

Pinal County Air Quality Control District

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PINAL COUNTY AIR QUALITY CONTROL DISTRICT

NOTICE OF EXPEDITED RULEMAKING

PURSUANT TO §49-471.01 *et seq.*

1. Preamble

- A. The Pinal County Air Quality Control District (PCAQCD), an operating division of Pinal County, proposes that the Board of Supervisors (BOS) adopt or amend certain rules under authority of A.R.S. §§49-479 and 49-480, which respectively authorize the board to adopt rules to control air pollution and to adopt a stationary source permit program.

This expedited rulemaking proposal is taking place to address a State Implementation Plan (SIP) backlog.

Historically the Environmental Protection Agency (EPA) has had significant numbers of SIP submittals nationally which were found to be complete (or deemed complete) but not acted upon by EPA. This is known as the SIP backlog. EPA in coordination with the Environmental Council of the States (ECOS) and National Association of Clean Air Agencies (NACAA) formed a workgroup to streamline the SIP process and address the SIP backlog. EPA has developed four year SIP backlog plans for each region. Since then each EPA Region has met with their respective state and local air quality agencies to coordinate efforts to either act on SIP submittals or have the state or local air quality agencies remove the SIP submittals from EPA consideration.

PCAQCD has a number of rules in the SIP backlog of which six of them are being addressed in this proposal. The other PCAQCD rules in the SIP backlog are mainly involved with New Source Review (NSR) rules and will be addressed in a larger PCAQCD NSR rulemaking proposal in the future.

Andrew Steckel, Chief, Rules Office EPA Region 9 in a March 18, 2015 letter to PCAQCD Director Michael Sundblom described the reasons why the PCAQCD rules (2-2-090. Air quality monitoring procedures, 3-1-150. Monitoring, 3-1-160. Test Methods and procedures, 3-1-170. Performance Tests and 3-1-173. Quality assurance) interfere with federal Clean Air Act requirements and subsequent approval into the SIP. The primary reason hinged on “Director’s discretion” language in each of these rules.

EPA has disapproved a number of SIP submitted rules that included “Director’s discretion” language. The basis for the disapprovals, “SIP’s must clearly state whether EPA approval of such variances is required on a case-by-case basis before such a

variance, exemption, or alternative means becomes federally effective.....Provisions....not requiring case-by-case EPA approval for the alternative means to be federally-effective...must meet the general principle of replicability described in EPA’s Emissions Trading Policy Statement [51 FR 43814, December 4, 1986] and also in the EPA document “Guidance Document for Correcting Common VOC & Other Rule Deficiencies (A.K.A. The Little Bluebook)”, April 1991, revised August 21, 2001. EPA expects a SIP rule that has Director Discretion should have explicit and replicable procedures within the rule that tightly define how the discretion will be exercised. In this context, the PCAQCD 1995 and 1997 SIP submitted rules lack explicit and replicable procedures which tightly define how the discretion will be exercised. Thus this proposed expedited rulemaking.

The specific affected rules are identified below in section E and include an amendment to §1-1-105.

The proposed rule amendment after adoption by the Pinal County Board of Supervisors will be submitted to the Environmental Protection Agency (EPA) Region 9 through the Arizona Department of Environmental Quality (ADEQ) along with a formal request that the affected rules be removed from consideration for inclusion into the Arizona State Implementation Plan (SIP)

- B. All of the proposed corresponding changes are discussed in subsection E. of this preamble, and include the following sections:

Section Affected	Rulemaking Action
§1-1-105	Amend

- C. 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, 85132, 520-866-6929, scott.dibiase@pinalcountyz.gov. To the extent possible, the District will also post information on the County's website, *pinalcountyz.gov*, under the "air quality" link.
- D. Given the obligatory nature of the proposed action, this rule-adoption will follow the expedited rule-making process defined in A.R.S. §49-471.08. Following publication of a notice of expedited rulemaking and a 30-day public comment period (comment period ends at close of business on Monday, July 13, 2015), the proposal along with a summary of any comments received will be submitted to the Board of Supervisors for consideration and possible adoption. The tentative date for the hearing-of-adoption before the Board of Supervisors is Wednesday, August 26, 2015. The final date, time and location for the hearing-of-adoption before the Board of Supervisors will be separately scheduled and noticed in accord with the requirements of A.R.S. §49-479 and 40 C.F.R. §51.102.
- E. The proposed revisions include the following:
 - 1. Add exclusion from EPA consideration into to the Arizona SIP the following PCAQCD rules listed in the PCAQCD “rule” §1-1-105. SIP List. §1-1-105 is not a rule per se but rather a simple listing of PCAQCD rules in which the BOS expressly designates to be presented to the Governor of Arizona for transmittal to

the Administrator of the EPA along with a request that they be included as elements in the Arizona SIP.

- §1-1-105.A.2.b §2-2-090 (as amended 5/14/97)
 - §1-1-105.A.3.a §3-1-150 (as amended 5/14/97)
 - §1-1-105.A.3.a §3-1-160 (as amended 5/14/97)
 - §1-1-105.A.3.a §3-1-170 (as amended 5/14/97)
 - §1-1-105.A.3.a §3-1-173 (as amended 5/14/97)
2. §1-1-105.D.14 – strikeout §5-21-920 (2/22/95) Fossil Fuel Fired Industrial and Commercial Equipment Standard Applicability, in order for this particular rule not to be transmitted to EPA and included as an Arizona SIP element
 3. §1-1-105.D.15 – strikeout §5-21-930 (2/22/95 and 7/12/00) Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard, in order for this particular rule not to be transmitted to EPA and included as an Arizona SIP element.
- F. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule. The public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material at 31 North Pinal St., Building F, Florence, Arizona, 85132.

EPA Region 9, March 18, 2015 letter from Andrew Steckel, Chief, Rules Office, Air Division to Michael Sundblom, Director, Pinal County Air Quality.

EPA Region 9, April 13, 2015 email (subject: SIP Backlog) from Andrew Steckel, Chief, Rules Office, Air Division to Michael Sundblom, Director, Pinal County Air Quality.

52 FR 45044, November 24, 1987. Proposed Policy, State Implementation Plans; Approval of Post-1987 Ozone and Carbon Monoxide Plan Revisions for Areas Not Attaining the National Ambient Air Quality Standards.

Guidance Document for Correcting Common VOC & Other Rule Deficiencies (A.K.A. The Little Bluebook), EPA Region IX, Originally issued, April 1991, Revised August 21, 2001.

G. Economic, small business and consumer impact statement

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

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

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

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

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

- J. Pursuant to A.R.S. 49-471.08(A)(2), Michael Sundblom, the Control Officer for the District, finds that the proposed rule is substantially identical to the sense, meaning and effect of the underlying federal and state mandates (40 CFR §52.21(b)(1)(i)(c)) and Arizona Revised Statutes § 49-480.B.

2. The full text of the proposed changes follows:

1-1-105. SIP list

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

1. Chapter 1
 - a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
 - b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
 - c. Article 3. (As amended 5/14/97, 5/27/98 and 10/27/04, 07/23/14, 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)-, excluding:
 - i. §2-2-090 (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
 - v. §3-1-150 (as amended 5/14/97)
 - vi. §3-1-160 (as amended 5/14/97)
 - vii. §3-1-170 (as amended 5/14/97)
 - viii. §3-1-173 (as amended 5/14/97)
 - 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).
 - c. Reserved.
 - d. Article 4 (As amended 6/3/09).
 - e. Article 5 (As amended 6/3/09).
 - f. Reserved.
 - g. Article 7 (As amended 6/3/09)
 - h. Reserved.
 - i. Article 9, limited to:
 - i. §4-9-320 (As amended 6/3/09)
 - ii. §4-9-340 (As amended 6/3/09)
- 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*