

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

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NOTICE OF EXPEDITED RULEMAKING

PURSUANT TO A.R.S. § 49-471.01 et seq.

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

[M07-487]

1. Preamble
2. The Pinal County Air Quality Control District constitutes an operating division of Pinal County, a political subdivision of the State of Arizona. The District proposes that the Board of Supervisors adopt a new ordinance imposing limited "no burn" restrictions in a specific portion of the County. The restrictions would apply when the Arizona Department of Environmental Quality ("ADEQ") declares a locally applicable high pollution advisory for carbon monoxide or particulate matter. These revisions are mandated by changes to A.R.S. §§11-871 and 49-501, as amended by Laws 2007, Chapter 292 ("Senate Bill 1552"). To the extent the proposal affects permits issued under the existing rule-based open burning permit program, the proposal also invokes the authority of A.R.S. §49-479. The proposal also includes a repeal of a predecessor ordinance.
3. Those wishing further information regarding any aspect of this proposal may contact Scott DiBiase, Planning Manager, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, Arizona, 520-866-6969. To the extent possible, the District will also post information on the County's website, www.co.pinal.az.us, under the "air quality" link.
4. Given that these changes at least partly rely upon authority of A.R.S. Title 49, the ordinance-adoption process will conform to the expedited adoption process defined in A.R.S. § 49-471.08. That process will include publication of this notice of proposed rulemaking in the Arizona Administrative Register, a 30 day public comment period, and a subsequent submittal to the Board of Supervisors for consideration and adoption. The administrative process will not include an oral proceeding. The date and location for the hearing-of-adoption before the Board of Supervisors will be separately scheduled and noticed in accord with the applicable provisions of A.R.S. §§ 11-251.06, 49-471.07 and 49-471.08, and, where applicable, the requirements of 40 CFR 51.102. That hearing before the Board of Supervisors is tentatively scheduled for December, 2007.
5. This proposal responds to a statutory mandate. There are no supporting studies. The legislative mandate obviates any economic, small business or consumer impact discussion. The ordinance will be effective upon adoption by the Board of Supervisors, which is tentatively scheduled for December, 2007. There are no prior register notices pertaining to this proposal.
6. Pursuant to A.R.S. § 49-471.08(A)(2), Donald P. Gabrielson, the Control Officer for the District, finds that Senate Bill 1552 §3 mandates that the County ban use of indoor wood burning fireplaces in Area A whenever ADEQ declares a high pollution advisory for carbon monoxide or particulate matter. Similarly, Senate Bill 1552 §18 mandates that the County ban outdoor burning in Area A whenever ADEQ declares such an advisory. The Control Officer finds that the proposed ordinance is substantially identical to the sense, meaning and effect of the state law from which it is derived.

7. Text of Proposed Ordinance

Ordinance No. _____

PINAL COUNTY NO BURN ORDINANCE FOR AREA A

1. Title. This Ordinance shall be known as the "Pinal County Area A No Burn Ordinance."
2. Repeal. Predecessor Ordinance No. 122000-AQC (December 20, 2000) is hereby repealed.
3. Geographic Applicability. The prohibitions under this ordinance apply to both incorporated and unincorporated regions within the "affected area," namely the Pinal-County-portion of Area A as defined at A.R.S. § 49-541, which includes the following areas, defined relative to the Gila & Salt River Base and Meridian:
 - Township 1 north, Range 8 east
 - Township 1 north, Range 9 east
 - Township 1 south, Range 8 east
 - Township 1 south, Range 9 east
 - Township 2 south, Range 8 east
 - Township 2 south, Range 9 east
 - Township 3 south, Range 7 east
 - Township 3 south, Range 8 east
 - Township 3 south, Range 9 east

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

4. Timing and Duration of Prohibition. The "no burn" restrictions and prohibitions under this ordinance shall arise by operation of law for any calendar day or days covered by a High Pollution Advisory declared by Arizona Department of Environmental Quality for the Phoenix urban area for either carbon monoxide or particulate matter.
5. Prohibition - Indoor Residential Wood Combustion
 - a. Subject to the exceptions defined in subsection b. below, a "no burn" restriction shall arise with respect to use of indoor residential wood stoves or fireplaces.
 - b. The restriction under this subsection shall not apply to solid fuel combustion in any of the following:
 1. A residential wood stove or fireplace that provides the sole or primary source of heat or fuel for cooking for a residence.
 2. A stove or fireplace that meets performance standards for new residential wood heaters manufactured on or after July 1, 1990 or sold at retail on or after July 1, 1992 as prescribed by 40 CFR Part 60, Subpart AAA.
 3. A stove or fireplace that burns gaseous fuels.
 4. A stove or fireplace that conforms to rules adopted by the Board of Supervisors for burning wood in approved appliances.
 - c. Penalties for Violation. Violation of this subsection shall subject the person who commits such violation to:
 1. A warning for the first violation.
 2. The imposition of a civil penalty of fifty dollars (\$50.00) for the second violation.
 3. The imposition of a civil penalty of one hundred dollars (\$100.00) for a third violation.
 4. The imposition of a civil penalty of two hundred and fifty (\$250.00) for a fourth or any subsequent violation.
 - d. For violations of this subsection of this ordinance, the control officer or his representative shall use a uniform civil ticket and complaint substantially similar to a uniformed traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the Supreme Court. The Control Officer or his representative may issue citations to persons in violation of this ordinance.
6. Prohibition - Suspension of Open Burning Permits
 - a. Existing open burn permits shall be suspended, and a "no burn" restriction within the affected area shall be imposed with respect to open burning regulated by an open burning permit issued pursuant to the Pinal County Code of Regulations.
 - b. 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.
 - c. Violation of this subsection shall constitute both a civil and a criminal offense, and shall subject the violator to civil or criminal prosecution as set forth in Arizona Revised Statutes Title 49, Chapter 3, Article 3 (A.R.S. § 49-510, et seq.).
7. Prohibition - Limitations on Otherwise Exempt Outdoor Fires
 - a. Notwithstanding any other exemptions under this ordinance, a "no burn" restriction shall also apply within the affected area with respect to any outdoor solid fuel combustion in chimneys, fire pits and similar outdoor fires.
 - b. Violation of this subsection shall constitute a civil offense, and a person who violates the prohibition of this subsection may be served a notice of violation and be subject to the enforcement provisions of Arizona Revised Statutes Title 49, Chapter 3, Article 3 (A.R.S. § 49-510, et seq.), except that a violation that lasts no more than twenty-four hours and that is the first violation committed by that person is subject to a civil penalty of no more than five hundred dollars.
8. Definitions
 - a. "Control Officer" as used in this ordinance, means the director and executive head of the Pinal County Air Quality Control District responsible for performing duties and exercising powers prescribed by law.
 - b. "Fireplace" as used in this ordinance, means a built in place hearth and fire chamber or a factory-built appliance designed to burn solid fuel and which is intended for domestic use.
 - c. "Inappropriate fuel" as used in this ordinance, includes but is not limited to leaves, grass clippings, green plants, refuse, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, animal waste, animal carcasses, coal, waste oil, liquid or gelatinous hydrocarbons, tar, asphaltic products, waste petroleum products, paints and solvents, chemically soaked wood, wood with a moisture content of greater than 30 percent (30%), treated wood, plastic or plastic products, rubber or rubber products, office records, sensitive or classified wastes, or any substance which normally emits dense smoke or obnoxious odors.
 - d. "Open outdoor fire" means combustion of any combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. "Flue" means any duct or passage for air, gases or the like, such as a stack or chimney.
 - e. "Solid fuel" includes but is not limited to wood, coal, or other nongaseous or nonliquid fuels, including those fuels determined by the Pinal County Air Quality Control Director as "inappropriate fuel" to burn in residential woodburning devices.
 - f. "Woodstove" means a solid-fuel burning heating appliance including a pellet stove, which is either freestanding or designed to be inserted into a fireplace.
9. Violations - Limitations on Defenses. Actions that violate this ordinance shall be *malum prohibitum*, and a lack of knowl-

edge that a "no burn" restriction has been imposed shall not constitute a defense.

NOTICE OF RULEMAKING DOCKET OPENING

(Ref. A.R.S. § 49-1021)

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

[M07-486]

1. Subject Matter of the Proposed Rule

The proposed revisions to local air quality rules involve amending a number of sections in the rules including but not limited to:

§1-1-105, §1-3-140, §2-4-150, §3-1-030, §3-1-040, §3-1-081, §3-7-585.B, §3-8-700, §4-2-040.J, §4-3-070, §4-3-080, §5-8-260, §5-30, §5-16-670, §6-1-030, §7-1-030, §7-2-030.6.3, Appendix C

Also as part of this rulemaking, Pinal County may add, delete or modify additional rules as necessary.

2. Prior Related Notices

None

3. Contact Information

Those wishing further information regarding any aspect of this proposal may contact Scott DiBiase, Planning Manager, Pinal County Air Quality, 31 N. Pinal St., Building F, Florence, AZ, (520) 866-6929. To the extent possible, the District will also post information on the County's web site, www.co.pinal.az.us, under the "air quality" link.

4. Opportunity for Written or Oral Comments

At a later date, the District will publish a Notice of Proposed Rule Making that will define a formal timetable for submittal of oral or written comments. At any time prior to the close of that to-be-defined comment period, anyone may seek information or submit comments by contacting the Planning Manager at the address shown above. Ultimately, the public will also have an opportunity to offer comment in the public hearing before the Board of Supervisors.

5. Anticipated Timetable

To be announced in the Notice of Proposed Rulemaking.