

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

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Pinal County Air Quality Control District

COMBINED

NOTICE OF PROPOSED RULEMAKING

PURSUANT TO A.R.S. §§ 49-112 AND 49-471.01 *et seq.*

AND

NOTICE OF ORAL PROCEEDING

PURSUANT TO A.R.S. § 49-471.06

[M05-29]

PREAMBLE

1. Sections Affected

1-1-105
2-8-300

Rulemaking Action

Amend
Amend

A. The District proposes that the Board of Supervisors adopt or amend certain rules under authority of A.R.S. §§49-479 and 49-480, which respectively authorize the board to adopt rules to control air pollution and to adopt a stationary source permit program. Affected rules are identified, and corresponding changes discussed in subsection (D). of this preamble, and include the following sections:

§1-1-105 Amend
§2-8-300 Amend

B. Those wishing further information regarding any aspect of this proposal may contact Donald P. Gabrielson, Director, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, Arizona, 520-866-6929. 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.

C. The rule making process will consist of an initial administrative rule development process, including this notice, a stakeholders meeting, a 30 day public comment period, and an oral proceeding before the Control Officer or his designee. The date and locations for the oral proceedings are set forth below. Written comments are due prior to the close of the comment period, which shall be the close-of-business on the day of the oral proceeding. The final step in the rule adoption process will be a hearing before the Board of Supervisors, which hearing will be separately scheduled and noticed in accord with A.R.S. §49-479, and, where applicable, the requirements of 40 C.F.R. § 51.102.

D. The proposed revisions include the following:

- 1. SIP List

Code §1-1-105 will be amended to add the rules to be revised by this proposal and are intended to constitute elements of the Arizona State Implementation Plan.

- 2. Visibility Limiting Standard Revisions

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The EPA formally objected to the current 40% standard (§2-8-300), at least in the PM10 nonattainment areas in Pinal County. See 69 Fed. Reg. 23103 (4/28/04). That notice formally triggered an 18-month sanction clock, requiring submittal of a curative SIP-revision prior to November 28, 2005.

In response to a parallel notice from the EPA, ADEQ has already adopted corresponding revisions to that agency's opacity standard. See 9 A.A.R. 5550 (12/26/2003). Apart from the EPA threat of sanctions, under the "at least as stringent as" mandate of A.R.S. §49-479, Pinal County must conform to those ADEQ changes.

E. There are no specific studies relied upon to justify the proposed changes.

F. Economic, small business and consumer impact statement

Given the "at least as stringent" mandate of A.R.S. §49-479, the District has not attempted to assess any added costs associated with the conforming changes discussed in 1.D.1 and 1.D.2 above.

G. In accord with A.R.S. §49-471.07(F), the proposed changes will take effect upon approval by the Board of Supervisors.

H. Compliance with the Fee-limitations of A.R.S. §49-112 (A) or (B).

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

Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable. To the extent the County's program affects certain sources that ADEQ either does not regulate or does not charge, these proposed changes do not impose any additional fees on those sources.

I. A Notice of Docket Opening for this action was published in Volume 11, Issue 7 of A.A.R., February 11, 2005.

2. The full text of the proposed changes follows:

1-1-105. SIP list

A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

1. Chapter 1

- a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
- b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
- c. Article 3. (As amended 5/14/97 and 5/27/98, except for §1-3-130 and the definition in §1-3-140.81 (10/12/95) of "maximum achievable control technology.")

2. Chapter 2

- a. Article 1. (As amended 10/12/95).
- b. Article 2. (As amended 5/14/97).
- c. Article 3. (As amended 10/12/95).
- d. Article 4. (As amended 10/12/95).
- e. Article 5. (As amended 10/12/95).

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- f. Article 6. (As amended 10/12/95).
- g. Article 7. (As amended 10/12/95).
- h. Article 8. (As amended xx/xx/05).

3. Chapter 3

- a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. §3-1-020
 - ii. §3-1-045
 - iii. §3-1-080
 - iv. §3-1-100
- b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
- c. Article 3. (As amended 10/12/95).
- d. Article 8. (As amended 10/12/95 and 10/27/04).

4. Chapter 4

- a. Article 1. (As amended 2/22/95).
- b. Article 2. (As amended 5/14/97 and 7/12/00).

B. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save §3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:

- 1. “construction,” as defined in Nov. '93 Code §1-3-140.28; or
- 2. “modification,” as defined in Nov. '93 Code §1-3-140.84; and

C. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:

- 1. Operate as elements of the SIP insofar as they pertain to other than "conventional pollutants," as defined in §1-3-140.33;
- 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. §111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
- 4. Operate as an element of the SIP, at least insofar as they impose a “fee”;
- 5. Operate as an element of the SIP, at least insofar as they require a “certification”;
- 6. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to “renewals”;
- 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding “excess emissions”;
- or
- 8. Operate as an element of the SIP, at least insofar as they impose requirements regarding “compliance plans.”

D. As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:

- 1. §§1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
- 2. Chapter 2, Article 8 (As amended 5/14/97) *Visibility Limiting Standard*
- 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
- 4. [Reserved]
- 5. [Reserved]

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6. [Reserved]
7. [Reserved]
8. [Reserved]
9. [Reserved]
10. [Reserved]
11. [Reserved]
12. §5-18-740 (2/22/95) *Storage of Organic Compounds - Organic Compound Emissions*
13. §5-19-800 (2/22/95) *Loading of Volatile Organic Compounds - Organic Compound Emissions*
14. §5-21-920 (2/22/95) *Fossil Fuel Fired Industrial and Commercial Equipment Standard Applicability*
15. §5-21-930 (2/22/95 and 7/12/00) *Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard*
16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*
20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*
21. §5-24-1040 (2/22/95) *Carbon Monoxide Emissions - Industrial Processes*
22. §5-24-1045 (2/22/95) *Sulfite Pulp Mills - Sulfur Compound Emissions*
23. §5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions - Default Limitation*
24. §5-24-1055 (2/22/95) *Pumps and Compressors - Organic Compound Emissions*

2-8-300. Performance standards

~~No person shall discharge into the atmosphere from any single source of emissions any air contaminant, other than uncombined water vapor, of a shade or density darker than 40 percent, unless otherwise restricted.~~

A. The provisions of this Article shall only apply to a source that is all of the following:

1. An existing source, which for purposes of this rule, means any source that does not have an applicable new source performance standard adopted under Chapter 6 of this Code;
2. A point source. For the purposes of this section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
3. A stationary source, which, for purposes of this rule, means any building, structure, facility or installation subject to regulation pursuant to A.R.S. §49-426(A) which emits or may emit any air pollutant. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987".

B. Except as otherwise provided in Chapter 5 of this code relating to opacity standards for specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:

1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Control Officer and Administrator as provided in subsections (A) and (B), after June 2, 2005;

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2. Prior to April 23, 2006 greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
 3. On and after April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (C) and (D).
- C. A person owning or operating a source may petition the Control Officer for an alternative applicable opacity limit. The petition shall be submitted to the Control Officer by September 15, 2005.
1. The petition shall contain:
 - a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
 - i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
 - ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
 - iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
 - b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
 - c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
 2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
 - a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
 - b. Evidence that the source conducted the stack tests according to § 3-1-170, and that they were witnessed by the Control Officer or the Control Officer's agent or representative.
 - c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
 3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (A)(1) and (A)(2), and in addition:

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- a. In subsection (A)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonable available control technology; and
- b. In subsection (A)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.

D. If the Control Officer receives a petition under subsection (A) the Control Officer shall approve or deny the petition as provided below by February 15, 2006:

- 1. If the petition is approved under subsection (A)(1) or (A)(2), the Control Officer shall include an alternative opacity limit in a proposed significant permit revision for the source under § 3-2-195 and § 3-1-107. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
- 2. If the petition is approved under subsection (A)(3), the Control Officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
- 3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under 3-1-083(A)(7)(c)(iii) by April 23, 2006.
- 4. A source does not have to petition for an alternative opacity limit under subsection (A) to enter into a revised compliance schedule under 3-1-083 (A)(7)(c).

E. The Control Officer, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this section, as follows:

- 1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
- 2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

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

Name: Pinal County Air Quality Control District
Address: P.O. Box 987 31 N. Pinal St., Building F
Florence, AZ 85232 Florence, AZ
Telephone: (520) 866-6929
Fax: (520) 866-6967

Note - the District has the proposed revisions, as well as supporting materials, available in hard-copy or on disk, and will endeavor to post these materials on the county's website.

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

A. Stakeholders Meeting

Date: April 11, 2005
Time: 2:00 p.m.

Location: Emergency Operations Center Hearing Room, Administration Building F, 31 North Pinal Street, Florence, Arizona

Nature of meeting: The Control Officer will meet informally with any interested party for the purpose of discussing the proposed rules.

B. Oral Proceeding

Date: April 20, 2005

Time: 2:00 p.m.

Location: Emergency Operations Center Hearing Room, Administration Building F, 31 North Pinal Street, Florence, Arizona

Nature of meeting: Oral proceeding before the Control Officer or his designee, in accord with A.R.S. § 49-471.06(C) to consider public comments upon any or all of this proposal.