

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

NOTICE OF FINAL RULEMAKING AND NOTICE OF PUBLIC HEARING PURSUANT TO A.R.S. § 49-112(A) OR (B) AND § 49-471.04

PIMA COUNTY CODE
TITLE 17 – AIR QUALITY CONTROL
CHAPTER 12 PERMIT AND PERMIT REVISIONS
CHAPTER 16 EMISSION LIMITING STANDARDS

PREAMBLE

1. Sections Affected

PCC 17.12.470
PCC 17.12.540
PCC 17.16.050

Rulemaking Action

Amend
Amend
Amend

2. The specific authority for the rulemaking:

A.R.S. § 49-112
A.R.S. § 49-424(3)
A.R.S. § 49-479

3. List of all previous notices appearing in the Register addressing the proposed rule or ordinance and a concise explanatory statement:

1. Notice of Proposed Rule, Ordinance or other Regulation Adopted Pursuant to A.R.S. § 49-112(A) or (B): 8 A.A.R. 2484, June 7, 2002
2. Notice of Proposed Rulemaking and Public Hearing Pursuant to A.R.S. § 49-471.04: 8 A.A.R. 2487, June 7, 2002
3. Notice of Public Hearing Pursuant to A.R.S. § 49-112(A) or (B): 8 A.A.R. 2501, June 7, 2002

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

Name: Marian Conrad
Program Coordinator
Address: Pima County DEQ
130 W. Congress
Tucson, AZ 85701
Telephone: (520) 740-3978
Fax: (520) 882-7709

5. An explanation of the rule, including the Control Officer's reasons for initiating the rule:

Pima County experienced six exceedances of the 24-hour National Ambient Air Quality Standard (NAAQS) concentration limit for Particulate Matter 10 microns or less (PM₁₀) during 1999 as recorded by monitors operated by the Pima County Department of Environmental Quality (PDEQ). The number of days with exceedances constituted a violation of the federal PM₁₀ NAAQS. The PDEQ's analysis of wind data and other information indicated that the exceedances were caused by high winds, which transport particulate matter from anthropogenic and non-anthropogenic sources.

On June 12, 2000, PDEQ submitted the analysis entitled "An Analysis of High Wind PM₁₀ Natural Events Contributing to PM₁₀ NAAQS Exceedances and Violation during 1999 in Pima County Arizona, Final Report and Appendices" to the Arizona Department of Environmental Quality (ADEQ) for submittal to U. S. Environmental Protection Agency (EPA). ADEQ requested that the exceedances and resulting NAAQS violation be "flagged" as natural events under the EPA's policy memorandum entitled: Areas Affected by PM 10 Natural Events, addressed to EPA Regional Offices' Air Division Directors on May 31, 1996 (Natural Events Policy). On August 8, 2000 EPA concurred with PDEQ and ADEQ analysis and "flagged" the exceedances.

Pursuant to EPA's Natural Events Policy, PDEQ was required to submit a Natural Events Action Plan (NEAP) to the U.S. Environmental Protection Agency (EPA) by June 23, 2001. Because the exceedances of NAAQS occurred in eastern Pima County, PDEQ's NEAP addresses the portion of the county east of the eastern boundary of the Tohono O'Odham reservation. Key elements of the NEAP are:

1. Establish public notification/education programs where the NAAQS are exceeded;
2. Maintain these programs to minimize public exposure to such events in the future;
3. Abate or minimize appropriate contributing controllable sources using Best Available Control Measures (BACM);
4. Study, identify, and implement practical mitigating measures as necessary; and
5. Re-evaluate conditions on a periodic basis.

On June 23, 2001, PDEQ submitted a NEAP that met the requirements of EPA's natural events policy as indicated in EPA's response on July 9, 2001. The final step in the EPA's natural event policy is implement the NEAP by December 23, 2002. To meet the December 2002 date, Pima County must develop and implement an outreach and education program and adopt BACM for contributing controllable sources of PM₁₀ for eastern Pima County.

In addition to federal requirements, Arizona has developed specific guidelines for the development of plans regarding natural events. Pursuant to Arizona Revised Statutes § 49-424(3), the Arizona Department of Environmental Quality developed Technical Policy 0159.000 (Air Quality Exceptional and Natural Events Policy). This policy "sets forth the requirements and procedures that are to be followed in the event of occurrences of air quality exceptional and natural events in Arizona." Following this policy, PDEQ began a series of stakeholder meetings in June 2001 to discuss the selection of BACM for contributing controllable sources. ADEQ's "Air Quality Exceptional and Natural Events Policy, PM₁₀ Best Available Control Measures" dated June 5, 2001, was the starting point for these discussions.

Based upon stakeholder input and ADEQ's BACM list, a 20% opacity limit for fugitive dust sources and increase activity permit fees to provide additional compliance staff to educate and enforce the new standard was selected as BACM. In the June 5, 2001 ADEQ BACM list, a "20% Opacity Limit for Fugitive Dust Sources" is identified for "Area Source Control Measures." ADEQ identified Maricopa Rule 310 as the origin of this standard. PDEQ researched Maricopa Rule 310 and believes that 20% opacity for fugitive sources is BACM when viewed in conjunction with adequate resources to educate the regulated community and enforce the opacity standard (see August 4, 1997, Federal Register, 41860, Approval and Promulgation of Implementation Plans; Arizona – Maricopa County PM₁₀ Nonattainment Area, Final Rule). PDEQ proposed an increase activity fees to support four additional compliance inspectors who will be assigned to fugitive dust inspections. One additional staff member would be funded through the fees for education and outreach regarding the health impacts of PM₁₀.

Section by Section Analysis

Pima County Code (PCC) 17.12.470 Activity Permits

PDEQ amended the term of activity permits from three months to one year. Based upon stakeholder input, this change will reduce the economic burden placed on permittees by increasing the permit term without having to document the length of the project or requiring more than one permit if the project is not completed within three months or the original contract length. PDEQ believes permit terms longer than one year will not recover sufficient costs to maintain adequate Departmental staffing levels to ensure compliance with the standard. Existing language that requires permittees to notify PDEQ of commencement and completion of the project will remain unchanged, which will provide PDEQ the necessary information to conduct inspections.

Pima County Code (PCC) 17.12.540 Activity Permit Fees

PDEQ amended the activity permit fee schedule to support additional compliance and outreach staff. Adequate Departmental staffing is necessary to meet BACM and the federal NEAP requirements. PDEQ is also proposing to delay implementation of the new fee schedule to allow sufficient time for contractors to modify existing project contracts and allow a transition to provide certainty with respect to fees for future contracts.

Pima County Code (PCC) 17.16.050 Visibility Limiting Standard

PDEQ amended the visibility limiting standard which applies to eastern Pima County as defined as east of the eastern boundary of the Tohono O'Odham reservation. The standard will change the opacity limit from 40% to 20% opacity limit for all fugitive dust sources.

6. A reference to any study that the control officer proposes to rely on in its evaluation for the rulemaking:

Arizona Department of Environmental Quality, Technical Policy 0159.000, Air Quality Exceptional and Natural Events Policy, April 28, 1999

Arizona Department of Environmental Quality, Air Quality Exceptional and Natural Events Policy, PM₁₀ Best Available Control Measures June 5, 2001, June 5, 2001

Arizona Mining Association, Technical Support Document, May 10, 2002

Environmental Protection Agency, Areas Affected by PM-10 Natural Events, May 30, 1996

Environmental Protection Agency, 62 FR 41856, Approval and Promulgation of Implementation Plans: Arizona – Maricopa County PM₁₀ Nonattainment Area, Final Rule, August 4, 1997

EPA 450/2-92-004, Fugitive Dust Background Document and Information Document for Best Available Control Measures, Office of Air and Radiation, February 1992.

EPA-452/R-93-008, Pm-10 Guideline Document, Office of Air and Radiation, April 1993.

Maricopa Association of Governments, Revised MAG 1999 Serious Area Particulate Plan for PM-10 for the Maricopa County Nonattainment Area, Volumes 1-4, February 2000.

Pima County Department of Environmental Quality, An Analysis of High Wind PM₁₀ Natural Events Contributing to PM₁₀ NAAQS Exceedances and Violation during 1999 in Pima County Arizona, Final Report and Appendices, June 12, 2000.

Pima County Department of Environmental Quality, Pima County Natural Events Action Plan for PM₁₀, June 23, 2001.

Pima County Department of Environmental Quality, Draft Technical Support Document, June 7, 2002.

Pima County Department of Environmental Quality, Technical Support Document, Pima County's Written Demonstration for Compliance with Arizona Revised Statute § 49-112 including Pima County's Fee Rationale, Volume I and II, June 1, 1995.

Pima County Department of Environmental Quality, Response to Comments Document, November 2002.

The above-mentioned studies are available to the public for review or to obtain a copy of by contacting Marian Conrad at Pima County Department of Environmental Quality at (520) 740-3978.

7. A demonstration of the grounds and evidence of compliance with A.R.S. § 49-112:

Based on information and belief, the Control Officer of 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 adopted ordinances that are not more stringent than nor are they in addition to any provisions of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49 except for the ordinances specified in (B) of this Section.
- B. Pima County adopted ordinances that are more stringent than or are in addition to any provisions of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49, based on credible evidence that the ordinances are necessary to address a peculiar local condition and that the rules are required by law or are necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and are technically and economically feasible. Pima County adopted amendments to Pima County Code 17.12.470 and 17.16.050 pursuant to a written demonstration under A.R.S. § 49-112.

Pima County has developed a Technical Support Document to accompany the amendments to Pima County Code Title 17. The Technical Support Document contains the written demonstration discussing the peculiar local conditions, significant threat to public health and the environment, and the feasibility of the regulations that support amendments to Pima County Code 17.12.470, Activity Permits and 17.16.050, Visibility Limiting Standard.

Specifically, Pima County has made a finding that:

Pima County experienced six exceedances of the 24-hour National Ambient Air Quality Standard (NAAQS) concentration limit for Particulate Matter 10 microns or less (PM₁₀) during 1999 as recorded by monitors operated by the Pima County Department of Environmental Quality (PDEQ). The number of days with exceedances constituted a violation of the federal PM₁₀ NAAQS. The PDEQ's analysis of wind data and other information

indicated that the exceedances were caused by high winds, which transport particulate matter from anthropogenic and non-anthropogenic sources.

On June 12, 2000, PDEQ submitted the analysis entitled “An Analysis of High Wind PM₁₀ Natural Events Contributing to PM₁₀ NAAQS Exceedances and Violation during 1999 in Pima County Arizona, Final Report and Appendices” to the Arizona Department of Environmental Quality (ADEQ) for submittal to U. S. Environmental Protection Agency (EPA). ADEQ requested that the exceedances and resulting NAAQS violation be “flagged” as natural events under the EPA’s policy memorandum entitled: Areas Affected by PM₁₀ Natural Events, addressed to EPA Regional Offices’ Air Division Directors on May 31, 1996 (Natural Events Policy). On August 8, 2000 EPA concurred with PDEQ and ADEQ analysis and “flagged” the exceedances.

In 1971, the EPA developed the NAAQS for particulate matter (as measured by TSP) based upon air quality criteria that showed an increase in mortality and respiratory illness as well as impacts to property, wildlife, and visibility.

In 1987, the NAAQS changed from the measurement of particulate matter as TSP to Particulate Matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀).

In establishing the PM₁₀ NAAQS, EPA specifically identified elderly persons and persons with pre-existing respiratory or cardiac disease at greatest risk and had hoped to establish a level at which these populations would be protected.

EPA could not find a lower concentration limit for PM₁₀ at which no health impacts would occur. EPA stated that “...in cases such as the present one, the evidence suggests that there is a continuum of effects, with risk of incidence, or severity of harm decreasing, but not necessarily vanishing as the level of pollution is decreased...” (52 FR 24634, July 1, 1987).

Current health literature supports EPA’s position that health effects occur below the NAAQS level for particulate matter.

The NAAQS for particulate matter was violated in Pima County six times in 1999 exposing the population to a significant health threat.

Pursuant to EPA’s Natural Events Policy, PDEQ was required to submit a Natural Events Action Plan (NEAP) to the U.S. Environmental Protection Agency (EPA) by June 23, 2001. Because the exceedances of NAAQS occurred in eastern Pima County, PDEQ’s NEAP addresses the portion of the county east of the eastern boundary of the Tohono O’odham reservation.

On June 23, 2001, PDEQ submitted a NEAP that met the requirements of EPA’s natural events policy as indicated in EPA’s response on July 9, 2001. The final step in the EPA’s natural event policy is implement the NEAP by December 23, 2002. To meet the December 2002 date, Pima County must develop and implement an outreach and education program and adopt Best Available Control Measures (BACM) for contributing controllable sources of PM₁₀ for eastern Pima County.

In addition to federal requirements, Arizona has developed specific guidelines for the development of plans regarding natural events. Pursuant to state law (Arizona Revised Statutes § 49-424(3)), the Arizona Department of Environmental Quality developed Technical Policy 0159.000 (Air Quality Exceptional and Natural Events Policy). This policy “sets forth the requirements and procedures that are to be followed in the event of occurrences of air quality exceptional and natural events in Arizona.” Following this policy, PDEQ began a series of stakeholder meetings in June 2001 to discuss the selection of BACM for contributing controllable sources. The starting point for this analysis is ADEQ’s “Air Quality Exceptional and Natural Events Policy, PM₁₀ Best Available Control Measures” dated June 5, 2001.

Based upon stakeholder input and ADEQ’s BACM list, a 20% opacity limit for fugitive dust sources and increased activity permit fees to provide additional compliance staff to educate and enforce the new standard was selected as BACM. In the June 5, 2001 ADEQ BACM list, a “20% Opacity Limit for Fugitive Dust Sources” is identified for “Area Source Control Measures.” ADEQ identified Maricopa Rule 310 as the origin of this standard. PDEQ researched Maricopa Rule 310 and believes that 20% opacity for fugitive sources is BACM when viewed in conjunction with adequate resources to educate the regulated community and enforce the opacity standard (see August 4, 1997, Federal Register, Approval and Promulgation of Implementation Plans; Arizona – Maricopa County PM₁₀ Nonattainment Area, Final Rule). PDEQ is increasing activity fees to support four additional compliance inspectors who will be assigned to fugitive dust inspections. One additional staff member would be funded through the fees for education and outreach regarding the health impacts of PM₁₀.

Consistent with ADEQ's BACM list and based upon stakeholder input, PDEQ accepted public comment on two alternative proposals regarding the selection of BACM for contributing controllable sources. Pima County adopted the first of the following alternatives:

1. A 20% opacity limit for fugitive dust sources and increase activity permit fees to provide additional compliance staff for education and enforcement of the new standard.
2. A 20% opacity limit for fugitive dust sources, except for coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments, which shall meet a 40% opacity standard and be subject to an approved dust management plan. Activity permit fees would increase to provide additional compliance staff for education and enforcement of the new standard.

Both proposals included the same increase in activity permit fees and the extension of the term of activity permits from three months to one year. A portion of the activity permit fee increase would fund an additional staff member for education and outreach regarding the health impacts of PM₁₀.

Pima County's rule for activity permits and the visibility limiting standard have been in effect since 1978 and thus have not had a significant economic impact on the regulated community including small entities. The opacity standard does not mandate any one control measure but only that fugitive emissions are controlled to prevent emissions from exceeding 20% opacity.

- C. Pima County is in compliance with A.R.S. § 49-112(B) in that Pima County Department of Environmental Quality adopted rules that are as stringent as a provision of A.R.S. Title 49 or a 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 approvals, Pima County fees do not exceed the reasonable cost of the county to issue and administer the permit or plan approval program.

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

Not applicable

9. Summary of the economic, small business, and consumer impact statement:

1. Persons who are affected, bear costs, or directly benefit.

While the rule benefits every citizen in Pima County, it will also distribute compliance costs to the citizens and industry. The new visibility limiting standard applies to everyone. Sources will have to take extra controls at job sites or plants to meet the new standard. Private property owners will also have to implement measures to control fugitive dust that is produced from their vacant lots and unpaved roads, for example. The rule requires compliance of a 20% opacity standard, but it is left up to the sources of the dust to analyze which control measures will work best for them based on technological feasibility and resources they can dedicate to the control measures.

The implementation of activity permit fee increases will affect those who meet the requirements for obtaining a permit based on the type of activity they engage in. The cost burden is based on the size of the project and the type of dust producing activity. Industry and the public are currently required to obtain these permits. Due to the relative nature of the projects that the construction industry engages in the cost burden from the increased fees will be realized more significantly by them.

2. Private and public employment impact

For both the private and public employment sector the implementation of this rulemaking could have an impact. It is possible that the private sector, with the more stringent visibility limiting standard, may require more resources to implement increased controls on dust producing activities.

In the public sector the increased need for additional compliance staff to handle more inspections of sources and complaint responses to ensure the enforcement of this rule making will be realized.

3. Impact on small businesses

Possible costs that a small business would be required to incur for compliance with this rule might include the purchase of additional technology to suppress the dust at the business or during a business activity. Another requirement would be the acquisition of an activity permit during a land clearing, trenching or road construction project that the business may be engaged in. The requirement for an activity permit has been a requirement in Pima County for over twenty years. Activity permits would increase by the amounts set forth in Table 17.12.540.

4. Probable effect on state revenues

Not applicable

5. Less intrusive or less costly alternative methods of achieving the proposed rulemaking.

Based on the requirements of the Natural Events Policy and the Arizona Exceptional Events Policy time constraints were placed upon the department for the implementation of this rule making. The policies clearly outlined the process for selecting Best Available Control Measures (BACM) for Pima County. By deciding on the 20% opacity standard as BACM for Pima County and by allowing individual sources to select their preferred control measures, the department believes that this was the most reasonable alternative available for consideration. The other alternative was to require all businesses to adopt prescriptive measures regardless of economic feasibility for that business. The requirement of 20% opacity and choice on the part of the sources for control measures was the least intrusive and least costly method of achieving the rulemaking.

On the issue of increased activity permit fee increases the department also feels that this was the least costly method for achieving revenue needs for additional dust inspectors. The delayed implementation date for the fees provides for minimal intrusion on the sources as well.

10. The proposed effective date for the rule or ordinance:

Pima County Code 17.12.470 and 17.12.540 will have a delayed effective date of July 1, 2003.

Pima County Code 17.16.050, the Visibility Limiting Standard, will go into effect thirty days after Board adoption.

11. Any other matters prescribed by statute and that are applicable to the county or to any specific rule or ordinance or class of rules or ordinances:

None

12. The full text of the rule follows:

**TITLE 17 OF THE PIMA COUNTY CODE
AIR QUALITY CONTROL
CHAPTER 17.12 PERMIT AND PERMIT REVISIONS**

Article IV. General Provisions

17.12.470 Activity permits.

- A. Except as ~~exempted in Table 17.12.540 as provided in subsection B of this section~~, no person shall conduct, cause or permit allow the use of any equipment for the purpose of land stripping, earthmoving, blasting (except blasting associated with an individual source permit issued for mining), trenching or road construction, or commence demolition or renovation of any structure ~~as shown in Table 17.12.540~~ without first obtaining an activity permit from the control officer.
- B. In the case of an emergency, action may be taken to stabilize the situation before obtaining an activity permit. Upon stabilizing the emergency situation, an activity permit shall be obtained.
- C. ~~The An~~ activity permit shall be is valid for a period of ~~not more than three months~~ one year from the date of issue. ~~The applicant may request a longer term, if the project length specified in a written contract is greater than three months. A copy of the contract shall be provided with the application. Activity permits issued for a period exceeding three months shall expire thirty days after the contract deadline or after one year from date of issuance, whichever is earlier~~
- D. Permittees shall notify the control officer within five working days of the start and completion of the project.
- E. This section shall not apply to sources which obtain a Class I or Class II air quality permit from the Director pursuant to A.R.S. § 49-426 or from the Control Officer pursuant to Section 17.12.140 for any activity allowed by the Class I or Class II permit, except for asbestos NESHAP activities.
- F. Sources are not required to obtain an activity permit pursuant to this section for activities involving asbestos cement pipe; however, such sources shall comply with all other local, state and federal requirements applicable to such materials. (Ord. 2002-108 § 1, 2002_Ord. 1999-11 § 1 (part), 1999; Ord. 1995-87 § 21, 1995; Ord. 1994-83 § 41, 1994; Ord. 1993-128 § 3 (part), 1993; Ord. 1987-75 § 5 (part), 1987)

Article VI. Fees

Pima County Code 17.12.540 Activity Permit Fees.

- A. Refer to Table 17.12.540, Activity Fee Schedules.
- B. The control officer may waive the activity permit fee if all the following apply:
 - 1. the permit is being obtained for cleanup of an illegal dump; and

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2. the illegal dump was caused by a party other than the property owner where the dump is located. ((Ord. 2002-108 § 2, 2002; 1995-87 § 26, 1995; Ord. 1994-83 § 44, 1994; Ord. 1993-128 § 3 (part), 1993)

Table 17.12.540 ACTIVITY PERMIT FEES SCHEDULE			
S.S. ¹	ACTIVITY	RATE COMPONENTS	EXEMPTIONS
A	Landstripping and/or Earthmoving	1 to 5 acres \$89.28 plus \$8.93 per each additional acre or fraction thereof <u>1-2 ACRES \$100.00</u> <u>> 2-10 ACRES \$500.00</u> <u>> 10-40 ACRES \$1,500.00</u> <u>> 40+ ACRES \$3000.00</u>	< 1 acre
B	Trenching	300 feet of aggregate trenching \$17.86 base plus \$0.036 per each additional ft. <u>300-500 FT. \$75.00</u> <u>501-1500 FT. \$200.00</u> <u>1501-5000 FT. \$400.00</u> <u>5001+ FT. \$800.00</u>	< 300 ft.; trenching for landscaping
C	Road Construction	50 ft. of aggregate road construction \$17.86 base plus \$0.09 per each additional ft. <u>50-1000 FT. \$50.00</u> <u>1001-3000 FT. \$250.00</u> <u>3001-6000 FT. \$500.00</u> <u>6001+ FT. \$1000.00</u>	< 50 ft.
D	Activity permit for NESHAP facilities	\$420.00	See Exemption Note
E	Blasting	\$18.00 plus \$3.53 per day of blasting	None

Exemption Note:
 < 260 linear feet on pipes;
 < 160 square feet on other facility components;
 < 35 cubic feet off facility components

Example Permit Fee Calculations

1. Permit for clearing 4 acres: \$89.28

2. Permit for earthmoving on 9 acres:
 First five acres = \$89.28
 Remaining four acres = \$8.93 x 4 = \$35.72
 Total = \$125.00

3. Permit for trenching 500 feet:
 Base fee for the first 300 feet = \$17.86
 Remaining 200 feet = 200 x 0.036 = \$7.20
 Total = \$25.06

¹Sub-schedule for identification only.
 (Ord. 2002-108 § 2, 2002; Ord. 1995-87 § 26, 1995; Ord. 1994-83 § 44, 1994; Ord. 1993-128 § 3 (part), 1993; Ord. 1990-113 § 16, 1990; Ord. 1989-165 § 17 (part), 1989; Ord. 1987-175 § 18, 1987)

Chapter 17.16 Emission Limiting Standards

Article III. Emissions from Existing and New Non-point Sources

17.16.050 Visibility limiting standard.

- A. No person shall cause, suffer, allow or permit operations or activities likely to result in excessive amounts of airborne dust without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.
- B. Except for sources located within the boundaries of the Tohono O'odham, Pasqua-Yaqui and San Xavier Indian Reservations, opacity opacity from an emission from any non-point source ~~shall not be greater than 40 percent~~, as measured in accordance with the Arizona Testing Manual, Reference Method 9-, shall not exceed the following:
 - 1. 20 percent for such non-point sources in eastern Pima County, east of the eastern boundary of the Tohono O'odham Reservation.
 - 2. 40 percent for such non-point sources in all other areas of Pima County.
- C. Open fires permitted according to chapter 17.12 are exempt from the requirements of this section.
- D. No person shall cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne, without taking reasonably necessary and feasible precautions to control generation of airborne particulate matter. Sources may be required to cease temporarily the activity or operation, which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.
 - 1. Sources required to obtain an air quality permit under A.R.S. § 49-426, § 49-480 or Rule 17.12.470 may request to have the actions constituting reasonably necessary and feasible precautions approved and included as permit conditions. Compliance with such permit conditions shall be considered compliance with this subsection.
 - 2. This subsection shall not apply when wind speeds exceed twenty-five miles per hour (using the Beaufort Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.
 - 3. This subsection shall not apply to the generation of airborne particulate matter from undisturbed land. (Ord. 2002-108 § 3, 2002, Ord. 1999-11 § 2 (part), 1999; Ord. 1995-87 § 39, 1995; Ord. 1994-83 § 49, 1994; Ord. 1993-128 § 4 (part), 1993; Ord. 1987-175 § 23, 1987; (Ord. 1979-93 (part), 1979)