

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

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PINAL COUNTY AIR QUALITY CONTROL DISTRICT

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NOTICE OF FINAL RULEMAKING

PINAL COUNTY AIR QUALITY CONTROL DISTRICT CODE OF REGULATIONS

PREAMBLE

1. Sections Affected

§ 3-8-700
§ 3-8-710
Appendix C

Rulemaking Action

Amend
Amend
Amend

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

Authorizing Statutes: Arizona Revised Statutes (A.R.S.) §§ 49-412, 49-479 and 49-501.

A.R.S. § 49-479 allows the Board of Supervisors to adopt rules to regulate air quality, which must be at least as stringent as the rules adopted by the Arizona Department of Environmental Quality (ADEQ).

A.R.S. § 49-112 requires a specific justification for adoption of rules that are “more stringent” or “in addition to” rules adopted by ADEQ.

A.R.S. § 49-501 provides for the conditions regarding unlawful open burning, definition, exceptions, and fines.

3. The effective date of the rules:

April 13, 2004

4. A list of previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening for amendments to Chapter 3, Appendix A, B, and C: Arizona Administrative Register (A.A.R.) Volume 9:20, May 16, 2003, page 1484.

Notice of Proposed Rulemaking - A.A.R. Volume 9:44, October 31, 2003, page 4760 - 4769.

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

Name: Jean Parkinson
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6. An explanation of the rule, including the District's reasons for initiating the rule:

A. Summary: This rule revision amends the existing open burning rules to make them conform to the Regional Haze State Implementation Plan requirements of ADEQ and the Environmental Protection Agency (EPA). In addition, these amendments include technical changes to improve the rules' clarity, conciseness, enforceability, and understandability.

- B. Structure of Open Burning Authority: A.R.S. § 49-479 provides the Board of Supervisors with general air quality rule authority, including authority to promulgate rules for open burning permits. A.R.S. § 49-501 adds related authority by excepting from its provisions those open outdoor fires that are permitted by any rule issued pursuant to Chapter 3, Article 8 of the PCAQCD (§§ 3-8-700 and 3-8-710). This independent authority is derived in part from language in § 49-501 (C) (5) specifying that fires permitted pursuant to county rules are excepted from § 49-501. A.R.S. § 49-112 allows a county to adopt a rule that is more stringent than a rule adopted by ADEQ if the rule addresses a peculiar local condition, and is necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition, and is technically and economically feasible, and that any fee adopted under the rule will not exceed the reasonable costs of the county to issue and administer the burn permits. These additional rules are necessary in Pinal County to minimize the environmental and public health impact of burning in the county's extensive rural areas. The new fees adopted under the rule are reasonable to administer the burn permit program for Pinal County and maintain the necessary data base to generate an annual report required by ADEQ on burning activity and provide an emission inventory of open burning emissions. The revenues from the burn permit program are historically inadequate to provide for staff in five locations (Florence, Casa Grande, Eloy, Mammoth, and Apache Junction) to provide public access to the immediate issuance of burn permits.
- C. The rules contains a number of additional definitions which include: agricultural burning, air curtain destructor, approved waste burner, Class I Area, dangerous material, delegated authority, de minimis amount, emission reduction techniques, household waste, prescribed burning, prohibited materials, and residential burning.
- D. The rules also clarified the exemptions requirements of certain fires and a detailed list of information required to be in the open burning permit. The required information is for area source calculations of open burning emissions, and to comply with the Regional Haze Act.
- E. Appendix C - Controlled Open Burning and Earthmoving Fee Schedule was amended to reduce the residential and commercial permit time to a maximum period of one month for emission inventory and reporting requirements. An additional category of burning for training exercises was added to this Appendix. A late filing fee of \$25.00 was added to provide more efficient permit administration. A typographical error was corrected in Appendix C - Earthmoving Fee Schedule by deleting the \$25.00 fee for aggregate trenching of less than 300 linear feet.
- F. Section by Section Explanation of significant proposed changes:
1. § 3-8-700. General Provisions:
 - a. § 3-8-700.A was amended to require adequate fire-fighting materials be available for outdoor disposal or deposition of any non-agricultural materials of 100 cubic yards or greater, which are capable of igniting spontaneously.
 - b. § 3-8-700 B. - The following definitions were added or amended: Agricultural Burning, Air Curtain Destructor, Approved Waste Burner, Class I Area, Control Officer, Dangerous Material, Delegated Authority, De Minimis Amount, Director, Emission Reduction Techniques, Household Waste, Open Outdoor Fire, Prescribed Burning, Prohibited Materials, and Residential Burning.
 - c. § 3-8-700.C was amended to define a recreational purpose fire and requirements for an air curtain destructor.
 - d. § 3-8-700.E was amended to limit the total material being burned and include the requirement of a site map.
 1. § 3-8-700.E.1. b. was amended to require that all waste be generated from the private residence's property. Items i. and ii. were deleted.
 2. § 3-8-700.E. 5. was amended to include a definition for permitted building demolition fires.
 3. § 3-8-700.E. 6. was amended to allow only the ADEQ Director to issue permits for the destruction of dangerous materials.
 4. § 3-8-700.E.7. was added to clarify when an industrial permit will be required for open burning.
 - e. § 3-8-700.F.2. was amended to clarify when open burning shall be extinguished at the discretion of the Control Officer.
 1. The allowable burn times were added.
 2. Wind speed conditions were specified for open burning.
 3. Open burning supervision requirements were added.
 4. Open burning extinguishment requirements were added.
 5. Open burning ignition requirements were added.
 6. Open burning distance requirements were added.

7. Open burning notification requirements were added.
8. Open burning conditions were added.
9. Open burning information requirements were added.
10. Open burning permit notification requirements were added.
- f. § 3-8-700.H. No change - Renumbered
- g. § 3-8-700.I. - Violations statutes were added.
2. § 3-8-710. Permit Provisions and Administration:
 - a. § 3-8-710. A. - Deleted last sentence.
 - b. § 3-8-710. B. - Deleted last phrase in #4.
 - c. § 3-8-710.C. - Deleted regulatory references.
 - d. § 3-8-710.D. - Added Item #5 - training exercise permit.
 - e. § 3-8-710.E. - Added special permit requirements for pyrotechnics.
3. Appendix C. Controlled Open Burning and Earthmoving Fee Schedule
 - a. The maximum time limits for residential and commercial burn permits is 1 month.
 - b. "Training Exercise" Burn permit fee was added for non-governmental agencies.
 - c. The "Destruction of Hazardous Material" category was deleted.
 - d. Increase fees for building demolition by fire from \$50.00 to \$500.00.
 - e. A late filing fee of \$25.00 was added for failure to file a burn permit prior to initiating burning at the site.
 - f. Trenching - delete the "100 to less than 300 linear feet" category and add:

1,001 linear feet to 2,640 linear feet (1/2 mile)	\$150.00*
2,641 linear feet to 5,280 linear feet (1 mile)	\$300.00*
5,281 linear feet to 10,560 linear feet (2 miles)	\$600.00*
10,561 linear feet to 21,120 linear feet (4 miles)	\$1,200.00*
21,121 + linear feet (greater than 4 miles)	\$2,000.00*

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

None, other than the cited statutes and rules.

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

Not applicable

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

Open Burning may be done by many entities for a variety of purposes, such as waste disposal, weed control, site preparation, disease and pest prevention, resource management, training and fire prevention. Unless specifically exempted by this rule, persons setting outdoor fires would have to obtain a permit from PCAQCD. Persons who might be subject to this rule therefore include: individuals, businesses, farms, ranches, orchards, electric generating plants, construction sites, mines, federal sources, state agencies, and political subdivisions.

The PCAQCD issued 2,056 residential burn permits, 81 commercial burn permits, and 90 agricultural burn permits in 2002. This rulemaking process makes necessary changes to be "at least as strict" as ADEQ rules that were changed to comply with the Regional Haze Act. The ADEQ rules were proposed on August 8, 2003 in the Arizona Administrative Register and approved by the Governor's Regulatory Review Council on January 6, 2004, and effective on March 16, 2004. The ADEQ rules incorporate the existing guidance "Arizona Guidelines for Open Burning" and adds additional permit and reporting requirements. PCAQCD expects these rules to create minimal actual impact, such as the costs associated with recordkeeping, documentation, and reporting requirements. PCAQCD will have to maintain copies of effective permits, as well as prepare annual reports for submission to ADEQ. While some of the changes in the rules and Appendix C will generate minimal costs, PCAQCD expects that the overall benefits of an efficient permit administration program and accurate open burning emission inventory will exceed the costs.

These rules involve a reconfiguration of Pinal County's open burning permit fee structure. These permit fee structure changes will benefit the county by facilitating program administration, preventing unauthorized open burning, and documenting all permitted open burning emissions.

The open burning fee revisions will impose additional costs on the regulated entities. However, PCAQCD has no basis to believe that the fee increases will affect either gross business revenues or payroll expenditures of employers,

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

who are subject to the changes. The open burning fee increases do not impact agricultural entities, since the fee and time period has remained the same. The increased fees will have an adverse impact on net revenues of commercial and residential burn applicants, but if they concentrate their burning activities to the minimum amount of days, the impact will be negligible. The late filing fee will allow adequate response to air quality issues and burn complaints by both the air quality staff and the sheriff's deputies, and provide additional revenue for the mandated recordkeeping and reporting requirements. In 2001, the sheriff's department responded to 202 open burning complaints, and the Air Quality staff responded to 69 burn complaints.

The changes will not affect state revenues.

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

Two sections were changed in the Notice of Final Rulemaking: §§ 3-8-700 and 3-8-710. Appendix C was also changed to clarify the types of burn permits available. The residential and commercial burn permits include two additional categories: small scale (less than 10 cubic yards of material) and large scale (more than 10 but less than 20 cubic yards of material). The commercial category was also expanded to include "Land-Clearing Operations." Minor grammatical and style corrections were made to the two sections to conform to the appropriate rulewriting style and numbering. In addition, the two sections were amended to eliminate potential confusion or to clarify requirements. Due to comments at the Public Hearing on December 3, 2003, the approval of the rules was continued until February 11, 2004 by the Pinal County Board of Supervisors, to allow for the necessary changes suggested at the stakeholder meeting, oral proceeding, and public hearing, and to await approval of ADEQ's Unlawful Open Burning Rules by the Governor's Regulatory Review Council on January 6, 2004.

The following typographical errors, corrections to conform with ADEQ Rule 18-2-602, and changes in response to stakeholder comments, were made after the publication in the Arizona Administrative Registrar on October 31, 2003, and were discussed during the November 12, 2003 stakeholder meeting, the November 26, 2003 oral proceeding, and the December 3, 2003 public hearing:

- A. *Table of Contents - Article 8. OPEN BURNING - Changed headings and corrected numbering of subsections and subsequent pages.*
- § 3-8-700 A. General Prohibition - Moved last sentence to § 3-8-710 F. - "Outdoor disposal or deposition of any non-agricultural materials (100 cubic yards or greater) capable of igniting spontaneously, with the exception of fossil fuels (coal), shall not be allowed, without providing adequate fire-fighting materials, such as sand, dirt, or water."*
- B. *§ 3-8-700 B. Agricultural Burning - Delete "waste disposal"*
- § 3-8-700 B. Household Waste - Change "recreations" to "recreational"*
- § 3-8-700 B. Household Waste - Delete "or" after "rubble"*
- C. *§ 3-8-700 C. Exemptions - Delete "(1997 Uniform Fire Code)." Renumbered Subsection C.1. (a through c). Delete § 3-8-700 C.6.*
- D. *§ 3-8-700 E. Permit-Authorized Fires - Delete "the total material being burned does not exceed the de minimis amounts,"*
- § 3-8-700 E. - Add "or household wastes" are burned "(unless otherwise specified)"*
- § 3-8-700.E.1.a. - Add "Generally Allowable Combustible Materials: Fires Residential Fires may be" Add last sentence: "Residential burning must be conducted on a single contiguous property designed for and used exclusively as a private residence."*
- § 3-8-700.E.1.b.- Add "Conditional Approval to Burn Domestic Household Waste"*
- § 3-8-700.E.1.b.- Change "in nonurban areas of less than 100 well-spread out-dwelling units per square mile" to "on farms or ranches of 40 acres or more"*
- § 3-8-700.E.1.b.- Delete "only" and change "refuse" to "waste"*
- § 3-8-700.E.1. b.- Add the following: or fires set for household waste generated on-site, where no household waste collection and disposal service is available, and where the nearest other dwelling unit is at least 50 feet away.*
- § 3-8-700 (E)(1)(b): Add last sentence "Unless a permit is specifically endorsed by the Control Officer to verify that waste pickup service is not available, and to expressly allow burning of domestic household waste, burning of such waste is PROHIBITED."*
- E. *§ 3-8-700.E.1.c. - Add Small Scale Residential Permit: Under a "small scale" residential open burning permit, the quantity of material that may be burned during the one-month permit shall not exceed 10 cubic yards of non-compacted material. A "small scale" residential permit may be renewed on a month-to-month basis, without limitation.*

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

- F. § 3-8-700.E.1.d. - **Add** Large Scale Residential Permit:
Under a "large scale" residential open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" residential permit may only be issued for a single location, defined by assessor's parcel number, twice in a calendar year.
- G. § 3-8-700.E.1.e. - **Add** "Other Residential Fires:
Residential fires involving volumes of material or frequencies beyond that specified in subsection (E) (1) shall be presumed to have a potential to emit air pollutants in excess of the "de minimis amount," and shall require a Class II permit in accordance with the provisions in § 3-1-040.B.2."
- H. § 3-8-700.E.2. - **Delete** first sentence: "~~Fires set....burned.~~"
- § 3-8-700.E.2.a. - **Add** "Generally Allowable Combustible Materials: Commercial Fires may be set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Commercial burning must be conducted on a single contiguous property designed for and used exclusively as a single business."
- § 3-8-700.E.2.b. - **Add** "Small Scale Commercial Permit:
Under a "small scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 10 cubic yards of non-compacted material. A "small scale" commercial permit may be renewed on a month-to-month basis, without limitation."
- § 3-8-700.E.2.c. - **Add** "Large Scale Commercial Permit:
Under a "large scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" commercial permit may only be issued for a single location, defined by assessor's parcel number, twice a calendar year."
- § 3-8-700.E.2.d. - **Add** "Commercial Land Clearing Permit:
1. Open burning activities which include one-time land clearing operations that involve non-compacted vegetative materials greater than allowed above in section 2 a. through 2 c.
 2. and clearing burns may be authorized by written permission from the Control Officer if there is no practical alternative, and if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.
 - i. The applicant shall submit a non-refundable application fee, as specified in Appendix C.
 - ii. The applicant shall pay an additional non-refundable per-acre fee, as also specified in Appendix C.
 - iii. Authorization for the land clearing burn may be revoked by the Control Officer if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.
 - iv. If the permittee wishes to use an air curtain destructor for land clearing, such device should be operated pursuant to the manufacturer's specifications and the following limitations:
 - (a) Air curtain destructors shall not be operated closer than 500 feet from the nearest dwelling.
 - (b) Air curtain destructors must also comply with the applicable requirements of 40 C.F.R. Section 60.2245 to 60.2260.
- § 3-8-700.E.2.e. - **Add** "Other Commercial Fires:
Commercial fires involving volumes of material or frequencies beyond that specified in subsection 2. above shall be presumed to have a potential to emit air pollutants in excess of the "de minimis amount," and shall require a Class II permit in accordance with the provisions in § 3-1-040 B.2.
- I. § 3-8-700.E.5. - **Renumber** "Permitted building-demolition, or building-material demolition fires to #5.
§ 3-8-700.E.5. - **Add** "Building demolition burns may be authorized by written permission from the Control Officer if there is no practical alternative, and if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.
 - a. The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.
 - b. The applicant shall pay an additional permit issuance fee, as also specified in Appendix C."
- J. § 3-8-700.E.6. - **Renumber** "Permitted fires for the destruction of dangerous materials to #6.
§ 3-8-700.E.6. - **Delete** "as permitted in writing by the Director of the Arizona Department of Environmental Quality,"
§ 3-8-700.E.6. - **Eliminate strike out of** "provided that no such permit shall be issued until after an on-site inspection by the District."

Arizona Administrative Register / Secretary of State

County Notices Pursuant to A.R.S. § 49-112

§ 3-8-700.E.6. - **Delete** "Authority for issuance of permits to burn dangerous material shall be retained by the Director and not delegated."

§ 3-8-700.E.6 - **Add** "Fires set for the destruction of dangerous materials shall only be allowed where there is no safe alternative method of disposal, and when the burning of such materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts which will endanger health or safety."

- K. § 3-8-700.E.7- **Delete** first two sentences "Any residential or commercial fires....sensitive receptors."

§ 3-8-700.E.7 - **Add** "Unless specifically authorized under the preceding definitions of permit-authorized fires, fires set for disposal of materials shall be presumed to have a potential to emit greater than "de minimis amounts" of regulated air pollutants and shall require a Class II permit as specified under § 3-1-040.B.2."

- L. § 3-8-700.E.8 - **Add** "Bonfire Permits: Provided no prohibited materials or household wastes, as defined in § 3-8-700 B., are burned; a city, town, county, statutory districts, or other political subdivision established by statute may obtain a no-cost bonfire permit for a community or civic event."

a. A written request from the public entity is required.

b. The quantity of material that may be burned during the permit term shall not exceed 20 cubic yards of non-compacted material.

- M. § 3-8-700.F - **Renumber to § 3-8-700.F.1. and Delete** "Arizona Guidelines for Open Burning, Administrative Register Rule 18-2-602, Unlawful Open Burning,"

§ 3-8-700.F.1. - **Renumber (a through d) and move the following:**

a. When an air stagnation advisory is issued by the Director of ADEQ or the National Weather Service;

b. When an air pollution emergency episode alert, warning, or emergency as required by §§ 2-7-230 to 2-7-270 is declared;

c. During periods of excessive visibility impairment which could adversely affect public safety or impair visibility in Class I areas; or

d. During periods of extreme fire danger, or during periods when smoke is blown into populated areas so as to create a public nuisance.

§ 3-8-700.F.1. - **Renumber #1 through # 10 to § 3-8-700.F.2.a. through § 3-8-700.F.2. i. Add** "All permits shall also contain the following conditions."

§ 3-8-700.F.9. - **Renumber to § 3-8-700.G. and Add** "Permit Reporting Requirements." **Add** "or after the burn permit period ends" **after** "on the day of the fire," **Change** "Director" to "PCAQCD Director/Control Officer" **Add** "prior to April 1" **after** "annual report"

- N. § 3-8-700.G. - **Renumber to § 3-8-700.H. and renumber subparagraphs to § 3-8-700.H.1 to § 3-8-700.H.3.**

§ 3-8-700.G.1. - **Delete** "local officers" and **Add** "delegated authorities as defined in § 3-8-700.B." **Change** "Any" to "Anyone" and **Delete** "local officer"

§ 3-8-700.G.2. - **Delete** "~~under A.R.S. § 49-501~~" in sentence one and two. **Add** "this Code" in sentence two.

§ 3-8-700.G.3. - **Delete** "of" after "County" **Add** "or ADEQ" after "Department" **Add** "or an extension of the burn permits time period."

- O. § 3-8-700.H. - **Renumber to § 3-8-700.I. Delete** "and Limited scope of rule." **and Add** "Failure to obtain a permit, or failure to comply with the conditions of a permit, shall be subject to civil and/or criminal penalties in any of the following statutes: A.R.S. §§ 13-1706, 49-502, 49-511, 49-512, 49-513, or 49-514." **Delete** § 3-8-700.H.1.,2.,and 3.

- P. § 3-8-700.I. **Renumber to § 3-8-700.J. and add** "Limited scope of rule."

Nothing in this rule shall authorize or permit any practice, which is a violation of any statute, ordinance, rule or regulation.

- Q. § 3-8-710.D. **Correct the following typographical errors:**

1. For a residential or commercial permit, not exceed six months one month from the date of issuance.

3. For a demolition permit or a ~~fire~~ destruction of hazardous materials permit, not exceed sixty (60) days.

§ 3-8-710.D. **Add the following:**

6. For a commercial land clearing burn permit, not exceed one month from the date of issuance.

7. For a bonfire, not exceed a permit specified 3-day period.

- R. *Appendix C. Delete “Allowable burn times.....March 31”*
- Appendix C. Change the following residential categories:*
 - B. 31 month small scale permit(10 cubic yards or less) \$5.00*
 - C. 1 month large scale permit (more than 10 but less than 20 cubic yards) \$10.00*
- Appendix C. Change the following commercial categories:*
 - B. 31 month small scale permit (10 cubic yards or less) \$20.00*
 - C. 1 month large scale permit (more than 10 but less than 20 cubic yards) \$35.00*
 - D. Land-Clearing Operations- Non-Refundable Application Fee \$250.00*
 - E. Land-Clearing Operations - Additional Permit-Issue Fee (if permit is approved) \$1.00 per acre*
- Appendix C. Add the following new category:*
- BONFIRES FOR COMMUNITY OR CIVIC EVENTS*
- One Time, 3 Day Permit and less than 20 cubic yards NO FEE*
- Appendix C. Correct the following typographical errors:*
- Building Demolition/Building Material Demolition by Fire*
- B. Additional permit-issue fee (if permit ~~issuance~~ is ~~allowed~~ approved) ~~\$50.00~~200.00*
- Eliminate strikeout of “DESTRUCTION OF HAZARDOUS MATERIAL” and***
- “A. Non-refundable pre-permit inspection fee** \$50.00”*
- and eliminate strikeout and correct “B. Additional permit-issue fee***
- (if permit ~~issuance~~ is ~~allowed~~ approved) ~~\$50.00~~200.00***

11. The full text of the rules follows:

ARTICLE 8. OPEN BURNING

3-8-700. General provisions

- A. General Prohibition.
Notwithstanding the provisions of any other rule in this Chapter, and subject to the exemptions set forth in this section, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow or maintain any open outdoor fire.
- B. Definition.
 - “Agricultural Burning” means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.
 - “Air curtain destructor” means an incineration device which operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs.
 - “Approved Waste Burner” means an incinerator constructed of fire resistant material with a cover or screen, which is closed when in use, having openings in the sides or top no greater than one inch in diameter.
 - “Class I Area” means any one of the Arizona mandatory Federal Class I Areas defined in A.R.S. § 49-401.01.
 - “Control Officer” has the same meaning as in A.R.S. § 49-471.
 - “Date of Issuance” means the actual date that the open burning application is signed by the Control Officer or his/her representative.
 - “Dangerous material” is any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed or otherwise disposed of in a controlled and safe manner.
 - “Delegated authority” means any of the following:
 1. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R.S. § 49-501(E); or
 2. A private fire protection service provider that has been assigned authority to issue open burning permits by one of the authorities in subsection (a).
 - “De Minimis amount” is the lesser of: the potential of a source to emit 1 ton per year of any air pollutant; or the potential of a source to emit 5.5 lbs/day of any air pollutant.
 - “Director” means, for the purpose of this Code Section, the Director of the Department of Environmental Quality, or his/her designee.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

“Effective Date of Permit” is the actual date that open burning operations may commence, which will be no later than 3 days after the “Date of Issuance.”

“Emission reduction techniques” are techniques for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit or area burned.

“Flue”, as used in this rule, means any duct or passage for air, gases or the like, such as a stack or chimney.

“Household waste” means any solid waste including garbage, rubbish and sanitary waste from septic tanks that is generated from households including single and multiple family residences, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas, not including construction debris, landscaping rubble, demolition debris or prohibited materials.

“Open outdoor fire”, as used in this rule, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. Open outdoor fires can include agricultural, residential, commercial, and prescribed burning and fires using air curtain destructors. Purposes for fires can include prevention of a fire hazard, instruction in the methods of fighting fires, watershed rehabilitation, disease, and pest prevention.

“Prescribed burning” means the burning of vegetative material in predominantly undeveloped land to improve forested, open range or watershed condition.

“Prohibited materials” means non-paper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead painted wood; linoleum flooring or composite counter-tops, tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products; such as waste crankcase oil, transmission oil and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners, and solvents, stains and varnishes and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.

“Residential burning” means open burning of vegetative materials that are generated only from that property and conducted by or for the occupants of residential dwellings, but does not include the burning of household waste or prohibited materials.

C. Exemptions.

The following fires are excepted from the provisions of this rule:

1. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals ~~or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.~~
 - a. A Recreational purpose fire is an outdoor fire, which burns materials other than household waste or prohibited materials.
 - b. The fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914 millimeters) or less in diameter and 2 feet (710 millimeters) or less in height.
 - c. Recreational fires are used for religious (sweat lodges), ceremonial (flag burning by patriotic organizations), cooking, or warmth purposes.
2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.
3. Fires set by or permitted by the state entomologist or county agricultural agents of the county for the purpose of disease and pest prevention.
4. Fires set by or permitted by the federal government or any of its departments, agencies or agents.
5. Fires set by or permitted by the state or any of its agencies, departments or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.

D. Required notifications for Fires Set by a Public Officer:

Permission for the setting of any fire given by a public officer in the performance of official duty under paragraphs (2), (3), or (5) of subsection C. shall be given in writing, and a copy of such written permission shall be transmitted immediately to the Director of the Department of Environmental Quality and to the Control Officer. The setting of any such fire shall be conducted in a manner and at such time as approved by the Control Officer, unless doing so would defeat the purpose of the exemption. These fires must comply with the reporting requirements in subsection (G).

E. Permit-authorized fires.

Provided a permit is first obtained from the Control Officer, **no prohibited materials or household wastes are burned (unless otherwise specified)**, and a site map of the burn site is provided, the following fires are allowed under this Section:

1. **Permitted residential fires:**

- a. Generally Allowable Combustible Materials: Fires Residential fires may be set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Residential burning must be conducted on a single contiguous property designed for and used exclusively as a private residence.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

- b. Conditional Approval to Burn Domestic Household Wastes:
Fires set in an approved waste burner for the disposal of only those portions of domestic household refuse waste at a private residence, when the waste is only generated from that property, that do not violate the prohibitions set forth below. Such fires are only allowed in nonurban areas of less than 100 well-spread out dwelling units per square mile on farms or ranches of 40 acres or more where no refuse collection and disposal service is available; and are all subject to the following limitations: or fires set for household waste generated on-site, where no household waste collection and disposal service is available, and where the nearest other dwelling unit is at least 500 feet away. Unless a permit is specifically endorsed by the Control Officer to verify that waste pickup service is not available, and to expressly allow burning of domestic household waste, burning of such waste is **PROHIBITED**.
- i. An "approved waste burner" is an incinerator constructed of fire resistant material with a cover or screen, which is closed when in use having openings in the sides or top no greater than one inch in diameter.
- ii. Open burning of the following prohibited materials is forbidden: Garbage resulting from the processing, storage, service or consumption of food; asphalt shingles; tar paper; plastic and rubber products (such as waste crankcase oil, transmission oil and oil filters); transformer oils; and hazardous material containers including those that contained inorganic pesticides, lead, cadmium, mercury, or arsenic compounds.
- c. Small Scale Residential Permit:
Under a "small scale" residential open burning permit, the quantity of material that may be burned during the one-month permit shall not exceed 10 cubic yards of non-compacted material. A "small scale" residential permit may be renewed on a month-to-month basis, without limitation.
- d. Large Scale Residential Permit:
Under a "large scale" residential open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" residential permit may only be issued for a single location, defined by assessor's parcel number, twice in a calendar year.
- e. Other Residential Fires:
Residential fires involving volumes of material or frequencies beyond that specified in subsection (E) (1) shall be presumed to have a potential to emit air pollutants in excess of the "de minimis amount," and shall require a Class II permit in accordance with the provisions in § 3-1-040.B.2.
2. **Permitted commercial fires:** Fires set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned.
- a. Generally Allowable Combustible Materials: Commercial fires may be set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Commercial burning must be conducted on a single contiguous property designed for and used exclusively as a single business.
- b. Small Scale Commercial Permit:
Under a "small scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 10 cubic yards of non-compacted material. A "small scale" commercial permit may be renewed on a month-to-month basis, without limitation.
- c. Large Scale Commercial Permit:
Under a "large scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" commercial permit may only be issued for a single location, defined by assessor's parcel number, twice a calendar year.
- d. Commercial Land Clearing Permit:
- i. Open burning activities which include one-time land clearing operations that involve non-compacted vegetative materials greater than allowed above in section 2 a. through 2 c.
- ii. Land clearing burns may be authorized by written permission from the Control Officer if there is no practical alternative, and if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.
- (a) The applicant shall submit a non-refundable application fee, as specified in Appendix C.
- (b) The applicant shall pay an additional non-refundable per-acre fee, as also specified in Appendix C.
- iii. Authorization for the land clearing burn may be revoked by the Control Officer if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.
- iv. If the permittee wishes to use an air curtain destructor for land clearing, such device should be operated pursuant to the manufacturer's specifications and the following limitations:
- (a) Air curtain destructors shall not be operated closer than 500 feet from the nearest dwelling.
- (b) Air curtain destructors must also comply with the applicable requirements of 40 C.F.R. Section 60.2245 to 60.2260.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

- e. Other Commercial Fires:
Commercial fires involving volumes of material or frequencies beyond that specified in subsection 2. above shall be presumed to have a potential to emit air pollutants in excess of the “de minimis amount,” and shall require a Class II permit in accordance with the provisions in § 3-1-040 B.2.
 - 3. **Permitted agricultural fires:** Fires set for weed control or abatement, clearing fields or ditches of vegetation, or the disposal of other naturally grown products of horticulture, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned.
 - 4. **Permitted training exercise fires (non-governmental agencies/companies):** Fires set for the instruction of fire fighting methods.
 - 4.5. **Permitted building demolition, or building-material demolition fires:** Fires set for the disposal of abandoned buildings or building materials, provided that no such permit shall be issued until after an on-site inspection by the District. Building demolition burns may be authorized by written permission from the Control Officer if there is no practical alternative, and if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.
 - a. The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.
 - b. The applicant shall pay an additional non-refundable permit issuance fee, as also specified in Appendix C.
 - 5.6. **Permitted fires for the destruction of dangerous materials:** Fires set for the destruction of dangerous or hazardous materials, are allowed when the materials are too dangerous to store and transport, provided that no such permit shall be issued until after an on-site inspection by the District. Fires set for the destruction of dangerous materials shall only be allowed where there is no safe alternative method of disposal, and when the burning of such materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts which will endanger health or safety.
 - a. “Dangerous material” is any substance or combination of substances, which is able or likely to inflict bodily harm, or property loss unless neutralized, consumed or otherwise disposed of in a controlled and safe manner.
 - b. Fires set for the disposal of dangerous materials shall be permitted only when there is no safe alternative method of disposal, and when the burning of such materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts, which will endanger health or safety.
 - a. The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.
 - b. The applicant shall pay an additional non-refundable permit issuance fee, as also specified in Appendix C.
 - 7. Unless specifically authorized under the preceding definitions of permit-authorized fires, fires set for disposal of materials shall be presumed to have a potential to emit greater than “de minimis amounts” of regulated air pollutants and shall require a Class II permit as specified under § 3-1-040.B.2.
 - 8. **Bonfire Permits:** Provided no prohibited materials or household wastes as defined in § 3-8-700 B., a city, town, county, statutory districts, or other political subdivision established by statute may obtain a no-cost bonfire permit for a community or civic event.
 - a. A written request from the public entity is required.
 - b. The quantity of material that may be burned during the permit term shall not exceed 20 cubic yards of non-compacted material.
- F. Permit conditions.
- 1. All permits shall contain conditions limiting the manner and the time of the setting of such fires as specified in the Arizona Guidelines for Open Burning, “Unlawful Open Burning,” and shall contain a provision that all burning be extinguished at the discretion of the Control Officer or his authorized representative during periods of inadequate atmospheric smoke dispersion:
 - a. When an air stagnation advisory is issued by the Director of ADEQ or the National Weather Service;
 - b. When an air pollution emergency episode alert, warning, or emergency as required by §§ 2-7-230 to 2-7-270 is declared;
 - c. During periods of excessive visibility impairment which could adversely affect public safety or impair visibility in Class I areas;
 - d. During periods of extreme fire danger, or during periods when smoke is blown into populated areas so as to create a public nuisance.
 - 2. All permits shall also contain the following conditions:
 - a. **Allowable burn times are:**
8:00 a.m. to 4:00 p.m. April 1 through September 30
9:00 a.m. to 4:30 p.m. October 1 through March 31.
 - b. Wind speed while burning shall not be less than 5 miles per hour (mph) or greater than 15 mph. If the wind increases during burning, all fires/smoke must be extinguished completely until the wind speed is once again in the range of 5 mph to 15 mph.
 - c. The fire must be constantly attended, with reasonable control tools (water or dirt) on hand at all times, and the person conducting the burn must have a copy of the burn permit on-site during open burning.

- d. When the burn is completed, the fire must be completely extinguished. All burning must cease by the times noted above.
- e. A requirement that each open burn be started using items that do not cause the production of black smoke.
- f. A requirement that the burning pit, burning pile, or approved waste burner be at least 50 feet from any dwelling unit.
- g. The person conducting the open burning must notify the local fire-fighting agency, fire district or municipal fire department, or if no such local fire-fighting agency exists, the state forester, prior to commencement of open burning.
- h. Open burning shall be conducted only during atmospheric conditions which:
 - i. Prevent dispersion of smoke into populated areas;
 - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
 - iii. Do not create a public nuisance or adversely affect public safety;
 - iv. Do not cause an adverse impact to visibility in a Class I area; and
 - v. Do not cause uncontrollable spreading of the fire.
- i. The permit shall include a copy of the activities prohibited and the criminal penalties for reckless burning included in A.R.S. § 13-1706.

G. Permit Reporting Requirements.

The following information shall be provided to the PCAQCD Director/Control Officer for each date open burning occurred, on either a daily basis on the day of the fire, or after the burn permit period ends, or in an calendar-year report prior to April 1 of the following year. The report shall be submitted in a format provided by the PCAQCD Director/Control Officer and include:

- 1. The date of the burn;
- 2. The type and quantity of fuel burned for each date open burning occurred;
- 3. The fire type, such as pile or windrow, for each date open burning occurred; and
- 4. For each date open burning occurred, the legal location, which may consist of any of the following: the nearest township, range and section; latitude and longitude to the nearest degree and minute; street address; or assessor's parcel number.

G.H. Permissible delegation of authority

- 1. The Control Officer may delegate the authority for the issuance of allowable open burning permits to responsible ~~local officers~~ delegated authorities as defined in § 3-8-700 B. Anyone ~~local officer~~ delegated the authority for issuance of open burning permits shall maintain a copy of all currently effective permits issued including a means of contacting the person authorized by the permit to set an open fire in the event that an order for extinguishing of open burning is issued. This includes a no burn restriction when monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded in Area A, as defined in Arizona Revised Statutes (A.R.S.) Section 49-541, and Chapter 4, Article 3, 4-3-060.C. of the Pinal County Air Quality Control District (PCAQCD) Code of Regulations.
- 2. A "no burn" restriction shall be imposed with respect to open burning regulated by Pinal County ~~under A.R.S. § 49-501~~, whenever monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded. Such a "no burn" restriction applies to all burning regulated ~~under A.R.S. § 49-501~~ this Code, even including burning by persons who may hold an otherwise valid open burning permit issued by Pinal County.
- 3. That "no burn" restriction shall arise by operation of law whenever the Maricopa County ~~of~~ Environmental Services Department or ADEQ declares such a "no burn" restriction in neighboring Maricopa County. No person affected by such a "no burn" restriction shall be entitled to a refund of any monies paid for an open burning permit that may be suspended by virtue of imposition of such a "no burn" restriction or an extension of the burn permit time period.

H.I. Violations.

Failure to obtain a permit, or failure to comply with the conditions of a permit, shall be subject to civil and/or criminal penalties in any of the following statutes: A.R.S. §§ 13-1706, 49-502, 49-511, 49-512, 49-513, or 49-514.

J. Limited scope of rule.

Nothing in this rule shall authorize or permit any practice, which is a violation of any statute, ordinance, rule or regulation.

[Adopted effective June 29, 1993. Former Section 3-6-560 renumbered without change as Section 3-8-720 effective November 3, 1993. Revised effective February 22, 1995. Amended December 13, 2000. Amended February 11, 2004.]

3-8-710. Permit provisions and administration

- A. A fee shall be charged for a Temporary Open Burning permit according to the fee schedules found in Appendix C. ~~Even though burning may be separately restricted by a fire department/district, all fees paid are nonrefundable.~~
- B. Every open burning permit shall be signed by the person obtaining the permit, and that signature shall constitute an acknowledgment that:

1. The person obtaining the permit bears responsibility for any failure to properly and adequately control any fire set pursuant to the permit.
 2. The issuance by the Control Officer of a Temporary Open Burning Permit does not release the permittee from any of the requirements of a fire department/district having jurisdiction, and a permit so issued must be validated by said fire department/district to be effective. The permittee is solely responsible for complying with such fire department/district requirements or restrictions.
 3. Even though burning may be separately restricted by a fire department/district, all fees paid are non-refundable, and burn permits will not be extended due to an open burning restriction.
 4. ~~Open burning at a time or in a manner contrary to the terms of the permit or an order from the Control Officer shall constitute a petty offense violation pursuant to A.R.S. § 49-501.G.f.~~
- C. No Burn Restriction
1. The District shall maintain a copy of all currently effective Temporary Open Burning Permits issued including a means of contacting the person authorized in the permit to set an open fire in the event that an order of extinguishing of open burning is issued. This includes any burn restriction when monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded in Area A, as defined in A.R.S. Section 49-541, ~~and Chapter 4, Article 3, 4-3-060.C. of the PCAQCD Code of Regulations.~~
 2. A “no burn” restriction shall be imposed with respect to open burning regulated by Pinal County ~~under A.R.S. § 49-501,~~ whenever monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded. Such a “no burn” restriction applies to all burning regulated ~~under A.R.S. § 49-501~~ this Code, even including burning by persons who may hold an otherwise valid open burning permit issued by Pinal County.
 3. That “no burn” restriction shall arise by operation of law whenever the Maricopa County ~~of~~ Environmental Services Department or ADEQ declares such a “no burn” restriction in neighboring Maricopa County. No person affected by such a “no burn” restriction shall be entitled to a refund of any monies paid for an open burning permit that may be suspended by virtue of imposition of such a “no burn” restriction or an extension of the burn permit time period.
- D. The term of a temporary open burning permit shall:
1. For a residential or commercial permit, not exceed ~~six months~~ one month from the date of issuance.
 2. For an agricultural permit, not exceed one year from the date of issuance.
 3. For a demolition permit or a ~~fire~~ destruction of hazardous materials permit, not exceed sixty (60) days.
 4. Not, regardless of term, authorize any violation of any burning ban that a local fire department/district may impose for purposes of public safety or other purposes.
 5. For a training exercise permit, not exceed a permit specified 3-day period.
 6. For a commercial land clearing burn permit, not exceed one month from the date of issuance.
 7. For a bonfire, not exceed a permit specified 3-day period.
- E. For the purposes of this article, the following shall neither be regarded as nor deemed open burning:
1. The subterranean detonation of explosives.
 2. The display of fireworks for recreational purposes or pyrotechnics for musical or cinematic/theatrical functions, provided any person detonating such fireworks or pyrotechnics has a permit by the Pinal County Board of Supervisors.
- F. Outdoor disposal or deposition of any non-agricultural materials (100 cubic yards or greater) capable of igniting spontaneously, with the exception of solid fossil fuels (coal), shall not be allowed, without providing adequate fire-fighting materials, such as sand, dirt, or water.

[Adopted effective June 29, 1993. Former Section 3-6-570 renumbered as Section 3-8-730 and amended effective November 3, 1993. Amended February 22, 1995. Amended February 11, 2004.]

EARTHMOVING FEE SCHEDULE

II. EARTHMOVING:

Category	Fee
A. Land stripping and/or earthmoving (0.1 to less than five acres)	\$75.00*
Land stripping and/or earthmoving (five to less than 10 acres)	\$200.00*
Land stripping and/or earthmoving (10 acres to less than 20 acres)	\$400.00*
Land stripping and/or earthmoving (20 acres to less than 30 acres)	\$600.00*
Land stripping and/or earthmoving (30 acres to less than 40 acres)	\$800.00*
Land stripping and/or earthmoving (40 acres to less than 50 acres)	\$1,000.00*
Land stripping and/or earthmoving (50 acres to less than 60 acres)	\$1,200.00*
Land stripping and/or earthmoving (60 acres to less than 70 acres)	\$1,400.00*
Land stripping and/or earthmoving (70 acres to less than 80 acres)	\$1,600.00*
Land stripping and/or earthmoving (80 acres to less than 100 acres)	\$1,800.00*
Land stripping and/or earthmoving (100+acres)	\$2,000.00*

**If a registrant qualifies under the land stripping and/or earthmoving category, no other category applies to the activity.

B. Trenching for Landscaping and Septic systems:	
100 to less than 300 linear feet of aggregate trenching	25.00*
301 363 linear feet to 500 linear feet of aggregate trenching	\$50.00*
501 linear feet to 1000 linear feet of aggregate trenching	\$100.00*
1,001+ linear feet to 2,640 linear feet (0.5 mile)	\$150.00*
2,641 linear feet to 5,280 linear feet (1.0 mile)	\$500.00*
5,281 linear feet to 10,560 linear feet (2.0 miles)	\$1,000.00*
10,561 linear feet to 21,120 linear feet (4.0 miles)	\$1,500.00*
21,121+ linear feet (greater than 4 miles)	\$2,000.00*
C. Stockpiling greater than 10 cubic yards but less than 100 cubic yards	\$50.00*
101 100 cubic yards to 500 cubic yards	\$100.00*
501+ cubic yards	\$150.00*
D. Annual Block Registration (Utilities & Routine Operations)	\$2,000.00*

*Late filing fee - Failure to ~~File~~ Obtain a Dust Registration Form prior to construction activity at the site:

- | | |
|---|----------|
| a. For projects less than 5 acres, an additional late filing fee of | \$25.00 |
| b. For projects of 5 acres or larger, an additional late filing fee of | \$100.00 |

[Adopted November 3, 1993. Amended December 4, 2002. Amended February 11, 2004.]