

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

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## NOTICE OF FINAL RULEMAKING

### MARICOPA COUNTY AIR QUALITY DEPARTMENT

### MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

### REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION

### RULE 510 – AIR QUALITY STANDARDS

[M06-652]

#### PREAMBLE

**1. Sections Affected**

Rule 510 § Index  
Rule 510 § 100  
Rule 510 § 200  
Rule 510 § 300  
Rule 510 § 400  
Rule 510 § 500

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**

Authorizing statutes: A.R.S. §§ 49-471.08, 49-479

Implementing statutes: A.R.S. §§ 49-473, 49-479

**3. The effective date of the rule:**

Date of Adoption by the Board of Supervisors: November 1, 2006.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 11 A.A.R. 5133, December 2, 2005

Notice of Expedited Rulemaking: 12 A.A.R. 2307, June 30, 2006

**5. The name and address of department personnel with whom persons may communicate regarding the rulemaking:**

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**6. An explanation of the rule, including the department's reasons for initiating the rule:**

**Background**

Maricopa County initiated this rulemaking to respond to recent notices published by the Environmental Protection Agency (EPA) in the Federal Register (FR). Maricopa County is updating the ambient air quality standards for PM<sub>2.5</sub> and 8-hour averaged ozone to reflect the current standards. The Arizona Department of Environmental Quality (A.D.E.Q.) adopted these standards in a final rulemaking published in the Arizona Administrative Register (A.A.R.) on September 2, 2005 (11 A.A.R. 3305). In this rulemaking, Maricopa County is also amending the rule to ensure consistency with the text in Title 18 of the Arizona Administrative Code (A.A.C.), Chapter 2, Article 2 and 40 Code of Federal Regulations (CFR).

## Summary

### PM<sub>2.5</sub>

In 1997, the EPA promulgated final rules implementing new primary and secondary National Ambient Air Quality Standards (NAAQS) for fine particulate matter, or particulate matter with an aerodynamic diameter of less than or equal to 2.5 microns (PM<sub>2.5</sub>) (62 FR 38652 - 38760, July 18, 1997). The new federal primary standard for PM<sub>2.5</sub>, is 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), annual arithmetic mean concentration, and 65  $\mu\text{g}/\text{m}^3$ , 24-hour average concentration. This new PM<sub>2.5</sub> standard is expected to provide increased protection against a wide range of particulate matter-related health effects, including premature mortality and increased hospital admissions and emergency room visits, primarily in the elderly and individuals with cardiopulmonary disease; increased respiratory symptoms and disease, in children and individuals with cardiopulmonary disease such as asthma; decreased lung function, particularly in children and individuals with asthma; and alterations in lung tissue and structure and in respiratory tract defense mechanisms. The new federal secondary standard for PM<sub>2.5</sub> is identical to the federal primary standard, and is expected to provide protection against particulate matter-related public welfare effects including soiling, material damage, and visibility impairment. In addition, the EPA added Appendix L, Reference Method for the Determination of Fine Particulate Matter as PM<sub>2.5</sub> in the Atmosphere, and Appendix N, Interpretation of the NAAQS for Particulate Matter, to 40 CFR 50. The reference method in 40 CFR 50, Appendix K, was also amended by the EPA for conformity with the format of other appendices. On April 22, 1999, 64 FR 19717 - 19719, the EPA further revised two requirements for measurements of fine particulates in 40 CFR 50, Appendix L. On January 5, 2005 (70 FR 953 - 954), the EPA classified Maricopa County as "Unclassifiable/Attainment" for PM<sub>2.5</sub>.

In the July 18, 1997 ruling (62 FR 38652 - 38760), the EPA also promulgated final rules revising the existing NAAQS for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (PM<sub>10</sub>). On May 14, 1999, the U.S. Court of Appeals for the D.C. Circuit issued an opinion questioning the constitutionality of the Clean Air Act (CAA) authority to review and revise the NAAQS in response to a lawsuit, *American Trucking Associations, Inc., et al. v. United States Environmental Protection Agency* and consolidated cases. The Court found that there was adequate evidence to justify EPA's choice to regulate both coarse and fine particulate matter pollution, but stated that EPA's decision to issue separate, but overlapping, regulations governing fine particulates and coarse particles was unreasonable. In its decision, the Court vacated the revised PM<sub>10</sub> NAAQS. On December 22, 2000 (65 FR 80776 - 80779), the EPA took final action on the revised PM<sub>10</sub> NAAQS, by removing 40 CFR 50.6(d) and leaving the pre-existing PM<sub>10</sub> NAAQS in effect. On July 30, 2004 (69 FR 45592 - 45596), the EPA took further final action to remove additional requirements related to the revised PM<sub>10</sub> NAAQS concerning new measurement methods, a new attainment test, and air quality monitoring schedules.

### Sulfur Oxides

On May 22, 1996 (61 FR 25566 - 25580), the EPA promulgated a final decision concerning the NAAQS for sulfur oxides, in the form of sulfur dioxide. In this decision, the EPA restated the NAAQS in terms of parts per million (ppm) rather than  $\mu\text{g}/\text{m}^3$ , added explicit rounding conventions, and specified data completeness and handling conventions. The EPA also announced its intention to retain the block averaging convention for the 24-hour, annual, and 3-hour standards and added this clarifying language to 40 CFR 50.4 and 40 CFR 50.5.

### Ozone

On July 18, 1997 (62 FR 38856 - 38896), the EPA promulgated a final rule implementing new NAAQS for ozone. The new primary ozone NAAQS sets forth an 8-hour standard at a level of 0.08 ppm. The standard is based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. 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, primarily in children active outdoors; increased respiratory symptoms, particularly in highly sensitive individuals; hospital admissions and emergency room visits for respiratory causes, among children and adults with pre-existing respiratory disease such as asthma; and inflammation of the lung, and possible long-term damage to the lungs. The new secondary 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, and visible foliar injury to sensitive species. In this rulemaking, the EPA has also specified that the 1-hour standard set forth in 40 CFR 50.9 will no longer apply to an area once the EPA determines that the area has air quality meeting the 1-hour standard. The EPA also revised Appendices D and H, removed and reserved Appendix E, and added a new Appendix I.

The new ozone standards were challenged by industry and some states in *American Trucking Associations, Inc., et al. v. United States Environmental Protection Agency*. On July 20, 2000 (65 FR 45182 - 45200), the EPA promulgated a final rule rescinding the finding that the 1-hour ozone NAAQS and the accompanying designations and classifications no longer apply in certain areas, in response to the lawsuit. In this rulemaking, the EPA also revised 40 CFR 50.9(b) to clarify that the 1-hour ozone standard continues to apply to all areas until the 8-hour standard has become fully enforceable under part D of title I of the CAA and is no longer subject to further legal challenge. The EPA further clarified this issue in a final rule published on June 26, 2003 (68 FR 38160 - 38163), by staying its authority to determine that the 1-hour NAAQS for ozone no longer applies in areas that meet the standard.

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

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The United States Supreme Court decided the case on February 27, 2001, ruling that the new ozone standards promulgated by the EPA may be implemented. On November 14, 2002, the EPA issued a memorandum outlining the schedule for designating areas under the 8-hour ozone standard. This memorandum reflected an agreement between the EPA and environmental organizations concerning ozone designations, as a resolution to the lawsuit. In order to comply with the agreement, the EPA requested States to provide designation recommendations to the Regional Administrator by July 15, 2003. States have until 2007 (three years from the date of the designation) to submit State Implementation Plans (SIPs) to the EPA. On April 30, 2004 (69 FR 23951 - 24000), the EPA revised 40 CFR 50.9(b), stating that the 1-hour ozone NAAQS no longer applies to an area one year after the effective date of the designation of the area for the 8-hour ozone NAAQS. Also on April 30, 2004 (69 FR 23878 - 23880), the EPA classified part of Maricopa County as nonattainment for the 8-hour ozone standard. On June 14, 2005 (70 FR 34362 - 34371), the EPA redesignated the Phoenix metropolitan 1-hour ozone nonattainment area from nonattainment to attainment. In 70 FR 44470 - 44478, August 3, 2005, the EPA codified in 40 CFR 81.303 that the 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Arizona.

**Section by Section Explanation of Changes:**

- 102 This revision adds an “Availability of Information” section to indicate where materials referenced in the rule are available.
- 201 This revision adds a definition for Primary Ambient Air Quality Standards. The term national primary ambient air quality standard is defined by the EPA in 40 CFR 50.2(b), and A.D.E.Q. defines the term primary ambient air quality standards in A.A.C. R18-2-101.
- 202 This revision adds a definition for Secondary Ambient Air Quality Standards. The term national secondary ambient air quality standard is defined by the EPA in 40 CFR 50.2(b), and A.D.E.Q. defines the term secondary ambient air quality standards in A.A.C. R18-2-101.
- 301 This revision removes the standards for “Total Suspended Particulates (TSP)”. The EPA replaced the TSP increments with increments for PM<sub>10</sub> on June 3, 1993 (58 FR 31622). Maricopa County is adding standards for “Particulate Matter - 2.5 Microns Or Less (PM<sub>2.5</sub>)”. These standards are outlined in 40 CFR 50.7 and A.A.C. R18-2-201(B).
- 302 Maricopa County is revising this section, “Particulate Matter - 10 Microns Or Less (PM<sub>10</sub>)”, to reflect the language used in 40 CFR 50.6 and A.A.C. R18-2-201(A).
- 303 Maricopa County is revising this section, “Sulfur Oxides (Sulfur Dioxide)”, to reflect the language used in 40 CFR 50.4, 40 CFR 50.5 and A.A.C. R18-2-202.
- 304 Maricopa County is removing the standard for “Ozone: One-hour Average Concentration”. On June 14, 2005 (70 FR 34362 - 34371), the EPA redesignated the Phoenix metropolitan 1-hour ozone nonattainment area from nonattainment to attainment. In 70 FR 44470 - 44478, August 3, 2005, the EPA codified in 40 CFR 81.303 that the 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Arizona. Maricopa County is adding the standards for “Ozone Eight-hour Average Concentration”. These standards are outlined in 40 CFR 50.10 and A.A.C. R18-2-203(B).
- 305 Maricopa County is revising this section, “Carbon Monoxide”, to reflect the language used in 40 CFR 50.8 and A.A.C. R18-2-204.
- 306 Maricopa County is revising this section, “Nitrogen Dioxide”, to reflect the language used in 40 CFR 50.11 and A.A.C. R18-2-205.
- 307 Maricopa County is revising this section, “Lead”, to reflect the language used in 40 CFR 50.12 and A.A.C. R18-2-206.
- 308 Maricopa County is clarifying this section by moving the table listing the applicable 40 CFR 50 appendices to a separate section (new Section 308.1). Maricopa County is also removing the incorrect reference to “subsections 309.1 and 309.2”.
- 308.1 (new) Maricopa County is removing the references to “Total Suspended Particulates” and Appendix B, because the EPA replaced the TSP increments with increments for PM<sub>10</sub> on June 3, 1993 (58 FR 31622). Maricopa County is adding “PM<sub>2.5</sub>” and 40 CFR 50, Appendix L to this section.
- 308.2 (new) Maricopa County is removing the unnecessary text “prior to the effective date of this regulation”. Each reference or equivalent method designated by the EPA is acceptable for use until the reference or equivalent method is subsequently cancelled or superseded by the EPA. Maricopa County is replacing the outdated reference to “Title 40, Part 51, Section 51.17a of the Code of Federal Regulations” with “40 CFR 58, Appendix C”.
- 308.2 (old) Maricopa County is removing Section 308.2, because it does not apply.
- 308.3 Maricopa County is revising this section to remove unnecessary language.
- 309 Maricopa County is adding Section 309, Additional Requirements. This text is equivalent to the A.D.E.Q. regulations in A.A.C. R18-2-215(B) and R18-2-216.

- 310 Maricopa County is adding Section 310 to indicate that materials referenced in this rule are incorporated by reference in Appendix G of the Maricopa County Air Pollution Control Regulations.
- 401 Maricopa County is removing the outdated text in this section, and replacing the text with references to: 40 CFR 58.26 and 40 CFR 58, Appendix F, in reference to the annual air quality monitoring report; and, 40 CFR 58.50 and 40 CFR 58, Appendix G, in reference to the daily air quality index report.

**7. Demonstration of compliance with A.R.S. § 49-112:**

Under A.R.S. § 49-479(C), a county may not adopt or amend a rule that is more stringent than the rules adopted or amended by the Director of the A.D.E.Q., unless the county demonstrates compliance with the requirements of A.R.S. § 49-112.

**A.R.S. § 49-112(A)**

Maricopa County is in compliance with A.R.S. § 49-112(A) in that Maricopa County is adopting revisions to Rule 510 that are not more stringent than nor in addition to a provision of A.R.S. Title 49 or rules adopted by the Director of the A.D.E.Q. or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49, therefore no demonstration under A.R.S. § 49-112 is necessary. The revisions to Rule 510 were initiated to reflect revisions to 40 CFR promulgated by the EPA and published in the Federal Register notices cited in Section 6 of this Notice of Final Rulemaking. The A.D.E.Q. has adopted these rule revisions in a final rulemaking published in 11 A.A.R. 3305, September 2, 2005. Other changes are made for consistency with the text in 40 CFR and A.A.C., Title 18, Chapter 2, Article 2.

**A.R.S. § 49-112(B)**

The A.R.S. § 49-112(B) demonstration does not apply because this particular rule is in that portion of Maricopa County's air quality program that is administered under direct statutory authority. Therefore, this rule is not being adopted or revised in lieu of a state program.

**8. A reference to any study relevant to the rule that the department reviewed and either relied on or did not rely on its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

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. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 400, Phoenix, AZ, 85004.

See also: *Christine Todd Whitman, Administrator of Environmental Protection Agency, et al. v. American Trucking Associations, Inc. et al.; American Trucking Associations, Inc., et al. v. Christine Todd Whitman, Administrator of Environmental Protection Agency, et al.*, 531 U.S. Supreme Court 457, AT 472. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 400, Phoenix, AZ, 85004.

See also: Criteria documents for Final Rule 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). Available for review at: <http://www.epa.gov/ttn/oarpg/t1main.html>.

See also: Criteria documents for Final Rule at 62 FR 38856 (Air Quality Criteria for O<sub>3</sub> 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 O<sub>3</sub>: Assessment of Scientific and Technical Information ("Staff Paper") (EPA-452/R-96-007, June 1996, NTIS # PB-96-203435). Available for review at: <http://www.epa.gov/ttn/oarpg/t1main.html>.

See also: *Notice of Final Rulemaking*, Arizona Department of Environmental Quality, 11 A.A.R. 3305, September 2, 2005. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 400, Phoenix, AZ, 85004.

See also: *Schedule for 8-Hour Ozone Designations and its Effect on Early Action Compacts*, US EPA Memorandum, November 14, 2002. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 400, Phoenix, AZ, 85004.

**9. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**10. The economic, small business, and consumer impact:**

**1. Final rulemaking**

**Rule Identification.**

This rulemaking includes amendments to Rule 510, Air Quality Standards. Rule 510 includes the primary and secondary ambient air quality standards, requirements for determining pollutant concentrations, and other administrative requirements. Maricopa County initiated this rulemaking to respond to recent notices published by the Environmental Protection Agency (EPA) in the Federal Register (FR). Maricopa County is required to incorporate rule changes pro-

mulgated by the EPA and published in the Code of Federal Regulations (CFR) into the Maricopa County Air Pollution Control Regulations. Maricopa County is updating its ambient air quality standards for PM<sub>2.5</sub> and 8-hour averaged ozone to reflect the current standards. The Arizona Department of Environmental Quality (A.D.E.Q.) adopted these standards in a final rulemaking published in the Arizona Administrative Register (A.A.R.) on September 2, 2005 (11 A.A.R. 3305). In this rulemaking, Maricopa County is also amending the rule for consistency with the text in Title 18 of the Arizona Administrative Code (A.A.C.), Chapter 2, Article 2 and 40 CFR.

#### Changes to address recent FR notices

##### PM<sub>2.5</sub>

In 1997, the EPA promulgated final rules implementing new primary and secondary National Ambient Air Quality Standards (NAAQS) for fine particulate matter, or particulate matter with an aerodynamic diameter of less than or equal to 2.5 microns (PM<sub>2.5</sub>) (62 FR 38652 - 38760, July 18, 1997). The new federal primary standard for PM<sub>2.5</sub> is 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), annual arithmetic mean concentration, and 65  $\mu\text{g}/\text{m}^3$ , 24-hour average concentration. The new federal secondary standard for PM<sub>2.5</sub> is identical to the federal primary standard. In addition, Appendix L, Reference Method for the Determination of Fine Particulate Matter as PM<sub>2.5</sub> in the Atmosphere, and Appendix N, Interpretation of the NAAQS for Particulate Matter, has been added to 40 CFR 50. The reference method in 40 CFR 50, Appendix K, has also been amended for conformity with the format of other appendices.

##### Sulfur Oxides

On May 22, 1996 (61 FR 25566 - 25580), the EPA promulgated a final decision concerning the NAAQS for sulfur oxides. In this decision, the EPA restated the NAAQS in terms of ppm rather than  $\mu\text{g}/\text{m}^3$ , added explicit rounding conventions, and specified data completeness and handling conventions. The EPA also announced its intention to retain the block averaging convention for the 24-hour, annual, and 3-hour standards and added this clarifying language to 40 CFR 50.4 and 50.5.

##### Ozone

On July 18, 1997 (62 FR 38856 - 38896), the EPA promulgated a final rule implementing new NAAQS for ozone. The new federal primary ozone NAAQS sets forth an 8-hour averaged standard at a level of 0.08 ppm. The standard is based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The new federal secondary standard is identical to the primary standard. The EPA has also revised Appendices D and H, removed and reserved Appendix E, and added a new Appendix I.

#### Technical Corrections

In this rulemaking, Maricopa County is also amending the rule for consistency with the text in Title 18 of the Arizona Administrative Code (A.A.C.), Chapter 2, Article 2 and 40 CFR.

## 2. Persons who are affected, bear costs or directly benefit

### Cost bearers

There should be no costs associated with this rulemaking, other than minor costs to Maricopa County for implementation and enforcement of the standards as county law, as discussed below.

### Beneficiaries

There are benefits to the implementing agency, regulated community, small businesses, political subdivisions of the state, and members of the public. There are health benefits to all parties involved. There are benefits to the regulated community and small businesses in being regulated by a nearer government agency than by the EPA.

## 3. Cost/benefit analysis/summary

### Probable costs and benefits to the implementing agencies, political subdivision, and businesses

**Costs.** There are no additional costs to the regulated community when a local agency incorporates an already effective federal standard. The costs of compliance have already occurred, and were considered when the federal regulation was proposed and adopted. This rule imposes no additional costs on the regulated community, small businesses, political subdivisions, or members of the public.

Costs to Maricopa County are those that may accrue for implementation and enforcement of the standards as county law. These costs will be minimal, based on reducing confusion and ensuring correct standards are applied. Maricopa County does not intend to hire any additional employees to implement or enforce this rule.

**Benefits.** Benefits accrue to the regulated community when a local agency incorporates a federal regulation in order to become the primary implementer of the regulation, because the local agency is closer to those being regulated and, therefore, is generally easier to contact and to work with to resolve differences, compared with the 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. Also included are reduced emergency room visits and hospital admissions.
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 caregiving.** These include special caregiving 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 normal chores, and he or she may require caregiving.
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.

#### 4. Private and public employment impact

This rule is expected to have no impact on employment.

#### 5. Rule impact reduction on small businesses.

**a. An identification of the small businesses subject to the rulemaking.**

There are no increased costs for small businesses subject to the final rulemaking.

**b. The administrative and other costs required for compliance with the rulemaking.**

There are no administrative and other costs required for compliance with the final rulemaking.

**c. A description of the methods that the agency may use to reduce the impact on small businesses.**

A.R.S. § 41-1035 requires Maricopa County 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 of the rulemaking.

The five listed methods are:

1. Establish less stringent compliance or reporting requirements in the final 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.

A small business is defined in A.R.S. § 41-1001 as a "concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations."

Maricopa County has determined that there is a beneficial impact on small businesses in transferring implementation of this rule to Maricopa County. In addition, Maricopa County is required to adopt the federal rules without reducing stringency. Maricopa County, 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 this rule on small businesses. Finally, where federal rules impact small businesses, the 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. Information related to these acts may be found in the federal rules described in Section 6 of this Notice of Final Rulemaking.

**The statutory objectives which 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 Section 2 of this Notice of Final Rulemaking. The specific objectives are as follows:

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

**d. The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

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

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Private persons or consumers will not be directly affected by the final rulemaking, with the exception of the expected health benefits.

**6. Probable effect on county revenues**

There should be no effect on county revenues.

**7. Less intrusive or costly alternative methods of achieving the final rulemaking.**

None. Maricopa County is required to adopt the federal and state rules without reducing stringency.

**Conclusion.** In conclusion, the incremental costs associated with this rule are generally low, and apply solely to Maricopa County, while the air quality benefits are generally high. Costs to Maricopa County are those that may accrue for implementation and enforcement of the standards as county law. 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 (the regulated community), their revenues or expenditures. The fact that no new employment is expected to occur has been discussed above. 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 county revenues. There are no other, less costly alternatives for achieving the goals of this rulemaking. The rule is no less stringent and no more stringent than the federal regulations on each subject.

**11. Description of the changes between the expedited rulemaking, including supplemental notices, and final rule (if applicable):**

Maricopa County has made some minor revisions to the preamble, including: removing references to the word “propose”; removing discussion of the expedited rulemaking; and, minor language changes for clarity. Maricopa County made one minor change to Rule 510:

Rule 510, Section 102: Maricopa County changed the suite number from “Suite 695” to “Suite 400”. Suite 400 is the mailing address for the Maricopa County Air Quality Department.

**12. A summary of the comments made regarding the rule and the department response to them:**

Maricopa County received no formal comments on the Notice of Expedited Rulemaking during the formal comment period - June 30, 2006 to July 31, 2006.

Maricopa County received formal comments before the Public Hearing on November 1, 2006. The comments and responses are summarized below:

**Comment #1:** We were told that the County had more stringent requirements than the State (A.D.E.Q.). On page 6 of the Preamble to Rule 510, it says that the County is adopting requirements that are not more stringent than those of the State. The EPA says that the County and the State can make requirements more stringent than the Federal Requirements. Other states have done this. Arizona is lagging behind in the protection of public health from the effects of air pollution. The new requirements from the EPA for PM<sub>2.5</sub> are evidence of this. (The limits specified here are not the new requirements and are less healthy).

**Response #1:** Under A.R.S. 49-424(4), the Arizona Department of Environmental Quality (A.D.E.Q.) has the authority to “Determine the standards for the quality of the ambient air and the limits of air contaminants necessary to protect the public health, and to secure the comfortable enjoyment of life and property by the citizens of the state or in any defined geographical area of the state where the concentration of air pollution sources, the health of the population, or the nature of the economy or nature of land and its uses so require, and develop and transmit to the county boards of supervisors minimum state standards for air pollution control.” Further, A.R.S. 49-479(A) states, “The Board shall adopt such rules as it determines are necessary and feasible to control the release into the atmosphere of air contaminants...” Thus, although Arizona Revised Statute 49-479(C) allows Maricopa County to adopt or amend a rule, emission standard, or standard of performance that is as stringent or more stringent than a rule, emission standard or standard of performance for similar sources adopted by the Director of the Arizona Department of Environmental Quality, the A.R.S. do not permit Maricopa County to determine ambient air quality standards. Under A.R.S. 49-424(4), only the A.D.E.Q. has the authority to set such standards.

Because the A.D.E.Q. must set the ambient air quality standards for the state of Arizona, the Maricopa County Air Quality Department (M.C.A.Q.D.) did not initiate revisions to incorporate the Environmental Protection Agency's 1997 ambient air quality standards for 8-hour ozone and PM<sub>2.5</sub> into Rule 510, until after the Arizona Department of Environmental Quality promulgated their final rulemaking on September 2, 2005. The Arizona Department of Environmental Quality had some delay in promulgation of revisions to the ambient air quality standards at Title 18, Article 2, due to litigation against the EPA concerning the 1997 8-hour ozone and PM<sub>2.5</sub> national ambient air quality standards by industry. Since the revisions to the A.D.E.Q. rules and to Rule 510 were initiated before EPA finalized the recent national ambient air quality standards for particulate matter on October 17, 2006, the proposed revisions to Rule 510 do not include the new 2006 standards. The M.C.A.Q.D. will revise Rule 510 to address the October 17, 2006 revised national ambient air quality standards for particulate matter after these revisions are made by the A.D.E.Q.

**Comment #2:** Commenter requested that the M.C.A.Q.D. impose the following standards:

PM<sub>10</sub> annual of 20 to 50 micro grams per cubic meter

PM<sub>10</sub> 24-hr of 150 micro grams per cubic meter

PM<sub>2.5</sub> annual of 15 or less micro grams per cubic meter

PM<sub>2.5</sub> 24-hr of 35 micro grams per cubic meter

**Response #2:** Please refer to the response in Comment #1 concerning the inclusion of more stringent ambient air quality standards in Rule 510. The Arizona Revised Statutes restrict the M.C.A.Q.D. from promulgating more stringent ambient air quality standards than the A.D.E.Q. Rule 510, Section 302.1 lists the annual PM<sub>10</sub> standard as 50 µg/m<sup>3</sup> (which is the upper level of the commenter's request), and Rule 510, Section 302.2 already lists the 24-hour PM<sub>10</sub> standard as 150 µg/m<sup>3</sup>. Revised Rule 510, Section 301.1 already lists the annual PM<sub>2.5</sub> standard as 15 µg/m<sup>3</sup>, and revised Rule 510, Section 301.2 lists the 24-hour PM<sub>2.5</sub> standard as 65 µg/m<sup>3</sup>. In a final rule promulgated by the EPA on 10/17/06, the EPA removed the annual PM<sub>10</sub> standard (see 71 FR 61224, 10/17/06). In the same final rule, the EPA revised the 24-hour PM<sub>2.5</sub> standard to 35 µg/m<sup>3</sup> (see 71 FR 61224, 10/17/06). Since the revisions to the A.D.E.Q. rules and to Rule 510 were initiated before EPA finalized the recent national ambient air quality standards for particulate matter on October 17, 2006, the proposed revisions to Rule 510 do not include the new 2006 standards. The M.C.A.Q.D. will revise Rule 510 to address the October 17, 2006 revised national ambient air quality standards for particulate matter after these revisions are made by the A.D.E.Q.

**Comment #3:** One commenter noted that other states recognize that cumulative pollution occurs by definition (from the EPA) for multiple sources clustered together. Neither the State nor the County takes any notice of this toxic hazard. Another commenter requested that more modeling of permit applications be mandatory, and should include cumulative effects.

**Response #3:** Ambient monitors do measure cumulative pollution, however, this rule does not address permitting procedures that would apply to cumulative pollution from multiple sources, or modeling of permit applications. The Department notes the commenters' concerns.

**Comment #4:** When pollution from California blows into the State, Ozone levels at Adams Lake (according to A.D.E.Q.) are almost at the 0.08 ppm eight hour average concentration limit. This ambient level of pollution needs to be taken into account before new permits are allowed. New York State is the victim of such added pollution.

**Response #4:** The Clean Air Act contains requirements for a program of Prevention of Significant Deterioration (PSD) in areas that attain the standards. These requirements apply to new permits proposing to locate in an attainment area that may include Alamo (Adams) Lake. Both the A.D.E.Q. and M.C.A.Q.D. permit rules contain requirements for PSD. These requirements include a demonstration that the proposed permit will not cause an exceedance of the standard.

**Comment #5:** The Monitoring Networks set up by the County and the State do not include the air shed where thousands of new houses are located. The siting of monitors by the County is not the result of modeling. Is it for the State?

**Response #5:** The monitoring networks set up by the County and the State comply with the federal monitoring regulations. The County and State have both sited monitors based on modeling. M.C.A.Q.D.'s Monitoring Division reviews the regional dispersion modeling performed for the State Implementation Plans and includes those considerations in its annual network review. Other factors considered in the network review process include ambient monitoring data, population densities, traffic volumes, geographic location of sites, and criteria pollutant emissions. The availability of resources also affects the network design. While the network may not contain a site in a particular residential area, the Department does operate monitors in other areas of the county that are representative of similar residential densities, surrounding land uses and topographical features. The County and State also utilize special studies to evaluate sites and have sited monitors in Wickenburg, at Palo Verde Nuclear Generating Station, Buckeye, Surprise, and Lake Pleasant as well conducting a study in the Agua Fria River. Further information on the network review process and the monitoring objectives of the network, can be found in M.C.A.Q.D.'s Annual Network Review or A.D.E.Q.'s Annual Report.

**Comment #6:** One commenter states that monitoring techniques need to be upgraded. Equipment with a history of inaccuracies should be replaced. California will not purchase the TEOM any more because of its unpredictable behavior. The Phoenix area might be even more out of compliance than it is if all the TEOM's that are used were replaced. Another commenter states that the BAM beta attenuation monitor should be used for continuous monitoring and the reference filter method for intermittent monitoring.

**Response #6:** Rule 510 states that the Department is required to use EPA-designated reference or equivalent methods, or alternative methods approved by the EPA, in order to determine compliance with the primary and secondary ambient air quality standards. The Department is also required to submit an annual summary report to the EPA, as required by 40 CFR 58.26 and 40 CFR 58, Appendix F. This Air Monitoring Network Review is made available to the public annually.

Consistent with the Code of Federal Regulations, Section 308 of Rule 510 requires that the Department use an EPA designated reference or equivalent method, or alternative method approved by the EPA to determine compliance with



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

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the national ambient air quality standards. The EPA document "List of Designated Reference and Equivalent Methods" issued on 7/26/06 lists TEOM's as an automated equivalent method for determining PM<sub>10</sub> concentrations at ambient air quality monitoring sites. The Department currently uses an EPA approved reference filter method at monitoring sites where intermittent sampling is conducted. Atmospheric conditions over California contain different particulate constituents than Maricopa County's atmosphere. Secondary aerosols in southern California contribute over half the measured PM<sub>10</sub>, while secondary aerosols in Maricopa County are not significant. Each area has chosen an EPA approved method that measures the types of particulate present in the local atmosphere.

**Comment #7:** The opacity technique is laughable.

**Response #7:** Rule 510 addresses ambient monitoring standards and monitoring methods. Opacity is not an EPA reference method for measuring ambient air quality. Opacity is an EPA approved test method used in other Maricopa County rules to measure and limit discharges from industry. It is a practical and effective method that can be used by many different people, both on and off site, to monitor a source's compliance. There is extensive documentation in support of the promulgation of Method 9 as well as case law upholding the validity of Method 9 readings. In addition, it is possible for persons to be certified to conduct night-time Method 9 readings, though the source would need to be illuminated.

**Comment #8:** To find out if the area is out of compliance for a specific pollutant, it appears that one would have to wait a year to determine if there were one or more exceedances. In the meantime, the public health can be deteriorated within one day for those most susceptible. Time is a critical element that is being ignored.

**Response #8:** The Department is required to report to the general public a daily Air Quality Index (AQI) that at a minimum meets the requirements of 40 CFR 58.50 and 40 CFR 58, Appendix G. This daily air quality index is available on the M.C.A.Q.D. internet page and is made available to the media for broadcast and publication. The Department is also required to submit to the EPA an annual air quality monitoring report, as required by 40 CFR 58.26 and 40 CFR 58, Appendix F. This annual report is made available to the public by the Department. Rule 510, Section 401 discusses these annual and daily monitoring reports. The M.C.A.Q.D. also issues High Pollution Advisories in conjunction with A.D.E.Q. when the daily forecast indicates concentrations may be near or exceed the standard. The High Pollution Advisories are distributed as news releases to the media, and are posted on the M.C.A.Q.D. internet page. Finally, the M.C.A.Q.D. is working on providing real-time air pollution monitoring data on the internet at [www.maricopa.gov/aq/divisions/monitoring.aspx](http://www.maricopa.gov/aq/divisions/monitoring.aspx).

Time is a component of each national ambient air quality standard. To set a standard EPA must investigate and draw correlations between the concentrations of a pollutant associated with health effects and corresponding timeframe over which the effects are triggered at the concentration under consideration. There are two sections of the Clean Air Act that govern the establishment and revision of the national ambient air quality standards. Section 108 directs the Administrator of the EPA to identify and list "air pollutants" that "in his judgment, may reasonably be anticipated to endanger public health and welfare" and whose "presence \* \* \* in the ambient air results from numerous or diverse mobile or stationary sources" and to issue air quality criteria for those air pollutants identified. Section 109 directs the Administrator of the EPA to propose and promulgate "primary" and "secondary" national ambient air quality standards for the air pollutants listed under Section 108. Section 109(b)(1) defines a primary standard as one "the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health". A secondary standard, as defined in section 109(b)(2), must "specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of [the] pollutant in the ambient air". According to the Environmental Protection Agency, "The requirement that primary standards include an adequate margin of safety was intended to address uncertainties associated with inconclusive scientific and technical information available at the time of standard setting." [71 FR 61145, 10/17/2006]. In addressing the requirement for an adequate margin of safety, the EPA considers such factors as the nature and severity of the health effects involved, the size of the sensitive population(s) at risk, and the kind and degree of the uncertainties that must be addressed. [71 FR 61145, 10/17/2006]

**Comment #9:** The list of benefits on page 9 of the Notice of Expedited Rulemaking has not been realized by the public. Rule 510 needs to be rethought and revised so as to take an aggressive approach to the out of compliance conditions here and the brown cloud.

**Response #9:** The Department notes the commenters' concerns. The benefits listed on page 9 of the Notice of Expedited Rulemaking are anticipated to be realized upon implementation of this rule. The Department has addressed the issues of more stringent ambient air quality standards, cumulative pollution, permit applications, and monitoring equipment in the responses to comments 1, 2, 3, and 6.

**Comment #10:** The commenter states that more stringent ambient air quality standards, mandatory modeling of permit applications and the inclusion of cumulative effects, and use of the BAM beta attenuation monitor for continuous monitoring and the reference filter method for intermittent monitoring, are necessary in order for Maricopa County to transition away from a Non-Attainment classification. This requires not only meeting federal regulations at a minimum, but in places implementing stricter requirements. The commenter states that without this approach, Maricopa County will remain classified as a Non-Attainment area indefinitely, and air pollution will worsen, and that the long-

term economic consequences of the proposed rule, as is, will far outway any short-term, perceived economic growth gain.

**Response #10:** The Department notes the commenter's concerns. The Department has addressed the issue of more stringent ambient air quality standards, permit applications, and use of the BAM beta attenuation and reference filter method in Responses 1, 2, 3, and 6, respectively.

**13. Any other matters prescribed by statute that are applicable to the specific department or to any specific rule or class of rules:**

None.

**14. Incorporations by reference and their location in the rule:**

All items noted to be incorporated by reference are incorporated by reference in Appendix G of the Maricopa County Air Pollution Control Regulations.

**15. Was this rule previously made as an emergency rule?**

No

**16. The full text of the rule follows:**

**REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION**

**RULE 510**

**AIR QUALITY STANDARDS**

**INDEX**

**SECTION 100 - GENERAL**

101 PURPOSE

102 AVAILABILITY OF INFORMATION

**SECTION 200 - DEFINITIONS (~~NOT INCLUDED~~)**

201 PRIMARY AMBIENT AIR QUALITY STANDARDS

202 SECONDARY AMBIENT AIR QUALITY STANDARDS

**SECTION 300 - STANDARDS**

301 ~~TOTAL SUSPENDED PARTICULATES~~ PARTICULATE MATTER - 2.5 MICRONS OR LESS  
(PM<sub>2.5</sub>)

302 PARTICULATE MATTER - 10 MICRONS OR LESS (PM<sub>10</sub>)

303 SULFUR OXIDES (SULFUR DIOXIDE)

304 OZONE

305 CARBON MONOXIDE

306 NITROGEN DIOXIDE

307 LEAD

308 POLLUTANT CONCENTRATION DETERMINATIONS

309 ADDITIONAL REQUIREMENTS

310 INCORPORATIONS BY REFERENCE

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

401 ~~PUBLIC NOTIFICATION OF AIR QUALITY STANDARDS VIOLATIONS~~ REPORTING OF  
AMBIENT AIR QUALITY MONITORING DATA

**SECTION 500 - MONITORING AND RECORDS ~~(NOT INCLUDED)~~ (NOT APPLICABLE)**

Revised 07/13/88

**MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS  
REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION  
RULE 510 – AIR QUALITY STANDARDS**

**SECTION 100 - GENERAL**

**101 PURPOSE:** To establish maximum limiting levels for pollutants existing in the ambient air which are necessary to protect human health and public welfare.

**102 AVAILABILITY OF INFORMATION:** Copies of materials referenced in Sections 310, 401.1, and 401.2 of this rule are available at 1001 North Central Avenue, Suite 400, Phoenix, AZ, 85004 or call (602) 506-6010.

**SECTION 200 - DEFINITIONS:** See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

**201 PRIMARY AMBIENT AIR QUALITY STANDARDS** - The ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.

**202 SECONDARY AMBIENT AIR QUALITY STANDARDS** - The ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.

**SECTION 300 - STANDARDS:** The following are established as the primary and secondary ambient air quality standards for Maricopa County:

**301 ~~TOTAL SUSPENDED PARTICULATES;~~ PARTICULATE MATTER - 2.5 MICRONS OR LESS (PM<sub>2.5</sub>);**

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

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- 301.1 ~~Annual Geometric Mean:~~ The maximum allowable annual geometric mean concentration shall be 75 micrograms per cubic meter. **Primary and Secondary Ambient Air Quality Standards for PM<sub>2.5</sub> Annual Arithmetic Mean Concentration:** The annual arithmetic mean concentration shall be 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). The standard shall be considered attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to  $15 \mu\text{g}/\text{m}^3$ .
- 301.2 ~~24-hour Concentration:~~ The maximum allowable 24-hour concentration shall be 260 micrograms per cubic meter. This concentration shall not be exceeded more than once per year at any one location. **Primary and Secondary Ambient Air Quality Standards for PM<sub>2.5</sub> 24-hour Average Concentration:** The 24-hour average concentration shall be  $65 \mu\text{g}/\text{m}^3$ . The standard shall be considered attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to  $65 \mu\text{g}/\text{m}^3$ .
- 302 **PARTICULATE MATTER - 10 MICRONS OR LESS (PM<sub>10</sub>):**
- 302.1 ~~Annual Arithmetic Mean:~~ The maximum allowable annual arithmetic mean concentration shall be 50 micrograms per cubic meter. To determine attainment, the annual arithmetic mean is calculated by averaging the annual arithmetic averages from three successive years of data. **Primary and Secondary Ambient Air Quality Standards for PM<sub>10</sub> Annual Arithmetic Mean Concentration:** The annual arithmetic mean concentration shall be  $50 \mu\text{g}/\text{m}^3$ . The standard shall be considered attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to  $50 \mu\text{g}/\text{m}^3$ .
- 302.2 ~~24-hour Concentration:~~ The maximum allowable 24-hour concentration shall be 150 micrograms per cubic meter. This concentration shall not be exceeded more than once per year at any one location. **Primary and Secondary Ambient Air Quality Standards for PM<sub>10</sub> 24-hour Average Concentration:** The 24-hour average concentration shall be  $150 \mu\text{g}/\text{m}^3$ . This concentration shall not be exceeded more than once per calendar year at any one location. The standard shall be considered attained when the expected number of days per calendar year with a 24-hour average concentration above  $150 \mu\text{g}/\text{m}^3$ , as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to 1.
- 303 **SULFUR OXIDES (SULFUR DIOXIDE):**
- 303.1 ~~Annual Arithmetic Mean Concentration:~~ **Primary Ambient Air Quality Standards for Sulfur Oxides (Measured as Sulfur Dioxide):** The maximum allowable annual arithmetic mean concentration shall be 80 micrograms per cubic meter (0.03 ppm).

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

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- a. **Annual Arithmetic Mean Concentration:** The annual arithmetic mean concentration shall be 0.030 parts per million (ppm) (80  $\mu\text{g}/\text{m}^3$ ). This concentration shall not be exceeded in a calendar year. The annual arithmetic mean shall be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm shall be rounded up).
- b. **24-hour Concentration:** The maximum 24-hour concentration shall be 0.14 ppm (365  $\mu\text{g}/\text{m}^3$ ). This concentration shall not be exceeded more than once per calendar year at any one location. The 24-hour averages shall be determined from successive nonoverlapping 24-hour blocks starting at midnight each calendar day and shall be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm shall be rounded up).

~~303.2 **24-hour Concentration:** The maximum allowable 24-hour concentration for sulfur dioxide shall be 365 micrograms per cubic meter (0.14 ppm). This concentration shall not be exceeded more than once per year at any one location.~~

**Secondary Ambient Air Quality Standard for Sulfur Oxides (Measured as Sulfur Dioxide) 3-**

**Hour Concentration:** The maximum 3-hour concentration shall be 0.5 ppm (1300  $\mu\text{g}/\text{m}^3$ ). This concentration shall not be exceeded more than once per calendar year at any one location. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

~~303.3 **Three-hour Concentration:** The maximum allowable 3-hour concentration for sulfur dioxide shall be 1300 micrograms per cubic meter (0.5 ppm). This concentration shall not be exceeded more than once per year at any one location.~~

**304 OZONE:**

~~304.1 **One-hour Average Concentration:** The maximum allowable one-hour average concentration shall be 0.12 parts per million (235  $\mu\text{g}/\text{m}^3$ ). This concentration shall not be exceeded more than once per year at any one location.~~

**Primary and Secondary Ambient Air Quality Standards for Ozone Eight-hour Average**

**Concentration:** The daily maximum eight-hour average concentration shall be 0.08 ppm. The standard shall be considered attained at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum eight-hour average ozone concentration, as determined in accordance with 40 CFR 50, Appendix I, is less than or equal to 0.08 ppm.

**305 CARBON MONOXIDE:**

**305.1 ~~One-hour Concentration:~~ Primary Ambient Air Quality Standards for Carbon Monoxide:**

~~The maximum allowable one-hour concentration shall be 35 ppm (40 mg/m<sup>3</sup>). This concentration shall not be exceeded more than once per year at any one location.~~

**a. One-hour Average Concentration:** ~~The maximum one-hour average concentration shall be 35 ppm (40 mg/m<sup>3</sup>). This concentration shall not be exceeded more than once per year at any one location.~~

**305.2 ~~Eight-hour Concentration:~~** ~~The maximum allowable eight-hour concentration shall be 9 ppm (10 mg/m<sup>3</sup>). This concentration shall not be exceeded more than once per year at any one location.~~

**b. Eight-hour Average Concentration:** ~~The maximum eight-hour average concentration shall be 9 ppm (10 mg/m<sup>3</sup>). This concentration shall not be exceeded more than once per year at any one location. An eight-hour average shall be considered valid if at least 75% of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using 6 or 7 as the divisor.~~

**305.2** ~~When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in ppm shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.~~

**306 NITROGEN DIOXIDE:**

**306.1 ~~Annual Arithmetic Mean Concentration:~~** ~~The maximum allowable annual arithmetic mean concentration for nitrogen dioxide shall be 100 micrograms per cubic meter (0.05 ppm).~~

**Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide Annual Arithmetic Mean Concentration:** ~~The annual arithmetic mean concentration shall be 0.053 ppm (100 µg/m<sup>3</sup>). The standard shall be considered attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete, or upon data derived from manual methods that is at least 75% complete for the scheduled sampling days in each calendar quarter.~~

**307 LEAD:**

**307.1 ~~Quarterly Arithmetic Mean Concentration:~~** ~~The maximum allowable lead concentration shall be 1.5 micrograms per cubic meter, arithmetic mean as averaged over a calendar quarter.~~

**Primary and Secondary Ambient Air Quality Standards for Lead Quarterly Maximum Arithmetic Mean Concentration:** ~~The maximum arithmetic mean concentration for lead and its compounds, measured as elemental lead, shall be 1.5 µg/m<sup>3</sup>, as averaged over a calendar quarter.~~

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

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**308 POLLUTANT CONCENTRATION DETERMINATIONS:** ~~Except as provided under subsections 309.1 and 309.2 of this rule, pollutant~~ Pollutant concentrations shall be measured by the following methods: appendices to Title 40, Part 50 of the Code of Federal Regulations:

**308.1 Appendices to 40 CFR 50:** Pollutant concentrations shall be measured by the following appendices to 40 CFR 50:

<u>Pollutant</u>	<u>CFR 40, Part 50</u> <u>40 CFR 50</u>
Total Suspended Particulates	Appendix B
<u>Particulate Matter (PM<sub>2.5</sub>)</u>	<u>Appendix L</u>
Particulate Matter (PM <sub>10</sub> )	Appendix J
<u>Sulfur Oxides (Sulfur Dioxide)</u>	Appendix A
Ozone	Appendix D
Carbon Monoxide	Appendix C
Nitrogen Dioxide	Appendix F
Lead	Appendix G

~~**308.1**~~ **308.2 Reference or Equivalent Methods:** Pollutant concentrations shall also be measured by:

- a. A method of measurement that has been designated, ~~prior to the effective date of this regulation,~~ as a reference or equivalent method by the Administrator acting pursuant to ~~Title 40, Part 53 of the Code of Federal Regulations.~~ 40 CFR 53; or
- b. A method of measurement that, though not designated as a reference or equivalent method, has been approved for use ~~prior to the effective date of this regulation,~~ by the Administrator acting pursuant to ~~Title 40, Part 51, Section 51.17a of the Code of Federal Regulations~~ 40 CFR 58, Appendix C. Such method shall be subject to any restrictions placed on its use by the Administrator.

~~**308.2**~~ **Additional Methods:** ~~The Control Officer may approve additional methods of measurement upon a finding that:~~

- a. ~~The method of measurement proposed for use has been designated, subsequent to the effective date of this regulation, a reference or equivalent method by the Administrator acting pursuant to Title 40, Part 53 of the Code of Federal Regulations.~~

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

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~~b: The accuracy and other performance specifications of the method of measurement for which approval is sought make that method substantially equivalent or superior to methods previously approved for use.~~

~~**308.3 Method Withdrawal:** The cancellation or supersession of designation of a reference or equivalent method, subsequent to the effective date of these regulations, by the Administrator acting pursuant to Title 40, Part 53, Sections 53.11 and 53.16 of the Code of Federal Regulations 40 CFR 53.11 or 53.16, shall also amount to a withdrawal of the authorization for use of that method for purposes of this regulation. However, such withdrawal of the authorization shall not become effective until the Administrator has determined that such withdrawal was supported by sufficient evidence and has specified a period of not less than nine months in which existing, non-approved analyzers may be replaced.~~

**309 ADDITIONAL REQUIREMENTS:**

~~**309.1** Quality assurance, monitor siting, and sample probe installation procedures shall be in accordance with the procedures described in the Appendices to 40 CFR 58.~~

~~**309.2** Unless otherwise specified, interpretation of all ambient air quality standards contained in this rule shall be in accordance with 40 CFR 50.~~

~~**309.3** The evaluation of air quality data in terms of procedure, methodology, and concept is to be consistent with methods described in 40 CFR 50.~~

~~**310 INCORPORATIONS BY REFERENCE:** The CFR references listed below are incorporated by reference in Appendix G of these rules:~~

~~40 CFR 50;~~

~~40 CFR 50, Appendices A through N;~~

~~40 CFR 53;~~

~~40 CFR 58.26 and 40 CFR 58.50; and~~

~~40 CFR 58, all appendices.~~

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

~~**401 PUBLIC NOTIFICATION AIR STANDARDS VIOLATIONS:** Any violations of the National Ambient Air Quality Standards (NAAQS) which have occurred during the previous calendar year shall be communicated to the public in an annual report. This report shall be issued each year no later than August 1 and shall include the following:~~

~~**REPORTING OF AMBIENT AIR QUALITY MONITORING DATA:**~~

~~**401.1** The date, time and duration of any pollutant level exceeded. The levels shall be expressed through the use of the Pollution Standard Index (PSI).~~



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

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**Annual Air Quality Monitoring Report:** The Control Officer shall submit to the Administrator an annual summary report that at a minimum meets the requirements of 40 CFR 58.26 and 40 CFR 58, Appendix F. The annual report will be made available to the public at the address listed in Section 102 of this rule.

~~401.2 An explanation to the public of any health hazards associated with each pollutant level exceeded. This shall be in the form of a narrative supported with statistical documentation.~~

**Daily Air Quality Index (AOI) Report:** The Control Officer shall report to the general public an AQI that at a minimum meets the requirements of 40 CFR 58.50 and 40 CFR 58, Appendix G. The AQI will also be made available to the public at the address listed in Section 102 of this rule.

~~401.3 Suggestions to the public on ways that the violation might be avoided in the future and what steps can be taken to alleviate the severity of the violations while they are occurring.~~

~~401.4 A description of ways in which the public can participate in the regulatory process including a summary of proposed regulatory changes for the coming year and a tentative schedule of public meetings which will be held to consider changes and new regulations.~~

**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

**NOTICE OF RULEMAKING DOCKET OPENING**

(Ref. A.R.S. § 41-1021)

**PINAL COUNTY AIR QUALITY CONTROL DISTRICT**

**P.O. BOX 987**

**FLORENCE, AZ 85232**

**PHONE: (520) 866-6929 FAX: (520) 866-6967**

[M06-653]

**1. Subject Matter of the Proposed Rule**

The proposed revisions to local air quality rules involve the following:

1. Grammatical corrections and minor updates (i.e. reference documents and dates).
2. Updates to Chapter 2, Article 1, section 020, National Ambient Air Quality Standards (NAAQS), revise PM<sub>2.5</sub> 24-hour standard from 65 ug/m<sup>3</sup> to 35 ug/m<sup>3</sup> and removal of annual PM<sub>10</sub> standard.
3. Removal of Chapter 5, article 30 – Kraft Pulp Mills.
4. Updates to Chapter 6, Article 1, section 030 New Source Performance Standards.
5. Updates to Chapter 7, Article 1, section 030 Performance Standards for Federally listed hazardous air pollutants.
6. Removal of Permit Checklist and Fee itemization worksheet in Appendix B.
7. Addition of Training exercises to Appendix C.

Also as part of this rulemaking, Pinal County may add, delete or modify additional rules as necessary.

**2. Prior Related Notices**

None

**3. Contact Information**

Those wishing further information regarding any aspect of this proposal may contact Scott DiBiase, Planning Manager, 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](http://www.co.pinal.az.us), under the "air quality" link.

**4. Opportunity for Written or Oral Comments**

At a later date, the District will publish a Notice of Proposed Rulemaking that will define a formal timetable for submittal of oral or written comments. At any time prior to the close of that to-be-defined comment period, anyone may seek information or submit comments by contacting the Planning Manager at the address shown above. Ultimately, the public will also have an opportunity to offer comment in the public hearing before the Board of Supervisors.

**5. Anticipated Timetable**

To be announced in the Notice of Proposed Rulemaking.