

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

Because each county writes rules and regulations in its own unique style, County Notices published in the *Register* do not conform to the standards of the *Arizona Rulemaking Manual*. With the exception of minor formatting changes, the rules (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

NOTICE OF FINAL RULEMAKING

PURSUANT TO A.R.S. § 49-471.01, ET SEQ.

PINAL COUNTY

[M09-143]

I. Preamble

A. Summary

This constitutes a notice of final rulemaking pertaining to the Pinal County Board of Supervisors Resolution No. 010709-AQ2 (1/7/09) ("BOS Resolution"). The antecedent notice of proposed rulemaking was published at 14 A.A.R. 3814 (10/3/08).

The BOS Resolution rules responded, in part, to the EPA's notice of limited disapproval of specific Pinal County rules. See 72 FR 41896 (8/1/2007) ("Disapproval notice").

The BOS Resolution specifically responded to that portion of the Disapproval Notice that objected to Pinal County's failure to submit as amendatory elements to the Arizona State Implementation Plan ("SIP") certain previously adopted rule revisions rescinding an agricultural exemption. Since the curative rules had already been adopted, the only legislative action embodied in the BOS Resolution was the amendment of §1-1-105 to designate those previous revisions as proposed elements of the SIP.

B. Incorporation by Reference

These revisions were adopted pursuant to a notice published at 14 A.A.R. 3814 (10/3/08).

There were no comments received on that proposal. The text of the revisions as adopted were unchanged relative to the changes identified in the initial publication in the Arizona Administrative Register. Accordingly, this preamble incorporates by reference the notice for this rulemaking as published at 14 A.A.R. 3814 (10/3/2008).

II. The full text of the adopted changes follows:

1-1-105. SIP list (Amended)

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, 5/27/98 and 10/27/04, except for §1-3-130 and the definition in §1-3-140.82 (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).
- f. Article 6. (As amended 10/12/95).
- g. Article 7. (As amended 10/12/95).
- h. Article 8. (As amended 5/18/05).

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, 7/12/00, 12/4/02 and 10/27/04).
- 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 §1-3-140.85; 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;
 3. Operate as an element of the SIP, at least insofar as they impose a "fee";
 4. Operate as an element of the SIP, at least insofar as they require a "certification";
 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to "renewals";
 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding "excess emissions"; or
 7. 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]
 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*

NOTICE OF FINAL RULEMAKING

PURSUANT TO A.R.S. § 49-471.01, ET SEQ.

PINAL COUNTY

[M09-144]

I. Preamble

A. Summary

This constitutes a notice of final rulemaking pertaining to the Pinal County Board of Supervisors Resolution No. 010709-AQ3 (1/7/09) ("BOS Resolution"). The antecedent notice of proposed rulemaking was published at 14 A.A.R. 4049, 10/24/2008.

The adopted rules responded, in part, to the EPA's notice of limited disapproval of specific Pinal County rules. See 72 FR 41896 (8/1/2007) ("Disapproval Notice").

The revisions responded specifically to those two portions of the disapproval that cited: the inadequacy of the existing "reasonable precaution" rules to establish enforceable "reasonably available control measures" ("RACM") for a PM₁₀ nonattainment area; and the corresponding lack of RACM recordkeeping requirements.

PM₁₀ RACM is required for all areas designated as nonattainment for PM₁₀. While there are currently two such PM₁₀ nonattainment areas in Pinal County, this rule revision only addressed imposition of RACM in the Pinal County portion of the Hayden PM₁₀ nonattainment area. In the other nonattainment area, namely the area commonly referred to as "Apache Junction," the need for RACM and BACM will be addressed in a separate rule-making action.

Substantively, the BOS Resolution consisted of §2-8-302, which imposes a 20% opacity standard in the affected area on fugitive dust from: construction; roadway building, use and maintenance; and bulk material handling, storage and transport.

Procedurally, the BOS Resolution also revised §1-1-105 to designate new rule §2-8-302 as a proposed element of the Arizona State Implementation Plan, with the implicit objective of establishing a RACM standard for the affected sources.

B. Incorporation by Reference

These revisions were adopted pursuant to an Expedited Rulemaking pursuant to A.R.S. §49-471.08(A)(2). There were no comments received on that proposal. Other than a ministerial change to the reference date-of-adoption in the §1-1-105.A.2.h designation as a proposed SIP-element, the text of the revisions as adopted were unchanged relative to the initial publication in the Arizona Administrative Register. Accordingly, this preamble incorporates by reference the notice for that Expedited Rulemaking, as published at 14 A.A.R. 4049, 10/24/2008.

III. The full text of the adopted changes follows:

1-1-105. SIP list (Amended)

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, 5/27/98 and 10/27/04, except for §1-3-130 and the definition in §1-3-140.82 (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).
 - f. Article 6. (As amended 10/12/95).
 - g. Article 7. (As amended 10/12/95).
 - h. Article 8. (As amended 5/18/05, as amended 1/7/09).
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, 7/12/00, and 10/27/04, excluding §§4-2-040 and 4-2-030).
- 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 §1-3-140.85; 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;
 - 3. Operate as an element of the SIP, at least insofar as they impose a "fee";
 - 4. Operate as an element of the SIP, at least insofar as they require a "certification";
 - 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to "renewals";
 - 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding "excess emissions"; or
 - 7. 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 1/7/09) *Visibility Limiting Standard*
 - 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
 - 4. [Reserved]
 - 5. [Reserved]
 - 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*

2-8-302. Performance Standards - Hayden PM₁₀ Nonattainment Area

- A. Subject to the exemption provided in subsection B, the provisions of this Section shall apply to new and existing sources of fugitive dust within the following a source categories:
 - 1. Construction;
 - 2. Roadway building, use and maintenance;
 - 3. Bulk material handling, storage and transport.

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

- B. These performance standards shall not apply to any source or source category that the Control Officer and the Administrator both find has been shown to not contribute significantly to PM₁₀ levels in excess of the NAAQS.
- C. This section shall apply within the Hayden planning area PM₁₀ nonattainment area, as defined at 40 CFR §81.303.
- D. The opacity of any plume or effluent, from a source described in subsection (A), shall not be greater than 20%.