




## MEMORANDUM

**DATE:** April 29, 2015

**TO:** Robin Brigode  
Clerk of the Board

**FROM:** Ursula Nelson  
Director, PDEQ 

**RE:** Additional Information for Board of Supervisors Agenda Item Report Regarding the Air Quality Hearing Board Ordinance Amendment

The Pima County Department of Environmental Quality (PDEQ) previously submitted a Board of Supervisors Agenda Item Report titled "Amendment to Pima County Code Section 17.04.190 - Air Quality Hearing Board Composition" for the May 5, 2015 Board of Supervisors Hearing.

This submission covers rulemaking that had been submitted to the Arizona Administrative Register (A.A.R.) prior to the release of the revised Board of Supervisors Agenda/Addendum Procedure on March 23, 2015. The Notice of Proposed Expedited Rulemaking was submitted to the A.A.R. on February 27, 2015 for publication in the March 27, 2015 Register. Therefore, this rulemaking was within the Public Notice/Public Comment period until it closed at 5:00 p.m. on Monday, April 27, 2015.

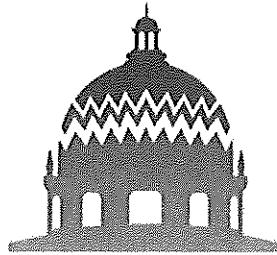
PDEQ is submitting the attached Response to Public Comments document as additional information for the above-mentioned Board of Supervisors Agenda Report. PDEQ did not receive comments on the Proposed Expedited Rulemaking as noted in the attached document. The attached Response to Public Comments document includes: the Public Notice documents, the submittal for the Arizona Administrative Register, the published materials from the Arizona Administrative Register, and the Board of Supervisors Agenda Item Report with supporting documentation.

If you would like additional information, please contact Sarah Reitmeyer, Regulatory Manager, at 724-7437.

UKN/sr

Attachments: Response to Public Comments Document

cc: John Bernal, Deputy County Administrator for Public Works  
Richard Grimaldi, PDEQ Deputy Director



# **PIMA COUNTY**

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## **ENVIRONMENTAL QUALITY**

### **RESPONSE TO PUBLIC COMMENTS**

On the Proposed Amendments  
To Pima County Code Title 17

SECTION 17.04.190  
AIR QUALITY HEARING BOARD

April 29, 2015

Pima County Department of Environmental Quality  
33 North Stone Avenue, Suite 700  
Tucson, AZ 85701

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**I. SUMMARY OF THE PROPOSED ORDINANCE AMENDMENTS TO PIMA COUNTY CODE TITLE 17 (AIR QUALITY)**

Pima County Department of Environmental Quality (PDEQ) is proposing amendments to Pima County Code Title 17 to update the composition of the Air Quality Hearing Board to conform to the Arizona Revised Statutes. PDEQ's intention in updating this rule is to amend the composition of the five members of the board to conform to the composition of the Air Quality Hearing Board as put forth in A.R.S. 49-478. This revision will not have an economic impact on businesses in Pima County, and will 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 the hearing board have already occurred, and were considered when the state rule or law was proposed and adopted.

**II. PUBLIC NOTICE**

PDEQ published notice of the proposed ordinance amendments of PCC Title 17 on our website beginning March 27, 2015 (Attachment A). The Public Notices were published on March 27, 2015, in two local newspapers (Arizona Daily Star and the Territorial Newspaper) (Attachment A). In addition, PDEQ e-mailed a notice of the proposed ordinance amendments to interested parties who had requested rulemaking notifications in the past.

**III. ARIZONA ADMINISTRATIVE REGISTER**

Pursuant to A.R.S. 49.471.08 PDEQ filed a Notice of the Proposed Expedited Rulemaking with the Secretary of State for publication in the Arizona Administrative Register (A.A.R.) (Attachment B). The notice of a rulemaking Docket Opening and the Notice of Proposed Expedited Rulemaking were published on Friday, March 27, 2015 (Attachment C). The publication of the Notice of Proposed Expedited Rulemaking coincided with the Public Notice and allowed for thirty days (30-days) for PDEQ to accept public comment on the proposed ordinance.

**IV. PUBLIC COMMENTS**

During the 30 day public comment period PDEQ did not receive comments on the proposed amendments.

**V. BOARD OF SUPERVISORS MEETING MATERIALS**

Following the Pima County Board of Supervisors Agenda/Addendum Policy, PDEQ submitted the proposed ordinance amendments to the Pima County Clerk of the Board via e-mail and hard copy on April 14, 2015 (Attachment D).

## ATTACHMENT A Public Notice Documents

### Website Notification

The screenshot shows the Pima County Department of Environmental Quality website. The header includes the Pima County logo and navigation links for Recreation, Health, Development, Business, Community, Environment, and Government. The main content area is titled "Draft, Proposed, & Final Rules" and contains text about the rulemaking process. A sidebar on the right lists various departmental links. Below the main text, there is a table of documents related to Title 17 - Air Quality.

**PIMA COUNTY**

Recreation | Health | Development | Business | Community | Environment | Government

Pima County > Government > Environmental Quality > Rules and Regulations > Draft, Proposed, & Final Rules

### Draft, Proposed, & Final Rules

The Arizona Revised Statutes 49-112 and 49-471 et seq. authorizes the county to adopt regulations and establishes a rulemaking process by which the county must follow. In addition, a variety of state laws give citizens the right to comment on regulations before the county can put them into effect. Pima County Department of Environmental Quality is responsible for creating and amending existing rules within Pima County Code Title 7- Environmental Quality, Title 13- Public Service, and Title 17 - Air Quality, and creating and amending existing Pima County Ordinances relating to Air, Water, and Waste.

PDEQ follows a process for creating and amending Pima County Code and Pima County Ordinances. An [Introduction to the Rulemaking Process](#) provides an overview of the process and frequently asked questions regarding rulemaking. PDEQ also follows a process for revising the Pima County portion of the Arizona State Implementation Plan (SIP). We encourage you to participate in the rulemaking process.

**Air** | Water | Waste

### Air

#### Title 17 - Air Quality Hearing Board

Summary: PDEQ is updating Pima County Code 17.04.190 conform to the Arizona Revised Statutes in an effort to achieve consistency and accuracy in Title 17 of the Pima County Code. PDEQ's intention in updating this rule is to conform to the composition of the Air Quality Hearing Board as put forth in A.R.S. 49-478.

Documents	Deadline for Public Comment	Public Hearing Date
<a href="#">Draft Air Quality Hearing Board Ordinance</a>	April 27, 2015	May 5, 2015
<a href="#">March 27, 2015 A.A.R. 469</a>		
<a href="#">Public Notice AQ Hearing Board (Daily Territorial 3-27-15)</a>		
<a href="#">Public Notice AQ Hearing Board (AZ Daily Star 3-27-15)</a>		
<a href="#">Draft - Expedited Rulemaking Title 17 - Air Quality Hearing Board</a>		

**Department of Environmental Quality**  
33 N. Stone Ave., Suite 700  
Tucson, AZ 85701  
Phone: (520) 774-7400  
Fax: (520) 838-7432

- Department Home
- Department News
- Hours
- Department Directory
- Send Department Feedback
- Report a Complaint
- Calendar
- Boards, Commissions & Committees
- Rules & Regulations
- Reports & Publications
- Forms

AFFIDAVIT OF PUBLICATION

STATE OF ARIZONA }  
COUNTY OF PIMA } ss.

Roxanne Murray, being first duly sworn, deposes and says that (s)he is the Lead Public Notice Clerk of THE DAILY TERRITORIAL, a daily newspaper printed and published in the County of Pima, State of Arizona, and of general circulation in the City of Tucson, County of Pima, State of Arizona and elsewhere, and hereto attached:

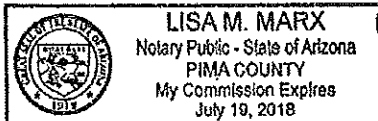
NOTICE OF HEARING  
Pima County's Air Quality Hearing Board  
May 5, 2015

was printed and published correctly in the regular and entire issue of said THE DAILY TERRITORIAL for 1 issues; that was first made on the 27<sup>th</sup> day of March, 2015 and the last publication thereof was made on the 27<sup>th</sup> day of March, 2015; that said publication was made on each of the following dates, to-wit:

3/27/15

at the Request of: PC Environmental Quality

by Roxanne Murray, Lead Public Notice Clerk, subscribed and sworn to before me this 27<sup>th</sup> day of March, 2015.



Lisa M Marx  
Notary Public in and for the County of Pima, State of Arizona

My commission expires 07/19/2018

NOTICE OF HEARING  
PUBLIC NOTICE  
RELATED TO THE PIMA COUNTY  
AIR QUALITY HEARING BOARD  
PROPOSING AMENDMENTS  
TO PIMA COUNTY CODE TITLE 17  
The Pima County Department of Environmental Quality (PDEQ) is proposing revisions to Pima County Code (PCC) Title 17 (Air Quality) relating to the composition of Pima County's Air Quality Hearing Board.

Staff recommends the Board of Supervisors approve the proposed ordinance amendments to Title 17, Pima County Code, relating to Air Quality. The proposed ordinance amendments to PCC Title 17 amend section 17.04.190 related to the composition of the Air Quality Hearing Board to ensure that the composition of the Air Quality Hearing Board is consistent with State Law.

A public hearing before the Pima County Board of Supervisors will be held on Tuesday, May 5, 2015 at, or after, 9:00 a.m. in the Board Hearing Room, located at 130 W. Congress, 1st floor, Tucson, Arizona. Comments pertaining to the proposed ordinance may be submitted at the above noticed public hearing, in writing to PDEQ (Attn: Sarah Reitmeyer, 33 N Stone Ave Suite 700, Tucson, AZ 85701), or via e-mail to [sarah.reitmeyer@pima.gov](mailto:sarah.reitmeyer@pima.gov). Written comments on the proposed ordinances will be accepted by PDEQ until 5:00 p.m. on April 27, 2015.

The proposed ordinance is available for review at the PDEQ office, and on the PDEQ website ([http://webcms.pima.gov/government/environmental\\_quality/](http://webcms.pima.gov/government/environmental_quality/)). If requested, PDEQ can email a pdf version of the proposed ordinance to anyone requesting this service. Oral comments may be made at the Board of Supervisors hearing. For additional information, please call Sarah Reitmeyer at (520) 724-7437.

PUBLISH: The Daily Territorial  
Mar. 27, 2015

ARIZONA DAILY STAR

Tucson, Arizona

STATE OF ARIZONA)  
COUNTY OF PIMA)

Debbie Capanear, being first duly sworn deposes and says: that she is the Advertising Representative of **TNI PARTNERS**, a General Partnership organized and existing under the laws of the State of Arizona, and that it prints and publishes the Arizona Daily Star, a daily newspaper printed and published in the City of Tucson, Pima County, State of Arizona, and having a general circulation in said City, County, State and elsewhere, and that the attached ad was printed and

Legal Notice

published correctly in the entire issue of the said Arizona Daily Star on each of the following dates, to-wit:

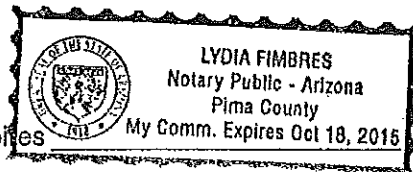
MARCH 27, 2015

Debbie Capanear

Subscribed and sworn to before me this 6 day of

April, 2015

Lydia Fimbres  
Notary Public



My commission expires

AD NO. 8373460

**PUBLIC NOTICE  
RELATED TO THE PIMA  
COUNTY AIR QUALITY  
HEARING BOARD PROPOSING  
AMENDMENTS TO PIMA  
COUNTY CODE TITLE 17**

The Pima County Department of Environmental Quality (PDEQ) is proposing revisions to Pima County Code (PCC) Title 17 (Air Quality) relating to the composition of Pima County's Air Quality Hearing Board.

Staff recommends the Board of Supervisors approve the proposed ordinance amendments to Title 17, Pima County Code, relating to Air Quality. The proposed ordinance amendments to PCC Title 17 amend section 17.04.190 related to the composition of the Air Quality Hearing Board to ensure that the composition of the Air Quality Hearing Board is consistent with State Law.

A public hearing before the Pima County Board of Supervisors will be held on Tuesday, May 5, 2015 at or after 9:00 a.m. in the Board Hearing Room located at 130 W. Congress, 1st floor, Tucson, Arizona. Comments pertaining to the proposed ordinance may be submitted at the above noticed public hearing. In writing to PDEQ (Attn: Sarah Reitmeyer, 33 N. Stone Ave Suite 700, Tucson, AZ 85701) or via e-mail to [sarah.reitmeyer@pima.gov](mailto:sarah.reitmeyer@pima.gov). Written comments on the proposed ordinance will be accepted by PDEQ until 5:00 p.m. on April 27, 2015.

The proposed ordinance is available for review at the PDEQ office, and on the PDEQ website (<http://webcms.pima.gov/government/environmental-quality/>). If requested, PDEQ can email a pdf version of the proposed ordinance to anyone requesting this service. Oral comments may be made at the Board of Supervisors hearing. For additional information, please call Sarah Reitmeyer at (520) 724-7437.

Publish March 27, 2015  
Arizona Daily Star



**ATTACHMENT B**  
Arizona Administrative Register  
Submittal Documents



## PIMA COUNTY

### ENVIRONMENTAL QUALITY

33 N. Stone Avenue, Suite 700  
Tucson, Arizona 85701-1429  
[www.pima.gov](http://www.pima.gov)

Ursula Nelson, P.E.  
Director

(520) 724-7400  
FAX (520) 838-7432

February 27, 2015

Ms. Rhonda Paschal  
Administrative Register Editor  
Arizona Secretary of State  
1700 West Washington, Seventh Floor  
Phoenix Arizona 85007-2808

Dear Ms. Paschal:

Enclosed please find our submittal for publication in the March 27, 2015 issue of the Arizona Administrative Register. This is a "Notice of Proposed Expedited Rulemaking" along with the Docket Opening for this proposed rulemaking.

Please return copies of the "time stamped" Agency Receipt, Agency Certificate, and Notice to Sarah Reitmeyer at the above address. Additionally, if there are any questions regarding the material submitted, please contact Mrs. Reitmeyer at (520) 724-7437.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Grimaldi".

Richard Grimaldi  
PDEQ Deputy Director

cc: Ursula Nelson, PDEQ Director

AGENCY CERTIFICATE

NOTICE OF PROPOSED EXPEDITED RULEMAKING

1. Agency name: Pima County Department of Environmental Quality
2. Chapter heading: Pima County Code Title 17 - Air Quality Control  
Chapter 4 - General Provisions
3. Code citation for the Chapter: PCC 17.04
4. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

<u>Section</u>	<u>Action</u>
PCC 17.04.190	Amend
5. The rules contained in this package are true and correct as proposed.

6. R. Grimaldi  
Signature of Agency Chief Executive Officer

2.26.15  
Date

Richard Grimaldi  
Printed or typed name of signer

Deputy Director  
Title

AGENCY RECEIPT

NOTICE OF PROPOSED EXPEDITED RULEMAKING

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1. Agency name: Pima County Department of Environmental Quality
2. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

Section

Action

PCC 17.04.190

Amend

## NOTICE OF RULEMAKING DOCKET OPENING

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### PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY

1. **Title and its heading:** Pima County Code Title 17 – Air Quality Control  
**Rule and its heading:** Article VI – Hearing Board, Section 17.04.190 – Composition
2. **The subject matter of the proposed rule:**  
Pima County Department of Environmental Quality (PDEQ) is proposing to update this rule to conform to the Arizona Revised Statutes in an effort to achieve consistency and accuracy in Title 17 of the Pima County Code. PDEQ's intention in updating this rule is to conform to the composition of the Air Quality Hearing Board as put forth in A.R.S. 49-478. This update includes changes to Section PCC 17.04.190.
3. **A citation to all published notices relating to this proceeding:**  
None published.
4. **The name and address of department personnel with whom persons may communicate regarding the proposed rule:**  
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. **The time during which the department will accept written comments and the time and place where oral comments may be made:**  
To be announced in the Notice of Proposed Expedited Rulemaking.
6. **A timetable for department decisions or other action on the proceeding, if known:**  
To be announced in the Notice of Proposed Expedited Rulemaking.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

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PIMA COUNTY CODE  
TITLE 17 – AIR QUALITY CONTROL  
CHAPTER 4 GENERAL PROVISIONS

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| PCC 17.04.190               | Amend                    |
2. Statutory authority for the rulemaking:  
Authorizing Statutes: Arizona Revised Statutes (A.R.S.) §§ 49-402 and 49-479  
Implementing Statutes: A.R.S. §§ 49-478
3. The agency's contact person who can answer questions about 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
4. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:  
Pima County Department of Environmental Quality (PDEQ) is updating this rule to conform to the Arizona Revised Statutes in an effort to achieve consistency and accuracy in Title 17 of the Pima County Code. PDEQ's intention in updating this rule is to conform to the composition of the Air Quality Hearing Board as put forth in A.R.S. 49-478. This update includes changes to Section PCC 17.04.190.
5. Demonstration of compliance with A.R.S. § 49-471.08 expedited rule or ordinance making:  
A county may declare an expedited rulemaking and is not subject to A.R.S. § 49-471.07 if the rule is adopted pursuant to A.R.S. § 49-112(B) and the rule incorporates a conforming change to directly reflect federal or state rule or law. PDEQ is updating Pima County Code Title 17 to directly reflect state rule or law.
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:**

Pima County is proposing to update the composition of the Air Quality Hearing Board to amend the composition of the five members of the board to conform to the A.R.S. This revision will not have an economic impact on businesses in Pima County, and will 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 the hearing board have already occurred, and were considered when the 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 April 27, 2015 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, May 5, 2015  
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. Conforming change and its location in the rules:**

<u>Conforming Rule:</u>	<u>Location</u>
A.R.S. 49-478	17.04-190

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

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**TITLE 17 -AIR QUALITY CONTROL**

**CHAPTER 17.04 GENERAL PROVISIONS**

**ARTICLE IV. HEARING BOARD**

**Section**

**17.04.190       Hearing Board.**

**Chapter 17.04 General Provisions**

**Article IV. Hearing Board**

**17.04.190       Composition.**

- A.    The hearing board shall consist of five members, ~~none of whom is an employee of the county or of the state or any of its political subdivisions.~~
1.    The five members shall be knowledgeable in the field of air pollution control.
  2.    One member shall have been admitted to the practice of law in the state be an attorney licensed to practice law in this state.
  3.    ~~One member shall be a duly licensed practitioner of medicine in the state.~~
  4.    ~~One member shall be a registered professional engineer in the state.~~
- B.    At least a majority of the hearing board members shall not individually have a substantial interest in an emission source subject to permits or enforcement orders issued pursuant to this title. Substantial interest means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest ~~as defined in A.R.S. 38-502, paragraph 10.~~



**ATTACHMENT C**  
Arizona Administrative Register  
Published Documents



## NOTICE OF RULEMAKING DOCKET OPENING

### PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY

[M15-52]

1. **Title and its heading:** Pima County Code Title 17 – Air Quality Control  
**Rule and its heading:** Article VI – Hearing Board, Section 17.04.190 – Composition
2. **The subject matter of the proposed rule:**  
Pima County Department of Environmental Quality (PDEQ) is proposing to update this rule to conform to the Arizona Revised Statutes in an effort to achieve consistency and accuracy in Title 17 of the Pima County Code. PDEQ's intention in updating this rule is to conform to the composition of the Air Quality Hearing Board as put forth in A.R.S. § 49-478. This update includes changes to Section PCC 17.04.190.
3. **A citation to all published notices relating to this proceeding:**  
Notice of Proposed Expedited Rulemaking: 21 A.A.R. 469, March 27, 2015 (*in this issue*)
4. **The name and address of department personnel with whom persons may communicate regarding the proposed rule:**  
Name: Sarah Reitmeyer  
Address: Pima County DEQ  
33 N. Stone Ave., Suite 700  
Tucson, AZ 85701  
Telephone: (520) 724-7437  
Fax: (520) 838-7432  
E-mail: sarah.reitmeyer@pima.gov
5. **The time during which the department will accept written comments and the time and place where oral comments may be made:**  
See Notice of Proposed Expedited Rulemaking in this issue.
6. **A timetable for department decisions or other action on the proceeding, if known:**  
See Notice of Proposed Expedited Rulemaking in this issue.

**COUNTY NOTICES ACCORDING TO A.R.S. § 49-112**

This section of the *Arizona Administrative Register* contains County Notices (according to A.R.S. § 49-112).

Each county writes rules and regulations in its own unique style. Although these notices are published in the *Register*, they do not conform to the standards specified in

the *Arizona Rulemaking Manual*. With the exception of minor formatting changes, County Notices (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

**NOTICE OF PROPOSED EXPEDITED RULEMAKING****PIMA COUNTY CODE****TITLE 17 – AIR QUALITY CONTROL****CHAPTER 4 GENERAL PROVISIONS**

[M15-51]

**PREAMBLE**

1. **Sections Affected**  
PCC 17.04.190
- Rulemaking Action**  
Amend
2. **Statutory authority for the rulemaking:**  
Authorizing statutes: Arizona Revised Statutes (A.R.S.) §§ 49-402 and 49-479  
Implementing statutes: A.R.S. §§ 49-478
3. **The agency's contact person who can answer questions about the rulemaking:**  
Name: Sarah Reitmeyer  
Address: Pima County DEQ  
33 N. Stone Ave., Suite 700  
Tucson, AZ 85701  
Telephone: (520) 724-7437  
Fax: (520) 838-7432  
E-mail: sarah.reitmeyer@pima.gov
4. **An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
Pima County Department of Environmental Quality (PDEQ) is updating this rule to conform to the Arizona Revised Statutes in an effort to achieve consistency and accuracy in Title 17 of the Pima County Code. PDEQ's intention in updating this rule is to conform to the composition of the Air Quality Hearing Board as put forth in A.R.S. 49-478. This update includes changes to Section PCC 17.04.190.
5. **Demonstration of compliance with A.R.S. § 49-471.08 expedited rule or ordinance making:**  
A county may declare an expedited rulemaking and is not subject to A.R.S. § 49-471.07 if the rule is adopted pursuant to A.R.S. § 49-112(B) and the rule incorporates a conforming change to directly reflect federal or state rule or law. PDEQ is updating Pima County Code Title 17 to directly reflect state rule or law.
6. **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.
7. **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.
8. **The preliminary summary of the economic, small business, and consumer impact:**  
Pima County is proposing to update the composition of the Air Quality Hearing Board to amend the composition of the five members of the board to conform to the A.R.S. This revision will not have an economic impact on businesses in Pima County, and will 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 the hearing board have already occurred, and were considered when the state rule or law was proposed and adopted.



**9. 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: Pima County DEQ  
 33 N. Stone Ave., Suite 700  
 Tucson, AZ 85701  
 Telephone: (520) 724-7437  
 Fax: (520) 838-7432  
 E-mail: sarah.reitmeyer@pima.gov

**10. 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 April 27, 2015 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, May 5, 2015  
 Time: 9 a.m.  
 Location: Pima County Board of Supervisors  
 Public Hearing Room, First Floor  
 130 West Congress Street  
 Tucson, AZ 85701

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

None

**12. Conforming change and its location in the rules:**

<u>Conforming Rule:</u>	<u>Location</u>
A.R.S. 49-478	17.04-190

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

**TITLE 17 – AIR QUALITY CONTROL**

**CHAPTER 17.04 GENERAL PROVISIONS**

**ARTICLE IV. HEARING BOARD**

Section  
 17.04.190 Composition.

**Chapter 17.04 General Provisions**

**Article IV. Hearing Board**

**17.04.190 Composition.**

- A. The hearing board shall consist of five members, ~~none of whom is an employee of the county or of the state or any of its political subdivisions.~~
1. The five members shall be knowledgeable in the field of air pollution control.
  2. One member shall ~~have been admitted to the practice of law in the state~~ be an attorney licensed to practice law in this state.
  3. ~~One member shall be a duly licensed practitioner of medicine in the state.~~
  4. ~~One member shall be a registered professional engineer in the state.~~
- B. At least a majority of the hearing board members shall not individually have a substantial interest in an emission source subject to permits or enforcement orders issued pursuant to this title. Substantial interest means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest as defined in A.R.S. 38-502, paragraph 10.

**ATTACHMENT D**  
Board of Supervisors Agenda  
Item Report Documents

**From:** Sarah Reitmeyer  
**Sent:** Tuesday, April 14, 2015 1:41 PM  
**To:** COB\_mail  
**Cc:** Ursula Nelson; Richard Grimaldi; Vicki Bennie  
**Subject:** Agenda Submission for May 5, 2015 Board of Supervisors Hearing  
**Attachments:** 15-04-14-Signed-BOS-Agenda-IR-AQ-HearingBoardAmendment.pdf; 15-04-14-Ordinance-Amending-17-04-19-legislative.docx; 15-04-14-Ordinance-Amending-17-04-190-clean.docx

Dear Reader,

Please find the attached Board of Supervisors Agenda Item Report and supporting documentation. This submission includes the original word documents of the proposed ordinance (legislative and clean) and a pdf document of the Clerk of the Board materials. The pdf AQ Hearing Board Amendment - COB Package document includes: the signed Board of Supervisors Agenda Item Report, a pdf version of the legislative and clean copies of the proposed ordinance (with signatures from the PDEQ Director and Deputy County Attorney), as well as a copy of the Public Hearing Notices (newspaper notices and website notice).

Please contact me if there are any questions.

Sarah (Walters) Reitmeyer, Regulatory Program Manager  
Pima County Department of Environmental Quality  
33 N Stone Ave, Suite 700, Tucson, AZ 85701  
Phone: (520) 724-7437  
Fax: (520) 838-7432  
Email: [sarah.reitmeyer@pima.gov](mailto:sarah.reitmeyer@pima.gov)



## BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 05/05/2015

**Title:** Amendment to Pima County Code Section 17.04.190 - Air Quality Hearing Board Composition

### **Introduction/Background:**

*Currently, Pima County Code Section 17.04.190 provides requirements for the composition of the Air Quality Hearing Board. These requirements are not consistent with the requirements set forth in the Arizona Revised Statutes*

### **Discussion:**

*The Pima County Department of Environmental Quality is requesting the Board of Supervisors to adopt the attached Ordinance No. 2015-\_\_\_\_\_ to amend Pima County Code Section 17.04.190 to update the composition of the Air Quality Hearing Board. This amendment is proposed to remove additional requirements for members that are not in the Arizona Revised Statutes (A.R.S. § 49-478). No studies were reviewed in reference to this rulemaking action.*

### **Conclusion:**

In an effort to achieve consistency and accuracy in Title 17 of the Pima County Code, Pima County Department of Environmental Quality (PDEQ) is requesting that this rule be amended to conform the composition of the Air Quality Hearing Board as put forth in A.R.S. § 49-478.

### **Recommendation:**

Staff recommends the Board of Supervisors adopt Ordinance No. 2015-\_\_\_\_\_ to amend Pima County Code Section 17.04.190, relating to the composition of the Air Quality Hearing Board.

### **Fiscal Impact:**

This amendment will not have an economic impact on businesses in Pima County, and will 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 the Air Quality Hearing Board have already occurred, and were considered when the state rule or law was proposed and adopted.

### **Board of Supervisor District:**

☐ 1      ☐ 2      ☐ 3      ☐ 4      ☐ 5      ☒ All

Department: Environmental Quality Telephone: 724-7454

Department Director Signature/Date: Mrs. K. Nelson 4.13.2015

Deputy County Administrator Signature/Date: [Signature] 4/13/15

County Administrator Signature/Date: C. R. [Signature] 4/13/15

ORDINANCE NUMBER 2015-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA  
RELATING TO THE COMPOSITION OF THE AIR QUALITY HEARING BOARD;  
AMENDING THE PIMA COUNTY CODE SECTION 17.04.190.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: Chapter 17.04, Section 17.04.190 of the Pima County Code is amended to read as follows.

17.04.190 Composition.

A. The hearing board shall consist of five members.

1. The five members . . .

2. One member shall be an attorney licensed to practice law in this state.

B. At least a majority of the hearing board members shall not individually have a substantial interest in an emission source subject to permits or enforcement orders issued pursuant to this title. Substantial interest means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

Section 2. This ordinance is effective 31 days after the date of adoption.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this \_\_\_\_\_  
day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Chairman of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of Board

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael LeBlanc  
Deputy County Attorney

REVIEWED BY:

\_\_\_\_\_  
Ursula Nelson, Director  
Department of Environmental Quality



ORDINANCE NUMBER 2015-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA  
RELATING TO THE COMPOSITION OF THE AIR QUALITY HEARING BOARD;  
AMENDING THE PIMA COUNTY CODE SECTION 17.04.190.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: Chapter 17.04, Section 17.04.190 of the Pima County Code is amended to read as follows.

17.04.190 Composition.

- A. The hearing board shall consist of five members, ~~none of whom is an employee of the county or of the state or any of its political subdivisions.~~
1. The five members . . .
  2. One member shall ~~have been admitted to the practice of law in the state~~ be an attorney licensed to practice law in this state.
  3. One member shall ~~be a duly licensed practitioner of medicine in the state.~~
  4. One member shall ~~be a registered professional engineer in the state.~~
- B. At least a majority of the hearing board members shall not individually have a substantial interest in an emission source subject to permits or enforcement orders issued pursuant to this title. Substantial interest means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest as defined in A.R.S. 38-502, paragraph 10.

Section 2. This ordinance is effective 31 days after the date of adoption.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this \_\_\_\_\_  
day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Chairman of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of Board

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael LeBlanc  
Deputy County Attorney

REVIEWED BY:

\_\_\_\_\_  
Ursula Nelson, Director  
Department of Environmental Quality

AFFIDAVIT OF PUBLICATION

STATE OF ARIZONA ,}  
COUNTY OF PIMA } ss.

Roxanne Murray, being first duly sworn, deposes and says that (s)he is the Lead Public Notice Clerk of THE DAILY TERRITORIAL, a daily newspaper printed and published in the County of Pima, State of Arizona, and of general circulation in the City of Tucson, County of Pima, State of Arizona and elsewhere, and hereto attached:

NOTICE OF HEARING

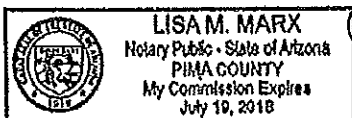
Pima County's Air Quality Hearing Board  
May 5, 2015

was printed and published correctly in the regular and entire issue of said THE DAILY TERRITORIAL for 1 issues; that was first made on the 27<sup>th</sup> day of March, 2015 and the last publication thereof was made on the 27<sup>th</sup> day of March, 2015; that said publication was made on each of the following dates, to-wit:

3/27/15

at the Request of: PC Environmental Quality

by Roxanne Murray, Lead Public Notice Clerk, subscribed and sworn to before me this 27<sup>th</sup> day of March, 2015.



Lisa M. Marx  
Notary Public in and for the County of Pima, State of Arizona

My commission expires 07/19/2018

NOTICE OF HEARING  
PUBLIC NOTICE  
RELATED TO THE PINA COUNTY  
AIR QUALITY HEARING BOARD  
PROPOSING AMENDMENTS  
TO PINA COUNTY CODE TITLE 17  
The Pima County Department of Environmental Quality (PDEQ) is proposing revisions to Pima County Code (PCC) Title 17 (Air Quality) relating to the composition of Pima County's Air Quality Hearing Board.  
Staff recommends the Board of Supervisors approve the proposed ordinance amendments to Title 17, Pima County Code, relating to Air Quality. The proposed ordinance amendments to PCC Title 17 amend section 17.04.190 related to the composition of the Air Quality Hearing Board to ensure that the composition of the Air Quality Hearing Board is consistent with State Law.  
A public hearing before the Pima County Board of Supervisors will be held on Tuesday, May 5, 2015 at, or after, 9:00 a.m. in the Board Hearing Room, located at 190 W. Congress, 1st floor, Tucson, Arizona. Comments pertaining to the proposed ordinance may be submitted at the above noticed public hearing, in writing to PDEQ (Attn: Sarah Reitmeyer, 33 N Stone Ave Suite 700, Tucson, AZ 85701), or via e-mail to [sarah.reitmeyer@pima.gov](mailto:sarah.reitmeyer@pima.gov). Written comments on the proposed ordinances will be accepted by PDEQ until 5:00 p.m. on April 27, 2015.  
The proposed ordinance is available for review at the PDEQ office, and on the PDEQ website ([http://webcms.pima.gov/government/environmental\\_quality/](http://webcms.pima.gov/government/environmental_quality/)). If requested, PDEQ can email a pdf version of the proposed ordinance to anyone requesting this service. Oral comments may be made at the Board of Supervisors hearing. For additional information, please call Sarah Reitmeyer at (520) 724-7437.  
PUBLISHED: The Daily Territorial  
Mar. 27, 2015

ARIZONA DAILY STAR

Tucson, Arizona

STATE OF ARIZONA)  
COUNTY OF PIMA)

Debbie Capanear, being first duly sworn deposes and says: that she is the Advertising Representative of TNI PARTNERS, a General Partnership organized and existing under the laws of the State of Arizona, and that it prints and publishes the Arizona Daily Star, a daily newspaper printed and published in the City of Tucson, Pima County, State of Arizona, and having a general circulation in said City, County, State and elsewhere, and that the attached ad was printed and

Legal Notice

published correctly in the entire issue of the said Arizona Daily Star on each of the following dates, to-wit:

MARCH 27, 2015

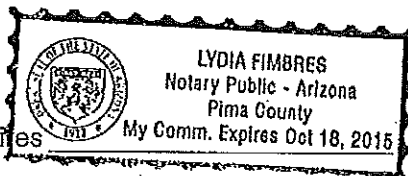
Debbie Capanear

Subscribed and sworn to before me this 6 day of

April, 2015

Lydia Fimbres  
Notary Public

My commission expires



AD NO. 8373460

**PUBLIC NOTICE  
RELATED TO THE PIMA  
COUNTY AIR QUALITY  
HEARING BOARD PROPOSING  
AMENDMENTS TO PIMA  
COUNTY CODE TITLE 17**

The Pima County Department of Environmental Quality (PDEQ) is proposing revisions to Pima County Code (PCC) Title 17 (Air Quality) relating to the composition of Pima County's Air Quality Hearing Board.

Staff recommends the Board of Supervisors approve the proposed ordinance amendments to Title 17, Pima County Code relating to Air Quality. The proposed ordinance amendments to PCC Title 17 amend section 17.04.000 related to the composition of the Air Quality Hearing Board to ensure that the composition of the Air Quality Hearing Board is consistent with State law.

A public hearing before the Pima County Board of Supervisors will be held on Tuesday, May 5, 2015 at 9:00 a.m. in the Board Hearing Room located at 1300 Congress, 1st floor, Tucson, Arizona. Comments pertaining to the proposed ordinance may be submitted at the above noticed public hearing. In writing to PDEQ 2 (Attn: Sarah Reilmeyer) 33 N. Stone Ave Suite 700 Tucson, AZ 85701 or via e-mail to sarah.reilmeyer@pima.gov. Written comments on the proposed ordinance will be accepted by PDEQ until 5:00 p.m. on April 27, 2015.

The proposed ordinance is available for review at the PDEQ office and on the PDEQ website (<http://www.pima.gov/government/environment/airquality/>). If requested, PDEQ can email a pdf version of the proposed ordinance to anyone requesting this service. Oral comments may be made at the Board of Supervisors hearing. For additional information, please call Sarah Reilmeyer at (520) 724-7437.

Published March 27, 2015  
Arizona Daily Star



### Draft, Proposed, & Final Rules

The Arizona Revised Statutes 49-112 and 49-471 et seq. authorizes the county to adopt regulations and establishes a rulemaking process by which the county must follow. In addition, a variety of state laws give citizens the right to comment on regulations before the county can put them into effect. Pima County Department of Environmental Quality is responsible for creating and amending existing rules within Pima County Code Title 7 - Environmental Quality, Title 13 - Public Service, and Title 17 - Air Quality, and creating and amending existing Pima County Ordinances relating to Air, Water, and Waste.

PDEQ follows a process for creating and amending Pima County Code and Pima County Ordinances. An introduction to the Rulemaking Process provides an overview of the process and frequently asked questions regarding rulemaking. PDEQ also follows a process for revising the Pima County portion of the Arizona State Implementation Plan (SIP). We encourage you to participate in the rulemaking process.

**Air** **Water** **Waste**

### Title 17 - Air Quality Hearing Board

**Summary:** PDEQ is updating Pima County Code 17.04.190 conform to the Arizona Revised Statutes in an effort to achieve consistency and accuracy in Title 17 of the Pima County Code. PDEQ's intention in updating this rule is to conform to the composition of the Air Quality Hearing Board as put forth in A.R.S. 49-478.

Documents	Deadline for Public Comment	Public Hearing Date
Draft: Air Quality Hearing Board Ordinance <a href="#">[2]</a> March 27, 2015 A.A.R. 469 <a href="#">[6]</a>	April 27, 2015	May 5, 2015
Public Notice AQ Hearing Board (Daily Territorial 3-27-15) <a href="#">[2]</a>		
Public Notice AQ Hearing Board (AZ Daily Star 3-27-15) <a href="#">[2]</a>		
Draft - Expedited Rulemaking Title 17 - Air Quality Hearing Board <a href="#">[2]</a>		

**Department of Environmental Quality**  
33 N. Second Ave., Suite 700  
Tucson, AZ 85701  
Phone: (520) 724-7400  
Fax: (520) 838-7495

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