

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

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

PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY

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

New Rule: 17.12.220, Permits Containing Voluntarily Accepted Emission Limitations & Standards
New Rule: 17.12.365, Acid Rain
New Rule: 17.16.055, General (relating to opacity standard for fugitive PM emissions)
Revisions to non-Title V permit thresholds rules: 17.04.340 and 17.12.140
Revisions to insignificant activities rules: 17.04.340 and 17.12.160
Revisions to designation and classification of attainment areas rule: 17.08.100
Revisions to quality assurance rule: 17.12.070
Revisions to permit processing time rule: 17.12.160
Revisions to annual emissions inventory questionnaire rule: 17.12.320
Revisions to fees rules: 17.12.400, 17.12.500, 17.12.510, 17.12.520, 17.12.525, 17.12.540, 17.12.545, 17.12.550, 17.12.560, 17.12.570, 17.12.580, 17.12.590, 17.12.600, 17.12.610, 17.12.630, 17.12.640, and 17.12.650.
Revisions to local rules and standards rule: 17.16.010
Revisions to control of fugitive emissions rules: 17.16.050, 17.16.060, 17.16.070, 17.16.080, 17.16.090, 17.16.100, and 17.16.120.
Revisions to hazardous waste, hazardous waste fuel, used oil, and used oil fuel burning equipment rule: 17.16.150.
Revisions to standards of performance for storage vessels for petroleum liquids rule: 17.16.230
Revisions to organic solvent and other organic materials rule: 17.16.400
Revisions to Pima County requirements to asbestos renovation and demolition projects rule: 17.16.540
Revisions to Compliance inspection rule: 17.20.050
Revisions to conditional orders rule: 17.28.100
Addition of synthetic minor provisions: 17.04.340, 17.12.160, 17.12.180, 17.12.210, and 17.12.220
Addition of Title IV (acid rain) provisions: 17.12.365
Addition of NESHAP requirements: 17.16.530
Accelerated Permit Processing: 17.12.510
Technical and conforming corrections to rules: 17.04.050, 17.04.070, 17.04.340, 17.04.350, 17.04.360, 17.04.390, 17.04.400, 17.04.420, 17.12.230, 17.12.240, 17.12.470, and 17.16.650

2. Summary of the proposed rules, ordinance, or other regulation:

Addition of synthetic minor provisions: 17.04.340, 17.12.160, 17.12.180, 17.12.210, 17.12.220

Under federal law, the determination of whether a source is considered to be a major source is based on the source's potential to emit as opposed to the source's actual emissions. As a practical matter, this means that a minor source (based on its actual emissions) could be classified as a major source, if its potential to emit is greater than a major source threshold. The proposed synthetic minor provisions will allow a major source based on potential to emit to be a synthetic minor source. This transformation is accomplished in a source's permit application by the source volunteering to limit its emissions and agreeing to have the mechanism for that limitation (e.g. limits on hours of operation, throughput, or installation of pollution control devices) to be federally enforceable. The synthetic minor provisions do not impose any additional requirements on a source unless specifically requested by a source to become a synthetic minor.

Addition of Title IV provisions (including new rule 17.12.365)

The Arizona Department of Environmental Quality (ADEQ) has incorporated by reference the federal Acid Rain regulations in order to obtain delegated authority from EPA to enforce portions of the CAA. Likewise, Pima County is proposing to incorporate by reference the federal Acid Rain regulations, so that the Acid Rain regulations are part of the Pima County Permit Program.

Revisions to non-Title V permit thresholds rules: 17.04.340 and 17.12.140

Pima County has proposed to raise permit thresholds for non-Title V sources from the County's current levels (identified in the "de minimis" definition) to the state's levels (identified in the "significant" definition). This revision will exempt some small sources of regulated air pollutants from permitting requirements and associated fees.

Revisions to insignificant activities rules: 17.04.340 and 17.12.160

In accordance with the proposed increase in permit thresholds, Pima County is proposing to expand the types of activities that will be considered to be "insignificant". All sources that are currently considered to be "insignificant" by ADEQ will also be deemed "insignificant" in Pima County. This means that detailed emissions information will no longer be required for these activities on permit applications.

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Revisions to designation and classification of attainment areas rule: 17.08.100

The revisions to this rule require all recent boundary changes to be included when identifying Class I areas. This change will bring Pima County's rules into conformance with ADEQ's definition of a Class I area.

Revisions to quality assurance rule: 17.12.070

Due to their small size and nature of operation, some sources currently required to obtain non-Title V permits are exempt from submitting a quality assurance plan. With the proposed increase in permit thresholds, all sources that will be required to obtain a permit will be of the size and type for which a quality assurance plan is necessary. The proposed revisions to this Section stipulate that all facilities subject to the permit requirements must submit a quality assurance plan.

Revisions to permit processing time rule: 17.12.160, 17.12.510

Pima County's rules require PDEQ to process non-Title V permits for certain types of sources according to an expedited timeline. The proposed increase in permit thresholds, though, will exempt these sources from permitting. Consequently, the expedited time frame is no longer applicable. The revisions will require the control officer to take final action on all permit applications within 18 months after receiving a complete application. The time frame is identical to ADEQ's legal processing time. Pima County is also proposing accelerated permit processing, consistent with the approach in ADEQ air rules.

Revisions to annual emissions inventory questionnaire rule: 17.12.320

Due to their size and nature of operation, some sources currently required to obtain non-Title V permits are exempted from submitting an emissions inventory questionnaire. With the proposed increase in permit thresholds, all sources that will be required to obtain a permit will be of the size and type for which an emissions inventory questionnaire is necessary. The proposed revisions to this Section stipulate that all facilities subject to the permit requirements must submit an emissions inventory questionnaire.

Revisions to fees rules: 17.12.400, 17.12.500, 17.12.510, 17.12.525, 17.12.540, 17.12.545, 17.12.550, 17.12.560, 17.12.570, 17.12.580, 17.12.590, 17.12.600, 17.12.610, 17.12.630, 17.12.640, and 17.12.650

As required by A.R.S. § 49-112(A) and (B), Pima County's fees have been modified to be identical to or lower than ADEQ's fees for those fees that are comparable to the state's, and to reflect the reasonable costs of the county for service, where there is no corresponding ADEQ fee.

Revisions to local rules and standards rule: 17.16.010

Pima County is proposing to conform its rule with the applicable state rule and replace its standards and process for controlling air contaminants not otherwise regulated with ADEQ's Policy 0.006 (Arizona Air Toxics Control Program).

Revisions to control of fugitive emission rules: 17.16.050, 17.16.060, 17.16.070, 17.16.080, 17.16.090, 17.16.100, and 17.16.120, and new rule 17.16.055

Pima County is proposing amendments to clarify applicability of state-derived dust control provisions and the local standard for property boundary dust control requirements. Justification for the additional local rule on property line dust control requirements is provided below in Section 3.

Revisions to hazardous waste, hazardous waste fuel, used oil, and used oil fuel burning equipment rule: 17.16.150

Pima County's rules currently require that operating permits for hazardous waste-burning equipment contain testing and sampling requirements and a mass emission limitation of 0.00053 micrograms per cubic meter. These provisions, which are not found in state rules, are proposed to be stricken.

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

Pima County currently issues a sticker to delivery vessel operators which indicates that the delivery vessel is in compliance with pressure requirements. In accordance with the proposed increase in permit thresholds, this practice is proposed to be eliminated.

Revisions to organic solvent and other organic materials rule: 17.16.400

Sources that have the potential to emit more than 2.4 lbs/day of VOC's and owners of contaminated storage piles that emit more than 2.4 lbs/day of any organic material are currently required to utilize RACT to control these emissions. In accordance with the proposed increase in permit thresholds, this requirement is proposed to be stricken.

Addition of NESHAP requirements

Pima County is proposing to incorporate by reference NESHAP requirements that have been promulgated since the last revisions to Title 17. These revisions will make Pima County's Permit Program consistent with state and federal laws.

Revisions to Pima County requirements for asbestos renovation and demolition projects rule: 17.16.540

Currently, demolition and renovation projects at one- and two-family dwelling units are exempt from the inspection and notification requirements of this Section. Pima County is proposing to expand this exemption to include three- and four-family dwelling units, consistent with minimum federal requirements.

Revisions to compliance inspection rule: 17.20.050

Pima County's rules currently require all permitted sources to be inspected annually. Due to the nature of some types of facilities, Pima County has found that a mandatory annual inspection is sometimes excessive. Thus, Pima County is proposing to require inspections as are necessary to assure compliance with applicable county, state, and federal rules and regulations.

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Technical and conforming corrections rules: 17.04.050, 17.04.070, 17.04.340, 17.04.350, 17.04.360, 17.04.390, 17.04.400, 17.04.420, 17.12.230, 17.12.240, 17.12.470, 17.16.650, and 17.28.100

Technical and conforming changes include correcting errors, adding or deleting text to conform supporting sections to changes described above, and rectifying inconsistencies with ADEQ's rules.

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

Based upon 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 is proposing to adopt rules that are not more stringent than, nor are they in addition to, any provisions of A.R.S. Title 49 or 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 provisions specified in (B) of this Section.
- B. Pima County is proposing to adopt rules that are more stringent than the state pursuant to A.R.S. § 49-112(A), based on a finding the rules are necessary to address a peculiar local condition and that the rules are required by law or are necessary and feasible to prevent a significant threat to public health or the environment that results from a unique local condition. Pima County proposes to retain Pima County Code 17.12.470 (activity permits) and Pima County Code 17.16.050 (visibility limiting standard), with minor amendments, pursuant to a written demonstration under A.R.S. § 49-112.

Pima County has developed a Technical Support Document to accompany the proposed 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 retaining Pima County Code 17.12.470 (activity permits) and Pima County Code 17.16.050 (visibility limiting standard).

Specifically, Pima County has made a finding that:

Pima County violated the National Ambient Air Quality Standards for particulate matter (as measured by TSP) in the 1970's. Independent studies were conducted in Pima County by PEDCo-Environmental Specialists, Inc., entitled Investigation of Fugitive Dust - Sources, Emissions, and Control under contract with the EPA, in 1973 that showed uncontrolled fugitive dust from land stripping, earth moving, blasting, trenching, or road construction activities were significant sources of particulate matter emissions.

Pima County submitted a Non-Attainment Area Plan to EPA on September 29, 1978, entitled Technical Analysis for the Nonattainment Area Plan for Total Suspended Particulate, Pima County, Arizona. In a follow-up submitted to EPA in October 1983, entitled Supplementary Information on TSP Nonattainment Redesignation, Pima County determined that fugitive sources of dust emissions were contributing to significant air quality impacts in the Tucson metropolitan area.

Independent studies were conducted in 1987 regarding particulate matter emissions by Engineering-Science under contract to the EPA. In Engineering Science's report entitled PM10 Emissions Inventory Data for the Maricopa and Pima Planning Areas, uncontrolled fugitive dust from land stripping, earth moving, blasting, trenching, or road construction activities were determined to be significant sources of particulate matter emissions.

The metropolitan Tucson area is bounded on the east by the Saguaro National Park (East) and on the west by the Saguaro National Park (West). Both of these parks are designated as Class I areas pursuant to the Sections 162 and 169 of the Clean Air Act and must be protected from manmade air pollutants that impair visibility.

The Pima County Air Quality Control District is an air quality control region as approved by the Governor of Arizona pursuant to Section 107 of the Clean Air Act. The Pima County Air Quality Control District controls sources of air pollution in more densely populated areas than the Arizona Department of Environmental Quality.

Activities such as earth moving and land stripping are sources of particulate matter air pollution and are found in close proximity to populated areas in Pima County.

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

The NAAQS for particulate matter was violated in Pima County numerous times in the 1970's exposing the population to a significant health threat.

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 as having the 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

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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.

In 1977, EPA issued a "Fugitive Dust" policy that directs efforts to control particulate matter in urban areas as the first priority. (Fugitive Dust Policy, August 1, 1977, USEPA, Office of Air Quality Planning and Standards).

EPA believes that fugitive dust in urban areas posed potentially greater risk due to the large population exposed.

EPA believed that the fugitive dust problem was "more pronounced within urban areas and thus more conducive to development of an implementable control program."

EPA determined that "urban areas should receive the highest priority for development of a comprehensive and reasonable program to control fugitive dust."

In 1987, EPA reviewed its "Fugitive Dust" policy and determined that this policy was effective and reaffirmed the policy-making modifications with respect to the designation of rural areas.

EPA's "Fugitive Dust" policy was re-affirmed in Section 190 of the Clean Air Act Amendments of 1990 which required EPA to establish "reasonable available control measures" and "best available control measures" for state and local governments to control urban fugitive dust.

EPA guidance documents entitled Guidelines for Development of Control Strategies in Areas with Fugitive Dust Problems (1977), Control of Open Fugitive Dust Sources (1988), Fugitive Dust Background Document and Technical Information Document For Best Available Control Measures (1992) all recommend a permit system and the use of visible emissions at the property line as a trigger for follow-up investigation as compliance tools.

EPA guidance documents recommend the submittal of a detailed "dust control plan" for each activity permit.

Pima County has not adopted a requirement for a "dust control plan" based upon the use of visible emissions at the property line standard that triggers evaluation of the control strategies in place at the site. Pima County's approach determines if adequate dust controls are being implemented at the site based upon observation of actual emissions.

Pima County's regulatory approach provides a flexible framework by which a person can adapt control strategies to each specific site as well as through the course of the operations.

Pima County was classified as "non-attainment" for particulate matter (as measured by TSP) pursuant to the Clean Air Act in 1978. Pima County submitted a control strategy to bring the non-attainment area into compliance with the National Ambient Air Quality Standard for particulate matter and maintain the standard once it was achieved. As part of this plan, activity permits (Rule 202) and visible limiting standard (Rule 343) were submitted as compliance tools.

The Non-Attainment Area Plan was incorporated into the State Implementation Plan (SIP) which was approved by the EPA in 1982.

The SIP provisions for activity permits (SIP Rule 202) and the visible limiting standard (SIP Rule 343) are federally enforceable requirements pursuant to the Clean Air Act Section 113(a)(3).

Pima County was designated "un-classified" with respect to the National Ambient Air Quality Standard for particulate matter (as measured by PM₁₀) in 1990 by the EPA.

Activity permits and the visible limiting standard are still part of the SIP for Pima County as a mechanism to control fugitive dust in order to maintain the National Ambient Air Quality Standard for particulate matter (as measured by PM₁₀).

Pursuant to the Clean Air Act Section 193, each regulation, standard, rule, notice, order, and guidance in the SIP for Pima County prior to November 15, 1990, remain in effect unless revised by the EPA.

Failure to enforce provisions of the SIP is a violation of the Clean Air Act Section 113(a)(2).

Pima County's rule for activity permits and the visible limiting standard have been in effect since 1978 and are thus believed not to have a significant economic impact on the regulated community including small entities. The dust control requirements associated with the visibility limiting standard include only those requirements that are "necessary and feasible." Control measures which are not technically or economically feasible are not required.

Pima County's requirement for an activity permit (SIP Rule 202) is found in Pima County Code 17.12.470. Pima County's visibility limiting standard (SIP Rule 343) is found in Pima County Code 17.16.050.

- C. Pima County is in compliance with A.R.S. § 49-112(B) in that Pima County Department of Environmental Quality is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rule adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49. The cost of obtaining permits or other approvals

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

Name: Richard Grimaldi, Environmental Planning Manager
Address: Pima County Department of Environmental Quality
130 West Congress, Third Floor
Tucson, Arizona 85701-1317
Telephone: (520) 740-3332
Fax: (520) 882-7709

5. **Where persons may obtain a full copy of the proposed rule, ordinance, or other regulation:**

Name: Pima County Department of Environmental Quality
Address: 130 West Congress, Third Floor
Tucson, Arizona 85701
Telephone: (520) 740-3340
Fax: (520) 882-7709

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

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

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

PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY

1. **Heading and number of the proposed rule, ordinance, or other regulation that is the subject of this public hearing:**
New Rule: 17.12.220, Permits Containing Voluntarily Accepted Emission Limitations & Standards
New Rule: 17.12.365, Acid Rain
New Rule: 17.16.055, General (relating to opacity standard for fugitive PM emissions)
Revisions to non-Title V permit thresholds rules: 17.04.340 and 17.12.140
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Revisions to local rules and standards rule: 17.16.010
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Revisions to hazardous waste, hazardous waste fuel, used oil, and used oil fuel burning equipment rule: 17.16.150.
Revisions to standards of performance for storage vessels for petroleum liquids rule: 17.16.230
Revisions to organic solvent and other organic materials rule: 17.16.400
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Addition of Title IV (acid rain) provisions: 17.12.365
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2. **Date, time, and location of each public hearing scheduled:**
Date: October 10, 1995
Time: 9 a.m. or thereafter
Location: Pima County Board of Supervisors Public Hearing Room
110 West Congress, First Floor
Tucson, Arizona 85701
Nature: Public hearing before the Pima County Board of Supervisors to consider formal adoption of the above-described rules and consider the challenge filed by the Society for Environmental Truth pursuant to A.R.S. § 49-112.
3. **County personnel to whom questions and comments may be addressed:**
Name: Richard Grimaldi, Environmental Planning Manager
Address: Pima County Department of Environmental Planning
130 West Congress, Third Floor
Tucson, Arizona 85701-1317
Telephone: (520) 740-3332
Fax: (520) 882-7709
4. **Any other pertinent information concerning the above named proposed rule, ordinance, or other regulation:**
Pima County Department of Environmental Quality (PDEQ) is proposing amendments to the Pima County Code, Title 17, Air Quality Ordinance. The proposed ordinance amendments address the following:
 - Revisions to address a challenge filed pursuant to A.R.S. § 49-112(E).
 - Addition of synthetic minor permitting provisions.
 - Addition of acid rain provisions.
 - Technical and conforming corrections.

The challenge filed pursuant to A.R.S. § 49-112(E) petitions the Board of Supervisors to amend various provisions of Title 17 for compliance with A.R.S. § 49-112(A) and (B). The challenge generally covers the following subjects:

 - Fees
 - Dust Control Requirements
 - VOC Control Requirements
 - Control requirements on "unlisted" pollutants
 - Issuance of activity permits

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The current staff recommendation to the Board of Supervisors, as drafted in proposed ordinance amendments and supporting documents, conforms most provisions of county ordinance to corresponding ADEQ air rules, except in the following areas:

- Maintaining property line dust control requirements; and
- Maintaining activity permits for land clearing and related actions.

Technical justification (findings) is available supporting those provisions which are proposed to continue to differ from corresponding ADEQ rules.

With respect to fees, a re-evaluation of fee levels was completed. The structure of the fee schedule is proposed to mirror that in ADEQ air rules. Where ADEQ has a comparable fee, county fees will be at the lower of county cost of service or the corresponding ADEQ fee. Where ADEQ does not have a corresponding fee, county fees will be set at the cost of service. County fees which do not have a corresponding state fee include open-burn permits, activity-permit fees, reinspection fees, fees for inspection of unpermitted facilities with applicable requirements, and asbestos abatement (NESHAP, National Emission Standard for Hazardous Air Pollutants) fees. A report on the rationale for recommended fees (Fee Rationale Report) is also available.

The options available to the Pima County Board of Supervisors include:

Adopting staff recommendation, as modified based on public comment, conforming various Title 17 ordinance provisions to ADEQ air rules, and maintaining certain other provisions based on findings; or,

Supplementing or revising the support documents and findings in response to public comment or further investigation.

Rejecting all findings and conforming all challenged provisions to corresponding state rules; or,

Finding that Title 17, as currently adopted, conforms to the requirements to A.R.S. § 49-112, rejecting the challenge to Title 17, and making no amendments to Title 17 with respect to conformance with ADEQ air rules;

Accepting or rejecting, in whole or in part, the challenge filed by the Society for Environmental Truth pursuant to A.R.S. § 49-112; or

Any combination of the above actions.

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

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