

COUNTY NOTICES OF PROPOSED RULEMAKING

Pursuant to A.R.S. § 49-112(A) or (B)

NOTICE OF PROPOSED RULEMAKING

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

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

- Chapter 1 - General Provisions and Definitions, Article 2. Incorporated Materials
 - § 1-2-110. Adopted Document(s)
- Chapter 2 - Ambient Air Quality Standards, Article 8. Visibility Limiting Standard
 - § 2-8-300. Performance Standards
 - § 2-8-320. Monitoring and Records
- Chapter 3 - Permits and Permit Provisions, Article 3. General Provisions Relating to Permits and Permit Revisions
 - § 3-1-040.D. Applicability and Classes of Permits
- Chapter 3 - Permits and Permit Provisions, Article 3. General Provisions Relating to Permits and Permit Revisions
 - § 3-1-176. Material Permit Conditions
- Chapter 3 - Permits and Permit Provisions, Article 7. Permit Fees
 - § 3-7-640.A. Permit Fees - Review of Final Bill
- Chapter 4 - Emissions from Existing and New Non-Point Sources, Article 2. Fugitive Dust
 - § 4-2-050. Monitoring and Records
- Chapter 5 - Stationary Source Performance Standards, Article 9. Volatile Organic Compounds Emissions
 - § 5-9-278. Applicability
- Chapter 5 - Stationary Source Performance Standards, Article 15. Solvent Cleaning
 - § 5-15-620.G. Performance Standards
 - § 5-15-620.H. Performance Standards
- Chapter 5 - Stationary Source Performance Standards, Article 21. Fossil Fuel-Fired Industrial and Commercial Equipment
 - § 5-21-930.C. Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard
 - § 5-34-2050. Applicability
 - § 5-34-2052.C. Notification Requirements
 - § 5-34-2054.C. Emission Calculation Report Requirement
- Chapter 5 - Stationary Source Performance Standards, Article 35. Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators
- Chapter 6 - New Source Performance Standards, Article 1, Adopted Documents
 - § 6-1-010. General
 - § 6-1-030. Performance Standards
- Chapter 7 - Hazardous Air Pollutant Standards, Article 1. Federal Hazardous Air Pollutant Program
 - § 7-1-010. General
 - § 7-1-030. Performance Standards
- Appendix A - Permit Application Form and Filing Instructions

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

To the extent that any of the affected rule provisions identified below may already constitute elements of the EPA-approved Arizona State Implementation Plan, or the County's EPA-approved Title V operating permit program, the effective date of those particular provisions may be conditioned upon a prior EPA-approval of a corresponding change to the existing EPA-approved plan or program.

A. § 1-2-110. Adopted document(s): This section is amended to revise the reference dates for incorporations by reference to reflect the most recently ADEQ rule revisions, as codified in the Arizona Administrative Register. The changes also conform to the reference date for ADEQ's general incorporation by reference of material from the enumerated provisions of the Code of Federal Regulations.

B. § 3-1-040.D. Applicability and Classes of Permits: PCAQCD is clarifying this code provision by changing director to control officer, to conform to the definition of § 1-1-030.

C. § 3-1-176. Material Permit Conditions: PCAQCD is adopting this code provision by changing director to control

officer, to conform to the definition of § 1-1-030. The proposed changes mirror ADEQ's corresponding rule revisions and will make the code "at least as stringent" as the ADEQ rule as required by A.R.S. § 49-479. See A.A.C. R18-2-331, amended June 4, 1998 (Supp. 98-2) for additional background information.

D. § 3-7-640.A. Permit Fees - Review of Final Bill: PCAQCD is correcting a typographical error in this code.

E. § 4-2-050. Monitoring and Records: PCAQCD is proposing to revise this code in order to delete the wind speed criteria in this code, and to make the code "at least as stringent" as the ADEQ rule, as required by A.R.S. § 49-479. See A.A.C. R18-2-702, amended November 15, 1993 (Supp 93-4).

F. § 5-9-278. Applicability: PCAQCD is correcting a typographical error in this code. (Meridian to Meridian)

G. § 5-15-620.G. Performance Standards: PCAQCD is deleting this code as an error, since the reference does not exist and labeling "G" as "reserved."

H. § 5-15-620.H. Performance Standards: PCAQCD is correcting a typographical error in this code. (labelled to labeled)

I. § 5-21-930.C. Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard:

PCAQCD is proposing to amend this code to delete "from any stationary rotating machinery" to comply with A.A.C. R18-2-703 amended on November 15, 1993 (Supp. 93-4) and to make the code "at least as stringent" as the ADEQ rule, as required by A.R.S. § 49-479.

J. § 5-34-2050. Applicability: PCAQCD is correcting a typographical error in this code due to renumbering.

K. § 5-34-2052.C. Notification Requirements: PCAQCD is correcting a typographical error in this code due to renumbering.

L. § 5-34-2054.C. Emission Calculation Report Requirement: PCAQCD is correcting a typographical error in this code due to renumbering.

M. Article 35. Standards of Performance for Existing Hospital/Medical/Infectious Waste Incinerators, § 5-35-2060 to 2066. PCAQCD is proposing the adoption-by-reference of revisions and additions to the 40 CFR Part 60 New Source Performance Standards (NSPS) standards promulgated under Clean Air Act (CAA) § 111. The NSPS regarding the "Standards of Performance for Existing Hospital/Medical/Infectious Waste Incinerators" (40 CFR 60, Subpart Ec) adopted September 15, 1997 (62 FR 48382) implements the addition of Code § 5-35-2060, revises § 6-1-010.A by the inclusion of emission guidelines for existing medical waste incinerators, and renumbers Code § 6-1-030 (Performance Standards) to include 40 CFR 60 Subpart Ec as item #9. In adding Code § 5-35-2060, this will duplicate ADEQ's adoption of a state-developed "emission guideline" for existing medical waste incinerators, as required under NSPS Subpart Ce. All references to the appropriate renumbered Performance Standards have been altered in the code. The proposed changes mirror ADEQ's corresponding rule revisions and will make the code "at least as stringent" as the ADEQ rule, as required by A.R.S. § 49-479; see 5 A.A.R. 1097 (April 16, 1999) for an explanation of the substance of the affected provisions.

N. § 6-1-010. General: PCAQCD is proposing to amend this code in response to correspondence from the Environmental Protection Agency (EPA) dated April 30, 1999, regarding the exceptions included in the existing regulatory adoption of the NSPS standards. Each of the affected NSPS subparts must be adopted unequivocally and the general code must define that incorporation by reference of Parts 60 does not include nondelegable functions of the EPA Administrator.

O. § 6-1-030. Performance Standards: PCAQCD is proposing to amend this code in response to correspondence from the Environmental Protection Agency (EPA) dated April 30, 1999, regarding the exceptions included in the existing regulatory adoption of the NSPS standards. Each of the affected NSPS subparts must be adopted unequivocally and the general code must define that incorporation by reference of Parts 60 does not include nondelegable functions of the EPA Administrator.

P. § 7-1-010. General: PCAQCD is proposing to amend this code in response to correspondence from the Environmental Protection Agency (EPA) dated April 30, 1999, regarding the exceptions included in the existing regulatory adoption of the NESHAP standards. Each of the affected NESHAP subparts must be adopted unequivocally and the general code must define that incorporation by reference of Parts 61 does not include nondelegable functions of the EPA Administrator.

Q. § 7-1-030. Performance Standards: PCAQCD is proposing to amend this code in response to correspondence from the Environmental Protection Agency (EPA) dated April 30, 1999, regarding the exceptions included in the existing regulatory adoption of the NESHAP standards. Each of the affected NESHAP subparts must be adopted unequivocally

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cally and the general code must define that incorporation by reference of Parts 61 does not include nondelegable functions of the EPA Administrator.

R. § 7-1-030. Performance Standards for Federally Listed Hazardous Air Pollutants: PCAQCD is proposing the adoption-by-reference revisions and additions to the 40 CFR Part 63 National Emission Standards for Hazardous Air Pollutants (NESHAP) standards promulgated under CAA § 112:

1. "NESHAP from the Pulp and Paper Industry" (40 CFR 63, Subpart S) adopted April 15, 1998 (63 FR 18616) implements effluent limitations guidelines and standards under the Clean Water Act (CWA) for a portion of the pulp, paper and paperboard industry, and NESHAP under the CAA as amended in 1990 for the pulp and paper production source category.
2. "NESHAP for primary Aluminum Reduction Plants" (40 CFR 63, Subpart LL) adopted October 7, 1997 (62 FR 52407) implements national emission standards for each new or existing potline, paste production plant, and anode bake furnace associated with a primary aluminum reduction plant. In addition, the NAPS for primary aluminum plants was amended and most of the requirements incorporated in the final national emission standards.
3. "NESHAP from Hazardous Waste Combustors" (40 CFR 63, Subpart EEE) adopted June 19, 1998 (63 FR 33782). The final EPA rule adopted new regulations under 40 CFR 63 and amended regulations under 40 CFR 261 and 270 to implement air emission standards for hazardous waste combustors, including cement kilns and lightweight aggregate kilns that burn hazardous waste.

The proposed changes mirror ADEQ's corresponding rule revisions and will make the code "at least as stringent" as the ADEQ rule, as required by A.R.S. § 49-479. See A.A.C. R18-2-1101, amended August 12, 1999 (Supp. 99-3) and 5 A.A.R. 3222 for additional background information.

S. Appendix A - Permit Application Form: PCAQCD is proposing to amend the form to include the current telephone number and clarify the legal authority to enter the property and false certification consequences.

3. A demonstration of the grounds and evidence of compliance with 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:

A. 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 essentially parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable.

B. Based on a review of the operating costs of the Pinal County Air Quality Control District, and any reasonable projection of total of revenues resulting from the fees and other charges that would be assessed under any or all of the rule revisions proposed above, the Control Officer finds that there is no real risk that revenues will exceed the cost of program administration. The continuing fee-cap, defined by ADEQ's fee rates, continues to implicitly assure the reasonableness of the County's fees. Thus, implementation of any or all of the rule changes proposed above will still not violate the fee-limitations of either A.R.S. §§ 49-112(A)(3) or 49-112(B).

C. With regard to the rule revisions outlined above, items #2.A, 2.D, 2.H, 2.K, and 2.P are revisions to conform existing County rules to ADEQ's parallel rules. As such, all of those changes inherently avoid triggering the A.R.S. §§ 49-112(A) and 49-479 requirement for a demonstration as a precedent to adoption of more stringent or functionally additional rules.

Item #2.B clarifies that the Control Officer shall make county-level MACT determinations pursuant to CAA § 112(g), and thereby conforms the language of the provision to the underlying definition in Code § 1-1-030. As such, this provision does not add to the Code in a substantive manner, or affect the "stringency" of the Code, and therefore avoids any need for a showing under A.R.S. § 49-112(A).

Items #2.C, 2.E, 2.F., 2.H, 2.I, and 2.J all correct typographical errors. These changes do not add to the Code in any substantive manner, or affect the "stringency" of the Code, and therefore avoid any need for a showing under A.R.S. § 49-112(A).

Items #2.L, 2.M, 2.N and 2.O respond to the EPA's admonition that in order to seek a competent delegation of enforcement authority with regard to NSPS, NESHAP and MACT standards, the underlying adoption of authority must unequivocally adopt all of the relevant regulatory provisions, and then in blanket fashion disclaim authority to make those specific determinations, such as approval of alternate monitoring methods, that are reserved unto the EPA Administrator. In contrast, the adoption of those standards under existing Code had expressly exempted the specific provisions that were non-delegable in nature. The changes proposed do not functionally expand the Code in any manner, or affect the "stringency" of the Code. In addition, the changes are believed to conform to the manner in which

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ADEQ has adopted these same provisions. Accordingly, the revisions do not trigger a requirement for a showing under A.R.S. § 49-112(A).

Item #2.Q merely revises the permit application form to reflect PCAQCD's current phone number and address, and adds citations to the existing statutory provisions and requirements. These changes do not add to the Code in any substantive manner, or affect the "stringency" of the Code, and therefore avoid any need for a showing under A.R.S. § 49-112(A).

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

Name: Donald P. Gabrielson, Director
Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, Arizona 85232
Telephone: (520) 868-6929
Fax: (520) 868-6967

5. Where persons may obtain a full copy of the proposed rules, ordinance, or other regulations

Name: Pinal County Air Quality Control District
Address: P.O. Box 98731 North Pinal Street, Building F
Florence, Arizona 85232
Telephone: (520) 868-6929
Fax: (602) 868-6967

Note: The District has the proposed revisions, as well as supporting materials, available in hard-copy or on disk.

NOTICE OF PUBLIC HEARING ON PROPOSED RULEMAKING

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

1. Heading and number of the proposed rules, ordinance, or other regulations that are the subject to the public hearing

- Chapter 1 - General Provisions and Definitions, Article 2. Incorporated Materials
§ 1-2-110. Adopted Document(s)
- Chapter 2 - Ambient Air Quality Standards, Article 8. Visibility Limiting Standard
§ 2-8-300. Performance Standards
§ 2-8-320. Monitoring and Records
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- Chapter 4 - Emissions from Existing and New Non-Point Sources, Article 2. Fugitive Dust
§ 4-2-050. Monitoring and Records
- Chapter 5 - Stationary Source Performance Standards, Article 9. Volatile Organic Compounds Emissions
§ 5-9-278. Applicability
- Chapter 5 - Stationary Source Performance Standards, Article 15. Solvent Cleaning
§ 5-15-620.G. Performance Standards
§ 5-15-620.H. Performance Standards
- Chapter 5 - Stationary Source Performance Standards, Article 21. Fossil Fuel-Fired Industrial and Commercial Equipment
§ 5-21-930.C. Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard
§ 5-34-2050. Applicability
§ 5-34-2052.C. Notification Requirements
§ 5-34-2054.C. Emission Calculation Report Requirement

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- Chapter 5 - Stationary Source Performance Standards, Article 35. Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators
- Chapter 6 - New Source Performance Standards, Article 1, Adopted Documents
 - § 6-1-010. General
 - § 6-1-030. Performance Standards
- Chapter 7 - Hazardous Air Pollutant Standards, Article 1. Federal Hazardous Air Pollutant Program
 - § 7-1-010. General
 - § 7-1-030. Performance Standards
- Appendix A - Permit Application Form and Filing Instructions

2. Date, time, and location of public hearing scheduled

Date: June 28, 2000
Time: 2:00 p.m.
Location: Board of Supervisors' Hearing Room
Administration Building No. 1
31 North Pinal Street
Florence, Arizona

Nature of meeting: Public hearing as an element of the regular meeting of the Pinal County Board of Supervisors, to consider formal adoption of some, all, or none of the proposed revisions

3. County personnel to whom questions and comments may be addressed

Name: Donald P. Gabrielson, Director
Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, Arizona 85232
Telephone: (520) 868-6929
Fax: (520) 868-6967

4. Any other pertinent information concerning the above described rules, ordinance, or other regulations.

Please refer to the Notice of Proposed Rulemaking that appears in this issue of the *Arizona Administrative Register*.