

NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 325: BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING

PREAMBLE

- 1. Rule affected** **Rulemaking action**
Rule 325: Brick and Structural Clay Products (BSCP) Manufacturing Rescind

- 2. Statutory authority for the rulemaking:**
Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480
Implementing Statute: A.R.S. § 49-112

- 3. The effective date of the rule:**
Date of adoption: December 13, 2017

- 4. List of public notices addressing the rulemaking:**
Notice of Briefing to Maricopa County Manager: May 15, 2017
Notice of Stakeholder Workshop: June 15, 2017
Notice of Maricopa County Board of Health Meeting: July 24, 2017
Notice of Proposed Rulemaking: 23 A.A.R. 2225, August 18, 2017

- 5. Name and address of department personnel with whom persons may communicate regarding the rulemaking:**
Name: Greg Verkamp or Hether Krause
Maricopa County Air Quality Department
Planning and Analysis Division
Address: 1001 N Central Avenue, Suite 125
Phoenix, AZ 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179
E-mail: <http://www.maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

- 6. Explanation of the rule, including the department's reasons for initiating the rulemaking:**
The Maricopa County Air Quality Department (department) rescinded Rule 325 (Brick and Structural Clay Products (BSCP) Manufacturing). Rule 325 was originally adopted on August 10, 2005. The purpose of the rule is to limit particulate matter emissions from the use of tunnel kilns for curing in the brick and structural clay product (BSCP) manufacturing processes. There are currently no sources subject to the rule in Maricopa County and the department's records indicate the last source subject to the rule ceased operations in 2012.

Rule 325 was adopted as a result of a revision made to the State Implementation Plan (SIP) for the Maricopa County PM₁₀ nonattainment area. The Maricopa County PM₁₀ nonattainment area was originally classified as moderate for PM₁₀ by the 1990 Clean Air Act Amendments. After the initial classification, Arizona was required to submit a revision to the SIP to demonstrate attainment of the PM₁₀ National Ambient Air Quality Standards (NAAQS) by December 31, 1994. The Maricopa County PM₁₀ nonattainment area failed to attain the NAAQS by the specified deadline; therefore, the U.S. Environmental Protection Agency (EPA) reclassified the area to a serious nonattainment area for PM₁₀ in 1996. Arizona was again required to submit a revision to the SIP to demonstrate attainment of the PM₁₀ NAAQS, this time by December 31, 2001. Attainment of the PM₁₀ NAAQS was again not demonstrated by the specified deadline and, as a result, Arizona was required to submit more revisions to the SIP.

One such revision was the Salt River SIP which the EPA required Arizona to submit to address continuing violations of the 24-hour PM₁₀ NAAQS at the Salt River air quality monitoring site in the late 1990s. The Salt River SIP included commitments to implement Best Available Control Measures (BACM)/Most Stringent Measures (MSM) for all significant sources of PM₁₀ in the Salt River Area. Within the Salt River Area, there was one brick manufacturer, Phoenix Brick Yard, which at the time the Salt River SIP was being drafted, was not implementing BACM/MSM. As a result, Rule 325 was drafted and adopted to ensure Phoenix Brick Yard implemented BACM/MSM.

Phoenix Brick Yard ceased manufacturing operations in 2012 due to market conditions and production costs. Currently, there are no brick or structural clay product manufacturers in Maricopa County. The department does not anticipate any new brick or structural clay product manufacturers will locate to Maricopa County and, therefore, rescinded Rule 325.

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 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 requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or 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 regulation is equivalent to federal statutes or regulation.
- 3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or 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 regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). The department rescinded Rule 325.

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 rescinded Rule 325 (Brick and Structural Clay Products (BSCP) Manufacturing).

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

This rulemaking rescinded Rule 325. There are currently no sources subject to Rule 325 in Maricopa County and the department does not anticipate any new sources will come to Maricopa County that would potentially be subject to Rule 325.

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 does not anticipate this rulemaking will have an economic impact on either the department or any other agency.

(b) The probable costs and benefits to a political subdivision of this state 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 does not anticipate this rulemaking will have an economic impact on any political subdivision of this state.

(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.

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any businesses.

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.

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an impact on private and public employment for any businesses, agencies or political divisions.

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

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any small businesses.

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

There are no small businesses subject to Rule 325.

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

This rulemaking rescinded Rule 325; there are no costs required for compliance. There are no sources subject to Rule 325.

(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.

This rulemaking rescinded Rule 325 and there are no compliance costs required for small businesses.

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

This rulemaking rescinded Rule 325 and there are no compliance costs required for small businesses.

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

This rulemaking rescinded Rule 325 and there are no compliance costs required 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 rulemaking 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.

This rulemaking rescinded Rule 325 and there are no compliance costs associated with the rulemaking.

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

Name: Greg Verkamp or Hether Krause
Maricopa County Air Quality Department
Planning and Analysis Division
Address: 1001 N Central Avenue, Suite 125
Phoenix, AZ 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179
E-mail: <http://www.maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

12. Description of the changes between the proposed rule, including supplemental notices and final rule:

No additional changes were made, since the Notice of Proposed Rulemaking was published on August 18, 2017 (23 A.A.R. 2225).

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 – August 18-September 18, 2017.

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

17. Full text of the rule follows:

~~REGULATION III—CONTROL OF AIR CONTAMINANTS~~
~~RULE 325~~
~~BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING~~
~~INDEX~~

~~SECTION 100—GENERAL~~

- ~~101 PURPOSE~~
- ~~102 APPLICABILITY~~
- ~~103 EXEMPTIONS~~

~~SECTION 200—DEFINITIONS~~

- ~~201 BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING FACILITY~~
- ~~202 CONTINUOUS KILN~~
- ~~203 EXISTING KILN~~
- ~~204 KILN FEED~~
- ~~205 PERIODIC KILN~~
- ~~206 RESEARCH AND DEVELOPMENT TUNNEL KILN~~
- ~~207 TUNNEL KILN~~

~~SECTION 300—STANDARDS~~

- ~~301 OPACITY LIMITATIONS FOR ALL TUNNEL KILNS SUBJECT TO THIS RULE~~
- ~~302 LIMITATIONS FOR EXISTING TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES~~
- ~~303 LIMITATIONS FOR NEW OR RECONSTRUCTED TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES~~

~~SECTION 400—ADMINISTRATIVE REQUIREMENTS~~

- ~~401 COMPLIANCE SCHEDULE~~

~~SECTION 500—MONITORING AND RECORDS~~

- ~~501 COMPLIANCE DETERMINATION~~
- ~~502 RECORDKEEPING/RECORDS RETENTION~~
- ~~503 TEST METHODS~~

Adopted 08/10/05

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III—CONTROL OF AIR CONTAMINANTS
RULE 325

BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING

SECTION 100—GENERAL

- 101** **PURPOSE:** To limit particulate matter emissions from the use of tunnel kilns for curing in the brick and structural clay product (BSCP) manufacturing processes.
- 102** **APPLICABILITY:** This rule applies to any existing, new or reconstructed tunnel kiln, used in the commercial and industrial brick and structural clay product manufacturing processes. Compliance with the provisions of this rule shall not relieve any person subject to the requirements of this rule from complying with any other federally enforceable New Sources Performance Standards (NSPS). In such cases, the most stringent standard shall apply.
- 103** **EXEMPTIONS:** Existing, new or reconstructed tunnel kilns that are used exclusively for research and development and are not used to manufacture products for commercial sale are not subject to this rule.

SECTION 200—DEFINITIONS: See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

- 201** **BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING FACILITY**—A site that manufactures brick including, but not limited to: face brick, structural brick and brick pavers; claypipe; roof tile; extruded floor and wall tile; and/or other extruded, dimensional, clay products. Brick products manufacturing facilities typically process raw clay and shale, form the processed materials into bricks or shapes, and dry and fire the bricks or shapes.
- 202** **CONTINUOUS KILN**—A heated chamber that heats dense loads uniformly and efficiently, and can be used without interruption for high volume production. Continuous kilns are kilns that perform well in the consistent high production of wares. Continuous kilns include tunnel kilns, shuttle kilns, fixed hearth kilns, bee hive kilns, roller kilns, sled kilns, decorating kilns, and pusher slab kilns. Most continuous kilns are tunnel kilns.
- 203** **EXISTING KILN**—A kiln that is in operation before the date of adoption of this rule.
- 204** **KILN FEED**—All materials except fuel entering the tunnel kiln, including raw feed and recycle dust, measured on a dry basis.
- 205** **PERIODIC KILN**—A kiln that operates on an intermittent basis to heat wares, holding them at a uniform peak temperature and cool the wares. Periodic kilns are best for inconsistent or low volume production.
- 206** **RESEARCH AND DEVELOPMENT TUNNEL KILN**—Any tunnel kiln whose purpose is to conduct research and development for new processes and products and is not engaged in the manufacture of commercial products for sale.
- 207** **TUNNEL KILN**—Any continuous kiln that is used to fire brick and structural clay products. Tunnel kilns may have two process streams, including a process stream that exhausts directly to the atmosphere or to an Air

Pollution Control Device, and a process stream in which the kiln exhaust is ducted to a brick dryer where it is used to dry bricks before the exhaust is emitted to the atmosphere.

SECTION 300—STANDARDS

301 ~~OPACITY LIMITATIONS FOR ALL TUNNEL KILNS SUBJECT TO THIS RULE:~~ No person shall discharge into the ambient air from any single source of emissions any air contaminant, other than uncombined water, in excess of 20% opacity.

302 ~~LIMITATIONS FOR EXISTING TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES:~~

302.1 No owner or operator shall emit more than 0.42 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of ≥ 1 tons per hour throughput.

303 ~~LIMITATIONS FOR NEW OR RECONSTRUCTED TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES:~~

303.1 No owner or operator shall emit more than 0.42 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of < 10 tons per hour throughput.

303.2 No owner or operator shall emit more than 0.12 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of ≥ 10 tons per hour throughput.

SECTION 400—ADMINISTRATIVE REQUIREMENTS

401 ~~COMPLIANCE SCHEDULE:~~ Any owner or operator of a tunnel kiln subject to this rule shall meet the following milestones:

401.1 Submit a compliance plan, by December 31, 2005, to the Control Officer for approval which describes the method(s) used to achieve full compliance with the rule. This plan shall specify dates for completing increments of progress, such as the contractual arrival date of new control equipment. The Control Officer may require an owner or operator submitting the compliance plan to also submit subsequent reports on progress in achieving compliance; and

401.2 Attain full compliance with all of the standards in this rule by December 31, 2006.

SECTION 500—MONITORING AND RECORDS

501 ~~COMPLIANCE DETERMINATION:~~ Compliance shall be demonstrated as follows:

501.1 Compliance with Section 301 shall be demonstrated by performance of Method 9 listed in Section 503.1; and

501.2 Compliance with Sections 302 and 303 shall be demonstrated by performance of the test methods listed in Section 503.2 and 503.3.

502 ~~RECORDKEEPING / RECORDS RETENTION:~~ The owner or operator of any kiln subject to this rule shall comply with the following requirements and keep records for a period of 5 years:

502.1 Daily records of kiln feed fired and hours of operation; and

502.2 Monthly records of material delivered to the site for processing in the tunnel kiln and the amount of product produced reported in tons.

503 ~~**TEST METHODS:** The Environmental Protection Agency (EPA) test methods as they exist in the Code of Federal Regulations (CFR) (July 1, 2004), as listed below, are adopted by reference. These adoptions by reference include no future editions or amendments. Copies of test methods referenced in this section of this rule are available at the Maricopa County Air Quality Department, 1001 North Central Avenue, Suite 695, Phoenix, Arizona, 85004.~~

~~**503.1** EPA Reference Method 9 (“Visual Determination of the Opacity of Emissions from Stationary Sources”), (40 CFR 60, Appendix A).~~

~~**503.2** EPA Reference Method 5 (“Determination of Particulate Emissions from Stationary Sources”), (40 CFR 60, Appendix A).~~

~~**503.3** EPA Reference Method 202 (“Determination of Condensible Particulate Emissions from Stationary Sources”), (40 CFR 51, Appendix M).~~