



Report to the Board of Supervisors
Prepared by the Maricopa County Air Quality Department

Board of Health Meeting Date: April 25, 2016

Board Hearing Date: September 7, 2016

Case #/Title: AQ-2016-002-Rule 241 (Minor New Source Review (NSR))

Agenda Item: C-85-17-002-M-00

Supervisor Districts: All Districts

Applicant: Staff

Request: Approve amendments to Maricopa County Air Pollution Control Regulations regarding Rule 241 (Minor New Source Review (NSR)) and approve submitting the amended rule as a revision to the (Arizona) State Implementation Plan (SIP).

The purpose of this rulemaking is to change the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide. Stakeholders have requested that Rule 241 be revised to be consistent with the federal thresholds.

Support/Opposition: No comments concerning the proposed rulemaking were received.

Staff Recommendation: **Approve**

Board of Health Recommendation: **Approve** per Staff recommended language

Additional Comments: This regulatory change is following the Enhanced Regulatory Outreach Program (EROP) Policy and workflow process. The County Manager briefed the Board of Supervisors regarding this rulemaking in March 2016. A Stakeholder workshop was held on April 1, 2016. On April 25, 2016, the Board of Health approved this regulatory change for the Expedited Process. A 30-day comment period was held from May 13, 2016 through June 13, 2016.

Presented By: Philip A. McNeely, R.G., Director

Prepared By: Hether Krause

Attachments:

[Summary of the proposed regulatory change](#) (See Item 6 of the Draft Notice of Final Rulemaking)

[Analysis of input received during the process and how that input was responded to](#) (No comments were received. See Item 13 of the Draft Notice of Final Rulemaking)

[Language of proposed regulatory change or amendment](#) (See Item 17 of the Draft Notice of Final Rulemaking)

[Preamble required by Arizona Revised Statutes](#) (A.R.S.) § 49-471.05 (See Draft Notice of Final Rulemaking)

[Minutes from Board of Health meeting](#)

Copies of all written and electronic Stakeholder input (No comments were received)

[Signed copy of the Maricopa County Resolution “Moratorium on Increased Regulatory Burdens”](#)

DRAFT NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES
RULE 241: MINOR NEW SOURCE REVIEW (NSR)

PREAMBLE

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<u>1.</u>	<u>Rule affected</u> Rule 241: Minor New Source Review (NSR)	<u>Rulemaking action</u> Amend
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<u>2.</u>	<u>Statutory authority for the rulemaking:</u> Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480 Implementing Statute: A.R.S. § 49-112
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<u>3.</u>	<u>The effective date of the rule:</u> Tentative date of adoption: September 7, 2016
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<u>4.</u>	<u>List of public notices addressing the rulemaking:</u> Notice of Briefing to Maricopa County Manager: March 2016 Notice of Stakeholder Workshop: April 1, 2016 Notice of Maricopa County Board of Health Meeting: April 25, 2016 Notice of Proposed Rulemaking: 22 A.A.R. 1116, May 13, 2016
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<u>5.</u>	<u>Name and address of department personnel with whom persons may communicate regarding the rulemaking:</u>
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Name:	Johanna M. Kuspert or Hether Krause Maricopa County Air Quality Department Planning and Analysis Division
Address:	1001 N Central Avenue, Suite 125 Phoenix, Arizona 85004
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<u>6.</u>	<u>Explanation of the rule, including the department's reasons for initiating the rulemaking:</u> Summary: Rule 241 provides a procedure for the review of new sources and modifications to existing sources of air pollution requiring permits or permit revisions for the protection of the national ambient air quality standards (NAAQS). Revisions proposed in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide. Stakeholders have requested that Rule 241 be revised to be consistent with the federal thresholds.
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In addition, the proposed amendments will correct typographical or other clerical errors; make minor grammatical changes to improve readability or clarity; modify the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules; or make various other minor changes of a purely editorial nature. As these changes do not alter the sense, meaning, or effect of the rules, they are not described in detail here, but can be readily discerned in the “underline/ strikeout” version of the rules contained in Item 14 of this notice.

Description of Proposed Amendments:

- Section 102 (Applicability): Stakeholders submitted comments after the workshop conducted on April 1, 2016. Stakeholders proposed introductory text for Section 102.1 to state that it applies to new sources and introductory text to Section 102.2 to state that it applies to existing sources. In addition, Stakeholders proposed that Section 102.2 be changed to match text in the Arizona Department of Environmental Quality’s (ADEQ’s) Rule R18-2-334(A)(3) (Minor New Source Review); “if the modification” should be added between “minor NSR modification” and “would increase” and “maximum capacity to emit” should be changed to “potential to emit”. Stakeholders also proposed that “permit limit” be added to the phrase “increase the source’s permit limit or potential to emit that pollutant...”; however, after consideration, the department has not proposed this change, because a permit limit and potential to emit may not be equivalent.
- Section 304.1 (BACT Required): Propose to change the BACT requirement for any new stationary source which emits 40 or more tons per year (instead of 25 or more tons per year) of volatile organic compounds, nitrogen oxides, or sulfur dioxide
- Section 304.2 (BACT Required): Propose to change the BACT requirement for any modified existing stationary source if the modification causes an increase in the source’s potential to emit 40 or more tons per year (instead of 25 or more tons per year) of volatile organic compounds, nitrogen oxides, or sulfur dioxide. Stakeholders submitted comments after the workshop conducted on April 1, 2016. Stakeholders proposed that “maximum capacity to emit” be changed to “potential to emit” and that “existing” be added between “modified” and “stationary source”. Stakeholders also proposed that “permit limit” be added to the phrase “increase the source’s permit limit or potential to emit...”; however, after consideration, the department has not proposed this change, because a permit limit and potential to emit may not be equivalent.
- Section 305 (RACT Required): Propose to change the RACT requirement for any new or modified existing stationary source which emits or causes an increase in the source’s potential to emit up to 40 tons per year (instead of 25 tons per year) of volatile organic compounds, nitrogen oxides, or sulfur dioxide. Stakeholders submitted comments after the workshop conducted on April 1, 2016. Stakeholders proposed that “emissions of” be changed to “potential to emit” and that “existing” be added between “modified” and “stationary source”.

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

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or other regulation is either;
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or other regulation will not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or other regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or other regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department complies with A.R.S. § 49-112(A) in that Maricopa County fails to meet the NAAQS for both ozone and particulates. The county recently failed to meet the 2008 8-hour ozone standard by the marginal area attainment date and has been reclassified as “moderate”. Further, a portion of the county was classified as a serious ozone nonattainment area under the previous 1-hour ozone standard requiring the county to continue to maintain the measures and requirements that allowed the county to attain that standard. Currently, a portion of Maricopa County and Apache Junction in Pinal County is designated serious nonattainment for the PM₁₀ 24-hour standard. This is the only serious PM₁₀ nonattainment area in

Arizona. Maricopa County's permit rules are substantially identical to or impose no greater procedural burden than procedures for the review, issuance, revision and administration of permits issued by the State. However, Maricopa County's rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source's proximity to the PM₁₀ and ozone nonattainment areas and specific atmospheric, geographical conditions found at the source's location, and control technology provisions required by the Clean Air Act for nonattainment areas, and other control measures adopted into various nonattainment State Implementation Plans (SIPs) for Maricopa County. Specifically, various SIPs for Maricopa County have required the adoption of RACT, BACT, and most stringent measures (MSM) as required by CAA §§ 172, 182, 188, and 189.

The department complies with A.R.S. § 49-112 in that (1) the proposed amendments to Rule 241 are not more stringent than or in addition to a provision of Title 49 or rule adopted by the director or any board or commission authorized to adopt rules pursuant to Title 49, (2) Rule 241 addresses the peculiar local conditions in Maricopa County and addresses long-standing federal requirements for nonattainment areas, and (3) the proposed amendments to Rule 241 are authorized under A.R.S. Title 49, Chapter 3, Article 3 and consequently are not in lieu of a state program.

8. Documents and/or studies referenced and/or reviewed for this rulemaking:

Not applicable

9. 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:

Not applicable

10. Summary of the economic, small business, and consumer impact:

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

An identification of the rulemaking.

This rulemaking is proposing to revise Rule 241 (Minor New Source Review (NSR)). Revisions proposed in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide to be consistent with the federal thresholds.

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

The persons who will be directly affected by and bear the costs of this rulemaking will be owners or operators of hot mix asphalt plants, sand and gravel facilities, coating facilities, facilities with large or numerous boilers and/or engines, facilities that have installed low nitrogen oxide (NO_x) boilers and

engines, coating facilities that have elected to use low volatile organic compound (VOC) coatings, and facilities that have installed VOC controls.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department deemed that none of the revisions have potentially significant economic impacts on permitted sources. In addition, the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking

The rule revisions will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.

The department does not anticipate these rule revisions to have a significant impact on a person's income, revenue, or employment in this state related to this activity. The rule revision will not impose increased monetary or regulatory costs on individuals so regulated.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

The rule revisions will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

A statement of the probable impact of the rulemaking on small businesses.

The rule revisions will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated.

(a) An identification of the small businesses subject to the rulemaking.

Small businesses subject to this rulemaking include hot mix asphalt plants, sand and gravel facilities, coating facilities, facilities with large or numerous boilers and/or engines, facilities that have installed low nitrogen oxide (NO_x) boilers and engines, coating facilities that have elected to use low volatile organic compound (VOC) coatings, and facilities that have installed VOC controls.

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

To be consistent with the federal thresholds, revisions proposed in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide.

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

(i) Establishing less costly compliance requirements in the rulemaking for small businesses.

By changing BACT and RACT thresholds to be consistent with federal thresholds, this rulemaking lessens or eases the regulatory burden for small businesses.

(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.

By changing BACT and RACT thresholds to be consistent with federal thresholds, this rulemaking lessens or eases the regulatory burden for small businesses.

(iii) Exempting small businesses from any or all requirements of the rulemaking.

By changing BACT and RACT thresholds to be consistent with federal thresholds, this rulemaking lessens or eases the regulatory burden for small businesses.

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

This rulemaking does not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

A statement of the probable effect on state revenues.

The rule revisions will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

Revisions proposed in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide to be consistent with the federal thresholds.

11. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:

Name: Johanna M. Kuspert or Hether Krause
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12. Description of the changes between the proposed rule, including supplemental notices and final rule:

Since the Notice of Proposed Rulemaking was published on May 13, 2016 (22 A.A.R. 1116), the department is proposing the following amendments:

- Section 102 (Applicability): Propose to simplify the introductory statement by stating "...the provisions of this rule shall apply to the construction of any new or modified Title V or Non-Title V source" instead of stating "...the provisions of this rule shall apply to the construction of any new or modified Title V or Non-Title V source and any minor NSR modification to a Title V or Non-Title V source". The meaning and effect of this section is not proposed to be changed.
- Section 102.1: Propose to change the sentence structure, because the phrase "potential to emit that pollutant" is confusing. Propose to change Section 102.1 from "For new sources, a regulated minor NSR pollutant emitted by a stationary source will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold; or" to "A new source has the potential to emit a regulated minor NSR pollutant in an amount equal to or greater than the permitting threshold; or". The meaning and effect of this section is not proposed to be changed.
- Section 102.2: Propose to change the sentence structure, because the phrase "potential to emit that pollutant" is confusing. To change Section 102.2 from "For existing sources, an increase in emissions of a regulated minor NSR pollutant from a minor NSR modification, if the modification would increase the source's potential to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold" to "An existing source increases emissions of a regulated minor NSR pollutant from a minor NSR modification by an amount equal to or greater than the minor NSR modification threshold". The meaning and effect of this section is not proposed to be changed.
- Section 303: Propose to change the heading from "Review Of NAAQS Compliance" to "Determination For Ambient Air Quality Impact Assessment", so terms are consistent
- Sections 304.1(a)-(g) and 304.2(a)-(g) (BACT Required): Propose to change "more than x tons per year" to "x or more tons per year"; this will include 40, 15, 100, 10, and 0.3 tons per year under the BACT

requirement, whereas when it was written as “more than x tons per year”, such specific amounts were inadvertently excluded from the BACT requirement.

- Section 308: Propose to change the heading from “NAAQS Compliance Assessment” to “Ambient Air Quality Impact Assessment”, so terms are consistent

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13. Summary of the comments made regarding the rule and the department response to them:

No comments were submitted during the 30-day comment period – May 13, 2016 through June 13, 2016

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

Not applicable

15. Incorporations by reference and their location in the rule:

Not applicable

16. Was this rule previously an emergency rule?

No

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17. Full text of the rule follows:

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES
RULE 241
MINOR NEW SOURCE REVIEW (NSR)
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Adopted 11/15/1993; Revised 06/19/1996; Revised 02/03/2016; Revised xx/xx/xxxx

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES**

RULE 241

MINOR NEW SOURCE REVIEW (NSR)

SECTION 100 - GENERAL

101 PURPOSE: To provide a procedure for the review of new sources and modifications to existing sources of air pollution requiring permits or permit revisions for the protection of the national ambient air quality standards (NAAQS).

102 APPLICABILITY: Except as provided in Section 103 of this rule, the provisions of this rule shall apply to the construction of any new or modified Title V or Non-Title V source ~~and any minor NSR modification to a Title V or Non-Title V source~~, when:

102.1 ~~A regulated minor NSR pollutant emitted by a new stationary source will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold, or~~ A new source has the potential to emit a regulated minor NSR pollutant in an amount equal to or greater than the permitting threshold; or

102.2 ~~An increase in emissions of a regulated minor NSR pollutant from a minor NSR modification would increase the source's maximum capacity to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold. An existing source increases emissions of a regulated minor NSR pollutant from a minor NSR modification by an amount equal to or greater than the minor NSR modification threshold.~~

103 EXEMPTION: The provisions of this rule shall not apply to the emissions of a pollutant from any of the activities identified in Section 102 of this rule, if the emissions of that pollutant are subject to major source requirements under Rule 240 (Federal Major New Source Review (NSR)) of these rules.

SECTION 200 – DEFINITIONS (NOT APPLICABLE) See Rule 100 (General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

SECTION 300 - STANDARDS:

301 PERMIT OR PERMIT REVISION REQUIRED: An owner or operator of a source shall not begin actual construction:

301.1 Of a new stationary source, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.

301.2 Of a minor NSR modification, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.

302 BEST AVAILABLE CONTROL TECHNOLOGY (BACT) OR REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIRED: The Control Officer shall not issue a proposed final Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule to an owner or operator of a source proposing to construct a new source or make a minor NSR modification unless such owner or operator implements BACT or RACT, as required by Sections 304 or 305 of this rule.

303 ~~REVIEW OF NAAQS COMPLIANCE~~ DETERMINATION FOR AMBIENT AIR QUALITY IMPACT ASSESSMENT: Notwithstanding the implementation of RACT or BACT under this rule, an applicant for a permit subject to this rule shall conduct an ambient air quality impact assessment under Section 308 of this rule upon the Control Officer's request. The Control Officer shall make such request, if there is reason to believe that a new source or minor NSR modification could interfere with attainment or maintenance of a national ambient air quality standard. In making the determination under this section of this rule, the Control Officer shall take into consideration:

303.1 The source's emission rates.

303.2 The location of emission units within the facility and their proximity to the ambient air.

303.3 The terrain in which the source is or will be located.

303.4 The source type.

303.5 The location and emissions of nearby sources.

303.6 Background concentrations of regulated minor NSR pollutants.

304 BACT REQUIRED: An applicant for a permit or permit revision subject to Rules 210, 220, or 230 of these rules shall implement BACT for each pollutant emitted which exceeds any of the threshold limits set forth in any one of the following criteria:

304.1 Any new stationary source which emits; ~~more than 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide, or ; more than 15 tons/yr of PM10; more than 100 tons/yr of carbon monoxide; more than 10 tons/yr of PM2.5; or more than 0.3 tons/yr of lead.~~

a. 40 or more tons/yr of volatile organic compounds; or

b. 40 or more tons/yr of nitrogen oxides; or

c. 40 or more tons/yr of sulfur dioxide; or

d. 15 or more tons/yr of PM₁₀; or

e. 100 or more tons/yr of carbon monoxide; or

f. 10 or more tons/yr of PM_{2.5}; or

g. 0.3 or more tons/yr of lead.

304.2 Any modified existing stationary source if the modification causes an increase in the source's ~~maximum capacity potential to emit in any of the amounts listed in Sections 304.2(a)-(g) of this rule. more than 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide; more than 15 tons/yr of PM10; more than 100 tons/yr of carbon monoxide; more than 10 tons/yr of PM2.5; or more than 0.3 tons/yr of lead.~~ BACT is only required for the emission unit or group of emission units being modified.

a. 40 or more tons/yr of volatile organic compounds; or

b. 40 or more tons/yr of nitrogen oxides; or

c. 40 or more tons/yr of sulfur dioxide; or

d. 15 or more tons/yr of PM₁₀; or

e. 100 or more tons/yr of carbon monoxide; or

f. 10 or more tons/yr of PM_{2.5}; or

g. 0.3 or more tons/yr of lead.

305 RACT REQUIRED: An applicant for a permit or permit revision for a new or modified existing stationary source which emits or causes an increase in ~~emissions of the source's potential to emit in any of the~~ following amounts shall implement RACT for each pollutant emitted from said new or modified existing stationary source: up to 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide; up to 15

~~tons/yr of PM₁₀; up to 100 tons/yr of carbon monoxide; up to 10 tons/yr of PM_{2.5}; or up to 0.3 tons/yr of lead shall implement RACT for each pollutant emitted from said new or modified stationary source.~~

305.1 Up to 40 tons/yr of volatile organic compounds; or

305.2 Up to 40 tons/yr of nitrogen oxides; or

305.3 Up to 40 tons/yr of sulfur dioxide; or

305.4 Up to 15 tons/yr of PM₁₀; or

305.5 Up to 100 tons/yr of carbon monoxide; or

305.6 Up to 10 tons/yr of PM_{2.5}; or

305.7 Up to 0.3 tons/yr of lead.

306 **BACT DETERMINATIONS:** The Control Officer shall determine BACT, as appropriate, for each emission unit subject to the BACT requirements under Section 304 of this rule. BACT shall be determined as follows:

306.1 An applicant for a permit or permit revision for a new or modified stationary source shall present an emissions analysis to determine whether the future emissions increase will trigger BACT requirements.

306.2 The applicant shall conduct a BACT analysis for each pollutant which exceeds the BACT threshold. The applicant may conduct a case-by-case analysis.

306.3 The applicant may accept legally and practically enforceable limits on the operation of their source in order to restrict emissions to below the BACT thresholds and avoid imposition of BACT in accordance with Rule 220, Section 304 of these rules. At such time as the applicability of any requirement of this rule would be triggered by an existing source solely by virtue of a relaxation of any enforceable limitation on the capacity of the source to emit a pollutant, then the requirements of this rule will apply to the source in the same way as they would apply to a new or modified source otherwise subject to this rule.

306.4 In the case of a modification, the selection of BACT shall address the emission unit or group of emission units being modified.

307 **RACT DETERMINATIONS:** The Control Officer shall determine RACT, as appropriate, for each emission unit subject to the RACT requirements under Section 305 of this rule. RACT shall be determined as follows:

307.1 For any facilities subject to a source-specific rule under Regulation III-Control of Air Contaminants of these rules, RACT is the emissions limitation of the existing source performance standard.

307.2 For any facilities not subject to a source-specific rule under Regulation III-Control of Air Contaminants of these rules, RACT is the lowest emission limitation that a particular source is capable of achieving by the application of control technology that is reasonably available considering technological and economic feasibility and shall be determined by one of the following:

- a. Technology that may previously have been applied to a similar, but not necessarily identical, source category. RACT for a particular facility is determined on a case-by-case basis, considering the technological feasibility and cost-effectiveness of the application of the control technology to the source category.
- b. A control technique guideline issued by the Administrator under section 108(f)(1) of the Act.
- c. An emissions standard established or revised by the Administrator for the same type of source under section 111 or 112 of the Act after November 15, 1990.

308 ~~NAAQS COMPLIANCE~~ **AMBIENT AIR QUALITY IMPACT ASSESSMENT**: An ambient air quality impact assessment must demonstrate that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of any national ambient air quality standard.

308.1 An owner or operator of a source may elect to have the Control Officer perform a screening model of its emissions. If the results of the screening model indicate that the source or minor NSR modification will interfere with attainment or maintenance of any national ambient air quality standard, the owner or operator may perform a more refined model to make the demonstration required by this rule.

308.2 The requirements of this rule shall be satisfied, if the results of the screen or more refined modeling conducted pursuant to Section 308.1 of this rule demonstrate either of the following:

- a. Ambient concentrations resulting from emissions from the source or modification combined with existing concentrations of regulated minor NSR pollutants will not cause or contribute to a violation of any national ambient air quality standard.
- b. Emissions from the source or minor modification will have an ambient impact below the significance levels as defined in Rule 240 of these rules.

308.3 The assessment required by this rule shall take into account any limitations, controls, or emissions decreases that are or will be enforceable in the permit or permit revision for the source.

309 **APPLICATION DENIAL**: The Control Officer shall deny an application for a Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule, if:

309.1 An assessment conducted pursuant to Section 308 of this rule demonstrates that the source or permit revision will interfere with attainment or maintenance of any national ambient air quality standard; or

- 309.2** The new or modified source will violate applicable State Implementation Plan (SIP) requirements.
- 310 PUBLIC NOTICE:** Public notice requirements pursuant to Rules 210 and 220 of these rules shall be required for a permit or permit revision if the emissions of any one pollutant are equal to or greater than the public notice threshold as defined in Rule 100 of these rules. The Control Officer shall hold a public hearing upon written request. If a public hearing is requested, the Control Officer shall schedule the public hearing and publish a notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located and by other means if necessary to assure adequate notice to the affected public. The Control Officer shall give notice of any public hearing at least 30 days in advance of the public hearing.
- 311 NOTICE TO OTHER AGENCIES:** A copy of the notice required by Rule 210, Section 408 for permits or significant permit revisions or Rule 220, Section 407 of these rules for permits or non-minor permit revisions subject to this rule must also be sent to the Administrator through the appropriate regional office. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under this rule.
- 312 MODELING REQUIRED:** All modeling required pursuant to this rule shall be conducted in accordance with 40 CFR 51, Appendix W.
- 313 PERMIT CONDITIONS SPECIFIED PURSUANT TO THIS RULE:** The Control Officer shall specify those conditions in the permit that are implemented pursuant to this rule. The specified conditions shall be included in subsequent permit renewals unless modified pursuant to this rule or Rule 240 of these rules.
- 314 CIRCUMVENTION:** The submission of applications for permits or permit revisions for new or modified sources in phases so as to circumvent the requirements of this section is prohibited. The burden of proof to show that an application for a permit or permit revision is not being submitted as a phase of a larger project shall be upon the applicant. A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, conceals or dilutes an emission which would otherwise constitute a violation of this section. A person shall not circumvent this section to dilute air contaminants by using more emission openings than is considered normal practice by the industry or by the activity in question.
- 315 SOURCE OBLIGATION:** The issuance of a permit or permit revision under this rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

MARICOPA COUNTY BOARD OF HEALTH MEETING MINUTES

Monday, April 25, 2016

301 W. Jefferson Street, 10th Floor

Phoenix, Arizona 85003

Board of Supervisors Conference Room

President Kip Steill called the meeting to order at 3:09 p.m.

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ROLL CALL:

Members Present:

Don Cassano
Nedra Halley
Andrew Kunasek
Debra Baldauff
Kip Steill
Don Hughes
Robert MacMillan
Michael Mills, M.D. (via phone)

Members Excused:

Scott Somers
Francisca Montoya

Ex-Officio: Bob England, M.D.

CALL TO THE PUBLIC:

Mr. Kip Steill announced it was time for a call to the public and requested public comment forms for those who wanted to speak or who wanted to address any action items.

Supervisor Kunasek introduced the newest Board of Health member, Mr. MacMillan.

DISCUSSION/ACTION ITEMS

1. Election of Board of Health Vice President:

Mr. Don Hughes was nominated as Vice President of the Board of Health. A motion was made by Mr. Don Cassano and seconded by Ms. Nedra Halley and all were in favor. The motion passed unanimously.

2. Approval of Minutes: President Steill asked for a motion to approve the minutes from the BOH Meeting held on January 25, 2016. Motion was made by Ms. Nedra Halley to approve the BOH minutes as presented. Motion was seconded by Mr. Don Cassano and the motion passed unanimously.

3. Approval of Public Health FY 17 OMB Budget Recommendation **Mr. Scot Pitcairn**
The Board of Health Finance Committee recommended that the Board of Health approve Public Health's FY 17 OMB Budget Recommendation. Mr. Pitcairn was available to answer any questions that the Board of Health had. Motion was made by Mr. Don Hughes to approve Public Health's FY 17 OMB budget recommendation. Motion was seconded by Mr. Don Cassano and the motion passed unanimously.

4. Approval of Environmental Services FY 17 OMB Budget Recommendation **Ms. Diane Cabanillas**
The Board of Health Finance Committee recommended that the Board of Health approve Environmental Services' FY 17 OMB Budget Recommendation. Ms. Cabanillas was available to answer any questions that the Board of Health had. Motion was made by Mr. Don Hughes to

approve Environmental Services FY 17 OMB budget recommendation. Motion was seconded by Mr. Halley and the motion passed unanimously.

5. Approval of the initiation of regulatory change for the ozone-related rulemakings **Mr. Philip A. McNeely**

The rules being revised regarding ozone are the following:

Rule 241: Minor New Source Review

Rule 322: Power Plant Operations

Rule 323: Fuel Burning Equipment from Industrial/Commercial/Institutional Sources

Rule 324: Stationary Internal Combustion (IC) Engines

Rule 336: Surface Coating Operations

Rule 342: Coating Wood Furniture and Fixtures

Rule 350: Storage of Organic Liquids at Bulk Plants and Terminals

Rule 351: Loading of Organic Liquids

Rule 352: Gasoline Delivery Vessel Testing and Use

Rule 353: Gasoline In Stationary Dispensing Tanks

These rules are being closed for public comment and will be published May 13th. If there is no further comment, the rules will go to the Board of Supervisors for a hearing. These rules are in regards to non-attainment for the ozone standards. These rules are due to the EPA January 1, 2017 and have gone through the EROP/stakeholder meeting process. Every facility that has a permit will receive information when rule changes are occurring via email. For more information on the regulatory process: <http://www.maricopa.gov/regulations/default.aspx>

Motion was made by Mr. Don Cassano to approve the initiation of regulatory change for the ozone-related rulemakings. Motion was seconded by Ms. Nedra Halley and the motion passed unanimously.

6. Fee Waiver Applications **Mr. Ken Conklin**

Mr. Ken Conklin presented thirty-two (32) fee waivers for review and consideration of approval. A summary sheet document was provided.

Motion to approve the 32 Fee Waiver applications was made by Ms. Nedra Halley, seconded by Mr. Don Cassano and all were in favor. Motion passed unanimously.

Discussion Items:

- 1. Public Health Report:** **Dr. Bob England**
- i. Human Resources**
 - ii. Communication**
 - iii. Infrastructure**
 - iv. Strategic Planning**
 - v. Programs**
 - vi. Disease Update**
 - vii. Future Topics**

Dr. Bob provided the Board of Health with the updated Public Health org chart. The re-org has aligned MCDPH into programmatic divisions. Previously, MCDPH was organized by funding stream. Dr. Bob briefed the board on funding cuts that the department is receiving, including a \$300,000 cut to WIC and \$230,000 cut to the Office of Preparedness and Response (CDC is pulling some money back for the Zika response). WIC is struggling to meet a target number of clients but each time the program doesn't meet the target, the number of target clients and funding is decreased. The reason for difficulties with reaching the target number of client is that client encounter has

become increasingly more complex. The Office of Vital Records is moving their St. Mary's Food Bank location to a location near the 1-17 and Dunlap. MCDPH is no longer tracking returning travelers from ebola stricken countries. Arizona has experienced the highest level of severity in the country for flu for hospitalization and death rates. CDC is gathering data but there may not be enough lab evidence to determine a cause. Zika virus is another of the flaviviruses that is associated with significant neurological defects in infants whose mothers were infected with the virus in the first two trimesters of pregnancy. The primary vector is *Aedes Aegypti* mosquitos. In Maricopa County, there is no endemic spread of zika; only one travel associated case. The strategy when there is a travel associated case is to have the individual stay inside, wear repellent, and when necessary, have Environmental Services do traps and remediation depending on consent. There is concern regarding the process and timeline it would take to enter private property if necessary to spray for this type of mosquito. The Surgeon General will be visiting Arizona in May to do a tour on opioid use. The NACCHO Annual meeting will be July 19 – 21 in Phoenix.

ANNOUNCEMENTS AND CURRENT EVENTS

- Next meeting is July 25, 2016

ADJOURNMENT: There being no further business, motion to adjourn the meeting was made by Mr. Don Cassano, seconded by Ms. Halley and motion was passed unanimously. The meeting was adjourned at 4:27 p.m.



Maricopa County
Air Quality Department

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MEMORANDUM

Date: March 15, 2016
To: Tom Manos, County Manager
Via: Joy Rich, AICP, Deputy County Manager *JR*
From: Philip A. McNeely, R.G., Director *PA*
Subject: AQ-2016-002-Rule 241 – County Manager’s Approval

In accordance with the “Moratorium on Increased Regulatory Burdens,” the Air Quality Department is seeking your approval to proceed with revisions to Rule 241 (Minor New Source Review (NSR)). Rule 241 provides control technology requirements for new sources and modifications to existing sources of air pollution requiring permits or permit revisions. Revisions to Rule 241 are being proposed to increase the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT). Industry has requested that this rule be revised to be consistent with the Federal thresholds.

This rule revision qualifies for County Manager approval under the moratorium, as the rule revision will reduce regulatory burden. We are requesting your approval to move the rule revision, to be referenced as “AQ-2016-002-Rule 241,” forward in accordance with the “Moratorium on Increased Regulatory Burdens”.

A handwritten signature in black ink, appearing to read "Tom Manos".

Approved by Tom Manos, County Manager