

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112(A) OR (B)

NOTICE OF PROPOSED RULE ADOPTED PURSUANT TO A.R.S. § 49-112 (A) OR (B)

Pima County

Department of Environmental Quality

1. Heading and number of the proposed rule, ordinance, or other regulations:

Deletion of rules: 7.03.030, 7.03.040, 7.03.050, 7.03.060, 7.03.070, 7.03.080, 7.03.090, 7.03.100, 7.03.110, 7.05.010, 7.05.010, 7.05.020, 7.05.030, 7.05.040, 7.05.060, 7.05.070, 7.13.010, 7.13.020, 7.13.030, 7.21.180, 7.37.070, and 7.45.050.
New Rule: 7.09.015, Incorporated by Reference (relating to hazardous waste generators)
New Rule: 7.09.055, Alternate Registration Information (relating to hazardous waste generators)
New Rule: 7.21.015, Incorporated by Reference (relating to liquid waste)
New Rule: 7.21.039, Fees for Approval to Construct (relating to liquid waste)
New Rule: 7.29.070, Operating Permit (relating to solid waste)
New Rule: 7.29.080, Fees (relating to solid waste)
Revisions to general rules and definitions: 7.03.010, 7.03.020, 7.21.020, 7.21.080, 7.25.010, and 7.29.020
Revisions to appeals and hearing procedures rules: 7.03.140 and 7.09.130
Revisions to enforcement and penalties rules: 7.09.110, 7.09.120, and 7.37.050
Revisions to Hazardous Waste Management Fund and Environmental Hazard Mitigation Fund rules: 7.09.105 and 7.17.010
Revisions to minimum design criteria for on-site disposal systems rule: 7.21.035
Revisions to operate permit and license rules for septic tank cleaners and industrial waste haulers: 7.21.150, 7.21.160, 7.21.170, 7.21.190, and 7.21.210
Revisions to prohibited practices for used oil rule: 7.31.020
Revisions to water potability rules: 7.37.010, 7.37.030, 7.37.040, and 7.37.060
Revisions to environmental nuisance rules: 7.45.010, 7.45.020, 7.45.040, and 7.45.060
Revisions to abatement of petroleum contaminated soil rule: 7.45.080
Technical and conforming corrections to various rules: 7.03.150

2. Summary of the proposed rules, ordinance, or other regulations

Deletion of rules: 7.03.030, 7.03.040, 7.03.050, 7.03.060, 7.03.070, 7.03.080, 7.03.090, 7.03.100, 7.03.110, 7.05.010, 7.05.010, 7.05.020, 7.05.030, 7.05.040, 7.05.060, 7.05.070, 7.13.010, 7.13.020, 7.13.030, 7.21.180, 7.37.070, and 7.45.050: Pima County is proposing to delete these Sections of law relating to general provisions (7.03), the Hazardous Materials Program (7.05), underground storage tanks (7.13), septic tank cleaners (7.21), water potability (7.37), and environmental nuisances (7.45). Each of these Sections has been challenged pursuant to A.R.S. § 49-112.

New Rule 7.09.015, Incorporated by Reference (relating to hazardous waste generators): Pima County is proposing to adopt by reference portions of the Arizona Revised Statutes (A.R.S.) and the Arizona Administrative Code (A.A.C.) that relate to hazardous waste management.

New Rule 7.09.055, Alternate Registration Information (relating to hazardous waste generators): Pima County is proposing to allow hazardous waste generators to submit information required by the Arizona Department of Environmental Quality (ADEQ) in lieu of specified information for purposes of registration.

New Rule 7.21.015, Incorporated by Reference (relating to liquid waste): Pima County is proposing to adopt by reference portions of the A.R.S. and A.A.C. that relate to subdivisions and sewerage systems.

New Rule 7.21.039, Fees for Approval to Construct (relating to liquid waste): This proposed new rule directs applicants to an earlier Chapter to find the prescribed fees for an approval to construct a sewerage system.

New Rule 7.29.060, Approval to Construct (relating to solid waste): Pima County is proposing to conform its application and review processes for refuse disposal approvals.

New Rule 7.29.070, Operating Permit (relating to solid waste): This proposed new rule directs applicants to an earlier Chapter for information regarding the issuance of operating permits for public and private landfills.

New Rule 7.29.080, Fees (relating to solid waste): This proposed new rule directs applicants to an earlier Chapter to find the prescribed fees for public and private landfill operating permits.

Revisions to general rules and definitions, 7.03.010, 7.03.020, 7.21.020, 7.21.080, 7.25.010, and 7.29.020: Pima County is proposing amendments to its general provisions and to various definitions in order to conform them with similar provisions in the A.R.S. and A.A.C..

Revisions to appeals and hearing procedures rules, 7.03.140 and 7.09.130: Pima County is proposing to stipulate that appeals and hearings be conducted in accordance with ADEQ's Rules of Procedure and the Arizona Administrative Procedures Act.

Revisions to enforcement and penalties rules, 7.09.110, 7.09.120, and 7.37.050: Pima County is proposing to conform its

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enforcement and penalties rules with the A.R.S. and the delegation agreement.

Revisions to Hazardous Waste Management Fund and Environmental Hazard Mitigation Fund rules, 7309.105 and 7.17.010: The proposed amendments to these funds are necessary to A.R.S. § 49-112. For example, a portion of the monies in the Hazardous Waste Management Fund are currently allocated to the Hazardous Materials Education Program (Chapter 7.05), which is proposed for deletion. All expenditures from both funds will still be controlled by the Board of Supervisors.

Revisions to minimum design criteria for on-site disposal systems rule, 7.21.035: Pima County currently specifies design criteria for on-site disposal systems that are in addition to ADEQ's requirements. In response to the challenge pursuant to A.R.S. § 49-112, Pima County is proposing to delete these additional specification.

Revisions to operating permit and license rules for septic tank cleaners and industrial waste haulers: 7.21.150, 7.21.160, 7.21.170, 7.21.190, and 7.21.210: Pima County is proposing to conform its operating permit and license requirements for septic tank cleaners and industrial waste haulers with those stipulated in the A.A.C.

Revisions to prohibited practices for used oil rule, 7.31.020: Pima County is proposing to prohibit the discharge of used oil into any "waters of the state", as ADEQ does.

Revisions to water potability rules, 7.37.010, 7.37.030, 7.37.040, and 7.37.060: Pima County's proposal conforms permitting and enforcement of water systems in Pima County to the A.A.C. and deletes Pima County's current secondary contaminant levels for water quality.

Revisions to environmental nuisance rules, 7.45.010, 7.45.020, 7.45.040, and 7.45.060: Pima County is proposing to conform its environmental nuisance rules to the A.R.S.

Revisions to abatement of petroleum contaminated soil rule, 7.45.080: Pima County is proposing to adopt the new statutory remediation standards for abatement of petroleum-contaminated soil (A.R.S. § 49-152).

Technical and conforming corrections to various rules, 7.03.150: Technical and conforming changes include correcting errors and adding or deleting text to conform supporting Sections changes described above.

3. A demonstration of the grounds and evidence of compliance with A.R.S. 49-112(A) or A.R.S. 49-112(B)

Based on information and belief, the Pima County Department of Environmental Quality affirms the following:

- A. Pima County is in compliance with A.R.S. § 49-112(A) in that Pima County Department of Environmental Quality is proposing to adopt rules that are not more stringent than nor are they in addition to any applicable provisions of A.R.S. Title 49 or adopted by the Director of ADEQ or any Board or Commission authorized to adopt these rules pursuant to A.R.S. Title 49.
- B. Pima County is in compliance with A.R.S. § 49-112(B) in that Pima County Department of Environmental Quality is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rule adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49. The cost of obtaining permits or other approvals from Pima County will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under A.R.S. Title 49. If the state has not adopted a fee or tax for similar permits or approvals, Pima County fees do not exceed the reasonable costs of the county to issue and administer that permit or plan approval program. A report on costs and fees is also available.

4. Name and address of the person to whom persons may address questions or comments

Name: Richard Grimaldi, Technical Services Manager
Address: Pima County Department of Environmental Quality
130 West Congress, Third Floor
Tucson, Arizona 85701-1317
Telephone: (602) 740-3340
Fax: (602) 882-7709

5. Where persons may obtain a full copy of the proposed rules, ordinance, or other regulations

Name: Pima County Department of Environmental Quality
Address: 130 West Congress, Third Floor
Tucson, Arizona 85701-1317
Telephone: (602) 740-3340
Fax: (602) 882-7709

Note: Copies of the proposed ordinance are also available at all Tucson-Pima County Public Libraries. Pima County Department of Environmental Quality has scheduled a series of workshops to answer any questions regarding the proposed changes.

All interested persons may submit written comments on the summary of the proposed rules, the proposed rules, ordinance or regulations, and the written demonstration described above within 30 days of the publication in the *Register*.

**NOTICE OF PUBLIC WORKSHOP
Pursuant To A.R.S. 49-112(A) or (B)**

**Pima County
Department of Environmental Quality**

1. Heading and number of the proposed rules, ordinance, or other regulations that are the subject of this public workshop

Deletion of rules: 7.03.030, 7.03.040, 7.03.050, 7.03.060, 7.03.070, 7.03.080, 7.03.090, 7.03.100, 7.03.110, 7.05.010, 7.05.020, 7.05.030, 7.05.040, 7.05.060, 7.05.070, 7.13.010, 7.13.020, 7.13.030, 7.21.180, 7.37.070, and 7.45.050.
New Rule: 7.09.015, Incorporated by Reference (relating to hazardous waste generators)
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Revisions to prohibited practices for used oil rule: 7.31.020
Revisions to water potability rules: 7.37.010, 7.37.030, 7.37.040, and 7.37.060
Revisions to environmental nuisance rules: 7.45.010, 7.45.020, 7.45.040, and 7.45.060
Revisions to abatement of petroleum contaminated soil rule: 7.45.080
Technical and conforming corrections to various rules: 7.03.150

2. Date, time, and location of each public workshop scheduled

Title 17 Public Workshop:

Date: February 7, 1996
Time: 10 a.m.
Location: Tucson Public Library
101 North Stone Avenue, Main Site, Lower Level
Tucson, Arizona 85701

Board of Supervisors Hearing:

Date: May 14, 1996
Time: 9 a.m. or thereafter
Location: Pima County Board of Supervisors Public Hearing Room
110 West Congress, First Floor
Tucson, Arizona 85701

3. County personnel to whom questions and comments may be addressed

Name: Richard Grimaldi, Technical Services Manager
Address: Pima County Department of Environmental Quality
130 West Congress, Third Floor
Tucson, Arizona 85701-1317
Telephone: (602) 740-3340
Fax: (602) 882-7709

4. Any other pertinent information concerning the above described rules, ordinance, or other regulations

Pima County Department of Environmental Quality (PDEQ) is proposing amendments to the Pima County Code, Title 7, Environmental Quality. The proposed ordinance amendments address the challenges filed pursuant to A.R.S. § 49-112 and make technical and conforming corrections.

The current staff recommendations to the Board of Supervisors, as drafted in proposed ordinance amendments and supporting documents, conforms most provisions of county ordinance to corresponding ADEQ rules, except for fees. Technical justification (findings) is available supporting those provisions which are proposed to continue to differ from corresponding ADEQ rules. The options available to the Pima County Board of Supervisors include:

- Adopting staff recommendation, as modified based on public comment, conforming various Title 7 ordinance provisions to ADEQ rules, and maintaining certain other provisions based on findings;

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- Supplementing or revising the support documents and findings in response to public comment or further investigation;
- Rejecting all findings and conforming all challenged provisions to corresponding state rules;
- Finding that Title 7, as currently adopted, conforms to the requirements to A.R.S. § 49-112, rejecting the challenges to Title 7, and making no amendments to Title 7 with respect to conformance with ADEQ rules;
- Accepting or rejecting, in whole or in part, the challenges filed against Title 7 pursuant to A.R.S. § 49-112; or
- Any combination of the above actions.

Also, please refer to the Notice of Proposed Rule, Ordinance, or other Regulation Adopted pursuant to A.R.S. § 49-112(A) or (B).

Pursuant to A.R.S. § 49-112(D)(4), the county shall publish the notice of public hearing at least 20 days before the hearing.

NOTICE OF PROPOSED RULE ADOPTED PURSUANT TO A.R.S. § 49-112 (A) OR (B)

Pima County
Department of Environmental Quality

1. Heading and number of the proposed rule, ordinance, or other regulations:

Deletion of classification of portable sources rule: 17.16.440
New Rule: 17.16.645, Effective Date (relating to the administration and enforcement of the hazardous air pollutant program)
Revisions to various definitions: 17.04.340
Revisions to odor limiting rule: 17.16.030
Revisions to standards of performance for storage vessels for petroleum liquids rule: 17.16.230
Revisions to organic solvents and other organic materials rule: 17.16.400
Revisions to New Source Review rules: 17.16.550
Technical and conforming corrections to various rules.

2. Summary of the proposed rules, ordinance, or other regulations

Deletion of classification of portable sources rule: 17.06.440

The state rule that corresponds to this Pima County rule relates to mobile sources rather than portable sources. Since Pima County does not have jurisdiction over mobile sources, this rule is proposed for deletion.

New Rule: 17.16.645, Effective Date (relating to the administration and enforcement of the hazardous air pollutant program)

Pima County is proposing to add a delayed effective date for the administration and enforcement of the state and federal hazardous air pollutant programs. This new rule will bring Pima County's rules into conformance with Laws 1995, Ch. 233, which delayed the county's authority to administer and enforce these programs.

Revisions to various definitions: 17.04.340

Pima County is proposing to amend challenged definitions to conform to the Arizona Revised Statutes (A.R.S.) or the Administrative Code (A.A.C.), whichever is appropriate. The definitions of "petroleum products" and "spot painting" are proposed for deletion since there are no corresponding definitions in state law.

Revisions to odor limiting rule: 17.06.030

Pima County is proposing to amend this Section to conform with the A.A.C.

Revisions to standards of performance for storage vessels for petroleum liquids rule: 17.16.230

Pima County is proposing to amend this Section to conform with the A.A.C.

Revisions to organic solvents and other organic materials rule: 17.16.400

Pima County is proposing to amend this Section to conform with the A.A.C.

Revisions to New Source Review rules: 17.16.550

Pima County is proposing to incorporate by reference ADEQ's definition of "major source" for purposes of the NSR rules.

Technical and conforming corrections to various rules:

Technical and conforming changes include correcting errors and adding or deleting text to conform supporting selections to changes described above.

3. A demonstration of the grounds and evidence of compliance with A.R.S. 49-112(A) or A.R.S. 49-112(B)

Based on information and belief, the Pima County Department of Environmental Quality affirms the following:

- A. Pima County is in compliance with A.R.S. § 49-112(A) in that Pima County Department of Environmental Quality is proposing to adopt rules that are not more stringent than nor are they in addition to any applicable provisions of A.R.S. Title 49 or adopted by the Director of ADEQ or any Board or Commission authorized to adopt these rules pursuant to A.R.S. Title 49.

Pima County received a petition pursuant to A.R.S. § 49-112 from the Society for Environmental Truth ("SET") on November 7, 1994. The petition challenged numerous provisions of Title 17 of the Pima County Code, relating to air quality control. Following receipt of that petition, the county began the process of amending Title 17 to conform certain provisions to similar state regulations and making the required written demonstration for those provisions which remained stricter than state rules.

On June 29, 1995, Pima County received further petitions challenging provisions of Title 17 from the Arizona Rock Products Association ("ARPA"), the Arizona Chamber of Commerce ("ACC") and the Arizona Mining Association ("AMA"). On June 30, 1995, Pima County received a petition challenging certain provisions of Title 17 from Arizona Portland Cement ("APC"). These petitions challenged some of the same provisions which the November 7, 1994, SET petition also challenged.

On November 14, 1995, the Board of Supervisors approved the amendments to Title 17 and the written demonstration of compliance with A.R.S. § 49-112.

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Pima County retained more stringent regulations governing activity permits for land clearing and earthmoving activities (17.12.470) and visibility-limiting standards (17.16.050). The written demonstration adopted November 14, 1995, established that Pima County complied with the requirements of A.R.S. § 49-112(B) for fees charged by Pima County. The petitions filed by ARPA, ACC, and AMA also challenge these same provisions.

Pima County's written demonstration meets the requirements of A.R.S. § 49-112. Pima County has established that its more stringent rules for activity permits and visibility are necessary to address a peculiar local condition. Pima County has established that there is credible evidence that the activity permit and visibility rules are necessary to address a significant threat to health and the environment and that the rules are required by federal law and regulations. Pima County's written demonstration illustrated that county fees did not exceed the costs to the county in administering the air quality provisions at issue. The ordinance amendments and written demonstration were noticed in accordance with the procedures set forth in A.R.S. § 49-112(D).

The written demonstration was completed and adopted within 1 year of the June 29, 1995, and June 30, 1995, petitions. Pima County, therefore, has met the requirements of A.R.S. § 49-112 and the Board of Supervisors does not need to take further action in relation to those provisions of Title 17 addressed in the written demonstration adopted November 14, 1995.

- B. Pima County is in compliance with A.R.S. § 49-112(B) in that Pima County Department of Environmental Quality is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rule adopted by the Director of ADEQ or any Board or Commission authorized to adopt these rules pursuant to A.R.S. Title 49. The cost of obtaining permits or other approvals from Pima County will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under A.R.S. Title 49. If the state has not adopted a fee or tax for similar permits or approvals, Pima County fees do not exceed the reasonable costs of the county is to issue and administer that permit or plan

4. Name and address of the person to whom persons may address questions or comments

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Address: Pima County Department of Environmental Quality
130 West Congress, Third Floor
Tucson, Arizona 85701-1317
Telephone: (602) 740-3340
Fax: (602) 882-7709

5. Where persons may obtain a full copy of the proposed rules, ordinance, or other regulations

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Tucson, Arizona 85701-1317
Telephone: (602) 740 3340
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Note: Copies of the proposed ordinance are also available at all Tucson-Pima County Public Libraries. Pima County Department of Environmental Quality has scheduled a series of workshops to answer any questions regarding the proposed changes.

All interested persons may submit written comments on the summary of the proposed rules, the proposed rules, ordinance or regulations, and the written demonstration described above within 30 days of the publication in the *Register*.

**NOTICE OF PUBLIC WORKSHOP
Pursuant To A.R.S. 49-112(A) or (B)**

**Pima County
Department of Environmental Quality**

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Revisions to organic solvents and other organic materials rule: 17.16.400
Revisions to New Source Review rules: 17.16.550
Technical and conforming corrections to various rules.

2. Date, time, and location of each public workshop scheduled

Title 17 Public Workshop:

Date: February 7, 1996
Time: 10 a.m.
Location: Tucson Public Library
101 North Stone Avenue, Main Site, Lower Level
Tucson, Arizona 85701

Board of Supervisors Hearing:

Date: May 14, 1996
Time: 9 a.m. or thereafter
Location: Pima County Board of Supervisors Public Hearing Room
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4. Any other pertinent information concerning the above described rules, ordinance, or other regulations

Pima County Department of Environmental Quality (PDEQ) is proposing amendments to the Pima County Code, Title 17, Air Quality. The proposed ordinance amendments address the challenges filed pursuant to A.R.S. § 49-112 and make technical and conforming corrections.

The current staff recommendations to the Board of Supervisors, as drafted in proposed ordinance amendments and supporting documents, conforms most provisions of county ordinance to corresponding ADEQ rules, except for fees. Technical justification (findings) is available supporting those provisions which are proposed to continue to differ from corresponding ADEQ rules. The options available to the Pima County Board of Supervisors include:

- Adopting staff recommendation, as modified based on public comment, conforming various Title 17 ordinance provisions to ADEQ rules, and maintaining certain other provisions based on findings;
- Supplementing or revising the support documents and findings in response to public comment or further investigation;
- Rejecting all findings and conforming all challenged provisions to corresponding state rules;
- Finding that Title 17, as currently adopted, conforms to the requirements to A.R.S. § 49-112, rejecting the challenges to Title 17, and making no amendments to Title 17 with respect to conformance with ADEQ rules;
- Accepting or rejecting, in whole or in part, the challenges filed against Title 17 pursuant to A.R.S. § 49-112; or
- Any combination of the above actions.

Also, please refer to the Notice of Proposed Rule, Ordinance, or other Regulation Adopted pursuant to A.R.S. § 49-112(A) or (B).

Pursuant to A.R.S. § 49-112(D)(4), the county shall publish the notice of public hearing at least 20 days before the hearing.