

Notice of Proposed Rulemaking and Notice of Public Hearing

Pursuant to A.R.S. § 49-471.04

Pima County Code

Title 17 – Air Quality Control

Chapter 12 Permit and Permit Revisions

Chapter 16 Emission Limiting Standards

PREAMBLE

1. Sections Affected

Rulemaking Action

PCC 17.12.470	Amend
PCC 17.12.540	Amend
PCC 17.16.050	Amend

2. The specific authority for the rulemaking.

ARS § 49-112
ARS § 49-424(3)
ARS § 49-479

3. List of all previous notices appearing in the register addressing the proposed rule or ordinance and a concise explanatory statement.

None

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Marian Conrad Program Coordinator
Address:	Pima County DEQ 130 W. Congress Tucson, AZ 85701
Telephone:	(520) 740-3978

Fax: (520) 882-7709

5. An explanation of the rule, including the Control Officer's reasons for initiating the rule:

Pima County experienced six exceedances of the 24-hour National Ambient Air Quality Standard (NAAQS) concentration limit for Particulate Matter 10 microns or less (PM₁₀) during 1999 as recorded by monitors operated by the Pima County Department of Environmental Quality (PDEQ). The number of days with exceedances constituted a violation of the federal PM₁₀ NAAQS. The PDEQ's analysis of wind data and other information indicated that the exceedances were caused by high winds, which transport particulate matter from anthropogenic and non-anthropogenic sources.

On June 12, 2000, PDEQ submitted the analysis entitled "An Analysis of High Wind PM10 Natural Events Contributing to PM₁₀ NAAQS Exceedances and Violation during 1999 in Pima County Arizona, Final Report and Appendices" to the Arizona Department of Environmental Quality (ADEQ) for submittal to U. S. Environmental Protection Agency (EPA). ADEQ requested that the exceedances and resulting NAAQS violation be "flagged" as natural events under the EPA's policy memorandum entitled: Areas Affected by PM₁₀ Natural Events, addressed to EPA Regional Offices' Air Division Directors on May 31, 1996 (Natural Events Policy). On August 8, 2000 EPA concurred with PDEQ and ADEQ analysis and "flagged" the exceedances.

Pursuant to EPA's Natural Events Policy, PDEQ was required to submit a Natural Events Action Plan (NEAP) to the U.S. Environmental Protection Agency (EPA) by June 23, 2001. Because the exceedances of NAAQS occurred in eastern Pima County, PDEQ's NEAP addresses the portion of the county east of the eastern boundary of the Tohono O'Odham reservation. Key elements of the NEAP are:

1. Establish public notification/education programs where the NAAQS are exceeded;
2. Maintain these programs to minimize public exposure to such events in the future;
3. Abate or minimize appropriate contributing controllable sources using Best Available Control Measures (BACM);
4. Study, identify, and implement practical mitigating measures as necessary; and
5. Re-evaluate conditions on a periodic basis.

On June 23, 2001, PDEQ submitted a NEAP that met the requirements of EPA's natural events policy as indicated in EPA's response on July 9, 2001. The final step in the EPA's natural event policy is implement the NEAP by

December 23, 2002. To meet the December 2002 date, Pima County must develop and implement an outreach and education program and adopt BACM for contributing controllable sources of PM₁₀ for eastern Pima County.

In addition to federal requirements, Arizona has developed specific guidelines for the development of plans regarding natural events. Pursuant to Arizona Revised Statutes § 49-424 (3), the Arizona Department of Environmental Quality developed Technical Policy 0159.000 (Air Quality Exceptional and Natural Events Policy). This policy “sets forth the requirements and procedures that are to be followed in the event of occurrences of air quality exceptional and natural events in Arizona.” Following this policy, PDEQ began a series of stakeholder meetings in June 2001 to discuss the selection of BACM for contributing controllable sources. ADEQ’s “Air Quality Exceptional and Natural Events Policy, PM₁₀ Best Available Control Measures” dated June 5, 2001, was the starting point for these discussions.

Based upon stake holder input and ADEQ’s BACM list, a 20% opacity limit for fugitive dust sources and increase activity permit fees to provide additional compliance staff to educate and enforce the new standard was selected as BACM. In the June 5, 2001 ADEQ BACM list, a “20% Opacity Limit for Fugitive Dust Sources” is identified for “Area Source Control Measures.” ADEQ identified Maricopa Rule 310 as the origin of this standard. PDEQ researched Maricopa Rule 310 and believes that 20% opacity for fugitive sources is BACM when viewed in conjunction with adequate resources to educate the regulated community and enforce the opacity standard (see August 4, 1997, Federal Register, 41860, Approval and Promulgation of Implementation Plans; Arizona – Maricopa County PM₁₀ Nonattainment Area, Final Rule). PDEQ is proposing to increase activity fees to support four additional compliance inspectors who will be assigned to fugitive dust inspections. One additional staff member would be funded through the fees for education and outreach regarding the health impacts of PM₁₀.

On May 10, 2002, the Arizona Mining Association (AMA) submitted an alternative proposal for BACM for coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments. AMA submitted a “Technical Support Document” dated May 10, 2002. In light of ADEQ’s June 5, 2001 BACM list, PDEQ is evaluating the AMA proposal and Technical Support Document to determine its compliance with state BACM. The AMA’s analysis discusses the technical and economic infeasibility of meeting a 20% opacity limit at coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments. The 20% opacity limit would apply to their other fugitive dust sources. The AMA believes this approach is consistent with ADEQ’s June 5, 2001 BACM list which specifically identifies copper mining facilities under “Industrial Sources.” The BACM list states

that “for crushing, screening, loading/unloading, handling operations and storage piles, tailing, and haulroads/roadways. Measures may include application of water, wetting agents or dust suppressants, minimizing material drop, wind break and fences, enclosures, skirting, maintaining inherent moisture content, limit vehicle access and speed, covering or capping.” ADEQ references “Draft ADEQ Title V permits” as the origin of these requirements.

Consistent with ADEQ’s BACM list and based upon stakeholder input, PDEQ is requesting public comment on two alternative proposals regarding the selection of BACM for contributing controllable sources. Pima County intends to adopt one of the following alternatives:

1. A 20% opacity limit for fugitive dust sources applicable to eastern Pima County.

OR

2. A 20% opacity limit for fugitive dust sources in eastern Pima County, except for coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments, which shall meet a 40% opacity standard and be subject to an approved dust management plan.

Both proposals include an increase in activity permit fees to provide additional compliance staff for education and enforcement of the new standard and the extension of the term of activity permits from three months to one year. A portion of the activity permit fee increase would fund an additional staff member for education and outreach regarding the health impacts of PM₁₀.

Section by Section Analysis

Pima County Code (PCC) 17.12.470 Activity Permits

PDEQ is proposing amending the term of activity permits from three months to one year. Based upon stakeholder input, this change will reduce the economic burden placed on permittees by increasing the permit term without having to document the length of the project or requiring more than one permit if the project is not completed within three months or the original contract length. PDEQ believes permit terms longer than one year will not recover sufficient costs to maintain adequate Departmental staffing levels to ensure compliance with the standard. Existing language that requires permittees to notify PDEQ of commencement and completion of the project will remain unchanged, which will provide PDEQ the necessary information to conduct inspections.

Pima County Code (PCC) 17.12.540 Activity Permit Fees

PDEQ is proposing amending the activity permit fee schedule to support additional compliance and outreach staff. Adequate Departmental staffing is necessary to meet BACM and the federal NEAP requirements. PDEQ is also proposing to delay implementation of the new fee schedule to allow sufficient time for contractors to modify existing project contracts and allow a transition to provide certainty with respect to fees for future contracts.

Pima County Code (PCC) 17.16.050 Visibility Limiting Standard

PDEQ is proposing to adopt one of the two alternatives to the visibility limiting standard. Both alternatives apply to eastern Pima County as defined as east of the eastern boundary of the Tohono O'odham reservation. Alternative one amends the 40% opacity limit to a 20% opacity limit for all fugitive dust sources. Alternative two, proposed by the AMA, amends the 40% opacity limit to a 20% opacity limit for fugitive dust sources except coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments which shall meet a 40% opacity standard and be subject to an approved dust management plan.

6. A reference to any study that the control officer proposes to rely on in its evaluation for the rulemaking.

Arizona Department of Environmental Quality, Technical Policy 0159.000, Air Quality Exceptional and Natural Events Policy, April 28, 1999

Arizona Department of Environmental Quality, Air Quality Exceptional and Natural Events Policy, PM₁₀ Best Available Control Measures June 5, 2001, June 5, 2001

Arizona Mining Association, Technical Support Document, May 10, 2002

Environmental Protection Agency, Areas Affected by PM-10 Natural Events, May 30, 1996

Environmental Protection Agency, 62 FR 41856, Approval and Promulgation of Implementation Plans; Arizona – Maricopa County PM₁₀ Nonattainment Area, Final Rule, August 4, 1997

EPA 450/2-92-004, Fugitive Dust Background Document and Information Document for Best Available Control Measures, Office of Air and Radiation, February 1992.

EPA-452/R-93-008, Pm-10 Guideline Document, Office of Air and Radiation, April 1993.

Maricopa Association of Governments, Revised MAG 1999 Serious Area Particulate Plan for PM-10 for the Maricopa County Nonattainment Area, Volumes 1-4, February 2000.

Pima County Department of Environmental Quality, An Analysis of High Wind PM10 Natural Events Contributing to PM₁₀ NAAQS Exceedances and Violation during 1999 in Pima County Arizona, Final Report and Appendices, June 12,2000.

Pima County Department of Environmental Quality, Pima County Natural Events Action Plan for PM₁₀, June 23, 2001.

Pima County Department of Environmental Quality, Draft Technical Support Document , June 7, 2002.

Pima County Department of Environmental Quality, Technical Support Document, Pima County's Written Demonstration for Compliance with Arizona Revised Statute § 49-112 including Pima County's Fee Rationale, Volume I and II, June 1 1995.

The above-mentioned studies are available to the public for review or to obtain a copy of by contacting Marian Conrad at Pima County Department of Environmental Quality at 520-740-3978.

7. 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.

8. The economic, small business and consumer impact statement.

A. Economic, small business and consumer impact statement

1. Proposed Rule Making

Title 17, Chapter 17, Section 17.12.470, 17.12.540, and 17.16.050

This rulemaking incorporates amendments into Pima County's air quality regulations dealing with activity permits and the visibility limiting standard.

2. Information contained in this report.

This report includes a description of Pima County's amendments to existing air quality regulations and discusses possible economic, small business and consumer impacts that may arise from promulgation of this rule. As indicated in section 5 above, PDEQ is proposing to adopt one of two alternatives rules pertaining to opacity of non-point source emissions. **Alternative 1** provides a 20% opacity limit for fugitive dust sources and increase activity permit fees to provide additional compliance staff for education and enforcement of the new standard. **Alternative 2**, proposed by the Arizona Mining Association (AMA), provides a 20% opacity limit for fugitive dust sources,

except for coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments, which shall meet a 40% opacity standard and be subject to an approved dust management plan. Activity permit fees would increase to provide additional compliance staff for education and enforcement of the new standard. In this economic, small business and consumer impact statement, both alternatives will be evaluated.

3. Name and address of agency employees who may be contacted on the information included in this statement

Name: Marian Conrad
Address: 130 W. Congress
Tucson, AZ 85730
Phone: (520) 740-3978
Fax: (520) 882-7709

B. Economic, small business and consumer impact statement

1. Proposed rulemaking

Title 17, Chapter 17, Section 17.12.470, 17.12.540, and 17.16.050

This rulemaking incorporates amendments into Pima County's air quality regulations dealing with activity permits and the visibility limiting standard. Due to exceedances of the National Ambient Air Quality Standard for particulate matter 10 microns or less in diameter during 1999, Pima County is due to implement a Natural Events Action Plan to avoid non-attainment status.

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

Alternative 1

This unique rulemaking directly affects and benefits citizens who reside in Eastern Pima County. Implementation of the rule will increase the awareness of harmful health effects from fugitive dust and will also require effective abatement measures on the part of industry and citizens in the county. This action will address the public health issue in Pima County and will benefit and protect public health.

While the rule benefits every citizen in Pima County, it will also distribute compliance costs to the citizens and industry. The new visibility limiting standard applies to everyone. Sources will have

to take extra controls at job sites or plants to meet the new standard. Private property owners will also have to implement measures to control fugitive dust that is produced from their vacant lots and unpaved roads, for example. The rule requires compliance of a 20% opacity standard, but it is left up to the sources of the dust to analyze which control measures will work best for them based on technological feasibility and resources they can dedicate to the control measures.

The implementation of activity permit fee increases will affect those who meet the requirements for obtaining a permit based on the type of activity they engage in. The cost burden is based on the size of the project and the type of dust producing activity. Industry and the public are currently required to obtain these permits. Due to the relative nature of the projects that the construction industry engages in the cost burden from the increased fees will be realized more significantly by them.

Alternative 2

Alternative 2 has similar benefits to Alternative 1; however, the AMA proposal differs in respect to the exemptions from coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments. Persons who are directly affected by the exemption include the mining facilities and the citizens of Green Valley and others who live in close proximity to the mining facility. This alternative will require the mines to meet a 20% opacity standard at all other sources and it will require them meet a 40% opacity and to develop and comply with a dust control management plan. The facility will still be required to take best available control measures to prevent the entrainment of dust off coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments.

Cost/benefit analysis

a. Estimated Costs and Benefits to the Pima County Department of Environmental Quality

Alternative 1

Costs that will be realized by the department as a result of this rulemaking will include the additional burden of hiring four additional compliance personnel and an additional education and outreach employee in order to properly implement the Natural Events Action Plan requirements. However, a result of this rulemaking PDEQ will also benefit by increasing revenue streams

through activity permits which will provide the resources to fund the new personnel. The department will also experience significant cost savings with respect to the requirements imposed under a non-attainment designation.

Alternative 2

Cost realized by the Department will be similar to Alternative 1. Additional cost may occur for the development of a dust management plan for coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments.

b. Estimated Costs and Benefits to Political Subdivisions.

Alternative 1

Table A illustrates estimated scenarios of permit fees under the current fee to the proposed fee.

The information in the table reflects typical activity permits obtained from the department.

<u>Land Clearing</u>		
Thresholds	Old Fee	New Fee
1-2 acres	\$89.28	\$100.00
3-10 acres	\$116.07 - \$133.93	\$500.00
11-40 acres	\$142-86 - \$401.83	\$1,500.00
41+ acres	\$410.76 - ?	\$3,000.00
<u>Road Construction</u>		
Thresholds	Old Fee	New Fee
50-1000 ft	\$17.86 - \$103.36	\$50.00
1001-3000 ft	\$26.50 - \$283.36	\$250.00
3001-6000 ft	\$283.45 - \$553.36	\$500.00
6001+ ft	\$553.45 - ?	\$1,000.00
<u>Trenching</u>		
Thresholds	Old Fee	New Fee
300-500 ft	\$17.86 - \$25.06	\$75.00
501-1500 ft	\$25.10 - \$61.06	\$200.00

1501-5000 ft	\$61.10 - \$187.06	\$400.00
5000+ ft	\$187.10 - ?	\$800.00

Many estimated benefits are expected to affect political sub-divisions from the implementation of the new fee schedule. These benefits include increased services with respect to dust control education and training for sources and the broad benefit of improved air quality and the protection of public health.

Alternative 2

This alternative will have the same impact as alternative 1.

c. Businesses Directly Affected by the Rulemaking. (Any person engaged in dust producing activities.)

Alternative 1

The fee increases outlined in Table A propose fee changes for any source that engages in an action that causes the production of fugitive dust or visible emissions is affected by this rule making.

Benefits for these businesses from this rulemaking include an increased permit term from three months to one year on projects, avoidance of non-attainment status based upon an exceedance of the National Ambient Air Quality Standard for particulate matter and resulting regulatory controls, and public health protection in their community.

The requirements to obtain an activity permit and limit visible emissions have been in effect for many years. The increased permit fees and more stringent visibility limiting standard will subject these sources to some additional costs. These costs however have been offset by allowing sources to choose their method of control based upon their own analysis of technological and economic feasibility and the amount of resources they have to put forth for implementation.

The 20% opacity standard introduced in this rulemaking has also been found to be technologically and economically feasible as a source expectation through analysis of Maricopa Association of Governments State Implementation Plan (SIP) for the PM10 Cost Effectiveness Study for PM-10 control measures for MAG Region in 2001 and Maricopa County’s 310 Rule. The Maricopa Association of Governments SIP includes an elaborate cost and efficiency analysis of available

control measures for PM10. Maricopa County, 180 miles north of Pima County, shares many similarities to Pima County. These similarities include growth rate, high-density population, economy, desert climate, weather patterns, and the types of industry present in the county. Maricopa County has implemented a 20% opacity standard on dust producing activities and has demonstrated that this is a technologically and economically feasible expectation to impose on sources in Pima County as well. Pima County has utilized the Maricopa Association of Governments SIP report and finds that the content of this report effectively provides economic feasibility justification for our area. Pima County will make the report available to all sources. In regard to the Activity Permit fee increases, additional costs to sources have been offset by the lengthened permit term but must also be analyzed from a viewpoint that incorporates the scope of projects. Pima County has historically charged very low fees for activity permits. Although the proposed fee schedule set forth increased fees, the proposed fees are reasonable and more easily calculated. The old fees were calculated incrementally based on units of feet or acres. The new fees will now be calculated differently, in a block rate format, as they are separated into categories of small, medium, large and extra large. The new fees will relieve the current cost burden off of very large projects and shift the burden more equivalently among all projects that take place in Pima County.

In addition, the Activity Permit fees will have a delayed implementation date, which will allow businesses time to adjust to the new rates in contract dealings etc. The new fees will not take effect until July 1, 2003.

Alternative 2

This alternative will have the same impact as alternative 1.

3. Private and public employment impact

Alternative 1

For both the private and public employment sector the implementation of this rulemaking could have an impact. It is possible that the private sector, with the more stringent visibility limiting standard, may require more resources to implement increased controls on dust producing activities.

In the public sector the increased need for additional compliance staff to handle more inspections of sources and complaint responses to ensure the enforcement of this rule making will be realized.

Alternative 2

This alternative will have the same impact as alternative 1.

4. Impact on small businesses

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

Alternative 1

Any business engaged in activities that would create fugitive dust and allow the dust to be entrained into the air.

Alternative 2

This alternative will have the same impact as alternative 1.

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

Alternative 1

Possible costs that a small business would be required to incur for compliance with this rule might include the purchase of additional technology to suppress the dust at the business or during a business activity. Another requirement would be the acquisition of an activity permit during a land clearing, trenching or road construction project that the business may be engaged in. The requirement for an activity permit has been a requirement in Pima County for over twenty years. Activity permits would increase by the amounts set forth in Table 17.12.540.

Alternative 2

This alternative will have the same impact as alternative 1.

c. A description of the methods that the agency may use to reduce the impact on small businesses. (Requirements of A.R.S. § 41-1035)

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.

Alternative 1

Pima County DEQ will use enforcement discretion with the implementation of the new rule for all sources. Adjustment to the stricter standard will be taken into account when dealing with fugitive dust sources. The new activity permit fees will have a delayed effective date of July 1, 2003, this will provide an opportunity for sources to adjust to the new requirements. Pima County DEQ's Business Assistance Program staff member will also coordinate an education and outreach efforts to help businesses conform to the new standards.

Alternative 2

This alternative will have the same impact as alternative 1.

2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.

Alternative 1

PDEQ is proposing amending the term of activity permits from three months to one year. Based upon stakeholder input, this change will reduce the economic burden placed on permittees by increasing the permit term without having to document the length of the project or requiring more than one permit if the project is not completed within three months or the original contract length. PDEQ believes permit terms longer than one year will not recover sufficient costs to maintain adequate Departmental staffing levels. Existing language that requires permittees to notify PDEQ of commencement and completion of the project will remain unchanged, which will provide PDEQ the necessary information to conduct inspections. PDEQ is also proposing to delay implementation of the new fee schedule to allow sufficient time for contractors to modify existing project contracts and allow a transition to provide certainty with respect fees for future contracts.

Alternative 2

This alternative will have the same impact as alternative 1.

3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.

Alternative 1

ADEQ's BACM list reflects prescriptive control measures for the abatement of fugitive dust. Rather than adopt specific control measures for sources to implement this alternative allows the flexibility for sources to implement their own choices of control measures.

Alternative 2

This alternative will have the same impact as alternative 1.

4. Establish performance standards for small businesses to replace design or operational standards in the rule.

Alternative 1

Refer to #3 above.

Alternative 2

Refer to #3 above.

5. Exempt small businesses from any or all requirements of the law.

Alternative 1

It would not be possible to exempt small businesses that in engage in fugitive dust producing activities from this requirement and still feasibly remain in compliance with the National Ambient Air Quality Standards.

Alternative 2

This alternative will have the same impact as alternative 1.

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

Alternative 1

The probable cost to private persons and consumers will be centered on additional dust control measures that must now be implemented to meet the 20% opacity standard. Also the activity permit fee increase may also be incorporated in their dealings with these

businesses. It is probable that contracts with the businesses that must implement these rules may cause increases in purchases by consumers and private persons.

All private persons and consumers will benefit from the more stringent air quality rules, as it will minimize the amount of fugitive dust in the air. These rules will help protect all persons from harmful health effects which research has found to be caused by inhaled particulate matter or fugitive dust.

Alternative 2

This alternative will have the same impact as alternative 1.

5. Probable effect on state revenues

Alternative 1

Not applicable.

Alternative 2

Not applicable.

6. Less intrusive or less costly alternative methods of achieving the proposed rulemaking.

Alternative 1

Based on the requirements if the Natural Events Policy and the Arizona Exceptional Events Policy time constraints were placed upon the department for the implementation of this rule making. The policies clearly outlined the process for selecting Best Available Control Measures (BACM) for Pima County. By deciding on the 20% opacity standard as BACM for Pima County and by allowing individual sources to select their preferred control measures, the department believes that this was the most reasonable alternative available for consideration. The other alternative was to require all businesses to adopt prescriptive measures regardless of economic feasibility for that business. The requirement of 20% opacity and choice on the part of the sources for control measures was the least intrusive and least costly method of achieving the rulemaking.

On the issue of increased activity permit fee increases the department also feels that this was the least costly method for achieving revenue needs for additional dust inspectors. The delayed implementation date for the fees provides for minimal intrusion on the sources as well.

Alternative 2

In regard to the AMA proposal, all of the previously mentioned issues for Alternative 1 also apply.

The proposal from the AMA outlines a justification for the exemption of coarse metallic ore storage piles and stackers and metallic mineral process tailing impoundments as the least costly and least intrusive alternative to meet the requirements of the Natural Events Action Plan for their purposes.

9. The proposed effective date for the rule or ordinance.

Pima County Code 17.12.470 and 17.12.540 will have a delayed effective date of July 1, 2003.

Pima County Code 17.16.050, the Visibility Limiting Standard, will go into effect thirty days after Board adoption.

10. Any other matters prescribed by statute and that are applicable to the county or to any specific rule or ordinance or class of rules or ordinances.

None

11. The date, time and location of scheduled public workshops and hearings:

A. Public Hearing Before the Pima County Board of Supervisors

Date: December 3, 2002
Time: 9:00 a.m. or thereafter
Location: Pima County Board of Supervisors Hearing Room
Pima County Administration Building
130 West Congress, 1st floor
Nature of Meeting: Public Hearing before the Pima County Board of Supervisors to consider formal adoption of the above described ordinance amendments.

B. Oral Proceeding

Date: July 11, 2002
Time: 1 p.m.
Location: Pima County Board of Supervisors Hearing Room
Pima County Administration Building
130 West Congress, 1st floor

Nature of Meeting: Oral Proceeding before the control officer to accept public comment on the above described ordinance amendments.

C. Rulemaking Process

<u>Date</u>	<u>Action</u>
6/7/02	Begin Public Comment Period
6/12/02	PDEQ Environmental Quality Advisory Committee Meeting
6/26/02	Board of Health Meeting
7/11/02	Oral Proceeding
8/7/02	Public Comment period ends
8/7-10/4/02	Review and Respond to Comments
10/4-11/4/02	Prepare Board of Supervisors package
11/4/02	Public Notice on Board of Supervisors Hearing
12/3/02	Board of Supervisors Hearing
12/12/02	Submit official copy to Clerk of the Board

12. The full text of the rule follows:

ALTERNATIVE 1

Title 17 of the Pima County Code

Air Quality Control

Chapter 17.12 Permit and Permit Revisions

Article IV. General Provisions

17.12.470 Activity permits.

- A. Except as exempted in Table 17.12.540 and as ~~provided in~~ subsection B of this section, no person shall conduct, cause or permit ~~the use of any equipment for the purpose of~~ land stripping, earthmoving, blasting (except blasting associated with an individual source permit issued for mining), trenching or road construction, or commence demolition or renovation of any structure ~~as shown in Table 17.12.540~~ without first obtaining an activity permit from the control officer.

- B. In the case of an emergency, action may be taken to stabilize the situation before obtaining an activity permit. Upon stabilizing the emergency situation, an activity permit shall be obtained.
- C. ~~The~~ An activity permit ~~shall be~~ is valid for a period of ~~not more than three months~~ one year from the date of issue. ~~The applicant may request a longer term, if the project length specified in a written contract is greater than three months. A copy of the contract shall be provided with the application. Activity permits issued for a period exceeding three months shall expire thirty days after the contract deadline or after one year from date of issuance, whichever is earlier~~
- D. Permittees shall notify the control officer within five working days of the start and completion of the project.
- E. This section shall not apply to sources which obtain a Class I or Class II air quality permit from the Director pursuant to ARS '49-426 or from the Control Officer pursuant to Section 17.12.140 for any activity allowed by the Class I or Class II permit, except for asbestos NESHAP activities.
- F. Sources are not required to obtain an activity permit pursuant to this section for activities involving asbestos cement pipe; however, such sources shall comply with all other local, state and federal requirements applicable to such materials. (Ord. 2002-_____ §1, 2002, Ord. 1999-11 ' 1 (part), 1999; Ord. 1995-87 ' 21, 1995; Ord. 1994-83 ' 41, 1994: Ord. 1993-128 ' 3 (part), 1993); Ord. 1987-75 ' 5 (part), 1987)

Article VI. Fees

Pima County Code 17.12.540 Activity Permit Fees.

- A. Refer to Table 17.12.540, Activity Fee Schedules.
- B. The control officer may waive the activity permit fee if all the following apply:
 - 1. the permit is being obtained for cleanup of an illegal dump; and
 - 2. the illegal dump was caused by a party other than the property owner where the dump is located.
 ((Ord. 2002-_____ §2, 2002; 1995-87 ' 26, 1995; Ord. 1994-83 ' 44, 1994: Ord. 1993-128 ' 3 (part), 1993)

Table 17.12.540

ACTIVITY PERMIT FEES SCHEDULE

S.S. ¹	ACTIVITY	RATE COMPONENTS	EXEMPTIONS
A	Landstripping and/or Earthmoving	1 to 5 acres \$89.28 plus \$8.93 per each additional acre or fraction thereof <u>1-2 ACRES \$100.00</u> <u>> 2-10 ACRES \$500.00</u> <u>> 10-40 ACRES \$1,500.00</u> <u>> 41+ ACRES \$3000.00</u>	< 1 acre
B	Trenching	300 feet of aggregate trenching \$17.86 base plus \$0.036 per each additional ft. <u>300-500 FT. \$75.00</u> <u>501-1500 FT. \$200.00</u> <u>1501-5000 FT. \$400.00</u> <u>5001+ FT. \$800.00</u>	< 300 ft; trenching for landscaping
C	Road Construction	50 ft. of aggregate road construction \$17.86 base plus \$0.09 per each additional ft. <u>50-1000 FT. \$50.00</u> <u>1001-3000 FT. \$250.00</u> <u>3001-6000 FT. \$500.00</u> <u>6001+ FT. \$1000.00</u>	< 50 ft
D	Activity permit for NESHAP facilities	\$420.00	See Exemption Note
E	Blasting	\$18.00 plus \$3.53 per day of blasting	None

Exemption Note:

- < 260 linear feet on pipes;
- < 160 square feet on other facility components;
- < 35 cubic feet off facility components

Example Permit Fee Calculations

~~1. Permit for clearing 4 acres: \$89.28~~

~~2. Permit for earthmoving on 9 acres:~~

~~First five acres = \$ 89.28~~

~~Remaining four acres = \$8.93 x 4 = \$ 35.72~~

~~Total = \$125.00~~

~~3. Permit for trenching 500 feet:~~

~~Base fee for the first 300 feet = \$ 17.86~~

~~Remaining 200 feet = 200 x 0.036 = \$ 7.20~~

~~Total = \$ 25.06~~

¹Sub-schedule for identification only.

(Ord. 2002- §2, 2002; Ord. 1995-87 §26, 1995; Ord. 1994-83 §44, 1994; Ord. 1993-128 §3 (part), 1993; Ord. 1990-113 §16, 1990; Ord. 1989-165 §17 (part), 1989; Ord. 1987-175 §18, 1987)

Chapter 17.16 Emission Limiting Standards

Article III. Emissions from Existing and New Non-point Sources

17.16.050 Visibility limiting standard.

- A. No person shall cause, suffer, allow or permit operations or activities likely to result in excessive amounts of airborne dust without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.
- B. Except for sources located within the boundaries of the Tohono O’odham, Pasqua-Yaqui and San Xavier Indian Reservations, Opacity opacity from an emission from any non-point source ~~shall not~~

~~be greater than 40 percent~~, as measured in accordance with the Arizona Testing Manual, Reference Method 9-, shall not exceed the following:

1. 20 percent for such non-point sources in eastern Pima County, east of the eastern boundary of the Tohono O'odham Reservation.
 2. 40 percent for such non-point sources in all other areas of Pima County.
- C. Open fires permitted according to chapter 17.12 are exempt from the requirements of this section.
- D. No person shall cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne, without taking reasonably necessary and feasible precautions to control generation of airborne particulate matter. Sources may be required to cease temporarily the activity or operation, which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.
1. Sources required to obtain an air quality permit under ARS §49-426, §49-480 or Rule 17.12.470 may request to have the actions constituting reasonably necessary and feasible precautions approved and included as permit conditions. Compliance with such permit conditions shall be considered compliance with this subsection.
 2. This subsection shall not apply when wind speeds exceed twenty-five miles per hour (using the Beaufort Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.
 3. This subsection shall not apply to the generation of airborne particulate matter from undisturbed land. (~~Ord. 2002-~~ §3, 2002, Ord. 1999-11 ' 2 (part), 1999; Ord. 1995-87 ' 39, 1995; Ord. 1994-83 ' 49, 1994: Ord. 1993-128 ' 4 (part), 1993; Ord. 1987-175 ' 23, 1987; (Ord. 1979-93 (part), 1979)

ALTERNATIVE 2

Title 17 of the Pima County Code

Air Quality Control

Chapter 17.12 Permit and Permit Revisions

Article IV. General Provisions

17.12.470 Activity permits.

- A. Except as exempted in Table 17.12.540 and as ~~provided in~~ subsection B of this section, no person shall conduct, cause or permit ~~the use of any equipment for the purpose of~~ land stripping, earthmoving, blasting (except blasting associated with an individual source permit issued for mining), trenching or road construction, or commence demolition or renovation of any structure ~~as shown in Table 17.12.540~~ without first obtaining an activity permit from the control officer.
- B. In the case of an emergency, action may be taken to stabilize the situation before obtaining an activity permit. Upon stabilizing the emergency situation, an activity permit shall be obtained.
- C. ~~The~~ An activity permit ~~shall be~~ is valid for a period of ~~not more than three months~~ one year from the date of issue. ~~The applicant may request a longer term, if the project length specified in a written contract is greater than three months. A copy of the contract shall be provided with the application. Activity permits issued for a period exceeding three months shall expire thirty days after the contract deadline or after one year from date of issuance, whichever is earlier~~
- D. Permittees shall notify the control officer within five working days of the start and completion of the project.
- E. This section shall not apply to sources which obtain a Class I or Class II air quality permit from the Director pursuant to ARS '49-426 or from the Control Officer pursuant to Section 17.12.140 for any activity allowed by the Class I or Class II permit, except for asbestos NESHAP activities.
- F. Sources are not required to obtain an activity permit pursuant to this section for activities involving asbestos cement pipe; however, such sources shall comply with all other local, state and federal requirements applicable to such materials. (Ord. 2002-_____ §1, 2002, Ord. 1999-11 ' 1 (part), 1999; Ord. 1995-87 ' 21, 1995; Ord. 1994-83 ' 41, 1994: Ord. 1993-128 ' 3 (part), 1993);

Ord. 1987-75 ' 5 (part), 1987)

Article VI. Fees

Pima County Code 17.12.540 Activity Permit Fees.

- A. Refer to Table 17.12.540, Activity Fee Schedules.
- B. The control officer may waive the activity permit fee if all the following apply:
 - 1. the permit is being obtained for cleanup of an illegal dump; and
 - 2. the illegal dump was caused by a party other than the property owner where the dump is located.

((Ord. 2002- §2, 2002; 1995-87 ' 26, 1995; Ord. 1994-83 ' 44, 1994: Ord. 1993-128 ' 3 (part), 1993)

Table 17.12.540			
ACTIVITY PERMIT FEES SCHEDULE			
S.S. ¹	ACTIVITY	RATE COMPONENTS	EXEMPTIONS
A	Landstripping and/or Earthmoving	1 to 5 acres \$89.28 plus \$8.93 per each additional acre or fraction thereof <u>1-2 ACRES \$100.00</u> <u>> 2-10 ACRES \$500.00</u> <u>> 10-40 ACRES \$1,500.00</u> <u>> 41+ ACRES \$3000.00</u>	< 1 acre
B	Trenching	300 feet of aggregate trenching \$17.86 base plus \$0.036 per each additional ft. <u>300-500 FT. \$75.00</u> <u>501-1500 FT. \$200.00</u> <u>1501-5000 FT. \$400.00</u> <u>5001+ FT. \$800.00</u>	< 300 ft; trenching for landscaping
C	Road Construction	50 ft. of aggregate road construction	< 50 ft

		\$17.86 base plus \$0.09 per each additional ft. <u>50-1000 FT. \$50.00</u> <u>1001-3000 FT. \$250.00</u> <u>3001-6000 FT. \$500.00</u> <u>6001+ FT. \$1000.00</u>	
D	Activity permit for NESHAP facilities	\$420.00	See Exemption Note
E	Blasting	\$18.00 plus \$3.53 per day of blasting	None

Exemption Note:

- < 260 linear feet on pipes;
- < 160 square feet on other facility components;
- < 35 cubic feet off facility components

Example Permit Fee Calculations

- ~~1. Permit for clearing 4 acres: \$89.28~~
- ~~2. Permit for earthmoving on 9 acres:~~
 - ~~First five acres = \$ 89.28~~
 - ~~Remaining four acres = \$8.93 x 4 = \$ 35.72~~
 - ~~Total = \$125.00~~
- ~~3. Permit for trenching 500 feet:~~
 - ~~Base fee for the first 300 feet = \$ 17.86~~
 - ~~Remaining 200 feet = 200 x 0.036 = \$ 7.20~~
 - ~~Total = \$ 25.06~~

¹Sub-schedule for identification only.

(Ord. 2002- §2, 2002; Ord. 1995-87 §26, 1995; Ord. 1994-83 §44, 1994; Ord. 1993-128 §3 (part), 1993; Ord. 1990-113 §16, 1990; Ord. 1989-165 §17 (part), 1989; Ord. 1987-175 §18, 1987)

Chapter 17.16 Emission Limiting Standards

Article III. Emissions from Existing and New Non-point Sources

- A. No person shall cause, suffer, allow or permit operations or activities likely to result in excessive amounts of airborne dust without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.
- B. Except for sources located within the boundaries of the Tohono O’odham, Pasqua-Yaqui and San Xavier Indian Reservations, Opacity opacity from an emission from any non-point source shall not be greater than 40 percent , as measured in accordance with the Arizona Testing Manual, Reference Method 9-, shall not exceed the following:
1. 20 percent for such non-point sources in eastern Pima County, east of the eastern boundary of the Tohono O’odham Reservation, excluding the sources specified in subsection B.2.
 2. 40 percent for coarse metallic ore storage piles and stackers and metallic mineral processing tailing impoundments within the area described in subsection B.1. In addition, such sources shall be subject to a fugitive dust control plan specifying the types of measures to be used to reduce dust emissions from such sources to the extent technologically and economically feasible. The owner or operator must submit the plan to the Department for approval, comply with the approved plan, document compliance, and obtain the Department’s prior approval of any changes to the plan
 3. 40 percent for such non-point sources in all other areas of Pima County
- C. Open fires permitted according to chapter 17.12 are exempt from the requirements of this section.
- D. No person shall cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne, without taking reasonably necessary and feasible precautions to control generation of airborne particulate matter. Sources may be required to cease temporarily the activity or operation, which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.
1. Sources required to obtain an air quality permit under ARS §49-426, §49-480 or Rule 17.12.470 may request to have the actions constituting reasonably necessary and feasible

precautions approved and included as permit conditions. Compliance with such permit conditions shall be considered compliance with this subsection.

2. This subsection shall not apply when wind speeds exceed twenty-five miles per hour (using the Beaufort Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.
3. This subsection shall not apply to the generation of airborne particulate matter from undisturbed land. (Ord. 2002-_____ §3, 2002, Ord. 1999-11 ' 2 (part), 1999; Ord. 1995-87 ' 39, 1995; Ord. 1994-83 ' 49, 1994: Ord. 1993-128 ' 4 (part), 1993; Ord. 1987-175 ' 23, 1987; (Ord. 1979-93 (part), 1979)