

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

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NOTICE OF FINAL RULEMAKING Pima County Air Quality Control Regulations

Pima County Code Title 17 – Air Quality Control Chapter 8 – Ambient Air Quality Standards

[M05-417]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|----------------------------------|--------------------------|
| Pima County Code (PCC) 17.08.020 | Amend |
| PCC 17.08.030 | Amend |
| PCC 17.08.050 | Amend |
- 2. Statutory authority for the rulemaking:**
Arizona Revised Statutes (A.R.S.) § 49-112 – County Regulations; standards
A.R.S. Title 49, Chapter 3, Article 3. County Air Pollution Control
A.R.S. § 49.471.08 – Expedited Rulemaking
A.R.S. § 49.479 – Rules; hearing
- 3. The effective date of the rules:**
November 11, 2005
- 4. List of all previous notices appearing in the register addressing the proposed rule or ordinance and a concise explanatory statement.**
Notice of Expedited Rulemaking, Arizona Administrative Register (AAR) 714, February 11, 2005.
Notice of Rulemaking Docket Opening: AAR 11:26, page 2397, June 24, 2005.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
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- 6. An explanation of the rule, including the Control Officer's reasons for initiating the rule:**
Summary: Pima County has amended the rules to update the ambient air quality standards for PM 2.5 and 8-hour averaged ozone to reflect the current national standards. The rulemaking will also add a definition for PM 2.5 and amends the standards for sulfur dioxide to conform to EPA terms, which have been changed from micrograms (µg) to parts per million (ppm).
Background: In 1997, EPA promulgated final rules implementing new National Ambient Air Quality Standards (NAAQS) for particulate matter (PM) (62 FR 38652, July 18, 1997) and ozone (62 FR 38894, July 18, 1997). The new primary ozone NAAQS set forth an 8-hour averaged standard at a level of 0.08 ppm. This new primary standard is expected to provide increased protection to the public, particularly at-risk populations such as children, against a wide range of ozone-induced health effects, such as decreased lung function, increased respiratory symptoms, and hospital and emergency room admissions. The secondary 8-hour averaged ozone standard is identical to the primary standard, and is expected to provide increased protection to the public welfare against ozone-induced effects on vegetation, such as agricultural crops, forests and other ecosystems. PDEQ is proposing to amend 17.08.050 to include the new 8-hour averaged NAAQS for ozone.

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

The new primary and secondary ambient air quality standards for particulate matter are for fine particulate matter, or particulate matter with an aerodynamic diameter of less than or equal to 2.5 microns (PM_{2.5}). The new federal primary standard for PM_{2.5} is 15 µg per cubic meter of PM_{2.5}, annual arithmetic mean concentration, and 65 µg per cubic meter of PM_{2.5}, 24-hour average concentration. The new primary standard is expected to provide increased protection against a wide range of PM-related health effects, including premature mortality and increased hospital admissions and emergency room visits, increased respiratory symptoms and disease, and decreased lung function, especially in the at-risk populations such as the elderly, individuals with cardiopulmonary disease, children and persons with asthma. The new secondary standard for PM_{2.5} is identical to the primary standard, and is expected to provide protection against PM-related public welfare effects including soiling, material damage, and visibility impairment. In conjunction with the new PM_{2.5} standards, reference methods based on 40 CFR part 50, Appendix L, and designated in accordance with 40 CFR Part 53, have been specified for monitoring PM as PM_{2.5}, and reference methods in 40 CFR part 50, Appendices J and K, have been amended. The proposed 17.08.030 will adopt the new PM_{2.5} NAAQS. In 1996, EPA restated the primary and secondary NAAQS for sulfur oxides, in the form of sulfur dioxide, in terms of parts per million (ppm), rather than micrograms (61 FR 25556, May 22, 1996). This rulemaking proposes amending the Pima County sulfur dioxide standards, at 17.08.020, to conform to EPA terminology.

Section by Section Explanation of the Proposed Rules:

17.08.032 Sulfur oxides (sulfur dioxide). This Section amends the standards for sulfur dioxide to conform to EPA terms, which have been changed from micrograms (µg) to parts per million (ppm).

17.08.030 Particulate Matter; PM₁₀ and PM_{2.5}. The proposed rule will add subsections (A)(3)(a) and (A)(3)(b), which determines reference methods used to measure PM₁₀. Subsection (B) will also be added, which contains the primary and secondary ambient air quality standards for PM_{2.5}, as well as the reference methods used to measure PM_{2.5} and determine attainment of the standards.

17.08.050 Ozone: 1-hour standard and 8-hour averaged standard.

This Section amends the standards for ozone, adding an 8-hour averaged standard of 0.08 ppm. Additionally, this Section provides an ending date for the application of the 1-hour standard – June 15, 2005. This date accords with EPA's planned revocation of the 1-hour standard, to be set forth in Phase II of the implementation strategy for the 8-hour standard, to be promulgated later this year. Pima County is in attainment for the 1-hour ozone standard.

7. Reference to any study relevant to the rule that the Control Officer reviewed and either relied or did or did not rely on in its evaluation of or justification for the rule, where the public may review each study, all data underlying each study, and any analysis of each study and other supporting material:

See: Criteria documents at 62 FR 38652 (Air Quality Criteria for Particulate Matter ("Criteria Document") (three volumes, EPA/600/P-95-001aF through EPA/600/P-95-001cF, April 1996, NTIS #PB-96-168224,) and (Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information ("Staff Paper") (EPA-452/R-96-013, July 1996, NTIS #PB-97-115406). See: Criteria documents for Final Rule at 62 FR 38856 (Air Quality Criteria for O₃ and Other Photochemical Oxidants ("Criteria Document") (three volumes, EPA/600/P-93-004aF through EPA/600/P-93-004cF, July 1996, NTIS # PB-96-185574,) and (The Review of the National Ambient Air Quality Standards for O₃: Assessment of Scientific and Technical Information ("Staff Paper") (EPA-452/R-96-007, June 1996, NTIS # PB-96-203435). See also: American Trucking Associations, Inc., et al. v. United States Environmental Protection Agency, 336 U.S. App. D.C. 16, 175 F. 3d 1027, and 531 U.S. 457.

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

Rule Identification. This rulemaking amends Sections 17.08.020, 17.08.030 and 17.08.050

Costs. There are no additional costs to the regulated community when a county incorporates an already effective federal standard verbatim. The costs of compliance have already occurred, and were considered when the federal regulation was proposed and adopted. These rules impose no additional costs on the regulated community, small businesses, political subdivisions, or members of the public. Cost to PDEQ associated with this rulemaking will be minimal, based on reducing confusion and assuring correct standards are applied. PDEQ does not intend to hire any additional employees to implement or enforce these rules.

Benefits. Benefits accrue to the regulated community when a county incorporates a federal regulation in order to become the primary implementer of the regulation, because the county is closer to those being regulated and, therefore, is generally easier to contact and to work with to resolve differences, compared with the U.S. EPA, whose regional office for Arizona is in San Francisco. Local implementation also reduces travel and communication costs. Health benefits accrue to the general public whenever enforcement of environmental laws takes place. Adverse health effects from air pollution result in a number of economic and social consequences, including:

1. Medical costs. These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. Work loss. This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. Increased costs for chores and care giving. These include special care giving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all chores, and he or she may require care giving.
4. Other social and economic costs. These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members and others.

Conclusion. In conclusion, the incremental costs associated with this rule are generally low, and apply solely to PDEQ, while the air quality benefits are generally high. In addition, there are benefits to industry from being regulated by a geographically nearer government entity. There are no adverse economic impacts on political subdivisions. There are no adverse economic impacts on private businesses, their revenues or expenditures. The fact that no new employment is expected to occur has been discussed above, in the context of the impact on the county. There are no adverse economic impacts on small businesses, although some regulatory benefits will accrue to them. There are no economic impacts for consumers; benefits to private persons as members of the general public are discussed above in terms of enforcement. There will be no direct impact on PDEQ revenues. There are no other, less costly alternatives for achieving the goals of this rulemaking. The rules are no less stringent and no more stringent than the federal regulations on each subject.

Rule impact reduction on small businesses. A.R.S. § 41-1035 requires PDEQ to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives (see below) for the rulemaking. The five listed methods are:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

The statutory objectives that are the basis of the rulemaking: The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in number 2 of this preamble. The specific objectives are as follows:

1. Implement rules necessary for EPA delegation of Clean Air Act § 109 (NAAQS) program to Pima County.
2. Implement rules necessary for EPA requirements of Clean Air Act § 110 for implementation of the NAAQS in Pima County.

For all of these objectives, PDEQ is required to adopt the federal rules without reducing stringency. PDEQ, therefore, has found that it is not legal or feasible to adopt any of the five listed methods in ways that reduce the impact of these rules on small businesses. Finally, where federal rules impact small businesses, EPA is required by both the Regulatory Flexibility Act and the Small Business Regulatory Enforcement and Fairness Act to make certain adjustments in its own rulemakings.

9. A description of the changes between the "Notice of Expedited Rulemaking," including supplemental notices, and final rules (if applicable):

None

10. A summary of the comments made regarding the rule and the agency response to them:

None

11. Any other matters prescribed by the statute that are applicable to the specific agency or to any specific rule or class of rules: None

12. Incorporations by reference and their location in the rules:

All referenced incorporations provided in the text of the rule or ordinance are available for review at the Pima County Department of Environmental Quality or at <http://www.deq.pima.gov>. The state statutes: Arizona Revised Statutes, Title 49, Chapter 3 are available at the PDEQ office or at: <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>

13. Were the rules previously made as emergency rules?

No. These rules were previously published as "Expedited," in accordance with A.R.S. § 49-471.08 (A).

14. The full text of the rule follows:

**Title 17 of the Pima County Code
Title 17 – Air Quality Control
CHAPTER 17.08 AMBIENT AIR QUALITY STANDARDS**

Sections:

Article I. Ambient-air Standards.

- 17.08.010 Applicability and Standards.**
- 17.08.020 Sulfur Oxides.**
- 17.08.030 Particulate Matter (PM₁₀) and PM_{2.5}.**
- 17.08.040 Carbon Monoxide.**
- 17.08.050 Ozone.**
- 17.08.060 Nitrogen Dioxide.**
- 17.08.070 Lead.**

Article II. Ambient Air Quality Monitoring and Procedures.

- 17.08.080 Ambient air quality monitoring methods and procedures.**
- 17.08.090 Interpretation of ambient air quality standards and evaluation of air quality data.**

Article III. Classification Requirements for Attainment Areas.

- 17.08.100 Designation and classification of attainment areas.**

Article IV. Attainment/Nonattainment Area Designations.

- 17.08.110 Tucson nonattainment areas.**
- 17.08.120 Rillito nonattainment area.**
- 17.08.130 Ajo nonattainment area.**
- 17.08.140 General county areas.**
- 17.08.150 Limitation of pollutants in classified attainment areas.**

Article I. Ambient-Air Standards.

17.08.010 Applicability and Standards.

No Change

17.08.020 Sulfur Oxides (sulfur dioxide).

- A. The primary ambient air quality standards for sulfur oxides measured as sulfur dioxide using the reference method described in 40 CFR 50, appendix A, or by an equivalent method, are:
 - 1. ~~80 micrograms per cubic meter (0.03 parts per million)~~, 0.03 parts per million (ppm) (80µg/m³) - annual arithmetic mean, ~~and~~
 - 2. ~~365 micrograms per cubic meter (0.14 parts per million)~~, 0.14 parts per million (ppm) (365µg/m³) - maximum 24-hour concentration not to be exceeded more than once per year.
- B. The secondary ambient air quality standard for sulfur ~~oxides, measured as sulfur dioxide~~ is ~~1300 micrograms per cubic meter (0.5 parts per million)~~ 0.5 parts per million (ppm) (1300µg/m³) - maximum 3-hour concentration not to be exceeded more than once per year. (Ord. 2005-93 §1, 2005; Ord. 1993-128 § 2, 1993)

17.08.030 Particulate Matter: (PM₁₀) and PM_{2.5}.

- A. Particulate Matter (PM₁₀)
 - 1. The primary ~~and secondary 24-hour~~ ambient air quality standards for particulate matter PM₁₀ are:
 - a. ~~150 50 micrograms per cubic meter of PM₁₀ - annual arithmetic mean concentration, 24-hour average concentration. The standards are attained when the expected number of days per calendar year with a 24-hour concentration above 150 micrograms per cubic meter, as determined in accordance with 40 CFR 50, appendix K, is equal to or less than one.~~
 - b. 150 micrograms per cubic meter of PM₁₀ - 24-hour average concentration.
 - 2. The secondary ambient air quality standards for particulate matter (PM₁₀) are:

- a. 50 micrograms per cubic meter of PM₁₀ – annual arithmetic mean concentration.
 - b. 150 micrograms per cubic meter of PM₁₀ – 24-hour average concentration.
 3. For the purposes of determining attainment of the primary and secondary standards, particulate matter (PM₁₀) shall be measured in the ambient air as PM₁₀ by:
 - a. A reference method based on 40 CFR 50, Appendix J, and designated in accordance with 40 CFR 53; or
 - b. An equivalent method designated in accordance with 40 CFR 53.
 4. The primary and secondary annual ambient air quality standards for PM₁₀ shall be considered attained if the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to 50 micrograms per cubic meter.
 5. The primary and secondary 24-hour ambient air quality standards for PM₁₀ shall be considered attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to 1.
- B. ~~Particulate Matter (PM_{2.5}) The primary and secondary annual ambient air quality standards for particulate matter are 50 micrograms per cubic meter, annual arithmetic mean. The standard is attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, appendix K, is less than or equal to 50 micrograms per cubic meter.~~
1. The primary ambient air quality standards for particulate matter (PM_{2.5}) are:
 - a. 15 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.
 - b. 65 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.
 2. The secondary ambient air quality standards for particulate matter (PM_{2.5}) are:
 - a. 15 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.
 - b. 65 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.
 3. For purposes of determining attainment of the primary and secondary standards, particulate matter (PM_{2.5}) shall be measured in the ambient air by:
 - a. A reference method based on 40 CFR 50, Appendix J, and designated in accordance with 40 CFR 53; or
 - b. An equivalent method designated in accordance with 40 CFR 53.
 4. The primary and secondary annual ambient air quality standards for PM_{2.5} are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 15 micrograms per cubic meter.
 5. The primary and secondary 24-hour ambient air quality standards for PM_{2.5} are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 65 micrograms per cubic meter.
- C. ~~For the purpose of determining attainment of the primary and secondary ambient air quality standards, particulate matter shall be measured in the ambient air as PM₁₀ (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by:~~
1. ~~A reference method based on 40 CFR 50, appendix J, and designated in accordance with 40 CFR 53, or~~
 2. ~~An equivalent method designated in accordance with 40 CFR 53. (Ord. 2005-93 §1, 2005; Ord. 1993-128 § 2, 1993)~~

17.08.040 Carbon Monoxide.

No Change

17.08.050 Ozone: 1-hour standard and 8-hour averaged standard.

- A. ~~The primary and secondary ambient air quality standards for ozone are 0.12 parts per million (235 micrograms per cubic meter) for a one hour concentration.~~
- A. 1-hour standard. Until June 15, 2005:
1. The 1-hour primary ambient air quality standard for ozone is 0.12 ppm (235 micrograms per cubic meter).
 2. The 1-hour secondary ambient air quality standard for ozone is 0.12 ppm (235 micrograms per cubic meter).

3. The 1-hour standards are attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm (235 micrograms per cubic meter) is less than or equal to 1, as determined by 40 CFR 50, Appendix H.
- B. 8-hour averaged standard.
1. The 8-hour averaged primary ambient air quality standard for ozone is 0.08 ppm.
 2. The 8-hour averaged secondary ambient air quality standard for ozone is 0.08 ppm.
 3. 8-hour averaged primary and secondary ambient air quality standards for ozone are met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum 8-hour ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
- B- ~~The standards are attained when the expected number of days per calendar year with maximum hourly concentrations above 0.12 parts per million (235 micrograms per cubic meter) is equal to or less than one (1), as determined by 40 CFR 50, appendix H.~~
- C- ~~The levels of ozone in the ambient air shall be measured by a reference method based on 40 CFR 50, appendix D, and designated in accordance with 40 CFR 53. (Ord. 2005-93 §1, 2005; Ord. 1993-128 § 2, 1993)~~

17.08.060 Nitrogen Dioxide.

No Change

17.08.070 Lead.

No Change

Article II. Ambient Air Quality Monitoring and Procedures.

17.08.080 Ambient air quality monitoring methods and procedures.

No Change

17.08.090 Interpretation of ambient air quality standards and evaluation of air quality data.

No Change

Article III. Classification Requirements for Attainment Areas.

17.08.100 Designation and classification of attainment areas.

No Change

Article IV. Attainment/Nonattainment Area Designations.

17.08.110 Tucson CO nonattainment areas.

No Change

17.08.120 Rillito nonattainment area.

No Change

17.08.130 Ajo attainment area.

No Change

17.08.140 General county areas.

No Change

17.08.150 Limitation of pollutants in classified attainment areas.

No Change