has led to further complications, especially for VOC sources with annual limits which greatly exceed the source's actual emissions. If a source makes a modification, the source, in order to avoid NSR, may need to accept a facility-wide limit which is actually lower than the source's original facility-wide limit. In other words, when the source decides to make a modification, the facility-wide limit must be revised to ensure that the modification does not trigger NSR. The new facility-wide limit is frequently determined by taking the facility's average past two years of actual emissions for that pollutant and adding a less than significant emissions increase to that baseline. Because the original facility-wide limit had been set so much higher than the facility's actual emissions, the newly calculated facility-wide limit often turns out to be lower than the original facility-wide limit.

**Recommendation:** MCESD must issue practicably enforceable synthetic minor permits, consistent with EPA guidances and Region 9 letters cited above. EPA encourages the Non-Title V Group to proceed with its plans to revise the facility-wide permit limits upon renewal of the synthetic minor permits so that the limits are consistent with EPA's guidances on limiting PTE. MCESD should develop written policies to ensure that the Non-Title V Group is consistent in writing practicably enforceable synthetic minor limits into its permits.

- 2.11 Finding:** Title V engineers review the original operation and maintenance (O&M) plan. The Technical Services Group reviews the O&M plan as part of the permit for Title V



permit revisions. The non-Title V Group does not send the O&M plan to the Technical Services Group for review until after the permit is issued.

**Discussion:** Typically, an equipment manufacturer provides an O&M plan that contains information essential to proper operation and maintenance. MCESD's permits often rely on O&M plans for monitoring and operational requirements for air pollution control devices by including only a reference to the O&M plan. The O&M plan is usually not attached as part of the permit. (See Finding 6.1 for additional details on O&M plans.) For Title V permits, the Technical Services Group is not involved in the review of O&M plans during drafting and issuance of the initial permits. They are only involved in the review process during Title V permit revisions. This review occurs as part of the internal review for the entire permit revision. For non-Title V permits, the Technical Services Group does not receive the O&M plan for review until after the permit is already issued.

**Recommendation:** The Technical Services Group should have the opportunity to review each O&M plan as part of the QA process for initial Title V permits as well as permit revisions. EPA recommends that the same practice be followed for the non-Title V permits.

#### **2.12 Finding:** MCESD in the past year began to issue low-quality permits.

**Discussion:** Over the past year, MCESD began to place high priority on issuance of initial Title V permits. However, in its rush to issue Title V permits, MCESD management began to emphasize quantity over quality. This was communicated to EPA during interviews with MCESD employees, and EPA has seen evidence of the results of this approach.

One example is the draft permit for Thornwood Furniture Manufacturing, Inc. MCESD Title V management proposed a permit for public notice which did not contain the correct equipment list and included permit conditions which were not applicable to the source. In fact, a large portion of the permit did not pertain to the source. The source itself wrote MCESD a letter requesting that the permit be withdrawn. Several interviewees informed us that the permit was actually a permit for another wood furniture manufacturing company and was hurriedly used for Thornwood in an effort to meet the deadlines of the June 16, 2003 settlement agreement with Our Children's Earth Foundation and the Sierra Club (see Appendix E).

**Recommendation:** MCESD needs to make organizational and managerial changes, as outlined in Section 7, to reach a point at which it can achieve tasks in an efficient manner without sacrificing quality and integrity.

#### **2.13 Finding:** Many industrial sources appeared to be unaware of the applicable requirements

that applied to their facilities before MCESD began implementation of its Title V permitting program.

**Discussion:** Many industrial sources appeared to have been unaware of the applicable requirements that applied to their facilities until their Title V permits were developed. Historically, MCESD's permits have not spelled out all applicable requirements, so many sources were surprised by the Title V permits. They objected to these requirements because they believed that these were new requirements when, in fact, these requirements had always applied. The regulations behind a Title V permitting program are intended to include all existing requirements in a Title V permit and cannot impose any new requirements.

**Recommendation:** MCESD needs to work with these sources to make sure that they understand air quality regulatory requirements and their permit conditions. Standard operating procedures that are shared with the business community would help them understand the process, alleviate confusion, and avoid misunderstandings.

### 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)<sup>13</sup> provisions where CAM is required. 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:** MCESD's proposed Title V permits frequently lack adequate monitoring.

**Discussion:** EPA has frequently provided comments on proposed permits including, but not limited to, the need for periodic testing of control devices, more frequent testing, more inclusive recordkeeping for VOC and HAP usage and content, monitoring to assure compliance with a particular SIP rule. At times, there seems to be a lack of coordination within the Title V Group when writing similar permits, since EPA often makes the same comments with regard to monitoring, recordkeeping, or periodic testing requirements on these permits.

---

<sup>13</sup>See 40 CFR Part 64.

**Recommendation:** MCESD's QA process should be improved so that the majority of missing or inadequate monitoring, recordkeeping, and testing requirements are corrected before review by the public or EPA. For example, the Source Testing Group's input should be requested more consistently. See Findings 2.1 through 2.3 for more recommendations. Furthermore, MCESD should coordinate its efforts on similar permits and make sure EPA comments that are incorporated into the first permit are likewise incorporated into other similar permits.

**3.2 Finding:** Some permits do not specify the parameters that need to be monitored, making it difficult to enforce emission limits and monitoring requirements.

**Discussion:** Permits for sources which use control devices to meet an emissions limit and do not use a Continuous Emissions Monitoring System (CEMS) or other type of direct emissions monitoring should include some type of parametric monitoring to assure compliance with the applicable requirement, provided such monitoring is consistent with EPA's interpretation of periodic monitoring requirements.<sup>14</sup> In some cases the Compliance Section has found that permits do not contain adequate parametric monitoring to assure compliance with the permit requirements, thus making the permit difficult to enforce. For example, during an inspection, one MCESD inspector reported that the flow monitors were broken on a control device. The flow monitors were used by the source to ensure that the control device was operating properly and in compliance with applicable emissions limits. However, because the permit did not require parametric monitoring (via the flow monitors) for the control device, neither the source nor the inspector could demonstrate that the source was in compliance. The source lacked one year of monitoring data, yet, because of the absence of parametric monitoring in the permit, MCESD's Compliance Office was limited in its ability take any action.

**Recommendation:** Include detailed parametric monitoring in permits where appropriate so that permit conditions are enforceable.

**3.3 Finding:** MCESD has not yet issued a permit to a source subject to CAM.

**Discussion:** Though MCESD has not yet issued a permit to a source subject to CAM, MCESD will soon need to issue permits that include CAM requirements. Some sources will be subject to CAM upon renewal of their Title V permits. EPA has discussed with Arizona permitting agencies training needs regarding CAM. MCESD believes that such training would be useful to increase staff familiarity with CAM applicability and implementation.

---

<sup>14</sup>See 69 FR 3201 (January 22, 2004)

**Recommendation:** MCESD should ensure that Title V staff are familiar with CAM requirements. EPA recommends that MCESD send all Title V permit writers to receive CAM training. EPA plans to offer a course on CAM. Once EPA has prepared a CAM training course, we will notify Arizona agencies.

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

This section examines MCESD 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:** MCESD typically publishes proposed Title V permit and significant Title V permit modification public notices and public hearing notices in the Arizona Business Gazette and the Arizona Record Reporter.

**Discussion:** MCESD diligently publishes public notices and public hearing notices for proposed Title V permits and significant Title V permit modifications in the Arizona Business Gazette and the Arizona Record Reporter. These two publications, however, have limited readership and many in the general public may not be aware of MCESD's intended

actions with respect to Title V permits or significant permit modifications, even for projects for which there is great public interest.

MCESD has bought public notice advertising, including “display ads” (quarter-page ads), in the Arizona Republic and some Spanish language newspapers for more controversial or high-profile permits. There is no standard procedure for this action, however.

**Recommendation:** MCESD should consider publications other than the Arizona Business Gazette and Arizona Records Reporter for publishing public notices for proposed Title V permitting actions. We recognize that the Arizona Republic charges relatively higher rates for advertising public notices. However, because of its significantly larger readership, we recommend that MCESD investigate the costs and consider planning for this cost in its Title V budget. MCESD should develop procedures for publishing public notices in the Arizona Republic. MCESD should also develop procedures for publishing public notices in the South Phoenix Weekly for proposed Title V permitting actions for facilities in the South Phoenix area and in the East Valley Tribune for facilities in that part of Maricopa County.

- 4.2 Finding:** MCESD has no set procedures for publishing public notices in Spanish language publications or for notifying the public that they can request a Spanish language translator for a public hearing.

**Discussion:** Based on our interviews, we learned that MCESD publishes public notices in Spanish language newspapers for high-profile permits and, upon request, provides Spanish interpreters at public hearings. If the facility is in an area with a large Hispanic population, we were informed that MCESD typically provides a Spanish interpreter at the public hearing even if no request was made by the public.

Interviewees informed us that all public notices for public hearings state that Spanish interpreters will be provided upon request. However, the standard public notice document that can be retrieved from MCESD’s database, EMS, only contains the following statement: “A sign language interpreter will be made available upon request with 72 hours notice.” Copies of public notices EPA received during the site visit also contained the above statement but did not include a statement about the availability of Spanish interpreters. It is commendable that MCESD provides a sign language interpreter upon request and includes the corresponding statement in its public notices. It is unclear, however, what procedure MCESD follows to make the public aware that a Spanish interpreter is available as well.

**Recommendation:** EPA believes that MCESD does a good job of publishing public notices in Spanish and providing Spanish interpreters in cases involving high-profile permits. It is not clear whether the same is true for other permits in areas with a large

Hispanic population. We encourage MCESD to develop procedures for posting public notices in Spanish language publications for more than just high-profile permits. MCESD should also include in every public notice (and post on its website) specific instructions for the general public to request Spanish language translators for public hearings.

- 4.3 Finding:** MCESD's standard processing procedures for Title V permits do not include providing public commenters with final Title V permit documents.

**Discussion:** Staff commented that when MCESD issues a final Title V permit or permit modification, MCESD sends the response to comments document to individuals who commented on the proposed permit action but does not usually send to the public commenters the final Title V permit or other supporting documents such as the technical support document. Staff's comments are consistent with the written procedures for administrative processing of Title V permits.

**Recommendation:** MCESD should revise its written procedures for the issuance of final Title V permits to ensure that MCESD sends adequate official notice to all public commenters of the final Title V permit decision. The notice to each public commenter should include the response to comments along with instructions concerning how the commenter may obtain or have access to all relevant documents used for the permitting decision.

- 4.4 Finding:** In some cases, MCESD does not issue a final Title V permit for an extended period of time following the close of public notice of the proposed permit action and does not re-notice the permit.

**Discussion:** For various reasons, after public review and comment, MCESD may delay for a significant amount of time the issuance of a final Title V permit. In some of these cases, MCESD does not re-notice the permit action for additional public review and comment.

When extended periods of time elapse between public notice of a proposed permit action and issuance of the final permit, MCESD should consider re-noticing the permit action for additional public review and comment. For example, aspects of the project (such as BACT) may have changed between public notice and final permit issuance. A significant change such as a change in BACT between the time of public notice of a proposed permitting action and issuance of the final permit must be subject to public review.

For example, MCESD public noticed the proposed Oakcraft Title V permit in 2002. EPA understands that MCESD issued the final Title V permit to Oakcraft on October 5, 2004. However, MCESD did not re-notice this permit for public comment even though two years have elapsed between the time of public notice and the time of final permit issuance.



**Recommendation:** MCESD should develop procedures for public re-noticing of Title V and synthetic minor permits.

- 4.5 Finding:** MCESD processes many significant Title V permit modifications as minor modifications, which are not subject to public notice. This practice circumvents the opportunity for public review.

**Discussion:** Processing significant Title V permit modifications as minor modifications circumvents the public review process. This practice does not comply with the requirements of 40 CFR 70.7(h) and undermines public trust in the integrity of the MCESD Title V program. See Finding 5.5 for more discussion.

**Recommendation:** See recommendation of Finding 5.5.

- 4.6 Finding:** MCESD does not use its website to full advantage to post Title V permit information.

**Discussion:** The MCESD website is a powerful tool to make Title V information available to the general public. Although MCESD does an excellent job posting final Title V permits on its website, MCESD does not post much other information which would be very useful for the public review process. For example, MCESD does not post on its website general Title V information (such as a Citizens Guide to Title V), proposed Title V permitting actions, citizen petition procedures, technical support documents, or responses to public comments. Also, EPA is aware of one Title V-related pamphlet MCESD has available for the public in hard copy. It is titled "Air Quality Permit Information." This pamphlet has useful information for the public and could easily be scanned and uploaded to MCESD's website.

**Recommendation:** MCESD should post relevant Title V information on its website including, but not limited to, proposed and final Title V permits, technical support documents, citizen petitions procedures, responses to public comments, and general Title V information and guidance. EPA suggests that MCESD look at the website of Bay Area Air Quality Management District as an example. Its website, [www.baaqmd.gov](http://www.baaqmd.gov), includes, but is not limited to, the following Title V documents: proposed and final permits, technical support documents, public notice documents, comments from EPA and the public, and responses to comments.

- 4.7 Finding:** MCESD employs a full-time public information officer (PIO). However, because the PIO serves the entire department, the PIO spends a limited amount of time on Title V-related activities.

**Discussion:** MCESD has one full-time PIO whose responsibilities range from attending Title V public hearings to outreach for the more controversial permits to responding to phone calls from the public. The PIO actually spends only about 25% of his/her time on Title V-related activities. Much of the PIO's time is spent in dealing with the media on issues more immediately related to public health. In fact, it is difficult for the PIO to be proactive on Title V when a public health crisis arises. For example, the current PIO, who was just hired in mid-2004, has been spending the majority of his time supporting the MCESD Director and dealing with the West Nile virus issue.

Though MCESD is following the minimum requirements of Title V for public involvement, they could take a more proactive approach to public outreach. An example of a more proactive action would be to hold workshops in the community. Such workshops could be focused on public involvement in the Title V process or specifically on a high-profile permit. As opposed to public hearings which tend to be more formal and possibly intimidating, these workshops could provide a less formal setting for the public to have their questions answered. MCESD could look to the Communications Division at the Pima County Department of Environmental Quality for some more examples. EPA also learned that MCESD maintains only one master mailing list. MCESD uses this list to mail public hearing notices and responses to comments. However, different people may be interested in different permits. MCESD could maintain a mailing list specific to each Title V permit. In addition to a proactive role, MCESD management should also make an effort to improve direct communications with the public, such as at public hearings. Interviewees reported to us that MCESD management comes across as "talking down" to the public at these venues and that the public feels that their input at public hearings does not lead to any action by MCESD. The workshops, suggested above, would help to improve relations with the public.

Interviewees suggested that outreach should begin the moment MCESD receives the permit application. If another public involvement person were hired, the PIO could devote his/her time to the "crises" while the other person could focus on outreach and actually develop proactive approaches. Also during interviews with MCESD, EPA received a suggestion that MCESD could even use a "public outreach" person for each division.

It is evident that one PIO is not adequate for the entire department given the fact that, up to the week of EPA's site visit at MCESD, the current PIO had spent virtually all of his time on the West Nile virus issue since he was hired. Also, the fact that MCESD has a relatively high turnover of PIOs indicates a low level of job satisfaction. Over the last four years, MCESD has had three different PIOs. It is also important to note that the current PIO does not have any experience in the field of air quality.

**Recommendation:** EPA recommends that MCESD hire another person dedicated to public

outreach for the Air Quality Division only. This person should have some experience or knowledge in the field of air quality. MCESD should take a more proactive approach to public outreach.

- 4.8 Finding:** The Director and staff pay close attention to environmental justice (EJ) issues; the Director gets involved personally.

**Discussion:** There have been several controversial EJ issues raised as a result of MCESD permits (e.g., Sumitomo, Phoenix Brickyard). MCESD has expended much effort in trying to resolve these issues by interacting with the community and has achieved some success. During our interviews, it was apparent that the MCESD Director took a personal interest in environmental justice issues, their investigation and their resolution.

**Recommendation:** We commend the Director for becoming personally involved in EJ issues. MCESD should continue to prioritize EJ issues. EPA encourages MCESD to send its employees to EJ training. EPA will also consider providing MCESD with EJ training on specific permitting issues.

- 4.9 Finding:** MCESD does not have a formal EJ program. According to MCESD's responses to the Title V Questionnaire, the PIO is charged with oversight of EJ-related activities.

**Discussion:** MCESD does not have an in-house EJ office or coordinator. MCESD responded in the Title V Questionnaire that the PIO is charged with oversight of EJ-related activities. However, as described in Finding 4.7 above, the PIO's responsibilities are expansive. Based on our interviews, it does not appear that the PIO has much time to devote to EJ responsibilities.

It is commendable that the MCESD Director has been involved personally on controversial EJ issues that were raised as a result of certain permits and that efforts were made to interact with the community. (See Finding 4.8.) With a formal EJ program in place, MCESD would be able to take a more proactive approach, potentially alleviating community concerns before the situation becomes contentious. As stated in Finding 7.2, the MCESD Director's duties are already too broad. A formal EJ program would move EJ responsibilities from the people at MCESD who already have full workloads to staff whose jobs are dedicated solely to EJ.

**Recommendation:** EPA recommends that MCESD look into developing a formal EJ program. MCESD should consult with other Arizona permitting agencies for guidance.

## 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 set 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:** MCESD has failed to meet both the statutory deadline and a later mutually agreed upon deadline for issuance of its initial Title V permits. While MCESD has made substantial progress in the last two years towards issuing its remaining initial Title V permits, it has still not completed initial permit issuance. Furthermore, the backlog of initial permits has already prevented the department from issuing timely renewal permits for five of its sources.

**Discussion:** MCESD was granted final interim approval of its Title V operating permits program on November 29, 1996. Section 503(c) of the Clean Air Act requires permitting authorities to act on all initial permit applications within three years of program approval, which would have been November 29, 1999. In a January 28, 2002 letter to EPA, MCESD stated that it had issued sixteen of its fifty-six initial Title V permits. MCESD committed to issue the remaining forty initial permits by December 1, 2003, completing ten permits every six months. MCESD failed to meet each six month milestone for permit issuance as well as the December 1, 2003 deadline for all initial permits. It is EPA's understanding that, as of April 21, 2005, MCESD has seven initial permits left to issue,<sup>15</sup> as well as seven renewal permits for sources whose initial permits have expired. Please see Table 1 and Table 2 in Appendix F for a complete listing of MCESD's initial permit issuance. Of the forty-three Title V permitting authorities Region 9 oversees, MCESD ranks at the bottom in terms of initial Title V permit issuance rate.<sup>16</sup>

---

<sup>15</sup>Three of these initial permits have been invoiced but have not been issued yet.

<sup>16</sup>MCESD also entered into a settlement agreement (see Appendix E), which was filed in the Maricopa County Superior Court on June 16, 2003, with Our Children's Earth Foundation, and Sierra Club, in which MCESD agreed to propose for public review 8 initial Title V permits by June 1, 2003 and ten additional facilities by November 1, 2003.

EPA has identified multiple factors that have contributed towards MCESD's failure to issue timely initial permits. As Table 4 (see Appendix F) illustrates, MCESD did not begin to issue initial Title V permits until 1999, with the majority of permits issued after 2002. Based upon interviews with MCESD staff, Title V permit issuance was not a priority until after the 2002 commitment letter to EPA. Until that time MCESD focused most of its resources on issuance of pre-construction permits to new sources and did not focus adequate resources on issuance of initial Title V permits. Of the sixteen Title V permits MCESD claimed to have issued in its January 28, 2002 letter, six were permits to new sources. Table 3 (see Appendix F) shows the permits MCESD issued to new sources during this time period. Though we believe that MCESD correctly placed higher priority on issuance of pre-construction permits to new sources, MCESD issued pre-construction permits virtually to the exclusion of Title V initial permits. MCESD should have been able to issue Title V permits to both new and existing sources, as other agencies were able to do. As described further below, we believe MCESD never had adequate resources to handle the workload for both new and existing sources.

Before 2002, MCESD had no more than three permit engineers in its Title V Group, which is inadequate to process the workload presented by MCESD's forty-eight current Title V sources. As further outlined in Findings 2.8 and 7.8, MCESD has also experienced high turnover in its Title V Group. The average length of time a permit engineer stays in the Title V Group is approximately one year, which is inadequate to become fully trained and contribute towards alleviating the permits backlog. High turnover was identified by the majority of MCESD's staff as a primary reason that has prevented timely permit issuance. With the departure of two more Title V permit engineers since EPA's site visit to MCESD, the Title V staffing level continues to be inadequate.

The original Title V staff also lacked the training and experience necessary to write Title V permits. Title V staff reported that they lacked adequate guidance on how to write a permit and a technical support document. As further outlined in Finding 7.6, MCESD's permit engineers were not given the training necessary to deal with some of the complex issues that Title V permit writing presents.

MCESD staff also identified management's inability to resolve critical issues as a major delay in permit issuance. Management has often granted permittees repeated opportunities to negotiate issues. Finding 2.4 provides more detail on this topic.

Finally, MCESD's lack of a Permits Section Manager and Air Quality Division Manager has contributed to a delay in permit issuance. The lack of management has impeded Title V staff's ability to reach resolution on critical permitting issues in a timely manner. MCESD does not have a manager with enough Title V technical expertise to make key decisions, provide guidance to staff, and prevent industry from delaying the permit issuance

process. This is further outlined in Finding 2.7.

**Recommendation:** EPA recommends that MCESD make the necessary organizational changes outlined in Sections 2 and 7 as well as any other relevant sections of this report so that it can complete initial permit issuance as well as permit renewals and modifications as expeditiously as possible.

**5.2 Finding:** MCESD's procedure for and management of final permit issuance is seriously flawed.

**Discussion:** EPA has encountered instances in which the final permit received by EPA differed from the final permit MCESD sent to the permittee. The permit for Eagle Industries illustrates this point. In September 2002, MCESD sent EPA a copy of the proposed permit for Woodstuff Manufacturing (which was later transferred to Eagle Industries) for our 45-day review. EPA commented, in a letter dated September 13, 2002, that, for the permit to assure compliance with MCESD's process weight rule for particulate matter, the permit must contain a requirement to source test the control equipment. MCESD agreed with EPA and added a source test requirement to the permit. MCESD then sent EPA a copy of the final permit, with a cover letter signed by the Director and dated September 30, 2002, which contained the testing requirement. This is supported by a copy of an email, located in MCESD's permit file for Eagle, from EPA to MCESD on October 1, 2002. A handwritten note at the bottom states "because of permit transfer, Mark Sims (of EPA) agreed to concurrent review..., gave comments which were incorporated and permit issued."

EPA assumed that MCESD sent a copy of the final permit to the facility at the same time. Eagle, however, claims that it did not receive a final permit until December 4, 2002, when an MCESD permit engineer sent an email with an attached file identified as "Final Title V Permit Conditions." The email did not attach an actual Title V permit dated and signed by the Director, (such as a .pdf file). This version of the permit appears to have contained the testing requirement requested by EPA due to the fact that, on January 3, 2003, Eagle filed an appeal of the permit challenging the basis for the testing requirement.

In response to Eagle's challenge of the permit, the Director of MCESD, in a letter dated January 27, 2003 (incorrectly dated "2002"), stated that MCESD had issued a final permit on September 30, 2002 which did not contain the contested testing requirement and requested that Eagle's appeal be withdrawn. MCESD then apparently faxed to Eagle on January 27, 2003, a copy of the cover sheet with the Director's signature dated September 30, 2002 and an attachment containing permit conditions consistent with a draft permit dated June 5, 2002, which do not contain the testing requirement. Eagle subsequently withdrew its permit appeal.

Based upon EPA's review of the documents referenced above,<sup>17</sup> MCESD's procedure for final permit issuance is seriously flawed. EPA's copy of the final permit issued to Eagle is substantially different from the copy that the Director claims to have issued to the facility on the same date. According to Eagle, a signed copy of the final permit was never sent to the facility. The Director appears to have avoided an appeal of the permit by later denying that the permit conditions sent to both EPA (by mail) and the source (via email) constituted the final permit supposedly issued to Eagle on September 30, 2002. MCESD's current file has no record of the permit conditions mailed to EPA on September 30, 2002, and emailed to Eagle on December 4, 2002, which did contain the testing requirements.

MCESD Permits staff stated that the agency does not have a defined process for permit issuance. The procedure varies among permit engineers. They believed that MCESD would benefit from a standard protocol for permit issuance.

**Recommendation:** MCESD needs to develop a definitive protocol for managing permit issuance so that the type of situation described above does not happen again. Final permits cannot be issued solely by electronic means. Final permits must be signed and dated, and identical copies must be sent to EPA and the permittee.

**5.3 Finding:** MCESD frequently does not issue revised permits for minor permit revisions; instead, MCESD simply signs the source's application (as described in Finding 5.4).

**Discussion:** MCESD typically does not issue a separate revised permit document or technical support document when processing its minor permit revisions. Based upon EPA's review of certain MCESD files,<sup>18</sup> we have found many minor permit revisions which do not contain any revision to the Title V permit (or if an initial Title V permit has not been issued, the source's existing state operating permit), but instead the permittee's application is signed by an MCESD permit engineer, as described in Finding 5.4. The application does

---

<sup>17</sup> 1) MCESD's Proposed permit for Woodstuff dated June 5, 2002;  
2) EPA's comment letter regarding the proposed permit for Woodstuff dated September 13, 2002;  
3) Copy of the final permit #V99004 for Woodstuff, dated September 30, 2002, sent to EPA by MCESD;  
4) Notice of Appeal to Al Brown, dated January 3, 2003, sent by Lewis and Roca representing Eagle Industries, LLC.  
5) Letter, dated January 27, 2003, from Al Brown to Amy Porter of Lewis and Roca regarding Eagle's appeal;

<sup>18</sup>See permit files for Wincup, Oak Canyon

not contain any engineering analysis or revised permit conditions to support the application approval. This practice is not consistent with Part 70, which requires the permitting authority to issue a revised permit and technical support document, and compromises the enforceability of MCESD's permits.

**Recommendation:** MCESD must issue a revised permit to the source with modified permit conditions. If the permit does not need to be revised as a result of the modification, which is unlikely, the permit should at least reflect the incorporation of the minor permit revision and include a technical support document.

**5.4 Finding:** Minor permit revisions are signed by the permit engineer rather than the Director or a manager with delegated authority.

**Discussion:** MCESD's practice for issuance of minor permit revisions has been for the permit engineer to sign and the Title V supervisor to initial the minor permit revision application. MCESD typically does not issue a separate revised permit document or technical support document, nor is the minor permit revision signed by the Director or any higher level manager. Authorizations to approve minor permit revisions has not been delegated to the permit engineer from the Director; thus MCESD does not follow the proper administrative procedures for permit issuance.

Management needs to play an oversight role in permit issuance. Current practice does not allow for adequate review and permit quality assurance by management.

**Recommendation:** All permit revisions, including minor permit revisions, must be signed by the Director. See additional findings and recommendations for improved management oversight and quality assurance in Sections 2 and 7 of this report.

**5.5 Finding:** MCESD processes more than 90% of its permit revisions as minor. MCESD staff, during interviews with EPA, identified many instances in which significant permit revisions were incorrectly processed as minor revisions.

**Discussion:** MCESD's Rule 210 §405.1 states the following: "Minor permit revision procedures may be used only for those changes at a source that satisfy all of the following:

- a. Do not violate any applicable requirement;
- b. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- c. Do not require or change:
  - (1) A case-by-case determination of an emissions limitation or other standard,
  - (2) A source specific determination of ambient impacts, or



- (3) A visibility or increment analysis.
- d. Do not seek to establish nor to change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
  - (1) A federally enforceable emissions cap which the source would assume to avoid classification as a modification pursuant to any provision of Title I of the Act; and
  - (2) An alternative emissions limit approved pursuant to regulations promulgated pursuant to the Section 112(i)(5) of the Act.
- e. Are not modifications pursuant to any provision of Title I of the Act or regulations promulgated pursuant to ARS §49-480.04.
- f. Are not changes in fuels not represented in the permit application or provided for in the permit.
- g. The increase in the source's potential to emit for any regulated air pollutant is not significant as defined in Rule 100 of these rules.
- h. Are not required to be processed as a significant permit revision pursuant to Section 406 of this rule.”

One of MCESD's responses on the Title V Questionnaire was that over 90% of permit revisions to Title V sources are processed as minor revisions. During interviews with MCESD, staff agreed with this estimate and further estimated that the majority of these revisions should have been processed as significant permit revisions. 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 MCESD and reviewed by EPA. EPA is aware of several examples of permit modifications that were incorrectly processed as minor.

**Example 1 (Aspen Furniture, now Oak Canyon)** - On December 18, 2000, Aspen Furniture submitted a minor permit revision application to MCESD to increase its annual VOC limit from 96 to 120 tons per year. There was no physical or operational change associated with this modification. On March 13, 2001, MCESD approved Aspen's minor revision application, using the procedure described in Findings 5.3 and 5.4. Assuming Aspen voluntarily accepted a 96 ton per year VOC limit to avoid new source review requirements for major sources, Aspen's December 2000 application to increase its VOC limit did not qualify as a minor permit revision, pursuant to Rule 210 §405.1(d), which prohibits changes to permit terms for which there is no underlying applicable requirement and for which the source assumed to avoid an applicable requirement from being processed as minor.

**Example 2 (Insulfoam)**- In August 2003, MCESD approved two “minor permit

revisions” to Insulfoam’s Title V permit. These revisions allowed for the following changes: 1) the replacement of a Carcano continuous pre-expander with a Hirsch 12000 batch pre-expander, which enabled Insulfoam to increase its overall capacity by 1,000 lb/hr; 2) the addition of six bead aging bags (3,000 lb capacity each) to the existing bag farm, which increased the holding capacity of the bead aging bag farm from 36,000 lbs to 54,000 lbs; and 3) the imposition of a 95 tpy limit on the potential to emit of the entire facility. These changes do not qualify as minor permit revisions under MCESD rules (Rule 210) because they limit the potential to emit of both new and existing equipment to enable Insulfoam to avoid major NSR. Similar to Example 1, Maricopa Rule 210 §405.1(d) does not allow such revisions to be classified as minor.

**Example 3 (Redhawk Generating Facility)-** In August 2003, MCESD approved a minor revision to the permit for Redhawk Generating Facility which allowed Redhawk to increase its short-term mass emissions limits for NO<sub>x</sub> and SO<sub>2</sub> during startup and shutdown. These limits were originally established as part of a Best Available Control Technology (BACT) determination pursuant to a PSD permit issued to this facility. Changes to BACT limits do not qualify as minor revisions, pursuant to Rule 210 §405.1(c) which prohibits changes to case-by-case determinations of an emissions limit or standard to be processed as minor revisions.

**Example 4 (Mesquite Generating Station) -** By letter dated October 16, 2002, Sempra Energy Resources requested an alternative CEMS monitoring strategy under 40 CFR Part 60 Subparts Da and GG for the Mesquite Power LLC PSD/Title V Permit.

Specifically, Sempra requested, among other things, that only 40 CFR Part 75 requirements apply to the NO<sub>x</sub> CEMS and that 40 CFR Part 60 data quality assurance (“QA”) procedures be removed from the permit. MCESD staff indicated that MCESD processed this requested change to the PSD/Title V permit as a minor permit revision, although EPA, in its site visit/file review, could not establish the date of MCESD’s actual minor revision to the permit.

This change to the Mesquite Power LLC PSD/Title V permit NO<sub>x</sub> CEMS QA procedures constitutes a significant revision to the permit and should have gone through public notice and comment. Furthermore, this change is not federally approvable, in part because Part 75 QA procedures alone in this case are inadequate for CEMS used to determine compliance with a BACT limit. EPA would have rejected this proposed change had EPA been afforded an opportunity for review and comment. This “minor revision” to the PSD/Title V permit leaves Mesquite Power with a defective BACT determination, since the permit no longer contains the

requirement to properly quality assure the monitor.

The above examples illustrate MCESD's failure to implement its own rule for processing permit revisions. MCESD should have denied these minor permit revision applications and recommended that the sources submit significant permit revision applications.

**Recommendation:** MCESD must develop and implement a procedure for determining how to process permit revisions consistent with Part 70 and MCESD Rule 210. This issue may need to be addressed on a case-by-case basis, either through the initial permit, through the renewal process, or upon a permit revision.

**5.6 Finding:** MCESD's fee rule, Rule 280, prevents initial and renewal permits from being issued. Furthermore, MCESD does not enforce against those sources that refuse to pay fees.

**Discussion:** MCESD's Rule 280 §301.1 states, "Before issuance of a permit to construct and operate a source, an applicant shall pay to the Control Officer a fee billed by the Control Officer representing the total actual cost of reviewing and acting upon the application minus any application fee remitted." MCESD's practice has been, consistent with Rule 280, to issue an invoice to each source representing the balance of the fees due once the initial permit is ready for issuance. Rule 280 prevents MCESD from issuing a final initial permit to an existing source until this balance has been paid. Existing sources, however, retain the initial permit shield granted upon their submittal of a complete application; thus, these sources can continue to operate without an operating permit. The problem is further exacerbated by the fact that MCESD does not enforce against those sources which refuse to pay fees.

While this rule is a reasonable requirement for issuance of pre-construction permits (because new sources cannot construct or modify without a validly issued permit), it has unnecessarily delayed initial permit issuance because existing sources do not have any incentive to pay the fee balance, especially if they disagree with the terms of the permit. Issuance of Title V permits for Oakcraft, Woodstuff, Legends, A.F. Lorts, and others was delayed by several months because these sources disagreed with the permit MCESD intended to issue and refused to pay their fees until MCESD revised these permits to the source's liking. This rule gives existing sources the ability to further delay initial permit issuance and unnecessary leverage when negotiating permit terms with MCESD.

**Recommendation:** MCESD should either revise Rule 280 to exclude initial and renewal Title V permits from the requirement to pay fees before permit issuance or change its practice such that, if a source refuses to pay its fees within 30 days after MCESD issues the source an invoice, MCESD revokes the source's application shield. Once a source's

application shield is revoked, the source is in violation of MCESD Rule 210 for operating without a valid Title V permit.

- 5.7 Finding:** MCESD's Rule 210 §403.2 is not consistent with MCESD's SIP rule for pre-construction permits. Because MCESD issues combined pre-construction and operating permits, the inclusion of this rule in the Title V program may prevent sources from complying with MCESD's SIP Rule 20. Furthermore, MCESD's practice when processing off permit changes has not been consistent with the requirements of Rule 210 §403.1.

**Discussion:** MCESD's Rule 210 §403 allows a source with a permit to make changes without a permit revision if certain conditions are met. In §403.2 of this rule, the following is stated: "the substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment shall qualify as a change that does not require a permit revision, if it meets all of the requirements of Sections 403.1, 403.4 and 403.5 of this rule." This rule directly conflicts with the requirements of MCESD's SIP Rule 20 which requires that "any person erecting, installing, **replacing**, or making a major alteration to any machine, equipment, incinerator, device or other article which may cause or contribute to air pollution or the use of which may eliminate or reduce or control the emission of air pollutants, shall first obtain an Installation Permit from the Control Officer." (Emphasis added).

EPA believes that both MCESD and industry have overlooked MCESD's SIP Rule 20 when making changes which they believe qualify as off-permit according to Rule 210 §403. While Part 70 contemplates that sources can make changes without requiring a permit revision if they are not Title I modifications and do not exceed any permitted emissions limits, this is with the assumption that the source has already obtained the necessary pre-construction permits to make the change. In the case of MCESD, which issues combined pre-construction and operating permits, but has not yet submitted a revision to its SIP to incorporate post-1990 CAA amendment changes to the NSR program, Rule 210 §403, and especially §403.2 of the rule, creates confusion for sources that wish to make off-permit changes. MCESD practice has apparently been to follow only the requirements of Rule 210 §403. However, ignoring the requirements of SIP Rule 20 may leave a source vulnerable to enforcement action for failing to obtain a proper installation permit.

EPA also found, during its file review, examples of permits in which industry made off-permit changes, pursuant to Rule 210 §403, without conducting the proper applicability analysis. An example of such a case is the permit for Aspen Furniture, (now Oak Canyon). On December 28, 1999, Aspen submitted a Notification of Source Change Allowed without a Permit Revision to replace an existing spray booth with a new spray booth, and then on June 5, 2000, Aspen submitted a similar notification to replace three existing spray booths with functionally identical spray booths. In neither case did MCESD or Aspen demonstrate

that these changes were not Title I modifications despite the fact that the replacement spray booths had increased air flow capacity. MCESD should have required Aspen, pursuant to Rule 210 §403.1(a), to provide a demonstration showing that the replacement of these spray booths did not result in a significant net emissions increase.

**Recommendation:** MCESD should take care to implement Rule 210 §403.2 such that all requirements under SIP Rule 20 continue to be met. MCESD must also change its practice such that it requires sources to demonstrate that any proposed changes are not Title I modifications.

**5.8 Finding:** MCESD has not consistently sent all minor permit revisions to EPA for our 45-day review prior to permit issuance.

**Discussion:** During EPA's review of MCESD's files, EPA found multiple instances of minor permit revisions which were approved by the Department without undergoing EPA's 45-day review. For example, during our review of Wincup's permit file, EPA found at least three minor permit revisions that occurred after MCESD was granted Title V program approval. These three minor revisions should have but did not undergo EPA review.<sup>19</sup> 40 CFR 70.7(e)(2)(iv) and MCESD's Rule 210 §405.5 require that MCESD provide EPA with a 45-day review period for all minor permit revisions before they are issued. Circumventing EPA's review may compromise the quality of permits issued by MCESD. Had EPA been afforded a review period for many of these permit revisions, the problems outlined in Findings 5.3, 5.4 and 5.5 may have been minimized or avoided.

**Recommendation:** It appears that MCESD has now changed its practice, for they currently send all permit revisions, including minor revisions, to EPA for review. MCESD should continue this practice to ensure that it is consistent with Part 70 requirements for EPA review.

---

<sup>19</sup> See:

- 1) Application dated December 20, 1996 for the installation of eleven molding machines. This revision was issued on January 30, 1997
- 2) Application dated March 11, 1999 for the installation of a new pre-expander. This revision was issued on April 4, 1999
- 3) Application dated October 1, 2002 for the installation of a fluidized bed dryer. This permit revision was issued on October 29, 2002.

## 6. COMPLIANCE

This section addresses MCESD 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:** MCESD Title V permits do not contain actual operation and maintenance ("O&M") plan conditions.

**Discussion:** MCESD often relies on an O&M plan as a method for a control device to ensure source compliance with an emission limit. However, MCESD typically references, but does not actually incorporate conditions of, the O&M plan in the Title V permit. Conditions of an O&M plan, if not incorporated into the Title V permit, have not been subject to public review and may not be practicably enforceable. For example, an O&M plan revised over time may lead to confusion concerning what is the actual current version of the O&M plan. The Title V permit should contain the pertinent conditions of the current O&M plan to avoid this type of problem. O&M plan requirements relating to the proper operation and maintenance of the control device, including parametric monitoring if appropriate, should be included in the Title V permit.

For more discussion, see Finding 2.11.

**Recommendation:** MCESD should incorporate pertinent O&M plan conditions and requirements into the Title V permit.

### 6.2 **Finding:** MCESD does not typically conduct historical NSR reviews when processing new or modified Title V permits.

**Discussion:** When processing Title V permit applications, MCESD Permits staff do not routinely conduct historical NSR permit reviews. MCESD staff have reported that the discovery, by staff of either MCESD or Region 9, during Title V permit processing of historical modifications not properly permitted at the time of the modifications have resulted in a significant slowdown in the processing and issuance of the Title V permits.

MCESD must issue Title V permits that assure compliance by the source with all applicable requirements. See 40 CFR 70.1(b) and CAA § 504(a). Applicable requirements include the requirement to obtain preconstruction permits that comply with applicable preconstruction requirements under the Act, EPA regulations, and the SIP.

EPA recognizes that historical NSR reviews may be ineffective if historical permit records are not available or if the reviews would require an inordinate amount of time for MCESD to conduct. However, where EPA believes that an emission unit has not gone through the proper preconstruction permitting process (and therefore one or more applicable requirements are not incorporated in the draft or proposed Title V permit), EPA may object to the Title V permit.

For more discussion on this topic, see: 1) EPA White Paper I – Streamlined Development of Part 70 Permit Applications (July 10, 1995), Section II.B.7.; and 2) May 20, 1999, letter from EPA (John Seitz, Director – OAQPS) to STAPPA/ALAPCO (Messrs. Hodanbosi and Laggas), Enclosure A, New Source Review Lookback.

**Recommendation:** In the Technical Support Document for the Title V permit, MCESD should include a section which discusses the history of the facility. This section of the TSD should include a narrative history of the facility, the permitting history of the facility, a description of any historical changes to permitted equipment, and a discussion of requirements applicable to the facility.

**6.3 Finding:** MCESD does not have written policy or guidance on practical enforceability.

**Discussion:** Permits staff should have a good understanding of practical enforceability when drafting Title V or synthetic minor permit conditions. However, no current practical enforceability policy or guidelines exist at MCESD. The drafting of practicably enforceable Title V permit conditions also require Permits staff to communicate with both Compliance Section and Enforcement Office staff. Compliance Section staff have the responsibility to inspect sources, determine compliance, and develop evidence for enforcement actions. Enforcement Office staff prosecute and settle enforcement actions. Feedback from staff of the Compliance Section and the Enforcement Office to Title V permit engineers is critical in assisting the permit engineers in the writing of practicably enforceable permit conditions. Practicably enforceable Title V permit conditions also lead to improved compliance, especially where underlying requirements or prohibitory rules are weak, inadequate, or vague.

For more discussion concerning practical enforceability and limiting potential to emit, see Finding 2.10.

**Recommendation:** MCESD should develop written policy or guidelines on practical enforceability.

- 6.4 Finding:** No formal procedure exists for ensuring that a source meets all milestones of a compliance plan or all testing requirements within the specified time frame as required by the Title V permit.

**Discussion:** MCESD does not have a formalized system in place by which it is notified of upcoming dates, either for a compliance plan milestone or a testing requirement. Therefore, MCESD's Compliance Section is not aware of instances in which the source is out of compliance with the terms of a compliance plan or testing schedule unless an inspector happens to be conducting an inspection and makes the finding. Regarding testing requirements, the Compliance Section is only alerted to the fact that a test requirement is coming up when the source submits the required testing protocol. However, if the source fails to do so, the Compliance Section is left without notification. With the availability of the EMS database (see Finding 8.1), and its strength in linking information from one office to another, it seems that the information from Title V permits could readily be linked to the Compliance Section.

**Recommendation:** MCESD should develop a formalized system by which the Compliance Section will receive some type of notification of upcoming compliance plan milestones or testing dates.

- 6.5 Finding:** Installation permits are missing from permit files.

**Discussion:** Staff have reported that in many cases historical installation permits are missing from permit files. Region 9 staff have also been involved in reviews of permits for which no installation permits could be found by MCESD staff in their permit files. At various times historical MCESD records have been destroyed during file cleanouts. For more discussion, see Findings 9.1 and 9.2.

Missing installation permits are extremely problematic. If a permit file does not contain an installation permit, then the Title V permit could be missing applicable requirements.

**Recommendation:** MCESD should inspect records at the source for installation permits where the Title V permit applicant has identified applicable requirements from an installation permit not in the MCESD permit file or where MCESD suspects an installation permit to be missing from the permit file.

- 6.6 Finding:** Information maintained by the Enforcement Office is not readily accessible to the Compliance Section and Permits Section. Often, the Enforcement Office does not



communicate settlement information back to Compliance or Permits staff.

**Discussion:** Staff have reported that many documents generated by the Enforcement Office are not placed in the Title V permit files. Enforcement files should either be included in the Title V permit files, or Air Quality Division staff should have access to these enforcement files. In addition, communication between the Enforcement Office and the Air Quality Division is inadequate. Through our interviews, EPA learned that Enforcement staff often negotiate case settlements with sources and do not communicate with Compliance or Permits staff concerning the terms and conditions of the settlements.

Title V Permits staff need feedback from the Enforcement Office to ensure better quality Title V permit conditions. This communication is important especially in situations where Enforcement Office staff have identified weak or unenforceable Title V permit conditions or in cases where enforcement settlements contain conditions not in the Title V permit. In addition, as part of an enforcement settlement, the source may be required to apply to MCESD for a Title V permit revision. This type of enforcement settlement condition must be transmitted to Permits staff.

Enforcement Office staff must also communicate to Compliance and Permits staff when enforcement settlements allow a source to operate at variance with conditions in its Title V permit. In situations where an enforcement settlement allows a source to operate in violation of its Title V permit and the permit does not contain a compliance schedule, the source may potentially be subject to a federal enforcement action.

**Recommendation:** Either include Enforcement Office files with the MCESD Title V permit files or allow Air Quality Division staff access to Enforcement Office files. The Enforcement Office should communicate on a regular, frequent basis with the Compliance and Permits Sections. As preliminary steps, we suggest email communications on enforcement settlements and instituting regular meetings between the Enforcement Office and Compliance and Permits Sections.

- 6.7 Finding:** When MCESD management and staff meet with companies or consultants who bring attorneys, the County Counsel is not always present at the meetings.

**Discussion:** Staff have reported many instances in which companies or consultants bring attorneys to meetings with MCESD staff and the County Counsel is not present. MCESD should have legal representation at all meetings where companies or consultants bring legal representation to the meetings. MCESD staff are placed at a disadvantage and cannot adequately discuss legal issues with companies if County Counsel is not present at the meetings.

**Recommendation:** County Council should be present at all meetings where MCESD staff meet with company or consultant attorneys. In addition, the Air Quality Division should have its own dedicated legal counsel. See Finding 7.11 for more discussion.

**6.8 Finding:** The Enforcement Office is outside the jurisdiction of the Air Quality Division.

**Discussion:** Under the current MCESD organizational structure, the Enforcement Office reports directly to the MCESD Director and is outside the jurisdiction and control of the Air Quality Division. Through our interviews, we learned that the Enforcement Office handles enforcement for all media.

To initiate an enforcement action, Compliance staff gather and develop evidence of noncompliance and forward the information to the Enforcement Office for further enforcement action. The Enforcement Office receives information from Air Quality Division Compliance staff and will either 1) take no further action, 2) negotiate a settlement with the defendant, or 3) refer an action to the County Council for prosecution in the appropriate state or county court.

Air Quality Division staff report that the Enforcement Office staff usually process enforcement actions without the input of Air Quality Division staff and typically do not communicate with or provide feedback to Air Quality Division staff during enforcement case prosecution or settlement negotiations. In addition, the Enforcement Office keeps enforcement documentation separate from Air Quality Division files. See Finding 6.6 for more discussion on recordkeeping.

**Recommendation:** MCESD should consider returning the air quality portion of the enforcement program to the jurisdiction of the Air Quality Division. See Finding 7.10 for more information.

**6.9 Finding:** MCESD inconsistently incorporates source testing conditions into Title V permits.

**Discussion:** To ensure compliance, MCESD must place adequate source testing requirements into the Title V permit, provided it is consistent with EPA's interpretation of periodic monitoring requirements.<sup>20</sup> Adequate source testing conditions usually require an initial source test within a certain period after commencement of operation of the modification or new facility, and additional periodic source testing during the permit term. The Title V permit should contain source testing requirements for all representative facility

---

<sup>20</sup>See 69 FR 3201 (January 22, 2004)

operations for which the permit contains emission limits. For example, if a Title V permit contains emission limits for both startup and normal operations, then the permit should contain source testing requirements to measure emissions during both startup and normal operations.

EPA noted during the field visit and document review that MCESD inconsistently incorporates source testing conditions into its Title V permits. For example, while electric utility permits may have extensive source testing requirements, permits for other industry sectors such as woodworkers or foam blowers may have few or no source testing requirements.

**Recommendation:** MCESD should develop a standard operating procedure for incorporating source testing conditions into Title V permits.

## 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.

**NOTE:** *EPA has been informed that MCESD intends to reorganize its air quality program as a separate unit. As of this writing, details on the new structure are developing. In the absence of firm detail on the possible reorganization, EPA believes that the findings in this report are equally valid for the prior organization as formal recommendations as well as for the successor organization for use as guideposts in forming a new, more effective air quality program.*

**7.1 Finding:** MCESD has not issued the initial Title V permits in a timely manner and to date has not yet completed this task.

**Discussion:** MCESD committed to issue all of the initial Title V permits by December 1, 2003. EPA received commitments from MCESD (see letters dated January 28, 2002 and June 7, 2004) stating that MCESD would complete permit issuance, but these commitments have not been met.

On May 27, 2004, EPA sent a letter to the Director of MCESD stating EPA Region 9's concerns regarding the implementation of the Title V permitting program by MCESD and that EPA is considering issuing MCESD a notice of deficiency (NOD).

MCESD has had difficulty in meeting this requirement due to staff turnover, industry resistance to Title V permits, the need to expedite power plant permits, and the failure to adequately prepare for the Title V workload. In addition, management changes have exacerbated these problems. The Air Quality Division Manager left MCESD and has not

been replaced. Temporary managers were put in place to manage the Title V process. This program evaluation was undertaken, in part, as a result of the serious problems at MCESD. See Finding 5.1 for additional detail.

**Recommendation:** EPA is encouraged by recent progress and will continue to work with MCESD to complete the issuance of initial Title V permits. EPA has identified, in this program evaluation, many organizational and management-related issues as contributing to the delay in permit issuance. It is imperative that MCESD continue to work towards resolution of these issues.

**7.2 Finding:** The broad span of duties for the current Director of MCESD results in inadequate attention to the air program, which continues to increase in complexity.

**Discussion:** The Director of MCESD is charged with many public health responsibilities including water safety, wastewater control, vector control, pool and food safety, in addition to the County air quality control program. Many of these responsibilities can result in emergency situations (e.g., West Nile virus, roof rat infestation) which demand the Director's attention, leaving him less time to deal with his other program responsibilities.

As the Phoenix metropolitan area continues to grow, the air quality program is expected to become more complex and to demand more and more attention. In other cities of comparable size and growth (e.g., Las Vegas, Nevada and Sacramento, California), the air quality program is an independent agency with its own Air Pollution Control Officer (APCO).

**Recommendation:** Maricopa County should consider creation of an independent Air Pollution Control District with a full-time APCO. The statutory authority to create a separate district already exists and can be implemented by the County Board of Supervisors. EPA will work with MCESD during its transition to a new agency.<sup>21</sup>

**7.3 Finding:** MCESD's funding mechanisms should be made more flexible.

---

<sup>21</sup>EPA notes that on November 10, 2004, the County Administrative Officer announced changes to form a separate Air Quality Department, whose Director will focus solely on air issues. This department is in an interim phase, and Maricopa County is currently working towards finalizing the organizational scheme. The Air Quality Department is presently grouped with Regional Development Services which is under the leadership of Joy Rich. Joy Rich was assigned as the Interim Director of the new Air Quality Department but has now hired a new Air Quality Department Director, Robert Kard.

**Discussion:** MCESD currently receives its funding from a CAA Section 105 grant and from permit fees. MCESD is hampered by a lack of funding flexibility. Permit fees cannot be changed without a 2-year stakeholder process. Additional resource needs cannot be addressed quickly, so there is potentially a cycle of inadequate resources. ARS 49-112 is also a constraint because MCESD has to follow the state lead (see discussion of Finding 7.5). MCESD also has to justify spending available funds which is an administrative barrier to getting its mission accomplished.

**Recommendation:** Consider creation of an air district. As a separate air district, the agency could receive general funds which would provide more funding flexibility.<sup>21</sup>

**7.4 Finding:** Title V funds are commingled with non-Title V permit fees and enforcement penalties. In addition, MCESD does not have a clear accounting of its Title V costs. As a result, it is difficult to tell if Title V funds are sufficient to cover Title V permit program costs. Similarly, it is difficult to tell whether Title V permit fees are used solely to cover Title V permit program costs.

**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>22</sup> MCESD does not have a clear accounting of its Title V program costs. In addition, Title V revenues are not kept in an account separate from all other revenues collected by MCESD.

The revenue MCESD receives from both Title V permit fees and non-Title V permit fees goes into a single account. Enforcement penalty money goes into the same account. Both Title V expenses and non-Title V expenses are then paid from this account. Examples of expenses include salaries of the entire Air Quality Division, portions of salaries of individuals in MCESD, a percentage of salaries of the County Attorney and Human Resources, and training and supplies for any Air Quality Division employee unrelated to air monitoring. Other than permit fee-related money, MCESD receives funding from a CAA 105 grant. This money primarily pays for air monitoring activities and does not appear to be used for Title V purposes.

MCESD is able to account for Title V revenues quite accurately because payment of permit fees by each applicant is recorded in MCESD's database, EMS. A key feature of EMS is that information from different groups within MCESD, as well as outside MCESD, are all contained within EMS and can be linked together. As a result, the finance information is linked with the permitting information, and MCESD knows when a certain permit has been

---

<sup>22</sup> See 40 CFR 70.9(a).

paid for and can be issued.

MCESD has a more difficult time tracking Title V expenses. MCESD was not able to tell us what its total Title V expenses are each year because its accounting system does not track Title V expenses separately from non-Title V expenses. A great deal of time and effort has been invested by MCESD in the workload assessment to determine the average number of hours spent by permit writers, inspectors, etc. for a certain source category. The corresponding dollar figure paid for these hours is added to an estimate of other Title V expenses (e.g., training, supplies) to yield a projected estimate of total expenses. This estimate is used to determine the appropriate fees. However, because these are estimates, not a direct accounting of expenses which have been paid with Title V money, it is unclear whether MCESD's Title V revenues cover their Title V expenses every year or whether Title V revenues are used for non-Title V purposes.

**Recommendation:** MCESD must change its accounting procedures to ensure that Title V revenues are sufficient to cover Title V program costs and that Title V revenues are used solely to support the Department's Title V program.

**7.5 Finding:** MCESD plans to change the Department's fee amounts for Title V sources.

**Discussion:** The Title V fee structure has been revised since 1993 when the Title V program was submitted. MCESD plans to revise its fee amounts soon. During the interviews, EPA learned that workshops for the revised fee rule would be held in September 2004 and that MCESD planned to have the revised rule effective in July 2005.

The timing is based partly on when ADEQ revises its fee amounts. MCESD informed us that ARS 49-112(B) limits the amount counties may charge for permit fees to an amount that is approximately equal to or less than the fee the state program may charge.<sup>23</sup> MCESD informed us that a small number of sources regulated by MCESD falls under ARS 49-112(B). However, it seems there is a difference in interpretation between the local

---

<sup>23</sup>ARS 49-112(B) states: "When authorized by law, a county may adopt rules, ordinances or other regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or other regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program."

permitting agencies of Arizona and ADEQ. The local permitting agencies are reportedly in the process of discussing this issue with ADEQ. For now, all permitting agencies are following ADEQ's interpretation and, thus, are constrained from raising their permit fees until an increase is made by ADEQ. Since ADEQ recently revised its fee rule, MCESD, in turn, began to revise its own fee rule.

Part of MCESD's process of evaluating its fee rule is to update its workload assessment. This workload assessment looks at both direct and indirect costs. Our understanding is that the direct costs are primarily based on the average number of hours spent by permit writers, inspectors, etc. for a certain source category for activities in carrying out the Title V program. Taking the number of hours and average salaries together leads to an estimate of direct costs. MCESD uses ADEQ's workload assessment as a model.

MCESD currently does not provide a clear accounting of Title V costs (see Finding 7.4). The workload assessment is only a projection of costs and does not include an accounting of costs. Thus, based on current fees, MCESD has not been able to demonstrate that its Title V revenues cover its Title V expenses. Furthermore, the MCESD's previous fee rule change was not submitted to EPA as part of a program revision; thus, MCESD modified its Title V program without EPA approval, and EPA did not receive an updated fee demonstration. The upcoming fee rule change should be submitted to EPA as part of a program revision.

**Recommendation:** MCESD should present EPA with an analysis (if not already performed) as part of a program revision that shows the effects of any change in fee amounts. Also see the recommendation of Finding 7.4. MCESD should also work with EPA to demonstrate that any changes in the Department's fee structure or fee amounts satisfies the fee demonstration requirements in the Part 70 regulations<sup>24</sup>. EPA will carefully study fee structure and fee amounts in Arizona as we continue to perform our Title V evaluations at other permitting agencies within the State.

**7.6 Finding:** Morale is poor among those at MCESD who work on Title V-related activities. The lack of opportunities for career development, and poor compensation contribute to low morale at MCESD. Employee satisfaction survey results have repeatedly shown low ratings for MCESD for compensation and management.

**Discussion:** Both current and former employees informed us that MCESD does not provide adequate training opportunities. The career ladder, which is presently not formally established, for permitting engineers in the Air Quality Division at MCESD consists of only

---

<sup>24</sup> See 40 CFR 70.9(c).



3 or 4 levels. As a result of not having a formal career ladder, there is little opportunity for promotion. Furthermore, criteria for promotions are unclear and applied inconsistently. No formal system has been developed for implementing salary increases.

Since there is not much opportunity for advancement, most staff and managers do not feel that performance reviews are helpful for career development. Although performance reviews are supposed to be conducted on an annual basis, in practice, they are not.

Poor compensation has contributed to low morale at MCESD. It is interesting to note that managers felt that staff left for better salaries, yet management did not take significant action towards reaching a solution to that problem. EPA learned during interviews that upper management's practice is to hire employees at the minimum level of the salary range. According to our interviews, no department in Maricopa County is required to offer salaries within the salary range; the range is merely guidance. The salary ranges as well as individuals' salaries are not adjusted for inflation on a regular basis. Although market studies on salary levels have been conducted, by the time the study is completed and action is taken, the study is already out of date. Merit-based salary increases or monetary awards are rarely presented. Awards that are given are small in monetary amount. Examples of such awards include movie tickets and \$25 American Express gift certificates. Some recognition awards are presented, for example, for Employee of the Division, and Employee of the Department.

There is a realization among those interviewed that MCESD may not have the flexibility to budget for competitive salaries in this area, especially compared to industry salaries. Interviewees, however, expressed frustration and disappointment at MCESD management's ineffective attempts at improving salary levels.

Some of the above issues are borne out in recent County employee satisfaction surveys.<sup>25</sup>

---

<sup>25</sup>EPA obtained copies of the quantitative portion of Maricopa County Employee Satisfaction Surveys for 2002-2003 (only Graphs 1-12) and 2003-2004. Each survey includes bar graphs which contain results from the prior three years of surveys as well. We understand that each survey also included a written comment portion and that MCESD employees submitted voluminous comments. We were not able to obtain copies of that portion of the survey. In addition to employee satisfaction surveys, we received a copy of a draft document prepared by an internal Satisfaction Committee, submitted to the Department Director in April 2004. The committee was formed upon request by the Director in response to the results of the 2003-2004 Employee Satisfaction Survey. The committee, composed of five to six employees of different units within the Air Quality Division, met to share input from each of their units and prepared a document which highlights key problems in the division, suggests solutions, and concludes with

Employee satisfaction surveys have repeatedly shown low ratings for MCESD for many different topics, including compensation and management.<sup>26</sup> A team composed of MCESD employees compiled a report based on the survey results. There has been virtually no follow-up action. In fact, employee satisfaction survey results are now only available by making a specific request at the downtown county office. Interviewees informed us that the portion of the survey which allowed employees to provide written comments, however, is not available. Interviewees also reported that employees making such a request would be able to view the survey results but would not be allowed to make copies. EPA made a request in writing, sent by mail and fax, on October 4, 2004, to the County for hard copies of the employee satisfaction survey results for each of the last five years, but EPA received no response. We understand that MCESD employees who made a request at the downtown county office have also had difficulty in obtaining access to survey results.

**Recommendation:** Managers should be provided management training. MCESD should also implement a training program for staff (see Finding 7.7) and create standard operating procedures for permitting. During internal review of a permit, management should provide mentorship to staff, particularly new staff, so that both management and staff are satisfied with the final product and are comfortable supporting the decisions made to produce the permit. Management should value input by staff and consider it objectively. Similarly, upper management should value input by both the staff and their immediate manager. The permit writer should be invited to attend each meeting with the source, and management should allow the permit writer an opportunity to provide input to management before decisions regarding the permit are made.

---

a section on valuing the people in the organization.

<sup>26</sup>EPA noted the following key trends in the Employee Satisfaction Surveys:

- MCESD consistently received lower scores than the County overall.
- The Department Director consistently received negative scores (anything below a 5 on a scale of 3 to 7 is defined as negative in the survey) by Air Quality Division staff.
- Air Quality Division staff gave exceptionally low scores (scores of 2.67 to 4.00) in the 2003-2004 survey to the following areas: communication between departments, opportunities for advancement, “that your pay is based on performance,” and “pay is fair in relation to job requirements.”
- Use of the Employee Satisfaction Survey results to better the County, to better the Department, or to improve conditions all received negative scores on a relatively consistent basis.

MCESD should consider instituting more frequent performance reviews of permit engineers and should consider conducting a job classification review to ensure that the classifications attract qualified applicants with the technical skills necessary to perform Title V permit reviews. A Department-specific classification may be necessary to reflect the unique requirements of air permit engineers. EPA is willing to assist in this effort if necessary.<sup>27</sup>

MCESD should allow MCESD employees open and easy access to all portions of all MCESD employee satisfaction results. The current procedure obviously does not provide easy access since EPA did not even receive a response to its written request.

- 7.7 Finding:** Training on Title V issues is inadequate. There is no standard set of courses to ensure that permit engineers are prepared to address issues as they arise.

**Discussion:** MCESD does not provide standard training to engineers on the actual writing of a permit. Some engineers, new to the world of permit writing, learn to write permits using already-issued permits as models and refer to written guidelines, such as EPA's "Region 9 Title V Permit Review Guidelines" document. Though a useful resource, this EPA reference is geared towards review of permits, not permit writing, and is not designed for an engineer new to permit writing. Regarding the processing of Title V permits, MCESD written procedures are available, and a new Title V Standard Operating Procedures document was put into effect on September 17, 2004. Some, but not all, engineers use these documents. (See Findings 2.2 and 2.3 for more details.)

MCESD staff have been provided various types of Title V permit training, but have not had consistent levels and types of Title V training. Most of the engineers indicated a desire for more training, especially in CAM and permit writing. Staff feel that managers take advantage of training opportunities but do not always share those opportunities with staff. Staff commented that compliance training should be, but typically is not, part of Title V permits training. Compliance training as part of Title V permits training will help staff to write better, more effective Title V permits and to better understand such issues as practical enforceability and adequate monitoring and recordkeeping.

**Recommendation:** EPA supports MCESD's attempts to develop or identify a standard set of courses that employees working with Title V issues should take in order to better prepare their staff to address issues as they arise. EPA recommends that, at minimum, a list of core training courses be developed for new engineers who do not have experience in writing

---

<sup>27</sup> We note that some of these issues were acknowledged by the MCESD Director in a letter to EPA dated October, 2004.

Title V permits. Once hired, a new engineer would be expected to take these training courses over the first 1 to 2 years. Two courses EPA recommends for the first year are APTI's "Introduction to Permits" and "Effective Permit Writing" (also offered by CARB). MCESD should also develop or require a compliance module for future Title V permit training. EPA is working with MCESD to identify permit-related training that will help MCESD permit engineers and managers. EPA supports providing additional training opportunities for staff.

Additionally, MCESD should allow staff to participate in other learning opportunities such as conferences and other meetings. One simple suggestion that could be implemented immediately is to allow at least one Title V staff person to accompany the Title V Unit Manager to the quarterly Arizona air quality permit managers' meetings. In addition, other staff could be tied in by phone.

**7.8 Finding:** MCESD is not consulting with EPA in a manner that leads to early resolution of conflicts.

**Discussion:** MCESD must submit a proposed permit to EPA for a 45-day review period. Complicated permits, however, would benefit from earlier communications between MCESD and EPA. If EPA can talk to MCESD early in the permitting process and identify areas of conflict and/or policy questions, both EPA and MCESD can begin to work on those issues prior to the 45-day review. This process would help avoid permit objections.

In several instances in the last year, EPA, prior to the end of the 45-day review period, identified issues to MCESD which would cause EPA to object to the permit. MCESD often chose to withdraw the permit from EPA review, but would then resubmit the permit without addressing these issues. In at least one instance, EPA was forced to object to the Title V permit. To ignore the issues which would lead to an objection to the permit by EPA was a management decision on the part of MCESD.

In addition, several interviewees stated that MCESD often tells permit applicants that EPA requires a certain permit condition when there has been no such communication on the part of EPA. We ask that MCESD actually communicate with EPA for confirmation prior to telling permit applicants that EPA requires a certain permit condition.

**Recommendation:** MCESD should consult with EPA early on in the permitting process and share information with EPA so EPA's input and guidance can be provided at the beginning of the process. Industry should be included in those discussions. For additional detail see Section 2.

**7.9 Finding:** MCESD's Title V program is adversely affected by lack of communication and

coordination among the offices. This type of communication is essential to preparing high quality, enforceable permits.

**Discussion:** During the course of our review, both management and staff at MCESD cited poor communication and coordination among enforcement, compliance, technical support and permitting in the preparation of Title V permits. Many interviewees named institutional history as the rationale behind the poor process and lack of leadership. EPA believes that improved communication and collaboration among the various offices at MCESD is essential to effective implementation of the Title V program. The lack of such an environment at MCESD has led to delay in the issuance of permits, deficient permits being submitted to EPA for review, and situations where compliance is difficult to determine.

**Recommendation:** MCESD's management and staff should work together to determine appropriate steps to ensure that functionality and effectiveness are improved among the various offices within their agency that share responsibility for a credible Title V program. We recommend that MCESD management especially improve relations among their offices.

**7.10 Finding:** MCESD's Enforcement Office is not focused on air quality issues.

**Discussion:** MCESD's enforcement function is placed under the Director of the department. MCESD's enforcement function therefore covers, in addition to clean air-related compliance issues, food safety, swimming pool safety, and other miscellaneous issues. As noted in our interview with the enforcement manager, his office must cover 40,000 different sources. As a result, the 40 to 50 Title V sources may not be a high priority. When coupled with other issues relating to communication, coordination, recordkeeping skills and advice, especially with respect to air-related enforcement case outcomes (including compliance plans), MCESD's Title V program effectiveness is significantly affected.

**Recommendation:** EPA strongly recommends forming an air quality enforcement office within the organization with duties limited only to those that are air-related; the current structure has clearly failed given current management assignments and issues.

**7.11 Finding:** MCESD seeks the advice of the County Attorney's office for permitting issues; however, competing priorities have affected the amount of time that the County Attorney can spend on air quality issues.

**Discussion:** During our interview, the County Attorney's office indicated that they represent MCESD for all media, not just air. The County Attorney spends about half of his

time on environmental matters (all media) and human resources issues. Human resources issues include employee discipline, determinations on suspensions, etc. Another attorney is assigned to MCESD but is not involved in air quality.

Given some of the issues that have arisen in MCESD's Title V program, EPA believes additional focus should be placed on seeking and providing counsel to the MCESD permits program. More generally, it may also be helpful to have additional assistance via legal support in the overall MCESD programs (including the enforcement program).

**Recommendation:** In the event that MCESD does undergo a reorganization, an in-house legal group should be formed to provide legal advice and support on the broad range of air quality issues including permitting and enforcement. Some agencies of similar size (for example, Sacramento, California) have their own in-house legal group (not on contract) to provide this service and have found it expedient and beneficial.

**7.12 Finding:** MCESD's Title V revenue might not provide stable funding.

**Discussion:** In the Title V Questionnaire, the following pair of questions was asked: "Has the Title V fee money been helpful in running the program? Have you been able to provide stable funding despite fluctuations in funding for other state programs?" MCESD responded as follows: "No, fee revenue is variable and county-wide expenditure policies become restrictive during poor economic periods." For example, we learned that employee salaries (including Title V staff) are not even adjusted for inflation during "poor economic periods." (See more on salaries in Finding 7.6.)

Title V revenue is required to be independent of funding for other state programs; funding for MCESD's Title V program should not be affected even if funding for other state programs decreased. MCESD's response on the Title V Questionnaire indicated that Title V revenue is affected by poor economic times. Perhaps during these times, sources are less apt to build new facilities. In addition, some sources may decrease production levels and, consequently, fees based on emissions (\$/ton) would likely decrease. However, it seems that permit revisions would still occur, and sources would still have to pay annual fees for existing facilities. Permit fees which are not based on emissions include the hourly-based processing fee, application fee, and the administrative portion of the annual fee. Though the annual fee includes an emissions-based component, the administrative portion of the fee is an absolute amount based on the source category. MCESD could take a slow economy into account when performing an analysis for the appropriate fee amounts.

Title V fees should be set at a level such that revenue is sufficient to cover all expenses incurred by Title V activities. Title V expenses include the cost of supplies needed for Title V work, time spent by employees working on Title V activities, and miscellaneous

administrative costs (e.g., training, overhead). Supplies, including computer equipment and software, seem to be sufficient at MCESD. However, MCESD employee salaries are not competitive with similar positions of at least one other air permitting agency in Arizona and are undoubtedly low compared to private industry positions requiring equal skill and experience levels. Given Finding 7.6, MCESD needs to consider the impacts of department-wide salaries on its Title V budget.

MCESD was not able to tell us what its total Title V expenses are each year because its accounting system does not track Title V expenses separately from non-Title V expenses. Because it is not clear how much Title V money is spent each year, it is also unclear whether MCESD's Title V revenues cover its Title V expenses every year. See Findings 7.4 and 7.5 for additional details on fees.

**Recommendation:** See recommendations on fees in Findings 7.4 and 7.5. Making the Title V accounting more transparent will help clarify whether Title V revenue is sufficient to cover Title V costs. This clarification will lead to answers about whether Title V revenue is adequate and how it can be more wisely used.

## 8. TITLE V BENEFITS

The purpose of this section is to evaluate how the permitting authority's existing air permitting and compliance programs have benefitted 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:** To track Title V permit applications and permits, MCESD uses a streamlined, effective database system called EMS, created specifically for MCESD.

**Discussion:** MCESD hired an IT specialist, who is the IT Manager at MCESD, to build a new database for the express purpose of tracking permits and related activities for the entire department. Tracking permits for the Air Quality Division is only one component of the database. For Title V, the database provides tracking of Title V permit applications, permits, invoicing, fee receipt, compliance activities, and other Title V-related activities. It helps Title V staff and managers keep track of milestones. Furthermore, it integrates activities of different sections of MCESD (Permits Section, Compliance Section, etc.) and the Finance Department in one application.

This database also has query capabilities. This means that MCESD can track trends from the information stored in the database. For example, if MCESD wants to know how many Title V sources there are in a particular area, they could have the database produce a report with the results.

Reportedly, other permitting agencies outside of Arizona have contacted MCESD to try to find out about EMS to try to obtain a similar database for their own agency's use. Since EMS was custom-made for MCESD, it cannot be duplicated at other agencies very easily.

EMS is not yet completely developed. The IT Manager said that the Compliance module is not finished yet.

**Recommendation:** The IT group should continue to develop EMS. MCESD should continue to use EMS and take advantage of its many capabilities. Because the Title V Group and the Non-Title V Group do not use EMS in consistent ways (e.g., different methods of uploading the permit conditions, including the equipment list as part of the Word document rather than uploading the equipment list into EMS), they should discuss ways in which their activities can be implemented more consistently with each other.



Consistency would make it easier on the permittees and the staff of the two Maricopa County groups.

- 8.2 Finding:** MCESD stated in the Title V Questionnaire that, as a result of Title V, more resources are devoted to public involvement, such as a full-time public information officer (PIO) employed by MCESD. However, the PIO spends a limited amount of time on Title V-related activities.

**Discussion:** MCESD responded in the Title V Questionnaire that they have devoted more resources to public involvement as a result of Title V by hiring a full-time PIO. The PIO's Title V responsibilities range from attending Title V public hearings to outreach for the more controversial permits to responding to phone calls from the public. However, the PIO actually spends only about 25% of his/her time on Title V-related activities. Much of the PIO's time is spent in dealing with the media on issues critical to the public. In fact, it is difficult for the PIO to be proactive when crises arise, as the crisis becomes top priority.

See Section 4 for additional detail.

**Recommendation:** EPA recognizes that MCESD has a full-time PIO. EPA recommends that MCESD hire another person dedicated to public outreach for the Air Quality Division only. Ideally, this person would have some experience or knowledge in the field of air quality.

- 8.3 Finding:** The benefits of Title V have not been fully realized at MCESD because of management, staff turnover, resource management, structural, and funding issues.

**Discussion:** MCESD noted some benefits of Title V in its responses to the "Title V Benefits" section of the Title V Questionnaire (see Appendix B). As described throughout this report, however, a multitude of problems exists in MCESD's implementation of its Title V permitting program. Examples include issues of poor management, high staff turnover, inadequate resource management, unclear Title V revenue and expense accounting, inflexible funding mechanisms, and low morale. Many of these issues have contributed to MCESD's failure to issue all of its initial Title V permits.

If MCESD can solve, or at least minimize, the problems described in this report, the department, the public, and stakeholders may be able to realize more benefits of Title V in the future.

**Recommendation:** MCESD has begun to make some progress towards resolving some of the problems described in this report. MCESD should continue to work on solutions to

these problems in an effort to improve implementation of its Title V program.

- 8.4 Finding:** Some benefits achieved through implementation of the Title V permitting program have been presented through the opportunity to review historical permitting practices, such as the establishment of synthetic minor limits and procedures for minor permit revisions.

**Discussion:** Because Title V assigns EPA an oversight role, EPA has the opportunity to review historical permitting practices at MCESD during the review process for Title V permits or revisions. We have, for example, discovered instances in which MCESD has issued synthetic minor permits that are not practicably enforceable (see Finding 2.10). We have also learned about MCESD's flawed procedures for minor permit revisions (see Findings 5.3 and 5.4). EPA's permit review opportunity is important in ensuring that permits are written correctly with practicably enforceable limits and, consequently, that air quality is protected.

**Recommendation:** MCESD should follow the recommendations of the findings referenced above.

## 9. RECORDS MANAGEMENT

This section examines the system MCESD 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, and MCESD has a responsibility to the public in ensuring that these records are complete and accessible.

In addition, MCESD 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:** Cleanouts of the permit files have been managed poorly in the past, leading to a loss of important documents from many permit files. MCESD does have a written retention policy, but it does not reflect the current unwritten rule of not discarding any relevant records for Title V sources.

**Discussion:** Based on our interviews, we learned that two major file cleanouts (which MCESD interviewees called "purges") of the air permitting files occurred at MCESD. One occurred in the early to mid-1990s, and the other occurred in 2000. The managers at MCESD who were involved with the first major cleanout are no longer at MCESD. Interviewees stated that, during this cleanout, clerical staff were directed to discard anything older than five years old. Many important documents, like old installation/construction permits, are missing and, in some cases, irretrievable. For example, MCESD did not have construction permits in its Title V files for A.F. Lorts or Woodcase. A.F. Lorts claims to have no construction permit or other permits previous to their initial Title V permit. MCESD was able to obtain a copy of Woodcase's construction permit only after MCESD requested a copy from the source.

It is critical to have a record of installation/construction permits in order to identify the applicable requirements for a source in its Title V permit. A Title V permit must include

all applicable requirements, and permit conditions of construction permits are applicable requirements.

Interviewees stated that the 2000 file cleanout was handled a bit better, but many at MCESD informed EPA that MCESD still lost many important documents during that cleanout. Our understanding is that all MCESD employees were involved in this cleanout, but they received a similar directive of discarding anything older than five years old.

MCESD has a written retention policy (see Appendix G) which lays out in some detail the types of documents which are to be kept and the length of time to retain them. The current policy is about two years old. During our interviews, we learned that MCESD's rule for Title V documents is not to discard anything. This, however, is not included in the written retention policy, and some staff were not aware of this unwritten rule.

It is unclear whether the first major file cleanout was carried out according to a written retention policy or whether a written retention policy even existed during that time. Based on interviews, we learned that the second major file cleanout was carried out according to a written retention policy. EPA believes that the more important issue is whether the written retention policy accurately and completely reflects all the records MCESD needs to keep.

**Recommendation:** EPA understands MCESD's need for a retention policy given physical storage space constraints. EPA encourages MCESD's continued use of a written retention policy and recommends that MCESD update it on a regular, more frequent basis. EPA suggests that a requirement to retain all relevant records for existing Title V facilities be added to MCESD's written retention policy. MCESD should invite staff and supervisors of the Air Quality Division to comment on portions of the retention policy that pertain to their unit or section. For example, permitting staff would be the most knowledgeable about the documents which are useful to the permitting section and the appropriate length of time to retain them. EPA also recommends that any future major file cleanouts be managed with a more structured approach. An example would be to keep a list of all documents that will be discarded, then have staff and supervisors review the list before anything is discarded. Another suggestion is discussed in the finding below. EPA will support MCESD in its efforts.

**9.2 Finding:** Permit file documents have never been archived off-site; they are simply discarded.

**Discussion:** Given the fact that important documents have been lost during past file cleanouts, MCESD must consider alternative approaches. Though archiving files requires some additional time, effort, and perhaps cost, it is a preferred alternative. Furthermore, additional storage space could reduce the risk of discarding important documents. The key

to making this approach worthwhile would be to make sure the archived files are stored and labeled in an organized manner, that the contents of the archived files are recorded, and that this list is made available on-site.

An alternative approach to MCESD's standard file cleanouts would be to have a phased approach to discarding documents. For example, documents older than the specified amount of time in the retention policy could be archived off-site instead of being discarded. Then, after another period of time, say ten years, the documents would then be discarded. This would allow MCESD employees an additional opportunity to save certain documents if it turned out they were needed. Again, however, EPA believes that certain records (e.g., permits and applications) should be retained for as long as the facility is in operation.

**Recommendation:** Evaluate the cost effectiveness of archiving files. Consider alternative approaches to the manner in which file cleanouts have been implemented in the past. EPA will support MCESD in its efforts.

**9.3 Finding:** Many of the staff at MCESD, as well as individuals outside of MCESD, believe documents to be missing from the Title V permit files.

**Discussion:** Documents from Title V permit files have been reported missing by many in the Air Quality Division at MCESD. Though documents were lost after each of the two major file cleanouts, we believe this particular problem is independent from the file cleanouts because documents have been found to be missing as recently as this year. Staff and supervisors have stated that documents that they know were in the file at one time are now missing. Some have suggested that perhaps the public viewing area was not secure enough. This situation has recently been corrected by moving the public viewing area to a more visible area, next to the front desk. It remains to be seen whether this improvement will rectify the problem of missing documents.

Others at MCESD believe that the problem of disappearing documents is an internal one. The Air Quality Division at MCESD does have a controlled-access file system for permit files. The Records Supervisor maintains and oversees the flow of permit files. All of the people EPA interviewed believe that he does an excellent job and that the permit files are in much better shape since he was hired as the Records Supervisor. The permit files are locked up at night. The Air Quality Division follows a checkout system in which a person who would like to borrow a file requests it from the Records Supervisor. A checkout card is filled out, the Records Supervisor inserts the checkout card in place of the file on the shelf, and hands the file to that person. However, there is no listing of contents in a file. Therefore, once a person has checked out a file, there is no guarantee it will come back to the Records Supervisor with all the same contents. So, as is true for filing systems at many agencies, there is an element of the Air Quality Division's file system which is based on the

honor system.

Both environmental and industry stakeholders have reported that documents which they had either seen in the file on a previous occasion or which should be in any Title V file were missing from the file they were viewing. They were able to state specific documents which were missing from a file. All Title V files are public files. Having incomplete Title V files erodes the public's confidence in MCESD.

**Recommendation:** MCESD needs tighter controls within the Title V permit records management system. Some suggestions include: 1) The Records Supervisor should supervise the public viewing area when in use; 2) the checkout system of Title V files needs to be implemented more strictly and perhaps revised to prevent any bypass of the checkout system. Some MCESD employees have told EPA that it is quite feasible to take a Title V file without actually going through the checkout procedure. 3) An index of the contents of each Title V file should be created and placed at the front of the file. No new contents should be added to the file without submitting to the Records Supervisor. The Records Supervisor would then be responsible for adding the new document to the index.

Regarding the public viewing area, 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.

Some in the Air Quality Division suggested an electronic filing system in addition to the paper files. EPA believes that this suggestion is a good idea. EPA recommends that MCESD develop a plan for having all Title V permit file documents in electronic form and stored in one location on the MCESD Local Area Network (LAN). Scanners with automatic feed are available and may be a worthwhile investment to carry out the task of scanning a large number of documents in an efficient manner. Some correspondence and documents are already in electronic form, so not all documents in a permit file would need to be scanned. Some documentation is not consistently placed in a permit file by all permit engineers and remains in electronic form on someone's computer or on the MCESD LAN anyway (see findings 9.4 and 9.5), so storing records electronically would create a more complete record of the permit files.

EPA recommends that MCESD still keep paper files, as loss of electronic records is not fully preventable either. With a redundant approach to the permit files of having both electronic and paper files, MCESD minimizes the risk of losing important documents.

**9.4 Finding:** MCESD does not provide training on what is a "record."

**Discussion:** It is important that MCESD keep complete records for each Title V permit. Since these are all public records, the public has a right to view them. MCESD provides inadequate public service if its records are incomplete. For MCESD's own benefit, complete records serve as supporting documentation for its own work, such as calculations. Such supporting documentation can protect MCESD in legal matters.

All employees need to be involved in creating and maintaining complete records. Therefore, it is imperative that staff are informed on the type of documentation which should be kept as a record at MCESD. The retention policy is a part of the knowledge employees should have on records. As described in Finding 9.1, some staff were not aware of the retention policy for Title V-related documents. Besides updating the written retention policy, training to educate all employees on the documentation which should be kept as part of a permanent record and on MCESD's own filing policies would be the first step towards improving the permit files, as well as other files within MCESD.

**Recommendation:** MCESD should work with the County to find out what training is available on "what is a record?" MCESD should determine whether existing County training, if available, fits in with existing MCESD filing policies and would be appropriate for MCESD employees. If existing County training is not in line with MCESD filing policies, work with the County to create a training program which would be helpful for all MCESD employees. Provide records training to all MCESD employees and inform them of MCESD's own filing policies.

**9.5 Finding:** Permit files are not complete as they do not always include email correspondence.

**Discussion:** Permitting staff differ on whether emails should be part of the permanent permit record. In our interviews, interviewees reported that the current enforcement manager, when he managed the Title V Group, directed Title V staff *not* to include emails in the Title V permit files.

It is unclear to us whether there was any discussion between MCESD and County counsel on the decision of what constitutes a record. EPA believes that emails may contain relevant information needed for development of a Title V permit file. By this reasoning, permitting staff should be printing relevant emails and placing them in the appropriate permit files. See the Discussion of Finding 9.4 for more on the importance of keeping complete records.

**Recommendation:** MCESD should work with County counsel to develop a policy on how exactly emails should be treated for MCESD records, including Title V permit files. The policy should be communicated to all MCESD employees.

**9.6 Finding:** Many of the eleven permit files that were sent to EPA upon our request were

missing key documents.

**Discussion:** In June 2004, EPA requested copies of eleven permit files from MCESD. During our review of these files, we noticed that many files were missing key documents, such as a final permit, final TSD, and a signed cover letter for the final permit. The files contained only a limited amount of electronic documentation. Many emails that we had received were not in the files. Attached in Appendix H is a summary listing of key documents that were missing from the eleven permit files EPA requested from MCESD.

We understand that there is some organization to the permit files. There are dividers in each file, labeled with an appropriate organizational category, such as “permit conditions,” “compliance,” etc. However, the number of dividers and the organizational categories labeled on the dividers may differ from source to source. There should be a set of standard divider labels to be placed in each permit file. For example, once the final permit has been issued, all permit files should contain a hard copy of the final permit, the final TSD, and a signed cover letter attached to the final permit. There should be a standard place in each permit file for these documents.

An example of a file system organized in this manner is the system at San Joaquin Valley Air Pollution Control District (SJVAPCD). Each source’s permit file consists of one (or more) large folder. File folders within this large folder are labeled by a standard set of labels. An example of the labels for the first four file folders might be similar to the following:

1. Correspondence
  2. Permit Application
  3. Permit Documents
  4. Compliance
- etc.

**Recommendation:** MCESD should develop a more structured, standardized system of organizing the contents of each Title V permit file. One approach could be to hire a consultant to develop a file system to suit MCESD’s needs. Email correspondence should be included in the permit files (see more on this topic in the Discussion of Finding 9.5).



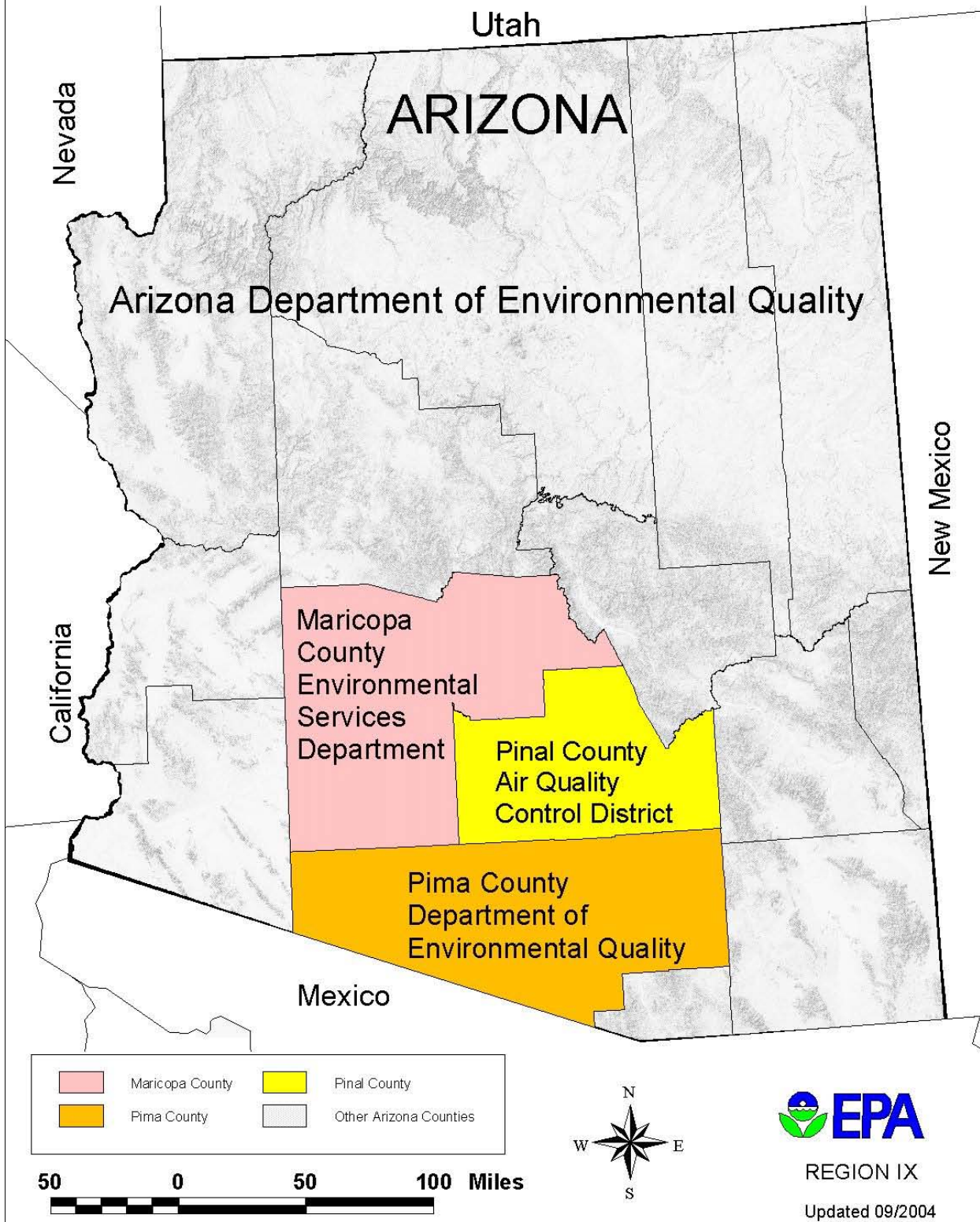
## GLOSSARY OF ACRONYMS & ABBREVIATIONS

Act	Clean Air Act [42 U.S.C. Section 7401 et seq.]
ADEQ	Arizona Department of Environmental Quality
AFS	AIRS Facility Subsystem
Agency	United States Environmental Protection Agency
AIRS	Aerometric Information Retrieval System
APTI	Air Pollution Training Institute
AR	Acid Rain
ARP	Acid Rain Program
ARS	Arizona Revised Statutes
CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CARB	California Air Resources Board
CFR	Code of Federal Regulations
Department	Maricopa County Environmental Services Department
EIP	Economic Incentives Program
EJ	Environmental Justice
EPA	United States Environmental Protection Agency
HAP	Hazardous Air Pollutant
MACT	Maximum Achievable Control Technology
MCESD	Maricopa County Environmental Services Department
NESHAP	National Emission Standards for Hazardous Air Pollutants
NO <sub>x</sub>	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
PM	Particulate Matter
PM-10	Particulate Matter less than 10 microns in diameter
PDEQ	Pima County Department of Environmental Quality
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
QA/QC	Quality Assurance/Quality Control
SIP	State Implementation Plan
SO <sub>2</sub>	Sulfur Dioxide
SOP	Standard Operating Procedure
VOC	Volatile Organic Compounds

## **APPENDICES**

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

# Air Pollution Control Agencies in Arizona



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

EPA  
Title V Program Evaluation  
Questionnaire

**Table of Contents**

**A. Title V Permit Preparation and Content**

**B. General Permits (GP)**

**C. Monitoring**

**D. Public Participation and Affected State Review**

**E. Permit Issuance 1 Revision 1 Renewal**

**F. Compliance**

**G. Resources & Internal Management Support H. Title V Benefits**

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? **0%**

What efforts were taken to improve quality of applications if this % was low? ***MCESD Air Pollution Control Regulations, Appendix B contains permit application information and the website provides a Title V permit application completeness checklist and other guidance documents. Workshops and symposia are also held periodically. The services of the Small Business Environmental Assistance Program are available to employers of 100 or less employees.***

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? **Yes**
  - a. Do you require a new compliance certification? **Yes**
3. Do you verify that the source is in compliance before a permit is issued and if so, how? **Yes; by reviewing field investigator reports.**
  - 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? ***Specific milestones & dates are included in the permit.***
4. What have you done over the years to improve your permit writing and processing time? ***Training has been provided to permit engineers. Standard conditions have been developed for permits. Reference material has been provided to the permit writers including the EPA permit writing manual.***
5. Do you have a process for quality assuring your permits before issuance? Please explain. ***Each permit is reviewed by a senior engineer or the Title V program manager for completeness and quality assurance.***
6. Do you utilize any streamlining strategies in preparing the permit such as:
  - a. Incorporating test methods, major and minor New Source Review permits, MACT's, other Federal requirements into the Title V permit by referencing the permit number, FR citation, or rule? Explain. ***All applicable Federal and Maricopa County requirements are cited in each permit and test methods are incorporated by reference.***



- b. Streamlining multiple applicable requirements on the same emission units) (i.e., grouping similar units, listing the requirements of the most stringent applicable requirements)? Describe. ***In general, multiple applicable requirements are grouped together for a given set of emission units. Similar sources such as power plants, woodworking facilities and landfills use similar language and conditions***
- c. Describe any other streamlining efforts. ***Electronic repository of standard conditions and conditions from other State/County permits.***
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? ***Strengths: Each completed permit is targeted to be comprehensive and comprehensible. It also allows for quoting the actual rules and lends itself to consistency among permit conditions. Weaknesses: Sometimes a permit becomes lengthy and difficult to understand because of the inclusion of a myriad of applicable requirements. The rules themselves can cause confusion as well***
8. How do you fulfill the requirement for a statement of basis? Please provide examples. ***A technical support document is prepared for every permit. Examples of TSD's were given to EPA in the materials mailed on June 25, 2004.***
9. Does the statement of basis<sup>1</sup> explain:
- a. the rationale for monitoring (whether based on the underlying standard or monitoring added in the permit)? ***Yes***
- b. applicability and exemptions, if any? c. streamlining (if applicable)? ***Yes***
10. Do you provide training and/or guidance to your permit writers on the content of the statement of basis? ***Yes***
11. Do any of the following affect your ability to issue timely initial title V permits:
- a. SIP backlog (i.e., EPA approval still awaited for proposed SIP revisions) ***Yes, this was a significant problem in the past.***
- b. Pending revisions to underlying NSR permits ***No***
- c. Compliance/enforcement issues ***Yes***
-

<sup>1</sup> The Statement of Basis sets forth the legal and factual basis for the permit as required by 707(a)(5). The permitting authority might use another name for this document such as Technical Support Document, Determination of Compliance, Fact Sheet.

- d. EPA rule promulgation awaited (MACT, NSPS, etc.) **Yes**
- e. Issues with EPA on interpretation of underlying applicable requirements. **Yes**
- f. Permit renewals and permit modification (i.e., competing priorities.) **Yes**
- g. Awaiting EPA guidance. **Yes**

i. If yes, what type of guidance? ***Interpretation of applicable requirements. One specific instance was the technical support equipment issue for Luke Air force Base.***

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

A. If yes, how did you request the guidance? ***Conference calls and E-mails.***

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. ***Facility wide emissions limits and source testing.***

12. Any additional comments on permit preparation or content?

#### General Permits (GP)

1. Do you issue general permits? ***Yes, but not for Title V. The section will be skipped.***
  - a. If no, go to next section
  - b. If yes, list the source categories and/or emission units covered by general permits.
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?

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 website, available upon request, published somewhere?)
4. Is the 5 year permit expiration date based:
  - a. on the date the general permit is issued?
  - b. on the date you issue the authorization for the source to operate under the general permit?
5. Any additional comments on general permits?

#### 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? ***Maricopa County rules are cited in each permit.***
  - a. Have you developed criteria or guidance regarding how monitoring is selected for permits? If yes, please provide the guidance. ***Yes. If it is a major source for a regulated pollutant after control, annual testing is required.***
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) ***Yes***
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? ***No***
4. Are you incorporating CAM monitoring into your permits? ***Yes***

#### D. Public Participation and Affected State Review

##### **Public Notification Process**

1. Do you publish notices on proposed title V permits in a newspaper of general circulation? ***Yes***
2. Do you use a state publication designed to give general public notice? ***No***

3. On average, how much does it cost to publish a public notice in the newspaper (or state publication)? **\$28.00/ (per publication)**
4. Have you published a notice for one permit in more than one paper? **Yes**
  - a. If so, how many times have you used multiple notices for a permit? **Each proposed permit is published in two newspapers for two consecutive weeks.**
  - b. How do you determine which publications to use? **Maricopa County has annual contracts with two newspapers.**
  - c. What cost-effective approaches have you utilized for public publication? **The selected newspapers are the most cost-effective.**
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] **Yes**
  - a. How does a person get on the list? **By requesting to be placed on the list.**
  - b. How does the list get updated? **By periodic reviews**
  - c. How long is the list maintained for a particular source? d. What do you send to those on the mailing list? **The list remains dynamic by periodic updates.**
  - d. What do you send to those on the mailing list? **Public notices, hearing announcements, public comments, responses to comments and final decisions**
6. Aside from publications described above, do you use other means of public notification? **Yes**

If yes, what are they (e.g., post notices on your webpage, e-mail)? **For permits with a high degree of interest a press release may be issued and/or additional advertisements may be placed. Proposed Title V sources are also listed on the website. The web site includes a listing of all air permits (Title V and non-Title V) within the same zip code as a Title V facility.**
7. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes? **Yes. For Phoenix Brick and some power plants, MCESD conducted meetings involving other government agencies (i.e. ADEQ, ADHS and the Arizona Corporation Commission) to address community concerns. In addition, a working group to address some issues was formed for the**

***Phoenix Brick permit. It includes government and industry officials along with members of the community.***

8. Do your public notices clearly state when the public comment period begins and ends?  
***Yes***

9. What is your opinion on the most effective avenues for public notice?  
a. Are the approaches you use for public notice effective? ***Yes***

10. Do you provide notices in languages besides English? Please list. ***No, A Spanish language interpreter was provided at the Oak Canyon permit hearing. This service is always offered and provided if requested.***

### **Public Comments**

11. Have you ever been asked by the public to extend a public comment period? ***Yes***

a. If yes, did you normally grant them? ***Yes.***

b. If not, what would be the reason(s)?

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, there have been suggestions that MCESD use its website or additional publications for public notice. We continuously upgrade our website in response to suggestions. Members of the public have asked for more notification on specific permits. We maintain a mailing list of known interested parties and we will work with the local news media and contact persons to increase notification for permits having a high degree of public interest.***

13. Do you provide the public a copy of the statement of basis if they request it? If no, explain. ***Yes***

14. What percentage of your permits have received public comments? ***25%***

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***

16. Have you noticed any trends in the type of comments you have received? Please explain. ***Yes, we often hear concerns about the factory being too close to where people live, or concerns about hazardous air pollutant emissions on the health of nearby residents.***

- a. What percentage of your permits change due to public comments? ***Public comments are always carefully considered. Changes are made to the permits if the comments are relevant, or if the source agrees to voluntarily accept more stringent conditions that are not necessarily required by rules. A specific percentage for these changes is not easily calculated.***
17. Have specific communities (e.g., environmental justice communities) been active in commenting on permits? ***Yes***
18. Do your rules require that any change to the draft permit be re-proposed for public comment? ***No, we follow general administrative procedures act requirements for interpretation of this issue.***
- a. If not, what type of changes would require you to re-propose (and re-notice) a permit for comment? ***If a new requirement was established, the department would re-propose. Also, if the permit was made less stringent, there would be another public comment period.***

#### **EPA 45-day Review**

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)? ***Yes, case by case basis.***
- a. How does the public know if EPA's review is concurrent? ***In general, the public will not be familiar with the EPA review procedures.***
20. Is this concurrent review process memorialized in your rules, a MOA or some other arrangement? ***No***

#### **Permittee Comments**

21. Do you work with the permittees prior to public notice? ***Yes***
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; MCESD's procedure is to provide comprehensive responses; No trend on comment types.***

#### **Public Hearings**

23. What triggers a public hearing on a title V permit? *A request for a public hearing from anyone.*
- c. Do you ever plan the public hearing yourself, in anticipation of public interest? *No*

**Availability of Public Information**

24. Do you charge the public for copies of permit-related documents? *Yes*
- If yes, what is the cost per page? *25 cents per page*
- a. Are there exceptions to this cost (e.g., the draft permit requested during the public comment period, or for non-profit organizations)? *Yes, Copies are provided free of charge to other government agencies and to 501 (c)(3) organizations.*
- b. Do your title V permit fees cover this cost? If not, why not? *No; Maricopa County policy mandates a separate fee for copies made for the public.*
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? *Any person can review a file and request copies of permit-related information.*
- a. Are any of the documents available locally (e.g., public libraries, field offices) during the public comment period? Explain. *Yes; we will make arrangements with libraries & schools if there is sufficient interest on a specific permit.*
26. How long does it take to respond to requests for information for permits in the public comment period? *Usually one a day. The Department employs an Air Quality File Custodian.*
27. Have you ever extended your public comment period as a result of information requests? *Yes*
- a. Where is this information stored? *In files in the main office*
- b. Do information requests, either during or outside of the public comment period, affect your ability to issue timely permits? *Yes*
- c. Have you ever extended the public comment period because of a request for a public hearing? *Yes*

28. Do you have a website for the public to get permit-related documents? *Yes*
- What is available online? *There are lists of current and proposed Title V sources. Permit conditions for current Title V sources are also available for download.*
  - How often is the website updated? Is there information on how the public can be involved. *As needed.*
29. Have other ideas for improved public notification, process, and/or access to information been considered? If yes, please describe. *Yes, Posting proposed permits and technical support documents on web site.*
30. Do you have a process for notifying the public as to when the 60-day citizen petition period starts? If yes, please describe. *No, however, all Air Quality rules may be downloaded from the web site.*
31. Do you have any resources available to the public on public participation (booklets, pamphlets, web pages)? *Yes, permitting process pamphlet.*
32. Do you provide training to citizens on public participation or on title V? *No, however, we will meet with anyone who requests a meeting to learn more about the Air Quality program and the permitting process. Individual meetings like this do take place, but they are infrequent.*
33. Do you have staff dedicated to public participation, relations, or liaison? *Yes*
- Where are they in the organization? *The department has a Public Information Officer that reports directly to an APCO.*
  - What is their primary function? *The primary function of the Public Information Officer is to be a liaison with the news media and to produce press releases and other publications.*

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

34. How do you notify affected States of draft permits? *Not applicable as adjoining states are at least 50 miles from County.*
- How do you determine what States qualify as "affected States" for your draft permits? *N/A*



35. How do you notify tribes of draft permits? ***If the permit may impact a Tribe, we will notify that entity if they request it. This was done once in the past for a power plant permit near Gila Bend.***
36. What percentages of your permits get comments from affected States? ***0%*** from Tribes? ***0%***
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? ***N/A***
38. Suggestions to improve your notification process? ***The Department is open to suggestions on how to improve the notification process. Statutory changes would be needed for some suggestions we have heard over the years.***  
Any additional comments and public notification?

E. Permit Issuance / Revision I Renewal

**Initial Permit Issuance**

1. If not all initial permits have been issued, do you have a plan to ensure your permits are issued in a reasonable timeframe? If not, what can EPA do to help? ***Yes. Please refer to the attached June 7, 2004 letter.***

**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:
- a. Administrative amendment? (See § 70.7(d)(vi)) ***Yes***
  - b. §502(b)(10) changes? (See §70.4(b)(12)) ***Yes***
  - c. Significant and/or minor permit modification? (See §70.7(e)) ***Yes***
  - d. Group processing of minor modifications? ***Yes***
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)) ***EPA has not requested a re-opening.***

If not, why not?

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? ***For fiscal years 2000 through 2003 and the first 3 quarters of 2004, 136 significant and minor revisions have been received. Statistics for administrative, off-permit, and 502(b)(10) changes is currently unavailable.***
- a. What percentage of changes at the facilities are processed as:
- i. Significant ***Approximately 10%***
  - ii. Minor ***Approximately 90%***
  - iii. Administrative ***Unavailable***
- b. Of all changes that you have, how many (or what percentages) were:
- i. Off-permit ***Unavailable***
  - ii. 502(b)(10) ***Unavailable***
5. How many days, on average, does it take to process (from application receipt to final permit amendment):
- a. a significant permit revision? ***9-12 months***
  - b. a minor revision? ***3-6 months***
  - c. an administrative revision? ***10 days***
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. ***Yes. Primarily minor revisions during past 18 months.***
7. What have you done to streamline the issuance of revisions? ***No specific effort to streamline permit revisions. Using 7-day notice is a possibility.***
8. What process do you use to track permit revision applications moving through your system? ***Logging system.***
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. ***A guidance manual was developed for the non-Title permits. This document is generally applicable for Title V permits.***

10. Do you require that source applications for minor and significant permit modifications include the source's proposed changes to the permit? ***MCESD suggested to sources that they propose changes and it will be a future requirement.***
- a. For minor modifications, do you require sources to explain their change and how it affects their applicable requirements? ***Yes.***
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? ***Yes***
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). ***Proposed permit modifications are described.***
13. When public noticing proposed permit revisions, how do you clarify that only the proposed permit revisions are open to comment? ***Clarifying statements are included in the public notice.***

#### **Permit Renewal Or Reopening**

14. Have you begun to issue permit renewals? ***Yes, MCESD is reviewing renewal applications.***
15. What are your plans for timely issuance of the renewals? ***Currently initial permit issuance is a priority. However, renewal applications are under review.***
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) ***No***
- a. If yes, what are the differences? Are 1 st time requirements (like CAM, off permit changes, etc.) in a renewal application being included in the renewal? ***N/A***
17. Has issuance of renewal permits been "easier" than the original permits? Explain. ***N/A***
18. How are you implementing the permit renewal process (ie., guidance, checklist to provide to permit applicants)? ***Renewal time frame is in permit. Checklist on Web site.***

19. What % of renewal applications have you found to be timely and complete? **100% received on time, some legally complete after 60 days from receipt.**
20. How many complete applications for renewals do you presently have in-house ready to process? **Four.**
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? **MCESD plans to process in 18 months time frame.**
22. Have you ever determined that an issued permit must be revised or revoked to assure compliance with the applicable requirements? **No. The Department will reissue, revise, revoke or reopen permits as needed if it is determined an error was made or a new requirement becomes applicable within the timeframes specified in rules.**

## F. Compliance

1. Deviation reporting:
  - a. Which deviations do you require be reported prior to the semiannual monitoring report? Describe **All deviations from permit requirements.**
  - b. Do you require that some deviations be reported by telephone? **Yes**
  - c. If yes, do you require a follow up written report? If yes, within what timeframe? **Yes, 48 hours.**
  - d. Do you require that all deviation reports be certified by a responsible official? (If no, describe which deviation reports are not certified). **Yes**
    - i. Do you require all certifications at the time of submittal? **Yes**
    - 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 followup certifications (e.g., within 30 days; at the time of the semi-annual deviation reporting)? **N/A**
2. How does your program define deviation? **Not defined**
  - a. Do you require only violations of permit terms to be reported as deviations? **Yes**

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

- i. excess emissions excused due to emergencies (pursuant to 70.6(8)) **Yes**
- ii. excess emissions excused due to SIP provisions (cite the specific state rule) **No exclusions.**
- iii. excess emissions allowed under NSPS or MACT SSM provisions? **No.**
- iv. excursions from specified parameter ranges where such excursions are not a monitoring violation (as defined in CAM) **Yes**
- v. excursions from specified parameter ranges where such excursions are credible evidence of an emission violation
- vi. failure to collect data/conduct monitoring where such failure is "excused": **Yes**
  - A. during scheduled routine maintenance or calibration checks **Yes**
  - B. where less than 100% data collection is allowed by the permit **Yes**
  - C. due to an emergency **Yes**
- vii. Other? Describe. **N/A**

3. Do your deviation reports include:

- a. the probable cause of the deviation? **Yes**
- b. any corrective actions taken? **Yes**
- c. the magnitude and duration of the deviation? **Yes**

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

5. Do you require a written report for deviations? **Yes**

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

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

- a. deviation reports? *After review and approval, these documents (i.e. Notices of Violation) are placed in source files. A documented violation may also be referred to the Enforcement Section if it qualifies for enforcement in accordance with the MCESD enforcement policy.*
  - b. semi-annual monitoring reports? *Same as 7.a.*
  - c. annual compliance certifications? *Same as 7.a.*
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
- a. Have you developed a compliance certification form? If no, go to question 10. *No*
    - 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?
    - iii. Do you require sources to use the form? What percentage do?
    - iv. Does the form account for the use of credible evidence?
    - 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:
- a. Does your program include an emergency defense provision as provided in 70.6(g)? If yes, does it: *Yes*
    - i. Provide relief from penalties? *Yes, see Rule 140, Section 401.*
    - ii. Provide injunctive relief? *No.*

iii. Excuse noncompliance? *No*.

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

i. Provide relief from penalties?

ii. Provide injunctive relief?

iii. Excuse noncompliance?

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

i. the emergency defense provision? *No*

ii. the SIP excess emissions provision? *No*

iii. NSPS/NESHAP SSM excess emissions provisions? *No*

11. Is your compliance certification rule based on:

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: *No*.

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

12. Any additional comments on compliance?

G. Resources & Internal Management Support

1. Are there any competing resource priorities for your "title V" staff in issuing Title V permits? *Yes*;

a. If so, what are they? *New power plant permits and Permit modifications.*

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? ***Peak performance awards, spot awards, supervisor feedback, performance evaluations.***

3. How is management kept up to date on permit issuance? ***By continuous communication. A table showing permit status is routinely updated.***
4. Do you meet on a regular basis to address issues and problems related to permit writing? ***Yes***
5. Do you charge Title V fees based on emission volume? ***Yes***
  - a. If not, what is the basis for your fees? ***Detailed fee schedules are identified in Maricopa County Air Pollution Control Regulations, Rule 280.***
  - b. What is your Title V fee? ***Emissions are \$11.75/per ton and permit reviews are billed at \$66/hr.***
6. How do you track title V expenses? ***Personnel positions and allocation of shared cost. This is also tracked in EMS which is the department's database.***
7. How do you track title V fee revenue? ***Daily departmental recaps and EMS.***
8. How many Title V permit writers does the agency have on staff (number of FTE's)? ***Five.***
9. Do the permit writers work full time on Title V? ***Yes***
  - a. If not, describe their main activities and percentage of time on title V permits. ***N/A***
  - b. How do you track the time allocated to Title V activities versus other non-title V activities? ***N/A***
10. Are you currently fully staffed? ***No***
11. What is the ratio of permits to permit writers? ***10 to 1.***
12. Describe staff turnover. ***The department has a high staff turnover for Title V Permit engineers.***
  - a. How does this impact permit issuance? ***This severely impacts permit issuance.***
  - b. How does the permitting authority minimize turnover? ***Competitiveness with other employers was evaluated in 2002. A placement in market range pay adjustment***



*was given to all Department engineers in 2003. Many received significant raises of 20 – 30 %.*

13. Do you have a career ladder for permit writers? *Yes*
- a. If so, please describe. *Permit engineers are promoted until they reach journeyman level.*
14. Do you have the flexibility to offer competitive salaries? *Yes. As described in response 12.b, significant raises were given to Department engineers in 2003. Salaries now range from approximately \$21 - \$27 per hour.*
15. Can you hire experienced people with commensurate salaries? *Yes*
16. Describe the type of training given to your new and existing permit writers. *Permit engineers are given formal Title V permit writing training as well as on-the-job-training.*
17. Does your training cover:
- a. how to develop periodic and/or sufficiency monitoring in permits? *Yes*
- b. how to ensure that permit terms and conditions are enforceable as a practical matter? *Yes*
- c. how to write a Statement of Basis? *Yes*
18. Is there anything that EPA can do to assist/improve your training? Please describe. *EPA could provide training in Maricopa County.*
19. How has the PA organized itself to address Title V permit issuance? *Please refer to the organization chart.*
20. Overall, what is the biggest internal roadblock to permit issuance from the perspective of Resources and Internal Management Support? *Permit writer turnover and new permit applications.*

### Environmental Justice Resources

21. Do you have Environmental Justice (EJ) legislation, policy or general guidance which helps to direct permitting efforts? *Yes, ADEQ and EPA guidance.*
- If so, may EPA obtain copies of appropriate documentation? *Yes*

22. Do you have an in-house EJ office or coordinator, charged with oversight of EJ related activities? ***Yes, the Public Information Officer.***
23. Have you provided EJ training 1 guidance to your permit writers? ***No formal training. But, MCESD management has distributed the ADEQ and EPA guidance documents to Air Quality staff and discussed expectations for addressing EJ issues.***
24. Do the permit writers have access to demographic information necessary for EJ assessments? (e.g., soci-economic status, minority populations, etc.) ***Yes, all permit writers have internet access and can find this information over the internet.***
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. ***Yes, this is discussed internally. Additional public notices may be given.***

#### 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:
  - a. NSPS requirements? ***Yes***
  - b. The stationary source requirements in the SIP? ***Yes***
  - c. The minor NSR program? ***No***
  - d. The major NSR/PSD program? ***Yes***
  - e. How to design monitoring terms to assure compliance? ***Yes***
  - f. How to write enforceable permit terms? ***Yes***
2. Compared to the period before you began implementing the Title V program, do you have better/more complete information about:
  - a. Your source universe including additional sources previously unknown to you? ***Yes.***
  - b. Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)? ***Yes***
  - c. Your stationary source emissions inventory? ***Yes***

- d. Applicability and more enforceable (clearer) permits? **Yes**
3. In issuing the Title V permits:
- 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.  
**No**
  - Have you taken (or are you taking) steps to assure better regulatory consistency within source categories and/or between sources? If yes, describe. **Yes; Similar language and conditions have been developed for similar sources such as power plants, woodworking facilities and landfills.**
4. Based on your experience, estimate the frequency with which potential compliance problems were identified through the permit issuance process:
- prior to submitting an application **Occasionally.**
  - prior to issuing a draft permit **Occasionally.**
  - after issuing a final permit **Occasionally.**
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:
- NSPS requirements (including failure to identify an NSPS as applicable) **High compliance rate.**
  - SIP requirements **High compliance rate.**
  - Minor NSR requirements (including the requirement to obtain a permit) **High compliance rate.**
  - Major NSR/PSD requirements (including the requirement to obtain a permit) **High compliance rate.**
6. What changes in compliance behavior on the part of sources have you seen in response to Title V? (Check all that apply.)
- increased use of self-audits? **Yes**

- b. increased use of environmental management systems? **Yes**
  - c. increased staff devoted to environmental management? **Yes**
  - d. increased resources devoted to environmental control systems (e.g., maintenance of control equipment; installation of improved control devices; etc.)? **Yes**
  - e. increased resources devoted to compliance monitoring? **Yes**
  - f. better awareness of compliance obligations? **Yes**
  - h. other? Describe.
7. Have you noted a reduction in emissions due to the Title V program? **Yes**
- 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? **Yes**
  - b. Did that lead to a change in the fee rate (dollars/ton rate)? **Yes**
8. Has title V resulted in improved implementation of your air program in any of the following areas due to Title V:
- a. netting actions **No**
  - b. emission inventories **No**
  - c. past records management (e.g., lost permits) **No**
  - d. enforceability of PTE limits (e.g., consistent with guidance on enforceability of PTE limits such as the June 13, 1989 guidance) **Yes**
  - e. identifying source categories or types of emission units with pervasive or persistent compliance problems; etc. **Yes**
  - f. clarity and enforceability of NSR permit terms **Yes**
  - 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) **Yes**
  - h. emissions trading programs **No**

- i. emission caps *No*
  - j. other (describe) *No*
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)? ***A combination of training, outreach, awareness***
10. Has Title V changed the way you conduct business? ***Yes***
- 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. *No*
  - 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. ***Yes, due to EPA comments received for sources such as Insulfoam and Wincup***
  - c. Do you work more closely with the sources? If yes, describe. ***Yes; Extensive communications including face to face meetings and phone calls.***
  - d. Do you devote more resources to public involvement? If yes, describe. ***Yes; a full time PIO is employed by Department. MCESD has devoted additional resources where needed such as the Phoenix Brick permit.***
  - e. Do you use information from Title V to target inspections and/or enforcement? ***Yes***
  - f. Other ways? If yes, describe. ***Yes, during the Multi-Media Toxics Reduction Grant participation, a careful review of all Title V facilities in the study area was conducted.***
11. Has the Title V fee money been helpful in running the program? Have you been able to provide:
- a. better training? ***Yes***
  - b. more resources for your staff such as CFRs and computers? ***Yes, computers are regularly updated and modernized. Publications that are not on-line are purchased as needed.***

- c. better funding for travel to sources? *Yes, travel to conferences and routine travel within the jurisdiction is paid for through fees.*
  - d. stable funding despite fluctuations in funding for other state programs? *No, fee revenue is variable and County-wide expenditure policies become restrictive during poor economic periods.*
  - e. incentives to hire and retain good staff? *Maricopa County has one of the best employee benefits packages of all employers in the area. This includes medical insurance, tuition reimbursement, deffered compensation, healthy state retirement system etc.*
  - f. are there other benefits of the fee program? Describe. *No*
12. Have you received positive feedback from citizens? *Occasionally.*
13. Has industry expressed a benefit of Title V? If so, describe. *Local business leaders have expressed their appreciation for the opportunities for participation in the Title V process.*
14. Do you perceive other benefits as a result of the Title V program? If so, describe. *Yes; National consistency.*
15. Other comments on benefits of title V? *The permits are enforceable and comprehensive.*

**STATEMENT OF CERTIFICATION**

I certify that I have personally examined and am familiar with the statements and information submitted in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, correct, accurate, and complete.

Date:

---

Signature:

---

Name: Al Brown

---

Title: Director, Maricopa County Environmental Services Department

---



# Maricopa County

Environmental Services Department

Albert F. Brown, Director  
1001 North Central, Ste 595  
Phoenix, Arizona 85004-1950  
Phone: (602) 506-6623  
Fax: (602) 506-5141  
TDD: (602) 506-6704

June 7, 2004

Deborah Jordan, Director  
Air Division, EPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Re: Implementation of Clean Air Act Title V Operating Permits Program

Dear Ms. Jordan:

I concur that Maricopa County's Environmental Services Department ("MCESD") must adequately implement the Clean Air Act Title V Operating Permits Program and I assure you our efforts are directed to conform to EPA's expectations. MCESD is totally committed to work cooperatively with EPA Region IX ("EPA") to complete the issuance of all remaining initial Title V permits as soon as possible. We appreciate EPA's ongoing technical guidance, timely response to our requests for assistance, and personnel resource support that enables MCESD to issue Title V permits.

In my letter to EPA in 2002, I mentioned that forty initial Title V permits needed to be issued. MCESD has issued permits to twenty-five of those facilities. Issuing the remaining fifteen permits promptly is our highest priority and focus. The status of each remaining permit is as follows.

- ✓ WR Meadows Title V permit was issued today, June 7, 2004.
- ✓ Legends Furniture was invoiced May 21, 2004, and this permit will be issued as soon as MCESD receives the required Title V permit fee.
- ✓ Woodstuff Manufacturing was invoiced today, June 7, 2004, and this permit will be issued as soon as MCESD receives the required Title V permit fee.
- ✓ WinCup is currently in EPA 45-day review.
- ✓ Goodrich Aerospace will be submitted to EPA for 45-day review by June 11, 2004.
- ✓ Insulfoam will be submitted to EPA for 45-day review by June 11, 2004.
- ✓ Thornwood Furniture is targeted to be submitted to EPA for 45-day review by June 11, 2004.
- ✓ AF Lorts is targeted to be sent to EPA by June 18, 2004.
- ✓ Woodcase Fine Cabinets is targeted to be sent to EPA by June 18, 2004.
- ✓ Oak Canyon is targeted to be sent to EPA by June 18, 2004.
- ✓ Oakcraft is projected to be issued by the end of July, 2004.
- ✓ Luke Air Force Base is projected to be issued by the end of July, 2004.



Letter to Ms. Deborah Jordan  
June 7, 2004  
Page 2

- ✓ Honeywell is projected to be issued by the end of August.
- ✓ MasterCraft is projected to be issued by the end of August.
- ✓ Phoenix Brick Yard (see next paragraph)

It is my understanding based on discussions with members of your staff that EPA and MCESD are working together to address citizen concerns over the Phoenix Brick Yard Title V permit, hence predicting an issue date for this permit is difficult. Please inform me in writing if you have a different view on this matter.

Occasionally unplanned and uncontrollable circumstances prevented and impeded our Title V progress. These setbacks are unintentional, however as you know issuing Title V operating permits is a multifaceted process and in some instances involves extremely complicated technical issues and multipart legal matters that take more time than anticipated to resolve. Requisite MCESD engineer time to develop a Title V permit averages 400 to 600 hours. Nonetheless, we will examine our current Title V process in order to identify potential enhancements. MCESD has worked diligently and utilized all available resources to ensure Title V permits are processed and issued swiftly and we will continue this practice.

A challenge to the issuance of Title V permits has been staff turnover. In addition to turnover in permit engineers, the Air Division Manager position became vacant last August. The Department recognized staff stability as an issue and addressed it by giving all department engineers salary increases in June of 2003. The Division Manager position was recruited in September 2003 with an initial offer made to a candidate. This candidate tentatively agreed to take the position and later withdrew. A second recruitment effort was done after arranging for a higher salary for the position. The candidate who was offered the position was also offered a management position by the Arizona Department of Environmental Quality at the same time. The candidate decided to accept the ADEQ offer. The Department is currently negotiating with another candidate who has thirty years of air quality experience including service as the Director of a state air quality program.

We also look forward to the forthcoming EPA evaluation of MCESD's Title V program and your recommendations for program modifications. I respectfully request that EPA commence the evaluation process in September instead of July for several reasons. Starting the evaluation in July hinders both EPA and MCESD resources from the task of completing the issuance of remaining Title V permits. I hope you agree that making sure all Title V permits are processed and issued rapidly is paramount to commencing the EPA program evaluation in July.

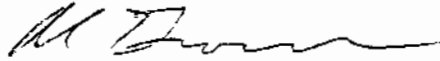
Maricopa County  
Environmental Services Dept.  
1001 N. Central, Ste 595  
Phoenix, Arizona 85004-1950  
Phone: (602) 506-6623  
Fax: (602) 506-5141

Letter to Ms. Deborah Jordan  
June 7, 2004  
Page 3

I would like to set up a meeting or conference call to discuss EPA's expectations for MCESD in addressing the specific concerns mentioned in your May 27, 2004 letter. We solicit EPA's recommendations regarding the management of the Title V program and with respect to changes that will avoid delays in future Title V permit processing.

This letter is intended to express our genuine commitment to work directly with your staff to quickly resolve EPA's concerns regarding MCESD's Title V Program.

Sincerely,



Al Brown  
Director

cc: Andrew Kunasek, Chairman, Maricopa County Board of Supervisors  
David Smith, County Administrative Officer  
Dr. Jonathan Weisbuch, Health Services Officer  
Colleen McKaughan, EPA  
Nancy Wrona, ADEQ

**COMPLETENESS CHECKLIST FOR TITLE V AIR QUALITY PERMIT APPLICATIONS**

PERMITTEE:  
ADDRESS:

APP. RCVD. DATE:  
INCOMP. LTR. DATE:

**APPLICATION #:**

REVIEW ENGINEER:

**COMPL. DATE:**

App. B Item No.	Requirements	Yes	No	N/A	comments
R.280	Have the appropriate application fees been submitted?				
Form	Has the standard application form been completed?				
Form	Has the responsible official signed the application?				
1	Has a description been included for each process?				
2	Has the product description and raw materials been included?				
3	Has a complete description of the Alternate Operating Scenarios been included?				
4	Has a description been provided for the alternate operating scenario products, if applicable?				
5	Has a flow diagram for all processes been included?				
6	Has a Material Balance been included (if applicable)?				
7.a	Has the emission sources form been completed and does it include potential emissions of regulated air pollutants (including fugitives)?				
7.b	Has the facility identified and described all points of emissions of regulated air pollutants?				
8	Has the facility identified all applicable SIP requirements?				
8	Has the facility identified all applicable NSPS requirements?				
8	Has the facility identified all applicable NESHAP requirements?				
8	Have all applicable Installation Permit requirements been identified?				
9	Has the applicant provided an explanation of any voluntarily accepted limits established pursuant to Rule 220?				
10.a,c	Have the maximum annual and hourly process rates for each piece of equipment, which generate air emissions been included?				
10.b,d	Have the maximum annual and hourly process rates for the whole plant been included?				
10.e	Has the applicant included information about all fuel burning equipment including generators, a description of fuel used, including the type used, the quantity used per year, the maximum and the average quantity used per hour, the percent used for process heat and the higher heating value of the fuel. If solid fuels and fuel oils are used, has the sulfur and ash content been provided?				
10.f	Has the raw material maximum hourly, monthly or quarterly and annual usage information been included?				
10.g	Have the operating schedules (hour/day, days/year, days/week, % annual production by season) been included?				
10.h	Have any limitations on operations and work practice standards affecting emissions been included (if applicable)?				

App. B Item No.	Requirements	Yes	No	N/A	comments
10.i	Has the applicant provided a demonstration of how the source will meet any limitation accepted voluntarily in pursuant of Rule 220 (if applicable)?				
11.a-g	Does the application include a control equipment list with the type, name, make, model, serial number, size/capacity and date of manufacture (if applicable)?				
12.a-g	Does the application include necessary stack information including stack identification, description, exit height, inside dimensions, exit gas temperature and velocity, and building dimensions?				
13.a-i	Does the application include the site diagram, which includes emission areas and air pollution control equipment?				
14.a	Have the applicable test methods for determining compliance been included?				
14.b	Does the application include an identification, location and description of pollution controls and monitoring equipment (if applicable)?				
14.c	Has the rated and operating efficiency of pollution controls been included?				
14.d	Has the data used to establish control efficiency been provided?				
14.e	Has evidence that the new or modified source will not violate any Ambient Air Quality Standards or PSD increments been provided?				
15	Has the applicant provided equipment manufacturer's bulletins and shop drawings (if applicable)?				
16.a-d	Has a Compliance Plan been included? (The compliance plan must address acid rain provisions, if applicable)				
16.a	Does the application include a description of the Compliance Status of the source with respect to all applicable requirements (for constructed/operating sources)?				
16.a.b	Has a description of how the new source or alteration will comply with applicable requirements been included (for new sources or modifications to existing sources)?				
16.b.1	Does the application include a statement that the source will continue to comply with the applicable requirements with which they currently comply? (for constructed/operating sources)				
16.b.2	Has a statement that the source will meet the requirements, which become effective after permit issuance, been included?				
16.b.3	Has a compliance schedule with remedial measures, and an enforceable sequence of actions with milestones leading to compliance been included for applicable requirements with which the source does not currently comply?				
16.c	Has a schedule of Submission of Progress Reports (at least every 6 months) been included? (for sources required to have a compliance schedule)				

App. B Item No.	Requirements	Yes	No	N/A	comments
16.d	If an acid rain compliance plan is required, does it meet the requirement of 16 a through c? (if applicable)				
17	Does the application contain a compliance certification covering all applicable requirement, including voluntarily accepted limits and a statement whether the compliance is continuous or intermittent?				
17.a.1	Does the compliance certification identify the applicable requirements, which are the basis of the certification?				
17.a.2	Does the compliance certification include a Statement of Methods Used to Determine Compliance including monitoring, record keeping and reporting requirements and test methods?				
17.a.3	Has a Schedule for Submission of Compliance Certifications (at least annually) been included?				
17.a.4	Does the compliance certification include a statement indicating the compliance status with respect to any applicable enhanced monitoring and compliance certification requirements? (if applicable)				
17.a.5	<b>Certification of truth, accuracy and completeness:</b> Does the application contain certification signed by a responsible official stating that " based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate and complete"				
17.b	Does the application include an acid rain compliance plan (if applicable) and if so, is it on nationally standardized forms?				
19	Have all the calculations on which all information is based been included in the application?				
R210	is any applicable Federal delayed compliance orders or consent decrees included?				
R210. 301.4.h	Does the application contain list of insignificant activities according to County Rule 210 Section 301.4?				
R210. 301.4.i	If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted source solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, does the application include proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable?				
R210	Was the copy of the application send to EPA Region IX? The copies of all correspondence regarding Title V application have to be send to EPA Region IX.				
R210	Does the notification precisely identify information in the application which is to be considered confidential?				
R210	Does the notification contain sufficient supporting information to allow to evaluate whether the information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position?				
R210	Any additional information submitted pursuant to Rule 210 Maricopa County Air Pollution Control Regulations shall contain certification by a responsible official stating that "based on information and belief formed after reasonable				

	inquiry, the statements and information in the document are true, accurate and complete".				
--	---	--	--	--	--

SUPPLEMENTAL COMPLETENESS REVIEW OF APPLICATION FOR AIR QUALITY PERMIT FOR NEW MAJOR SOURCES OR MAJOR MODIFICATIONS TO SOURCES

App. B Item No.	Requirements	Yes	No	N/A	comments
	<b>All New Major Sources or Major Modifications to Sources</b>				
R 240.302.1	Does the application meet the requirements of Rule 240 Section 303?				
R 240.302.2	Does the application demonstrate that the more stringent of the applicable new source performance standards in Rule 360 of County rules or the existing source performance standards in Regulation III of County rules are applied to the proposed new major source or major modification of a major source?				
R 240.302.3	Did the application demonstrate that the new major source or major modification will not have an adverse impact on visibility as determined by Section 511 of County Rule 240 and will satisfy all the visibility requirements contained in Section 511 of County Rule 240? Was a demonstration of the impact on visibility made according to Section 508 of County Rule 240?				
R 240.302.4	Does the application include all applicable provisions of County Rules 200, 210, 240, 245, and 270?				
R 240.302.5	Does the application comply with all applicable requirements specified in County Rule 240 Section 302.5?				
R 240.302.6	Does the application contain demonstration that the new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in County Rule 370?				
R 240.302.7	Does the application contain demonstration that the new major source or major modification will not exceed the limitations, if applicable, on emission from fugitive sources contained in County Rules 310, 311, and 316?				
R210.301.4.d	Does the application for any major source of hazardous air pollutants contain a determination according to County Rule 210 Section 301.4.d that maximum achievable control technology (MACT) for new sources under Section 112 of the Act will be met?				
R 240.302.8	Does the application contain demonstration that a stationary source that will emit five or more tons of lead per year will not violate the ambient air quality standards for lead contained in County Rule 510?				
	<b>New Major Sources or Major Modifications to Sources in Non-Attainment Areas:</b>				
18.a.1	In the case of a new major source as defined in Rule 240 of these rules or a major modification subject to an emission limitation which is LAER (Lowest Achievable Emission Rate) for that source or facility, does the application contain a determination of LAER that is consistent with the requirements of the definition of LAER contained in Rule 240 of these rules? Does the demonstration contain the data and information relied upon by the applicant in determining the emission limitation that is LAER for the source or facility for which a permit is sought?				

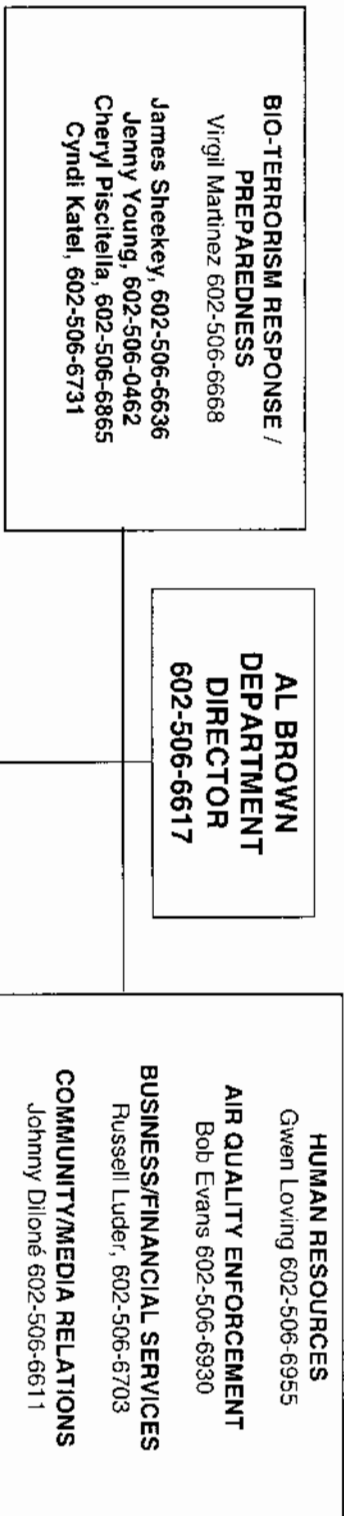
App. B Item No.	Requirements	Yes	No	N/A	comments
18.a.2	In the case of a new major source as defined in Rule 240 of these rules or a major modification subject to the demonstration requirement of Rule 240 of these rules, did the applicant submit such demonstration in a form that lists and describes all existing major sources owned or operated by the applicant and a statement of compliance with all conditions contained in the permits or conditional orders of each of the sources.				
18.a.3	In the case of a new major source as defined in Rule 240 of these rules or a major modification subject to the offset requirements described in Rule 240 of these rules, did the applicant demonstrate the manner in which the new major source or major modification meets the requirements of Rule 240 of these rules?				
18.a.4	Did an applicant for a new major source as defined in Rule 240 of these rules or a major modification for volatile organic compounds or carbon monoxide (or both) which will be located in a nonattainment area for ozone or carbon monoxide (or both) submit the analysis described in Rule 240 of these rules?				
	<b>New Major Sources or Major Modifications to Sources in Attainment Areas:</b>				
18.b.1	Does the application include demonstration of the manner in which a new major source or major modification which will be located in an attainment area for a pollutant for which the source is classified as a major source as defined in Rule 240 of these rules or the modification is classified as a major modification will meet the requirements of Rule 240 of these rules?				
18.b.2	In the case of a new major source as defined in Rule 240 of these rules or major modification subject to an emission limitation which is BACT (Best Available Control Technology) for that source or facility. does the application contain a determination of BACT that is consistent with the requirements of the definition of BACT contained in Rule 100 of these rules? Does the demonstration contain the data and information relied upon by the applicant in determining the emission limitation that is BACT for the source or facility for which a permit is sought?				
18.b.3	In the case of a new major source as defined in Rule 240 of these rules or major modification required to perform and submit an air impact analysis in the form prescribed in Rule 240 of these rules, does such an analysis meet the requirements of Rule 240 of these rules? Unless otherwise exempted in writing by the Control Officer, the air impact analysis shall include all of the information and data specified in Rule 240 of these rules.				
18.b.4	If an applicant seeks an exemption from any or all of the requirements of Rule 240 of these rules, did the applicant provide sufficient information and data in the application to demonstrate compliance with the requirements of the subsection(s) under which an exemption is sought?				

	Remarks	Received by
1		
2		
3		
4		
5		



**Appendix C - MCESD AND COUNTY ORGANIZATION CHARTS**

# MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT ORGANIZATION BY PROGRAMS



**RICH POLITO, Acting**  
**AIR QUALITY**  
602-506-6701

**DAVID LUDWIG**  
**ENVIRONMENTAL HEALTH**  
602-506-6971

**JOHN POWER**  
**WATER & WASTE MANAGEMENT**  
602-506-6667

**TOM MAGLIO, Acting**  
**BUSINESS & COMMUNITY SERVICES**  
602-506-6747

**AIR MONITORING**  
Vacant  
Ben Davis 602-506-6712

**AIR PERMITTING**  
Small/Large Sources  
Harry Chiu 602-506-6736  
Title V  
Dale Lieb 506-6738

**COMPLIANCE**  
Larry Spivaak 602-506-6739  
Dust Control  
Inspections  
O&M Plan Review  
Stack Testing

**EMISSIONS INVENTORY**  
Bob Downing 602-506-6883

**PLANNING & ANALYSIS**  
Rule Writing/SIPs  
Jo Crumbaker 602-506-6705

**PROGRAM COORDINATOR**  
Warren Kosters 602-506-6702

**ENVIRONMENTAL HEALTH INSPECTIONS & COMPLAINT INVESTIGATIONS**

**SPECIAL PROGRAMS**  
Aimee Upton 602-506-6929

**PLAN REVIEW**  
Dan Queen 602-506-6986

**E.R.O.**  
Mike Lemon 480-820-7655,

**W.R.O.**  
Ken Conklin 623-939-5788

**C.R.O.**  
Wayne McNulty 602-506-6979

**N.R.O.**  
Mohammed Heydari  
602-867-1780

**QA/QC CHAINFOOD TRAINING & HACCP**  
Les Olson 602-506-0002

**SUBDIVISIONS**  
**INFRASTRUCTURE PLANNING**  
Steve Borst 602-506-6672

**WATER/WASTEWATER TREATMENT PLANT PLAN-REVIEW & INSPECTIONS**  
Dale Bodiya 602-506-6670

**ON-SITE WASTEWATER PROGRAMS**  
Ryan Nielsen 602-506-6666

**DRINKING WATER/SOLID WASTE PROGRAMS**  
John Kolman 602-506-6935

**VECTOR CONTROL**  
John Townsend  
602-273-0703

**ADMINISTRATION**  
Business/Financial  
Tom Maglio 602-506-6747  
Administrative Services  
Tiffany McClure 602-506-6746  
Training/Policies & Safety  
Joan Minichiello 602-506-6481  
Business/Permit Office  
Milly Sheppard 602-506-6614

**INFORMATION TECHNOLOGY**  
Sue Persiero 602-506-6899

**PROGRAM MANAGEMENT**  
Trip Reduction Program  
Lori Pacini, 602-506-6936  
Vehicle Repair and Retrofit  
Jean Morrow, 602-506-1030  
Complaint Management & Smoking Vehicle Hotline  
Shella Brott-Loewe 602-506-6516

**SMALL BUSINESS ENVIRONMENTAL ASSISTANCE PROGRAM (SBEAP)**  
Rich Polito 602-506-5102



UPWARD OF FIDELITY

**Sheriff**  
Joe Arpaio

**County Attorney**  
Richard Romley

**Superintendent of Schools**  
Sandra Dowling

**Constables**

**Total Courts**  
Colin Campbell  
Presiding Judge

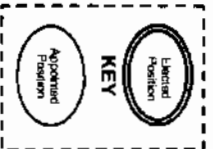
Superior Court Judges & Commissioners  
Justices of the Peace  
Municipal Court Judges  
Court Administrator  
Vernis Rutenfranz  
Audi. Visitation  
Sheridan Brondick  
Juvenile Probation & Detention  
Cheryl Townsend

**Assessor**  
Kevin Ross

**Recorder**  
Helen Purcell  
Eugenie K. Osborne  
Star-Call Center  
David Sedlitz

**Treasurer**  
Doug Todd

**Clerk of the Court**  
Michael Jeanes



### Citizens Serving Citizens

**Indigent Representation**  
Contract Counsel  
Mark Kennedy  
Legal Advocate  
Susan Strimlin  
Legal Defender  
Robert Barney  
Public Defender  
Jim Haas

**Office of Communications**  
Al Marcar

**Community Development**  
Isabel McDougall

**Community Services Officer**  
Bill Scailzo

Parks and Recreation  
Stadium District  
Library District  
Harry County Jail  
Public Fiduciary  
Richard Vanderheiden

**Health Services Officer**  
Jonathan Weisbuch

Public Health  
Environmental Services  
Albert Brown  
Correctional Health  
Joseph Scialzo  
Animal Care & Control Services  
Julie Bank  
Acting  
Human Services  
Annette Shon  
Medical Examiner  
Dr. Phillip Keen

### Board of Supervisors

Andrew Kunasek, Chairman  
Fulton Brock, Don Stapley, Max Wilson, Mary Rose Wilcox

**Maricopa County Citizens**

County Administrative Officer  
David Smith

Internal Audit  
Ross Tale

Clerk of the Board  
Fran McCarroll

**Deputy County Administrator**  
Sandi Wilson

Management & Budget  
Research & Reporting  
Ken Andersen  
Health Care Managers  
Shawn Yau  
Human Resources  
Gwynn Simpson  
Total Compensation  
Mike Schallberger

**Finance Officer**  
Tom Manos

Finance  
Materials Management  
Wes Baysinger  
Risk Management  
Putter Crowley

### Citizens Serving Citizens

**Integrated Criminal Justice Information Systems**  
Don Thomas

**Maricopa Integrated Health System**  
Ted Shaw, CEO  
Financial Resource Group

**Regional Development Services Officer**  
Joy Rich

Planning & Development  
Equipment Svcs  
Fertness Truck  
Emergency Management  
Warren Loeb, Acting  
Public Works  
Michael Eliegood  
Saki Wase  
Food Control  
(Independent)

Facilities Mgmt  
Steve Conner

**Information Technology Officer**  
Jim Price, Acting

Office of the CIO  
E-Government Technology  
Acting  
Customer Support Center  
Jan Neal  
Information Systems  
Jim Price  
Infrastructure Technology Center  
Rosaquin Osborn-Peretz, Acting

**Appendix D - LETTER FROM EPA TO MCESD  
ON PRACTICAL ENFORCEABILITY  
OF SYNTHETIC MINOR LIMITS  
(NOVEMBER 2, 2001)**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**75 Hawthorne Street  
San Francisco, CA 94105-3901**

November 2, 2001

Mr. Steven E. Peplau  
Division Manager  
Maricopa County Environmental Services Department  
Air Quality Division  
1001 N. Central Ave., Suite 201  
Phoenix, Arizona 85004-1942

  
Dear Mr. ~~Peplau~~:

I am writing to follow-up on a discussion we had on August 28, 2001 regarding the Non-Title V permitting program at Maricopa County Environmental Services Department (MCESD) in which you had asked that I outline for you the areas of concern that my office has seen in the permitting of non-title V sources. Primarily the issues we have identified with these permits relate to the practical enforceability of synthetic minor permit limits. In a June 8, 1998, EPA letter to MCESD, we enclosed an EPA memorandum from John Seitz entitled "Guidance on Limiting Potential to Emit in New Source Permitting" that sets out key considerations for creating permit conditions that are practically enforceable. While many of the recent non-title V permits have included operational limits as well as testing, monitoring, record keeping, and reporting requirements to enforce the emissions limits, we are continuing to find permits that lack some of these elements and therefore do not adequately ensure compliance with synthetic minor limits. We have included in this letter a few recommendations to improve the content of both permits and support documents that will not only help to make the limits placed on a source's potential to emit enforceable as a practical matter but also facilitate our review of the permits.

Our first suggestion is to use the air permit evaluation sheet (APES) created for the Non-Title V permits as a statement of basis for the permit conditions. We have reviewed many permits where the APES fails to provide adequate documentation in support of the permit conditions. The APES should include a discussion of all of the applicable requirements that the source triggers and a demonstration of how the permit assures compliance with those applicable requirements. For example, if a source triggers best available control technology (BACT) requirements for an emissions unit, the APES must provide a top-down analysis demonstrating how the technology the source is proposing will comply with the BACT requirements in Maricopa County Rule 241. If a source triggers a NSPS requirement, the APES should adequately list the

applicable standards for each emission unit and include a discussion of the permit conditions that will assure compliance with each applicable standard.

We are also concerned with the very general references to applicable requirements that we have seen in some permits. It is inadequate to merely reference an applicable standard in the permit condition; instead, the permit should explicitly state what requirements apply to the source. EPA's White Paper #2 provides useful guidance on this: "Citations, cross references, and incorporations by reference must be detailed enough that the manner in which any referenced material applies to a facility is clear and is not reasonably subject to misinterpretation. Where only a portion of the referenced document applies, applications and permits must specify the relevant section of the document. Any information cited, cross referenced, or incorporated by reference must be accompanied by a description or identification of the current activities, requirements, or equipment for which the information is referenced." For example, instead of stating "the Permittee shall comply with the reporting requirements as per 40 CFR, Part 60, Subpart OOO," the permit should, at a minimum, list the specific paragraph in which the monitoring requirements reside. In most every case, it is far better to include the requirements in the permit so that the source's obligations are all spelled out in a single document. This avoids putting the burden on the source to obtain and cross reference other documents to determine its permit requirements.

The APES should also include a discussion of how the facility's potential to emit (PTE) is calculated (i.e. emission factors or source test data). If synthetic minor limits are taken, a discussion of the permit conditions that will limit the facility's PTE should be included as well. For example, a facility might opt for a limit on hours of operation or on materials usage to restrict its PTE. The means by which such conditions ensure compliance with the synthetic minor limit should be well documented in the APES, including a discussion of any monitoring, reporting and record keeping requirements that are needed to make such limits enforceable as a practical matter. In the case of a facility that uses a control device to limit its potential to emit, the APES should include, at a minimum, a discussion of how the permit's testing, monitoring, record keeping, and reporting requirements demonstrate compliance with a specified control device efficiency.

Furthermore, if the facility is using emission factors from AP-42 or data from the manufacturer, the APES should specify all the assumptions made in choosing an appropriate emission factor. For example, if a sand and gravel facility is basing its PTE on an AP-42 emission factor for sources controlled with wet suppression, then the APES should specify how the source employs wet suppression. The permit should include conditions requiring the use, inspection, and proper operation of wet suppression equipment, and, where appropriate, moisture content monitoring. Finally, to provide clarity for the source, the permit should specify how the rolling 12-month average emissions will be calculated on a monthly basis. Specifically, the permit condition should cite what assumptions and data the source should use in calculating its monthly emissions.

Our second suggestion is that the permitting authority should take into account the method with which pollutant emissions are measured when setting synthetic minor emissions caps.

For example, emissions calculated using emission factors and control efficiencies are often imprecise, in which case a "safety factor" between the calculated PTE and major source threshold should be built into the permit. According to the AP-42, "Compilation of Air Pollutant Emission Factors, Volume I," emission factors taken from AP-42 are "averages obtained from data of wide range and varying degrees of accuracy; emissions calculated this way for a given facility are likely to differ from that facility's actual emissions. Only specific source measurement can determine the actual pollutant contribution from a source, under conditions existing at the time of the test. For the most accurate emissions estimate, it is recommended that source specific data be obtained whenever possible. Emission factors are more appropriately used to estimate the collective emissions of a number of sources, such as is done in emissions inventory efforts for a particular geographic area." Therefore, the permitted limits must account for any inaccuracies of the emission factors by setting limits well below the major source threshold. This is true not only for sources relying on AP-42 factors but for all sources which do not directly measure pollutant emissions (i.e. sources which use manufacturer supplied data, assumed control efficiencies or source test data performed once during a five year permit term).

Furthermore, it should be stressed that a source must be required, at a minimum, to perform an initial source test (if one exists) to determine a baseline emission factor and assure compliance with all applicable standards. This is especially true of sources that have taken synthetic minor limits to avoid major source permitting. Rule 220, Section 304.2 specifies that sources requesting permits with voluntarily accepted emissions limitations demonstrate that "the emissions limitations, controls, or other requirements to be imposed for the purpose of avoiding an applicable requirement are at least as stringent as the emissions limitations, controls or other requirements that would otherwise be applicable to that source and that all voluntarily accepted emissions limitations, controls, or other requirements will be permanent, quantifiable, and otherwise enforceable as a practical matter." Emphasis added. Source testing of equipment is key to the practical enforceability of a permit, especially for synthetic minor sources that would otherwise be subject to annual source testing requirements.

Finally, practical enforceability also extends to monitoring and record keeping requirements which, in many cases, need to be incorporated into the permits with a higher level of specificity. In several of the non-title V permits we have reviewed, the only monitoring requirement included in the permit for a control device is an operations and management plan (O&M plan) which must be submitted to the District within 45 days of the issuance of the permit. However, these permits fail to specify the specific parameters that need to be monitored to determine compliance with the permit's emission limits. Permits that rely on surrogate parameters such as temperature or pressure drop instead of direct measurement of pollutant emissions to determine compliance with an applicable emission limit must specify both the surrogate parameters and the frequency with which they will be monitored. Allowable ranges for surrogate parameters should be based on source test data or if applicable, an EPA or District standard for that control device. If source test data is not available, for instance in the case of a new source which has not yet been source tested, manufacturer's data for a control device or process should be inserted in the permit until source test data can verify those numbers or ranges. Those

parameters should be noted with an asterisk (\*) in the permit. When more accurate test data is obtained and verified, it should be inserted into the permit when the permit is renewed, or a modification occurs which opens the permit.

To illustrate this point, we can take the example of a permit issued to a surface coating operation. The facility took voluntarily accepted emission limits to avoid major source applicability by utilizing a catalytic oxidizer with a permanent total enclosure (PTE) capture system to limit VOC emissions. The facility then based its emissions on the destruction and capture efficiencies for the catalytic oxidizer and PTE system, respectively. To verify these assumed efficiencies, the permit required the source to perform an initial source test; however the permit did not require the source to continually measure its VOC emissions directly. In order to assure that the source meets these control efficiencies on a continual basis, and thus stays below the major source threshold for VOCs, the Permittee must rely on surrogate parameters to demonstrate compliance.

In this case, those surrogate parameters would be the continual monitoring of both the inlet and outlet temperature of the catalytic oxidizer and the face velocity or pressure drop at the natural draft openings of the PTE capture system. The temperature ranges within which the catalytic oxidizer can operate at both the inlet and outlet of the control device should be verified by source test data. In the case of a new source, the manufacturer's data can be substituted until the temperature range is verified by a source test. The allowable face velocity or pressure drop at the natural draft openings should be taken from the test method for determining a PTE capture system. These monitoring requirements should be included in the permit and not indirectly referenced through an O&M plan. This recommendation applies to all sources which employ a control device such as a baghouse, electrostatic precipitator, catalytic or thermal oxidizer to limit pollutant emissions but do not directly measure pollutant emissions on a continual basis.

We hope that the recommendations in this letter will facilitate the issuance of future synthetic minor permits which are enforceable as a practical matter. As you are probably aware, if synthetic minor limits are not enforceable as a practical matter, they do not adequately limit a source's PTE and leave a source vulnerable to enforcement action for being a major source without a Title V permit. This of course is of particular concern in the permits which set a source's PTE to just below the major source threshold, so that a source whose normal operation even slightly exceeds its emission limit could trigger Title V.

In order to facilitate the implementation of the recommendations which I have outlined in this letter, I have requested that examples of technical support documents, or "APES", for both Non-Title V source permits and Title V sources from local air districts in Region IX, which provide adequate documentation to demonstrate the basis for the permit conditions, be forwarded to you electronically. In addition, I have enclosed a copy of the June 8, 1998 letter cited above, which discusses many of these same concerns, along with a copy of the EPA memorandum we enclosed with June 8 letter, as well as an April 26, 2001 EPA comment letter to MCESD regarding a Non-Title V permit.



Should you have any questions please feel free to contact me or have your staff contact Emmanuelle Rapicavoli of the Air Permits office at (415) 744-1290.

Sincerely,

A handwritten signature in black ink that reads "Colleen McKaughan". The signature is written in a cursive style with a large, prominent initial "C".

Colleen McKaughan  
Associate Director,  
Air Division

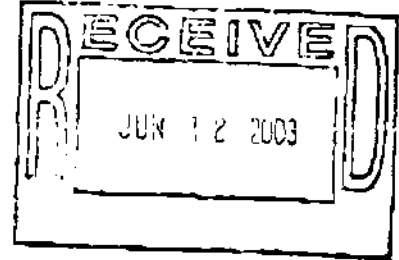
Enclosures

cc: Gerardo Rios, Chief, Permits Office, EPA  
Harry Chiu, Manager, Non Title-V Sources, Maricopa Environmental Services Division  
Emmanuelle Rapicavoli, Permits Office, EPA

**Appendix E - SETTLEMENT AGREEMENT BETWEEN MCESD,  
OUR CHILDREN'S EARTH FOUNDATION,  
AND SIERRA CLUB  
(JUNE 16, 2003)**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**ARIZONA CENTER FOR LAW  
IN THE PUBLIC INTEREST**  
Vera S. Kornylak (AZ State Bar #019855)  
18 E. OCHOA ST.  
TUCSON, ARIZONA 85701-1915  
(520) 529-1798  
(520) 529-2927 (FAX)  
Attorney for Petitioners



**ENVIRONMENTAL ADVOCATES**  
Christopher A. Sproul  
Building 1004B O'Reilly Avenue  
San Francisco, California 94129  
(415) 561-2222, ext 108  
(415) 561-2223 (FAX)

**COPY**

**OUR CHILDREN'S EARTH FOUNDATION**  
Michael A. Costa  
Staff Attorney  
915 Cole St., Suite 248  
San Francisco, CA 94117  
(415) 934-0220  
(650) 745-2894 (FAX)  
  
Of Counsel for Petitioners

**MARICOPA COUNTY SUPERIOR COURT  
OF THE STATE OF ARIZONA**

OUR CHILDREN'S EARTH FOUNDATION,  
a nonprofit public benefit corporation, and  
SIERRA CLUB, GRAND CANYON  
CHAPTER

Petitioners,

v.

MARICOPA COUNTY, a political subdivision  
of the State of Arizona, ex rel., ALBERT  
BROWN, DIRECTOR, MARICOPA  
COUNTY ENVIRONMENTAL SERVICES  
DEPARTMENT,

Respondents.

**CV2003-011117**

) Case No.:

) Settlement Agreement and  
) Stipulation for Entry of Order

1           1. This Settlement Agreement and stipulation for entry of order  
2 ("Agreement") is entered into by and between Our Children's Earth Foundation  
3 ("OCEF"), Sierra Club, Grand Canyon Chapter ("Sierra Club"), and Maricopa County, a  
4 political subdivision of the state of Arizona acting through its Environmental Services  
5 Department and Albert Brown, its Director ("Maricopa").

6           Recitals

7           2. WHEREAS, in 1990, the federal Clean Air Act, 42 U.S.C. §§ 7401-7671q,  
8 was amended to include a program commonly known as "Title V", referring to the  
9 subchapter of the Act into which the law became incorporated;

10          3. WHEREAS, Title V requires that all of the Act's applicable requirements  
11 be set forth in a single document to ensure that a source, the public and the enforcers can  
12 readily determine the source's obligations under the Act and thereby ensure compliance;

13          4. WHEREAS, Maricopa promulgated Maricopa Regulation II, Rule 210 to  
14 establish the authority needed by Maricopa to seek U.S. Environmental Protection  
15 Agency (EPA) approval to implement the federal Title V program within its jurisdiction;

16          5. WHEREAS, on October 30, 1996, EPA granted interim approval to  
17 Maricopa to administer a Title V permitting program, 61 Fed. Reg. 55910, and on  
18 December 5, 2001, EPA granted Maricopa final approval to administer a Title permitting  
19 program in accord with Maricopa Regulation II, Rule 210. 66 Fed. Reg. 63175;

20          6. WHEREAS, Maricopa Regulation II, Rule 200 and 210 requires all existing  
21 major stationary sources subject to Maricopa Regulation II, Rule 210 to submit  
22 applications for Title V permits prior to November 29, 1997 (i.e., within 12 months of the

1 effective date of EPA's interim approval of the Department's Title V program).  
2 Regulation II, Rule 200, § 313.2(a);

3 7. WHEREAS, consistent with federal law, Regulation II, Rule 210, §  
4 301.8(f) requires Maricopa to take final action on permit applications from initial sources  
5 no later than three years after the date that Maricopa received interim approval from EPA  
6 for its Title V program;

7 8. WHEREAS, because Maricopa received interim approval from EPA for its  
8 Title V program on October 30, 1996, the Air Pollution Control District ("APCD") was  
9 required to issue Title V permits by October 30, 1999 to all sources classified as Title V  
10 in Maricopa's jurisdiction as of October 30, 1996;

11 9. WHEREAS, Maricopa has not taken final action on all pending Title V  
12 permit applications that Maricopa was required to take final action on by October 30,  
13 1999 (see Exhibit A, which is incorporated herein by reference, for facilities remaining to  
14 be permitted ("Remaining Facilities"));

15 10. WHEREAS, in a letter to EPA on January 28, 2002, Maricopa committed  
16 to a schedule for issuance of Title V permits for the Remaining Facilities, and OCEF and  
17 Sierra Club take the position that this commitment is not legally enforceable;

18 11. WHEREAS OCEF and Sierra Club filed a Petition for a Writ of Mandate to  
19 be issued by this Court requiring Maricopa to take final action on pending applications as  
20 expeditiously as possible, and to set up a Court ordered schedule with specific deadlines  
21 for the issuance of Title V permits for the Remaining Facilities; and

22

1           12. WHEREAS, OCEF, Sierra Club and Maricopa desire, by and through this  
 2 Agreement, to finally and completely settle this litigation without expending further time  
 3 and expense and without the uncertainty associated with continued civil litigation.  
 4 THEREFORE, OCEF, Sierra Club, Maricopa, and Al Brown (the "Parties") agree as  
 5 follows:

6           **Agreement**

7           13. Maricopa shall take action on the Remaining Facilities classified as Title V  
 8 according to the following schedule:

- 9           a. By June 1, 2003, proposed Title V permits for eight (8)<sup>1</sup> remaining  
 10 facilities will be provided for public notice pursuant to Regulation II, Rule  
 11 210, Section 408, or reclassified to Non-Title V sources.
- 12           b. By November 1, 2003, proposed Title V permits for ten (10)  
 13 remaining facilities will be provided for public notice pursuant to  
 14 Regulation II, Rule 210, Section 408, or reclassified to Non-Title V  
 15 sources.

16 Maricopa shall allocate and devote sufficient resources to ensure that Maricopa can issue  
 17 draft Title V permits by the above dates and shall thereafter endeavor in good faith to  
 18 take all necessary steps to have final Title V permits promptly issued.

---

20  
 21 <sup>1</sup> One of these eight permits is the permit for Arizona Public Service Company ("APS") which  
 22 claims it is not a major source and therefore would not require a Title V permit. It is anticipated  
 that APS will submit its final permit application at the end of May. The Department estimates it  
 will take no longer than 30 days to evaluate whether or not APS is a major or minor source, and  
 issue the appropriate public notice for that facility. If the Department determines that APS is a  
 major source, the public notice for this permit shall be provided by July 11, 2003.

1 Maricopa shall respond in good faith and with due diligence to public comment and  
2 comment from EPA on draft Title V permits in a manner that allows for prompt and  
3 timely final action on the Remaining Facilities' Title V permit applications. Maricopa  
4 may extend public comment periods for up to thirty days when it has determined that  
5 good cause is shown for such extension and the extension will not substantially delay  
6 timely issuance of Title V permits.

7 14. Maricopa shall adhere to the following schedule for issuing final Title V  
8 permits:

9 a. With respect to any given proposed Title V permit issued pursuant to  
10 paragraph 13, if Maricopa receives no public comment during the public  
11 comment period provided for pursuant to Arizona Revised Statutes §§ 49-  
12 426 and 49-480 and does not receive any comments from EPA pursuant to  
13 Maricopa Regulation II, Rule 210, section 303.4, concerning that proposed  
14 Title V permit, then Maricopa shall make a final permit decision within 90  
15 days of issuing the proposed permit unless Maricopa extends the public  
16 comment period. If Maricopa extends the public comment period (which it  
17 may do up to an additional thirty days), it shall make a final permit decision  
18 within 120 days of issuing the proposed permit.

19 b. With respect to any given proposed Title V permit issued pursuant to  
20 paragraph 13, if Maricopa receives public comment during the public  
21 comment period provided for pursuant to Arizona Revised Statutes §§ 49-  
22 426 and 49-480, conducts a public hearing pursuant to Maricopa

1 Regulation II, Rule 210, section 408.5, or receives comments from EPA  
2 during the EPA review period provided for pursuant to Maricopa  
3 Regulation II, Rule 210, section 303.4, concerning that proposed Title V  
4 permit, then the deadline for making a final permit decision provided for in  
5 the preceding subparagraph a. shall be extended as follows: 15 additional  
6 days to respond to any public comment received, 90 additional days to  
7 conduct a public hearing, these additional time periods are consecutive not  
8 concurrent, and/or 90 additional days to respond to EPA comments.

9 15. Within sixty days of the date hereof, pursuant to Maricopa Regulation I,  
10 Rule 100, sections 503 and 504, Maricopa shall request in writing that each of the  
11 Remaining Sources provide to Maricopa quarterly emission statements showing  
12 measured actual emissions or estimated emissions of Oxides of Nitrogen (Nox) and  
13 Volatile Organic Compounds (VOC) for the interim period between thirty days from the  
14 date of the request and the date that the Remaining Source is issued a final Title V permit.  
15 Responses to such requests shall be due no later than 30 days from the end of a given  
16 calendar quarter. Maricopa shall provide notice to OCEF and Sierra Club of the  
17 transmittal of these requests within ten days of transmittal.

18 16. Maricopa shall maintain its existing document repository system and a full  
19 time custodian of records, for the maintenance and retention of the documents referenced  
20 in paragraph 18 (the "Repository System"). The Repository System will be maintained in  
21 the main offices of Maricopa. The Repository System shall be accessible to members of  
22 the public, by appointment, from Monday to Friday, excepting Maricopa holidays, during



1 Maricopa's normal business hours. The Repository System shall be designed so that all  
2 repository documents are filed and maintained in such a manner as to facilitate easy and  
3 quick review by the public. The Repository System may consist of (1) duplicates of  
4 repository documents set out separately from the application files, or (2) repository  
5 documents continuing to be maintained with the balance of the application files for the  
6 Remaining Facilities, where the documents are reasonably segregated from the balance of  
7 the file and reasonably flagged or otherwise marked for easy accessibility.

8 17. New repository documents shall be added to the existing system within 30  
9 days of their issuance or receipt by Maricopa. The Repository System for each  
10 Remaining Facility shall be maintained as long as the related permit issued for the facility  
11 is active. Obsolete repository documents shall be archived and kept as specified in  
12 existing law existing record retention policies.

13 18. The Repository System shall contain the following documents and  
14 information provided that any disclosure of the following documents and information is  
15 done in compliance with the Arizona Public Records Act A.R.S. § 39-121 through 39-  
16 121.03 and other applicable law.

- 17 a. Title V permit applications;
- 18 b. Proposed Title V permits, if any;
- 19 c. All correspondence between Maricopa and the applicant and  
20 between Maricopa and any other governmental agency (including, *e.g.*, the  
21 U.S. Environmental Protection Agency) that (1) is in Maricopa's  
22 possession at the time of issuance of the proposed Title V permit; (2) would

1 significantly enhance meaningful public review of the proposed Title V  
2 permit, as identified by Maricopa through a good faith search of its files;  
3 and (3) does not contain information that qualifies as "trade secrets, as  
4 defined by, Regulation 1, Rule 100, Section 200.107." Where such  
5 correspondence contains trade secrets, the portions that do not contain such  
6 information shall be maintained in the repository;

7 d. All correspondence between Maricopa and the applicant, in  
8 Maricopa's possession at the time of issuance of the proposed Title V  
9 permit, that concern the applicant's compliance obligations and would  
10 significantly enhance meaningful public review of the proposed Title V  
11 permit, as identified by Maricopa through a good faith search of its files;

12 e. Any notices regarding any necessary enforcement actions and any  
13 documents evidencing the final resolution of such actions shall be placed in  
14 the Repository System within 30 days of its approval for public release;

15 f. Copies of the written information requests made to the Remaining  
16 Facilities pursuant to paragraph 17 above.

17 19. Promptly after receipt, but not to exceed 30 days thereof, information  
18 received by Maricopa pursuant to paragraph 17 above shall be added to the Repository  
19 System.

20 20. Pay reasonable attorney's fees and costs, in the total amount of \$8,320,  
21 Eight Thousand Three Hundred and Twenty Dollars, in full settlement of all OCEF and  
22 Sierra Club's claims for attorneys fees and costs against Maricopa in the prosecution of

1 this matter through the date of entry of this Settlement Agreement by the Court. The  
2 payment shall be made within 30 days of the execution of this Agreement, made payable  
3 to Christopher A. Sproul, Esq. and transmitted to the following address:

4 Christopher A. Sproul  
5 Environmental Advocates  
6 Building 1004B O'Reilly Avenue  
7 San Francisco, California 94129

8 21. Maricopa shall bear its own attorney's fees and costs incurred in this  
9 matter.

10 22. Nothing herein shall preclude OCEF, Sierra Club or Maricopa from seeking  
11 attorney's fees and costs in any action to enforce the terms of this Agreement or Order  
12 issued pursuant thereto, if otherwise entitled to such fees and costs under applicable law.

13 23. Notices required to be given to and documents required to be transmitted to  
14 OCEF and Sierra Club, pursuant to this agreement shall be to sent to the following  
15 addresses:

16 Michael A. Costa  
17 Our Children's Earth Foundation  
18 915 Cole St., Suite #248  
19 San Francisco, California 94117

20 Sandy Bahr  
21 Sierra Club, Grand Canyon Chapter  
22 202 East McDowell Rd., Suite 277  
Phoenix, Arizona 85004

23 24. The Parties agree that pursuant to A.R.S. section 12-2021, the Court shall  
24 issue an order for a writ which incorporates this Settlement Agreement. The Court shall  
25 not, however, enter a final judgment at this time, but shall retain jurisdiction solely to

1 enforce the performance of the Settlement Agreement. At such time as the terms of the  
2 Settlement Agreement are completed, the Court upon stipulation of the Parties, or upon  
3 motion by one of the parties, shall enter a final disposition which dismisses this action in  
4 its entirety and terminate this Settlement Agreement.

5 25. Maricopa denies the validity of the allegations described herein. This  
6 agreement constitutes no admission of liability or wrongdoing whatsoever, and is being  
7 entered into solely to avoid the costs of litigation.

8 26. This Agreement settles and completely resolves, as of the date below  
9 signed, any alleged violations, known or unknown, of any federal, state or local law  
10 arising out of the same transactional nucleus of facts set forth in the complaint in this  
11 matter as the basis for the claims in this case.

12 27. Each of the Parties hereto has the power and authority to enter into this  
13 Settlement Agreement, and does so freely and voluntarily, without duress or coercion.

14  
15  
16  
17  
18  
19  
20  
21  
22

1

2           28. Each signatory to this Settlement Agreement certifies that he or she is fully  
 3 authorized by the party he or she represents to enter into this Settlement Agreement, to  
 4 execute it on behalf of the party represented and legally to bind that party. The parties  
 5 consent to the form, substance and entry of the foregoing Settlement Agreement.

6

7           DATED AND ENTERED THIS 16<sup>th</sup> DAY OF June, 2003

8

JOHN A. BUTTRICK  
 JUDGE OF THE SUPERIOR COURT

9

\_\_\_\_\_  
 Judge of the  
 Maricopa County Superior Court

10

11

IT IS SO STIPULATED:

12

RESPONDENTS MARICOPA COUNTY ex rel., ALBERT BROWN,  
 13 ENVIRONMENTAL SERVICES DEPARTMENT DIRECTOR

14

Dated: 5-27-03

Albert Brown

15

Albert Brown, Director  
 Maricopa County Environmental  
 Services Department

16

17

Dated: 5/23/03

DAN Brenden

18

Daniel R. Brenden  
 Deputy County Attorney  
 County of Maricopa

19

20

21

22

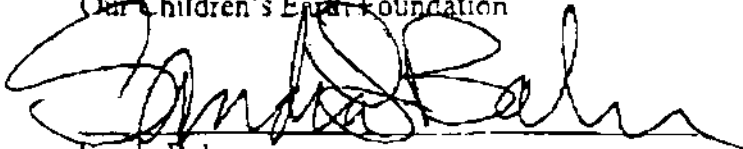
1 OUR CHILDREN'S EARTH FOUNDATION AND SIERRA CLUB

2 Dated: 5/14/2003



3 Tiffany Schauer, Executive Director  
4 Our Children's Earth Foundation

5 Dated: 05/07/03



6 Sandy Bahr  
7 Sierra Club, Grand Canyon Chapter

8 Dated: 5/23/03



9 Vera Kornylak  
10 Attorney for Petitioners Our Children's Earth  
11 Foundation and Sierra Club  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**Appendix F - PERMIT ISSUANCE TABLES 1 TO 4**

**Table 1. Maricopa Initial<sup>1</sup> Title V Permit Issuance Status**

<b>Number</b>	<b>Facility Name</b>	<b>Permit Issuance Status</b>
1	All American Pipeline	Issued, 8/17/99
2	Arizona Public Service, Ocotillo Power Plant	Issued, 7/27/00
3	Arizona Public Service, West Phoenix Power Plant	Issued, 6/30/02
4	Aspen Furniture II	Facility Shutdown
5	BF Goodrich Aerospace	Issued, 8/30/04
6	Boeing	Synthetic Minor <sup>2</sup>
7	Butterfield Station Landfill	Issued, 10/27/03
8	City of Glendale Municipal Landfill	Issued, 4/22/03
9	City of Phoenix Skunk Creek Landfill	Issued, 2/28/03
10	City of Phoenix Twenty-Seventh Ave. Landfill	Issued, 5/29/03
11	City of Phoenix Twenty-Third Ave. Waste Water Treatment Plant	Synthetic Minor <sup>2</sup>
12	Desert Sun Fiberglass	Issued, 3/05/03
13	El Paso Natural Gas	Issued, 8/16/01
14	Flexfoam	Synthetic Minor <sup>2</sup>
15	Health Factors International	Synthetic Minor <sup>2</sup>
16	Honeywell	Unissued
17	ISOLA Laminates	Issued, 11/10/03
18	L&M Laminates	Issued, 3/07/03
19	Luke Air Force Base	Issued, 9/02/04
20	MAAX (Coleman) Spas	Issued, 4/25/03
21	Marlam	Issued, 5/14/03

<sup>1</sup> “Initial permits” refers to existing Title V sources in Maricopa County at the time of Maricopa’s program approval

<sup>2</sup> “Synthetic Minor” refers to existing sources which submitted an application for a Title V permit but which later withdrew their applications in favor of a non-title V permit application which limited the sources’ potential to emit below Title V permitting levels.



22	Mastercraft	Unissued
23	Mesa Fully Formed	Issued, 11/30/02
24	Motorola, Mesa Facility	Facility Shutdown
25	Northwest Regional Landfill	Issued, 10/27/03
26	Palo Verde Nuclear Gen. Station	Synthetic Minor <sup>2</sup>
27	Penn Racquet Sports	Issued, 1/15/99
28	Phoenician Resort	Synthetic Minor <sup>2</sup>
29	Phoenix Brick	Unissued
30	REXAM Beverage Cans	Issued, 4/12/04
31	Salt River Project, Agua Fria	Issued, 1/05/00
32	Salt River Project, Kyrene	Issued, 1/30/99
33	Salt River Project, Santan Generating Station	Issued, 9/30/99
34	Santa Fe Pacific Pipeline	Issued, 8/21/01
35	Sea Ray Boats	Facility Shutdown
36	Trendwood Furniture (15 <sup>th</sup> Ave. facility)	Issued, 9/30/02
37	Wincup	Unissued
38	Woodcase Cabinets	Unissued
39	Woodstuff (1635 S 43 <sup>rd</sup> Ave)	Issued, 8/20/04
40	WR Meadows	Issued, 6/07/04
<b>Totals</b>	<b>40 Sources</b>	<b>26 issued, 5 Unissued 3 Facility Shutdowns, 6 Synthetic Minor<sup>2</sup></b>

**Table 2. MCESD Sources Which Became Subject to Title V after Portions of Maricopa County were Redesignated to Serious Non-Attainment for Ozone in 1997**

<b>Number</b>	<b>Facility Name</b>	<b>Permit Issuance Status</b>
1	A F Lorts Furniture	Unissued
2	Eagle Industries (601 South 65 <sup>th</sup> Ave)	Issued, 9/30/02
3	Empire Machinery	Synthetic Minor <sup>2</sup>
4	Legends Furniture	Issued, 9/29/04
5	Oak Canyon	Unissued
6	Oakcraft	Issued, 10/05/04
7	Premier Insulfoam	Unissued
8	Super Radiator Coils	Issued, 1/12/00
9	Thornwood Furniture	Unissued
10	Trendwood Furniture (University Facility)	Issued, 9/30/02
11	United Dairymen	Synthetic Minor <sup>2</sup>
<b>Totals</b>	<b>11 Sources</b>	<b>5 issued, 2 Synthetic Minor, 4 Unissued</b>

**Table 3. Maricopa Integrated Title V/NSR Permit Issuance for New Sources**

<b>Number</b>	<b>Facility Name</b>	<b>Permit Issuance Status</b>
1	Allied Waste, Southwest Regional Landfill	Issued, 9/20/99
2	Arizona Public Service, Redhawk Generating Station	Issued 12/30/00
3	Continental Waste Industries, Gila Bend Municipal Landfill <sup>3</sup>	Issued, 5/6/98
4	Duke Energy Arlington Valley Energy Facility	Issued, 12/14/00
5	Gila Bend Power Partners, Gila Bend Power Generation Station <sup>3</sup>	Issued, 5/9/02
6	Panda Gila River Power Plant	Issued, 2/23/01
7	Pacific Gas and Electric, Harquahala Generating Station	Issued, 2/15/01
8	Sempra, Mesquite Generating Station	Issued, 3/22/01
<b>Totals</b>	<b>8 sources</b>	<b>8 permits Issued</b>

**Table 4. Maricopa Permit Issuance by Year**

<b>Year</b>	<b>Initial Title V permits Issued</b>	<b>Integrated NSR/Title V Permits Issued to New Sources</b>
1996	0	0
1997	0	0
1998	0	1
1999	4	1
2000	3	2
2001	2	3
2002	5	1
2003	10	0
2004	7	0

---

<sup>3</sup> This source never constructed

**Appendix G - MCESD'S CURRENT RECORDS RETENTION POLICY**

# RECORDS RETENTION AND DISPOSITION SCHEDULE

PAGE 6 of 8

State Agency Password	Political Subdivision <b>Maricopa County</b>	Agency Name <b>Environmental Services Department</b>
-----------------------	---	---

Org. Unit/Division <b>All Divisions</b>	Office
--	--------

This schedule applies to all records created, received, maintained, transmitted, or disseminated by the agency, regardless of format, medium, or location. It does not apply to records that are exempt from public release under the Arizona Freedom of Information Act, or to records that are otherwise exempt from public release. The records retention schedule is subject to change without notice. The records management division has the authority to suspend or terminate this schedule.

No.	RECORDS SERIES	R S Code	RETENTION (YR.)			REMARKS (Include start point of retention.)
			Off.	R.C.	Total	
a.	companies) Source Documents		1 mo	-	1 mo	After final approval/electronic media verified in accordance to <i>State of Arizona Request for Imaging Microform Utilization</i> form.
b.	Electronic Media		-	-	-	After superseded or facility closed.
58.	<b>Water System Operations Records:</b>					
a.	Chemical Reports		10	-	10	After calendar year prepared.
b.	Correspondence		5	-	5	After calendar year prepared or received.
c.	Inspection Reports		5	-	5	After calendar year prepared.
d.	Bacteriological & Turbidity Reports		1	-	1	After calendar year prepared.
e.	Sanitary Surveys (approvals & enf. actions)		10	-	10	After calendar year prepared.
f.	Variances and Exemptions		5	-	5	After expired.
	<b><u>Air Pollution</u></b>					
59.	Air Pollution Control Subscription Receipts & Spreadsheet Regulations		2	-	2	After calendar year prepared.
60.	Air Pollution File Review Requests		2	-	2	After month prepared.
61.	Asbestos case files (including case related notification forms, inspections, NOV & CSN forms, citizen complaints department reports, facility correspondence, analytical results, abatements & settlements, chain of custody forms, photographs, certified mail receipts, maps, diagrams and samples.		5	-	5	After issued.
a.	Notification Forms and Samples (non-case related)		2	-	2	After received
b.	Monthly Summary Reports		3	-	3	After prepared
62.	Burning Permit Applications		2	-	2	After expired.
a.	Fireplace Application		2	-	2	After received
b.	Fireplace Application - EPA approved		10	-	10	After received
63.	Earth Moving Permit (including applications, inspection reports, letter of close-out, receipts and notification block permits)		2	-	2	After issued.
a.	NOV & CSN		5	-	5	After closed
b.	Statements and/or abatements		5	-	5	After closed
c.	60 day letters		5	-	5	After issued.

# RECORDS RETENTION AND DISPOSITION SCHEDULE

PAGE 7 of 8

State Agency Password	Political Subdivision <b>Maricopa County</b>	Agency Name <b>Environmental Services Department</b>			
Org. Unit/Division <b>All Divisions</b>	Office				
No.      RECORDS SERIES      R.S. Code      RETENTION (YR.) Off      R.C.      Total      REMARKS (Include start point of retention.)					
64.	Engineers' Drawings necessary for inspection	5	-	5	After prepared. (retain in source files)
65.	Equipment Inventories	-	-	-	After superseded.
66.	Emission Inventories	5	-	5	After received.
67.	Facility Profiles	2	-	2	After prepared.
68.	Federally Funded Programs & Supplemental Grants (division copies)	3	-	3	After submitted.
69.	Five Year Permit Application for Sources	5	-	5	After issued.
70.	Initial Five Year Permit for Sources, RACT/ BACT/LAER/PSD/NSR determinations AIRS & Non-AIRS Sources	-	-	-	Retain for historical reference per EPA.
71.	Minutes, Air Pollution Hearing Board (official copies)	5	-	5	After calendar year prepared. Transfer to State Archives when volume justifies.
72.	Notice of Violation/Citation Logs (electronic media)	Perm	-	Perm	Permanently
73.	Public Notices	3	-	3	After published/posted.
74.	Source Files (including permit applications, conditions and equipment inventories, compliance inspections, NOV & CSN forms, minor and non-minor modifications, correspondence involving establishment, investigation reports, visible emission evaluations-AIRS and Non-AIRS sources, certified mail receipts, maps and diagrams, O&M plans, dust control plans, photographs, abatements and settlements, and MSDS sheets)	5	-	5	After issued.
75.	Source Tests	3	-	3	After performed.
76.	Transcripts of Air Pollution Board Hearings	3	-	3	After case closed.
77.	Vapor Recovery Certifications (Including application, checklist, receipts and certified mail receipts.	5	-	5	After issued.
<b>Food, Food Production &amp; Other Health Code Regulated Businesses</b>					
78.	Closed Establishment Files	3	-	3	After closed.

**Appendix H - SUMMARY OF KEY DOCUMENTS MISSING  
FROM MCESD PERMIT FILES**

Summary of Key Contents Missing from Maricopa's Title V Permit Files<sup>1</sup>

	<b>Final Permit Issued (on or before 6/24/04)<sup>2</sup>?</b>	<b>Title V Final Permit</b>	<b>Signed Cover Page for Final Permit</b>	<b>Letter of Transmittal for Final Permit</b>	<b>Public Notice Documents</b>	<b>Additional Comments</b>
<b>Isola Laminate Systems</b>	Yes	No	No	No	Yes	
<b>Penn Racquet Sports</b>	Yes	No	Yes	No	Yes	The final initial Title V permit was issued 1/15/99. The file contained the cover page for the final initial Title V permit; however, the permit itself was not included. Later versions of the permit are included in the file. However, it is also unclear as to whether the latest version of the permit is in the file.
<b>Rexam Beverage Can Company</b>	Yes	Yes - but date of permit does not match issuance date on cover page	Yes - but issuance date on this page does not match date on permit.	No	No	Final permit is dated 4/24/04, yet the issuance date on the cover page is 4/12/04. These dates do not make sense since the issuance date is earlier than the permit date.



	<b>Final Permit Issued (on or before 6/24/04)<sup>2</sup>?</b>	<b>Title V Final Permit</b>	<b>Signed Cover Page for Final Permit</b>	<b>Letter of Transmittal for Final Permit</b>	<b>Public Notice Documents</b>	<b>Additional Comments</b>
<b>Premier Industries dba Insulfoam</b>	No	N/A - but latest proposed permit received by EPA not in file	N/A	N/A	No - Was in public notice at that time.	The latest proposed permit was received by EPA on 6/17/04, but this version was not in the file. The latest permit in the file was an unsigned, final permit dated September 2000.
<b>Oak Canyon</b>	No	No - no proposed permit in file either.	N/A	N/A	No - only one document : a notice of a public hearing on 10/14/03.	A draft TSD dated 5/28/03 but no permit was in the file. The permit had been proposed to EPA, so a copy of the proposed permit should have been in the file. In addition, a complete set of the public notice documents should be included in the file.
<b>Eagle Industries</b>	Yes	Yes - but date of permit does not match issuance date on cover page.	Yes - but issuance date on this page does not match date on permit.	No	Yes	Final permit is dated 6/25/02, yet the issuance date on the cover page is 9/30/02. The file also contained a proposed permit, dated 9/23/02. This date does not make sense since the issuance date of the final permit is only 7 days later.

	<b>Final Permit Issued (on or before 6/24/04)<sup>2</sup>?</b>	<b>Title V Final Permit</b>	<b>Signed Cover Page for Final Permit</b>	<b>Letter of Transmittal for Final Permit</b>	<b>Public Notice Documents</b>	<b>Additional Comments</b>
<b>Thornwood</b>	No	N/A	N/A	N/A	No	EPA's 45-day review began 6/17/04. The permit was public noticed, yet the file did not contain any public notice documents.
<b>Phoenix Brick</b>	No	N/A	N/A	N/A	N/A	
<b>Goodrich</b>	No	N/A	N/A	N/A	No	EPA's 45-day review began 6/11/04. The permit was public noticed, yet the file did not contain any public notice documents.
<b>APS West Phoenix</b>	Yes	Yes - but dates of permit do not match issuance date on cover page. The permit has two different dates.	Yes - but issuance date on this page does not match dates on permit.	No	Yes	The first page of the permit conditions was dated 3/14/02. All other permit condition pages were dated 6/15/01. The issuance date on the cover page was 6/30/02.
<b>Wincup</b>	No	N/A	N/A	N/A	No	EPA's 45-day review period began on 5/17/04. So the permit should have already been public noticed. However, there are no public notice documents in the file.

1. In a letter dated June 10, 2004, EPA requested from MCESD copies of the complete files of eleven Title V permits. The eleven Title V sources were named specifically in the letter and comprise the left-hand column of this table.
2. EPA received the eleven Title V permit files from MCESD on June 28, 2004. In the letter of June 10, 2004, EPA requested that MCESD send the eleven files so that EPA would receive the package by June 24, 2004. For the purposes of this table, the earlier date will be used as a basis to determine whether final permit documents should have been a part of the file.