

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

Pinal County Air Quality Control District

COMBINED

NOTICE OF PROPOSED RULE ADOPTION

PURSUANT TO A.R.S. § 49-112(A) OR (B)

AND

NOTICE OF PUBLIC HEARING

PURSUANT TO A.R.S. §§ 49-112(D) AND 49-479(B)

PINAL COUNTY

1. Summary of the proposed rules and rule changes, any of which may be adopted in whole or in part:

- A. Ratification, revision or repeal of each of those Code changes adopted by the Board of Supervisors on May 27, 1997. See 17 A.A.R. 962 (4/24/98) for a description of the proposed changes, all of which were approved at the hearing on May 27, 1998.
- B. Revision of Code § 1-1-105, constituting a policy declaration identifying the other provisions of the Code that should constitute elements of the State Implementation Plan, including, among other changes, designation of the opacity limiting standards in Code Chapter 2, Article 8, as SIP elements.
- C. Revision of Code § 1-1-107, constituting a policy declaration identifying the other provisions of the Code that should constitute elements of the County's Title V permit program.
- D. Adoption-by-reference of the July 1, 1997 versions of the appendices to several of the EPA's air quality regulations. See Code § 1-2-110.5 for a schedule of the affected appendices. This action reflects ADEQ's revisions to A.A.C. Chapter 18, Appendix 2. See 52 A.A.R. 3600 (12/26/97).
- E. Amendment of Code § 3-6-565 to adopt-by-reference EPA-promulgated changes to 40 CFR Parts 72, 74, 75, and 76, which changes were adopted on or before December 31, 1997.
- F. A typographical correction to the paragraph numbering in § 3-2-195 (5/27/98).

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

Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

- A. Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable.
- B. Based on a review of the operating costs of the Pinal County Air Quality Control District, and any reasonable projection of total of revenues resulting from the fees and other charges that would be assessed under any or all of the rule revisions proposed above, the Control Officer finds that there is no real risk that revenues will exceed the cost of program administration. The continuing fee-cap, defined by ADEQ's fee rates, continues to implicitly assure the reasonableness of the County's fees. Thus, implementation of any or all of the rule changes proposed above will still not violate the fee-limitations of either A.R.S. §§ 49-112(A)(3) or 49-112(B).
- C. With the exception addressed in the following subparagraph, all of the changes outlined above constitute rule changes that essentially conform County rules to ADEQ's parallel rules. As such, all of those changes inherently avoid triggering the A.R.S. § 49-112(A) requirement for a demonstration as a precedent to adoption of more stringent or functionally additional rules.
- D. The proposed change to Code § 3-6-565 will invoke December 31, 1997, as the cut-off date for incorporation-by-reference of the EPA's "Acid Rain rules." In contrast, ADEQ's most recent adoption-by-reference invoked a July 1, 1997, cut-off date. See A.A.C. R18-2-333 (Supp. 97-4) for the existing ADEQ rule, and 52 A.A.R. 3600 (12/26/97) for a brief explanation of the substance of ADEQ's additional changes to that rule.

The EPA's latest amendments to the Acid Rain regulations were adopted in October of 1997. Those rules are required as a matter of federal law, and are independently enforceable. Accordingly, maintaining a now-obsolete set of local rules will simply subject affected sources to inconsistent and conflicting requirements, without providing any identifiable benefit.

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The rules in question only affect a single source in Pinal County, and the operator of that facility has expressly requested that Pinal County adopt the later reference date, thereby allowing the facility to benefit from the EPA's latest action.

Notwithstanding the fact that this proposal will adopt a rule that differs from ADEQ's parallel regulatory provision:

- i. Within the meaning of A.R.S. § 49-479(A), the standards embodied in the more recent EPA Acid Rain rules are "equal to" the earlier version of those standards as currently adopted under ADEQ's rules;
- ii. Adoption of the more recent version of the Acid Rain rules will still satisfy the requirements of A.R.S. § 49-112(A), because the more recent EPA Acid Rain rules are not "more stringent than" the version of those standards as currently adopted under ADEQ's rules; and
- iii. Even if this action could be characterized as adopting a rule that is "more stringent than or in addition to" the parallel provision of ADEQ's rules, this action still satisfies the requirements of A.R.S. § 49-112(A) because it is "necessary to address ... [the] peculiar local condition" created by the petition of the sole affected source in the County, and the regulatory provisions in question are in fact "[r]equired under a federal statute or regulation".

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

Name: Donald P. Gabrielson, Director
Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, Arizona 85232
Telephone: (520) 868-6760
Fax: (520) 868-6754

4. Where persons may obtain a full copy of the proposed rule or existing rules:

Name: Pinal County Air Quality Control District
Address: P.O. Box 987
574 South Central
Florence, Arizona 85232
Telephone: (520) 868-6760
Fax: (520) 868-6754

Note - the District has the proposed revisions, as well as supporting materials, available in hard-copy or on disk.

5. Date, time, and location of scheduled public workshops and hearings:

Public Hearing
Date: July 29, 1998
Time: 2 p.m.
Location: Board of Supervisor's Hearing Room, Administration Building No. 1, 31 North Pinal Avenue, Florence, Arizona.
Nature of meeting: Public hearing as an element of the regular meeting of the Pinal County Board of Supervisors, to consider formal adoption of some, all or none of the proposed revisions.