

NOTICE OF PROPOSED RULEMAKING

PIMA COUNTY CODE

TITLE 17 – AIR QUALITY CONTROL

CHAPTER 14 ACTIVITY PERMITS

PREAMBLE

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| <u>1.</u> | <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| | PCC 17.14.080 | Amend |
| | PCC 17.14.090 | Amend |
- 2.** **Statutory authority for the rulemaking:**
Authorizing Statutes: Arizona Revised Statutes (A.R.S.) §§ 49-471.04, 49-501, and 49-479
Implementing Statutes: A.R.S. §§ 11-251.13, 49-112, and 49-479
- 3.** **A list of all previous notices appearing in the Register addressing the expedited rule:**
None
- 4.** **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Sarah Reitmeyer
Address: Pima County DEQ
33 N. Stone Avenue, Suite 700
Tucson, AZ 85701
Telephone: (520) 724-7437
Fax: (520) 838-7432
E-mail: sarah.reitmeyer@pima.gov
- 5.** **An explanation of the rule, including the control officer’s reasons for initiating the rule:**
The Pima County Board of Supervisors (PC-BOS) as the governing body for the Pima County Air Quality Control District adopts rules for Pima County Code (PCC). The Pima County Air Quality Control District operates within the Pima County Department of Environmental Quality (PDEQ). PDEQ periodically proposes updates to PCC by and through the rulemaking process set forth by the PC-BOS. This rulemaking is proposed to simplify the fee schedule for residential, construction, and agriculture open burn permits, and to clarify terms of residential, commercial, and agricultural burn permits. These updates include changes to PCC Sections 17.14.080 and 17.14.090.
- 6.** **Demonstration of the grounds and evidence of compliance with A.R.S. 49-112:**
Based on information and belief, the control officer of the Pima County Department of Environmental Quality affirms the following:
Pima County is in compliance with A.R.S. § 49-112(B) in that PDEQ is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rule adopted by the Director of ADEQ or any Board of

Commission authorized to adopt rules pursuant to A.R.S. Title 49. Whereas the state has not adopted a fee or tax for open burn permits the proposed fees by Pima County do not exceed the reasonable costs of the county to issue and administer the permit program. This rulemaking modifies the current computational fee schedule to a comparable flat rate fee schedule for all open burning permits issued by PDEQ.

7. Reference to any study relevant to the rule that the control officer reviewed and either relied or did not rely on in its evaluation of or justification for the rule, where the public may review each study, all data underlying each study, and any analysis of each study and other supporting material:

No studies were reviewed in reference to this rulemaking action.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not Applicable

9. The preliminary summary of the economic, small business, and consumer impact:

PDEQ periodically proposes updates to PCC by and through the rulemaking process set forth by the PC-BOS. This rulemaking is proposed to clarify the terms of residential, construction, and agriculture open burn permits and to simplify the fee schedule by modifying the current computational fee schedule to flat fees. These revisions should not have an economic impact on businesses in Pima County, and should not impose additional costs on the regulated community, small businesses, political subdivisions, and members of the public beyond that already incurred by reason of federal or state rule or law. The costs of compliance for open burn permits have already occurred, and were considered when the federal and state rule or law was proposed and adopted.

10. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Sarah Reitmeyer
Address: 33 N. Stone Avenue, Suite 700
Tucson, AZ 85701-1429
Telephone: (520) 724-7437
Fax: (520) 838-7432
E-mail: sarah.reitmeyer@pima.gov

11. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be accepted if received between the date of this publication and **Monday, October 12, 2020 by 5:00 p.m.** Written comments may be mailed or hand delivered to the Pima County Department of Environmental Quality (see #10 above). Written comments received during the comment period will be considered formal comments to the expedited rule or ordinance, and will be responded to in the notice of final rulemaking.

Oral Proceeding: Tuesday, December 15, 2020
Time: 9 a.m.
Location: Pima County Board of Supervisors
Public Hearing Room, First Floor
130 West Congress Street
Tucson, Arizona 85701

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

None

13. The full text of the rule follows:

Chapter 17.14 – ACTIVITY PERMITS

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Article IV. - Open Burning

17.14.080 - Open burning permits.

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I. The term of any open burning permit shall . . .

1. The term of a ~~temporary residential~~ open burning permit shall not exceed ~~three~~3 consecutive or nonconsecutive days within a ~~thirty~~30-day period; and
2. The term of an ~~extended~~ construction or agricultural open burning permit shall expire as specified on the original application, and shall in no case exceed ~~ninety~~90 days, with no limitation on days of burning within the 90-day term.

17.14.090 - Open burning permit fees.

Open Burning Permit Fee Schedules.

S.S. ¹	Permit Activity	Rate Components	Minimum Permit Fee
A	Residential Burning ²	\$16.13 base, plus \$3.53 per day of burning	\$19.66 <u>\$30</u>
B	Construction/Agricultural Burning ³	\$26.50 base, plus \$5.00 per day of burning	\$31.50 <u>\$100</u>

1. S.S. - Sub-schedule for identification only.
2. The term of a residential burning permit shall not exceed ~~three~~3 consecutive or ~~non-consecutive~~ nonconsecutive days within a ~~thirty~~30-day period. The term of a construction/~~or~~ agricultural burning permit shall not exceed ~~ninety~~90 days, with no limitation on days of burning within the 90-day term.
3. The term of a construction/~~or~~ agricultural burning permit shall not exceed ~~ninety~~90 days, with no limitation on days of burning within the 90-day term.

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