



Briefing Notification to County Manager

Prepared by the Maricopa County Air Quality Department

Case #/Title: AQ-2016-001-Incorporation by Reference

Supervisor Districts: All Districts

Overview: Every year on July 1, the U.S. Environmental Protection Agency (EPA) codifies any changes to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Acid Rain and other parts of Title 40 of the Code of Federal Regulations (CFR) that have been made during the past year. The department then incorporates these codified federal revisions and additions into the applicable Maricopa County Air Pollution Control Regulations. Only after the federal regulations are incorporated into the county rules can the department request the EPA's delegation of authority to implement and enforce these federal regulations at the local level.

Maricopa County Air Pollution Control Regulations:

- Rule 321 (Municipal Solid Waste Landfills)
- Rule 360 (New Source Performance Standards)
- Rule 370 (Federal Hazardous Air Pollutant Program)
- Rule 371 (Acid Rain)
- Appendix G (Incorporated Materials)

are the rules that are affected by or directly relate to these federal regulations. In an effort to expedite the rulemaking process of incorporating NSPS, NESHAP and Acid Rain requirements, the department has grouped these rules into a single rulemaking.

The NSPS, NESHAP and Acid Rain federal regulations directly pertain to air quality. For example, Rule 360 (New Source Performance Standards) incorporates the NSPS. These standards apply to new, modified, or reconstructed affected facilities in specific source categories, e.g., manufacturers of glass, cement, rubber tires, and wool fiberglass. Between July 1, 2015, and June 30, 2016, there were 11 delegable NSPS. Sources subject to NSPS must perform an initial performance test, must demonstrate continuous compliance, and must monitor control device

operating parameters. Some NSPS require sources to utilize continuous emission monitors (CEMs).

Rule 370 (Federal Hazardous Air Pollutant Program) incorporates the NESHAP. NESHAP establish emission standards for federal hazardous air pollutants (HAPs). The standards established in the federally listed HAPs and the NESHAP are applied by the Maricopa County Air Quality Department Control Officer and must be complied with by an owner and/or operator of a source subject to them. Between July 1, 2015, and June 30, 2016, there were 17 delegable NESHAP.

Rule 321 (Municipal Solid Waste Landfills) is included in this suite of rules to incorporate the current federal standards of performance for municipal solid waste landfills. Landfills emit non-methane organic compounds (NMOC) and methane. NMOC emissions can include volatile organic compounds (VOC), hazardous air pollutants (HAPs), and odorous compounds that cause, or contribute significantly to air pollution.

Rule 371 (Acid Rain) incorporates the Acid Rain Program. The Acid Rain program requires major emission reductions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x), the primary precursors of acid rain, from the power sector.

Appendix G (Incorporated Materials) incorporates test methods and protocols from the Code of Federal Regulations and federally listed non-precursor organic compounds, organic compounds which have been determined to have negligible photochemical reactivity.

Typically, the changes made to the NSPS, NESHAP and Acid Rain Program include technical and editorial corrections for source testing of emissions and operations or the addition of alternative testing provisions. These changes improve the quality of data and provide facilities additional flexibility to use the newly approved alternative procedures.

Next Steps:

The department will make the Incorporation by Reference rulemaking a routine rulemaking. Each year in May, the department will initiate the rulemaking with the "Briefing Notification To The County Manager." The rulemaking will continue to follow the incorporation by reference

rulemaking process. The rulemaking is anticipated to conclude each year in November with the department requesting that the Board of Supervisors conduct a public hearing to approve the rulemaking.

Per the Maricopa County Enhanced Regulatory Outreach Program Policy for the Incorporation by Reference rulemaking, no public workshops and no Board of Health notification are required. This Incorporation by Reference rulemaking will follow the Maricopa County Enhanced Regulatory Outreach Program Policy.



Maricopa County

Air Quality Department

MEMORANDUM

Date: June 6, 2016
To: Joy Rich, AICP, County Manager
From: Philip A. McNeely, R.G., Director *PAM*
Subject: Incorporation by Reference (IBR) – County Manager’s Approval

In accordance with the “Moratorium on Increased Regulatory Burdens,” Resolution C-44-13-104-M-01 adopted by the Maricopa County Board of Supervisors on January 6, 2016, the Air Quality Department is seeking your approval to proceed with incorporating by reference into the Maricopa County Air Pollution Control Regulations all federal standards and practices for 2015-2016 related to new source performance standards and hazardous air pollutants. Routine updates make the rule changes short and to the point, allowing for timely implementation by local sources. It also eliminates the “regulatory gap” where sources are subject to different federal and county rules for the same activity. Adoption of these rules by the county is required under our delegation agreement with the U.S. Environmental Protection Agency (EPA).

In March 2013, the Incorporation by Reference Process was recommended by stakeholders and approved by the Board of Supervisors as an appropriate process for the Enhanced Regulatory Outreach Program.

This rule revision qualifies for County Manager approval under the moratorium, as this rule revision will lessen or ease a regulatory burden and will comply with a federal statutory or regulatory requirement or state statutory requirement. We are requesting your approval to move this rule revision, to be referenced as “AQ-2016-001-Incorporation By Reference,” forward in accordance with the “Moratorium on Increased Regulatory Burdens”.


Approved by Joy Rich, AICP, County Manager