



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 RULEMAKING DOCKET OPENING

[M15-210]

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

(Ref. A.R.S. §41-1021)

1. Title and its heading:

Pinal County Air Quality Control District Code of Regulations

Regulations and headings:

Chapter 1, Article 1, Section 105 – SIP List

Chapter 4, Article 3 – Construction Sites – Fugitive Dust

Rules and headings:

§1-1-105. SIP List

§4-3-160. General Provisions – West Pinal PM10 Nonattainment Area

§4-3-170. Definitions

§4-3-180. Dust Generating Operations Standards, Application, Permit and Recordkeeping Requirements

§4-4-190. Violations

2. Subject Matter of the Proposed Rule:

Due to ongoing monitoring violations of the PM₁₀ (Particulate Matter 10 microns and smaller) National Ambient Air Quality Standard (NAAQS) in Pinal County, in 2012 the Environmental Protection Agency (EPA) designated a large portion of Pinal County as a moderate nonattainment area (West Pinal PM₁₀ Nonattainment Area). Subsequently as a Clean Air Act (CAA) requirement for nonattainment areas, The Arizona Department of Environmental Quality (ADEQ) in coordination with Pinal County Air Quality Control District (PCAQCD) developed base year and attainment year emissions inventory (EI) for PM₁₀ for the nonattainment area. The top three emissions sources in the 2008 base year PM₁₀ inventory for the West Pinal PM₁₀ Nonattainment area are windblown dust (53%), unpaved roads (32%) and construction (9%).

PCAQCD will follow up this proposed rulemaking docket opening with a formal rulemaking proposal in which new construction fugitive dust rules in Chapter 4, Article 3 will be proposed to be added to the PCAQCD Code of Regulations. The construction rules are needed in order to achieve the emissions reductions in the West Pinal PM₁₀ Nonattainment area necessary to attain the PM₁₀ NAAQS.

The ultimate goal of the proposed rulemaking will be adoption of the rules by the Pinal County Board of Supervisors and submittal to EPA (through ADEQ) for inclusion into the Arizona SIP.

Also as part of this rulemaking, Pinal County may add, delete or modify additional rules as necessary.

3. Prior Related Notices:

None

4. Contact Information:

Those wishing further information regarding any aspect of this proposal may contact

Name: Scott DiBiase,
Title: Air Quality Planning Manager
Address: Pinal County Air Quality



31 North Pinal St., Building F, Florence, AZ, 85132
Telephone: 520-866-6929
Fax: 520-866-6967
E-mail: scott.dibiase@pinalcountyz.gov

To the extent possible, the District will also post information on the County's website, www.pinalcountyz.gov, under the “air quality” link.

5. Opportunity for Written or Oral Comments:

The District will publish a Notice of Proposed Rulemaking that will define a formal timetable for submittal of written comments. At any time prior to the close of that to-be-defined comment period, anyone may seek information or submit comments by contacting the Planning Manager at the address shown above. Ultimately, the public will also have an opportunity to offer comment in the public hearing before the Board of Supervisors.

6. Anticipated Timetable:

To be announced in the Notice of Proposed Rulemaking.

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

[M15-211]

COMBINED

NOTICE OF PROPOSED RULEMAKING

PURSUANT TO A.R.S. §49-112 AND §49-471.01 *et seq.*

AND

NOTICE OF ORAL PROCEEDING

PURSUANT TO A.R.S. 49-471.06

1. Preamble

- A. The Pinal County Air Quality Control District (PCAQCD), an operating division of Pinal County, proposes that the Board of Supervisors (BOS) adopt or amend certain rules under authority of A.R.S. §§49-479 and 49-480, which respectively authorize the board to adopt rules to control air pollution.

Due to ongoing monitoring violations of the PM₁₀ (Particulate Matter 10 microns and smaller) National Ambient Air Quality Standard (NAAQS) in Pinal County (under both stagnation and high wind conditions), in 2012 the Environmental Protection Agency (EPA) designated a large portion of Pinal County as a moderate PM₁₀ nonattainment area (West Pinal PM₁₀ Nonattainment Area – defined in 40 CFR §81.303). Subsequently as a Clean Air Act (CAA) requirement for nonattainment areas, The Arizona Department of Environmental Quality (ADEQ) in coordination with Pinal County Air Quality Control District (PCAQCD) developed base year and attainment year PM₁₀ emissions inventories (EI) for the nonattainment area. The top three emissions sources in the 2008 base year PM₁₀ inventory for the West Pinal PM₁₀ Nonattainment area are windblown dust (53%), unpaved roads (32%) and construction (9%).

The construction emissions are related to both activity and ground surface conditions (i.e. unstable ground surface conditions caused by construction activities impacted by windy conditions that results in PM₁₀ emissions). The proposed construction fugitive dust rules in this rulemaking proposal are designed to provide standards (i.e. opacity, ground stabilization, etc.) that limit PM₁₀ emissions attributed to construction activities under both stagnation and windy conditions. In addition, the proposed rules are designed to provide application, permitting and recordkeeping requirements that ensure verification of the control measures used to control emissions associated with the construction activities.

The proposed amended and new rules are identified below and include an amendment to §1-1-105 with the ultimate purpose of this rulemaking being the submittal of the adopted rules in Chapter 4, Article 3 (specifically sections



160, 170, 180, 190) through ADEQ to EPA, for inclusion as elements of the Arizona State Implementation Plan (SIP) as required under the Clean Air Act (CAA).

B. All of the proposed corresponding changes are discussed in subsection E. of this preamble, and include the following sections:

Section Affected	Rulemaking Action
§1-1-105. SIP List.....	Amend
§4-3-160. General Provisions – West Pinal PM10 Nonattainment Area	New
§4-3-170. Definitions.....	New
§4-3-180. Dust Generating Operations Standards, Application, Permit and Recordkeeping Requirements.....	New
§4-3-190. Violations	New

C. Those wishing further information regarding any aspect of this proposal may contact Scott DiBiase, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, Arizona, 85132, 520-866-6929, scott.dibiase@pinalcountyz.gov. To the extent possible, the District will also post information on the County's website, *pinalcountyz.gov*, under the “air quality” link.

D. The rule making process will consist of an initial administrative rule development process, including this notice, a 30 day public comment period, and an oral proceeding before the Control Officer or his designee. The date and location for the oral proceeding is set forth below. Written comments are due prior to the close of the comment period, which shall be the close-of-business on the day of the oral proceeding. The final step in the rule adoption process will be a hearing before the Board of Supervisors. The Board of Supervisors hearing will be separately scheduled and noticed in accord with A.R.S. §49-479, and, where applicable, the requirements of 40 C.F.R. §51.102.

E. The proposed revisions include the following:

1. §1-1-105 – Addition of Chapter 4, Article 3, sections 160, 170, 180 and 190 and their adoption dates in Section 1-1-105 which is a list designating which Board approved rules (and their corresponding adoption dates) that are to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP
2. Addition of Chapter 4, Article 3, §160 (General Provisions),
 - Subsection A – Intent and Applicability
 1. The intention of the rules – To control emissions associated with construction activities (process, site, surface stabilization)
 2. Rules effective date – January 1, 2016
 3. Geographic scope – West Pinal County PM₁₀ Moderate Nonattainment area
 - Subsection B – General Prohibition and Exemptions
 1. It is a violation for anyone conducting dust generating operations at any work site without complying with this article.
 2. Exemptions
 - a) Application and permit requirements for facilities operating under an industrial permit.
 - b) In the case of an emergency, stabilization actions can be taken before submitting a dust generating operation application.
 - c) Applicable standards, application and permit requirements are exempt at legitimate vehicle test and development facilities for specific dust activities where dust is required to test and validate the design integrity, product quality, etc.



- d) Road maintenance activities are exempt from application and permit requirements. However those related dust generating operations are subject to the applicable standards (i.e. opacity, stabilization, trackout, etc.).
 - e) Dust generating operations associated with emergency repair of utilities don't require an application or permit.
 - f) Establishment of initial landscapes without use of mechanized equipment, and playing on or maintaining a field used for non-motorized sports.
 - g) Rooftop operations for cutting, drilling, grinding or coring roofing tile when activity is occurring on a pitched roof.
3. Addition of Chapter 4, Article 3, §170 (Definitions),
 - Twenty eight definitions directly related to these rules including eight control measures and their descriptions.
 4. Addition of Chapter 4, Article 3, §180 (Dust Generating Operations Standards, Application, Permit and Recordkeeping Requirements)
 - Subsection A - For all work sites where construction is taking place on areas 0.1 acres or larger, an owner and/or operator shall comply with,
 1. 20% opacity standard for any dust generating operations that occur during construction.
 2. Stabilization requirement. Every other week inspections to ensure work site is stabilized with all applicable control measures as specified in the permit.
 - Subsection B - For work sites (or a combination of work sites) 5 acres or larger, an owner and/or operator shall:
 1. Install a suitable trackout control device prior to starting dust generating operations
 2. For areas where dust generating operations have ceased or will cease for more than 30 days, erect signs or install physical barriers to limit trespass; and
 3. Ensure the work site is stabilized the day leading up to and the day that's forecast to be high risk for dust emissions in the Pinal County Dust Risk Forecast. To ensure the work site is stabilized, a site-wide inspection is needed to ensure either:
 - a) All applicable control measures are implemented on dust generating operations and disturbed surface areas are stabilized, or
 - b) All dust generating operations are ceased and disturbed surface areas are stabilized.
 - Subsection C - Prior to engaging in any dust generating operations on a work site, the owner and/or operator shall file a dust generating operation application, pay the appropriate fee and receive a signed permit from the Control Officer.
 1. Application form requirements.
 - a) Applicant must provide essential identification on an application form approved by the control officer. Separate application forms required for non-contiguous areas, unless it's an annual block permit.
 - b) A valid cell phone number or email address is required on the application form. The applicant shall subscribe to the Pinal County Dust Control Forecast.
 - c) A plot plan is required for each application and shall identify (if available) the parcel(s), street address, direction north, total area to be disturbed and sources of fugitive dust emissions.
 - d) Using options on the application, the applicant shall explain how they will demonstrate compliance with the rule by selecting at least one control measure for each dust generating operation.
 - e) Annual area block application – available to only certain dust generating operations (i.e. Utilities - maintenance of existing underground or above-ground lines, expansion or extension of paved roads, unpaved roads, etc.).
 - a. Application requirements – The same as other dust generation operations, except block permits are allowed to have one application for more than one job site, though each work site has to be described



in the application along with what type of dust generating operations are to be conducted.

- b. Area block applications are only available to
 - i. Political subdivisions and
 - ii. Public utility corporations regulated by the Arizona Corporation Commission and
 - iii. Contractors or subcontractors for political subdivisions or public utility corporations
- c. The owner and/or operator of area block permits are required to adhere to the requirements of all current permits issued to the work site and required to re-apply control measures as necessary or re-stabilize any disturbed surface area.
- d. For any project not listed on the application, the applicant must notify the control officer in writing at least three working days prior to commencing the dust generating operation with information including site locations, size and type of dust generating operation, control measures used and start date.

2. Permit and recordkeeping requirements.

- a) A signed permit shall constitute agreement by the owner and/or operator to accept responsibility for meeting conditions of the permit and ensuring the applicable control measures are implemented throughout the work site at all times dust generating operations are taking place. The permit is to reside on the work site.
- b) On a form approved by the control officer, the owner and/or operator shall keep records of the every other week inspections and site-wide inspection reports for the day leading up to and including the day forecast to be high risk.
- c) Verbal or written requests by the Control Officer for inspection records shall be provided as soon as practicable, but not later than 72 hours. If the Control Officer is on site where the records reside, they shall be provided without delay. On a form approved by the control officer, records shall be submitted within 30 days following the termination or expiration of the dust generating permit.
- d) Completion of project notification to Control Officer – no later than 30 days after completion.
- e) Permit renewal requirements – Original permit valid for one year. If project not finished within a year, applicant shall reapply prior to the expiration of the original permit. The next permit will be valid starting on the first calendar day after completion of the initial one year period of the original permit and is valid for one year from that date. The renewal doesn't need to have contiguous acreage, as long as all of the acreage was included in the original permit.
- f) Work Sites five acres or larger – project information sign requirements.

5. Addition of Chapter 4, Article 3, §190 (Violations)

- Subsection A – Failure to comply with applicable requirements of this article shall constitute a violation.
- Subsection B – Violation Exemptions – If records are kept in accordance with the requirements of this article, the opacity provisions shall not apply to a work site during:
 - 1. Wind conditions as long as all control measures specified in the permit are implemented, applied and maintained and all disturbed surface areas are stabilized and one of the following:
 - a) All dust generating operations are ceased until the opacity violations are no longer taking place, or



- b) Documentation is maintained showing any dust generating operations still being performed are not the cause of and do not contribute to the opacity violation.
 - 2. Emergency maintenance of flood control channels and water retention basins if all control measures in the permit are implemented, applied and maintained.
- F. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study (See contact information in subsection C above), all data underlying each study, and any analysis of each study and other supporting material:

Draft ADEQ document “Pinal PM₁₀ Emission Inventories and Source Apportionment Modeling Results”.

- G. Economic, small business and consumer impact statement

There are estimated small incremental costs to the businesses potentially affected by the proposed construction fugitive dust rules. The new opacity requirements may require the regulated community to complete opacity certification in order to comply with §§4-3-180.A.1.

In conservative estimates, there will be small incremental costs associated with keeping the appropriate records that are required under these proposed rules. The amount of time it will take the regulated community to conduct inspections of their respective work sites every other week (for work sites 0.1 acres and larger) and on the day leading up to and including the day of high risk forecasts (for work sites 5 acres and larger) in order to determine if all applicable control measures are implemented and all disturbed surface areas are stabilized will add to overall labor costs associated with each respective construction project. However the extent as to their specific budgetary impacts is unknown at this time. Pinal County is interested in feedback from the regulated community affected by these proposed construction fugitive dust rules regarding the estimated added costs attributed to opacity certifications, on-site inspections and recordkeeping.

The stabilization requirements of the proposed rules may also add costs to the regulated community. However the current construction fugitive dust rule (Chapter 4, Article 3) in effect in the West Pinal PM₁₀ Nonattainment area includes the same opacity requirements along with similar application and permitting requirements. Therefore current business practices for construction activities in Pinal County necessitate the use of water on all construction sites 0.1 acres and larger. Therefore it’s estimated that the added costs to the regulated community potentially affected by this rule proposal for water use wouldn’t be additionally burdensome. However, Pinal County once again is interested in feedback from the regulated community affected by these proposed construction fugitive dust rules.

Pinal County

Estimated costs for PCAQCD are those that accrue from development, implementation and enforcement of the new standards. PCAQCD has an ongoing assessment of the costs associated with implementation and enforcement of its permitting, administration and field services activities associated with dust (construction fugitive dust and general fugitive dust) and open burning. Future rulemaking proposals will include estimates on the costs associated with these various programs and if needed, any proposed changes to associated dust and open burning permit fees.

- H. The proposed changes will take effect on January 1, 2016.
- I. Compliance with the Fee-limitations of A.R.S. §49-112 (A) or (B).



Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable. To the extent the County's program affects certain sources that ADEQ either does not regulate or does not charge, these proposed changes do not impose any additional fees on those sources at this time.

J. Persons may obtain a full copy of the proposed rule or existing rules at:

Pinal County Air Quality Control District
31 North Pinal St., Building F.
P.O. Box 987
Florence, AZ. 85132

<http://www.pinalcountyaz.gov/AirQuality/Pages/home.aspx>

K. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 21 A.A.R. 35, 1715, August 28, 2015.

L. Date, time and location of scheduled oral proceeding:

1) Oral Proceeding

Date: September 28, 2015

Time: 1 p.m.

Location: 31 N. Pinal St., Florence, AZ.
Building F, Ocotillo room

Nature of meeting: Oral proceeding before the Control Officer or his designee in accord with A.R.S. §49-471.06(C) to consider public comments upon any or all of this proposal.

2. The full text of the proposed changes follows:

1-1-105. SIP list

A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

1. Chapter 1

- a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
- b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
- c. Article 3. (As amended 5/14/97, 5/27/98 and 10/27/04, 07/23/14, except for §1-3-130 and the definition in §1-3-140.82 (10/12/95) of “maximum achievable control technology.”)

2. Chapter 2

- a. Article 1. (As amended 10/12/95).
- b. Article 2. (As amended 5/14/97).
- c. Article 3. (As amended 10/12/95).
- d. Article 4. (As amended 10/12/95).
- e. Article 5. (As amended 10/12/95).



- f. Article 6. (As amended 10/12/95).
 - g. Article 7. (As amended 10/12/95).
 - h. Article 8. (As amended 5/18/05, as amended 1/7/09).
3. Chapter 3
- a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. §3-1-020
 - ii. §3-1-045
 - iii. §3-1-080
 - iv. §3-1-100
 - b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
 - c. Article 3. (As amended 10/12/95, 5/27/15).
 - d. Article 8. (As amended 10/12/95 and 10/27/04).
4. Chapter 4
- a. Article 1. (As amended 2/22/95).
 - b. Article 2. (As amended 5/14/97, 7/12/00, 12/4/02 and 10/27/04).
 - c. ~~Reserved.~~ Article 3, limited to:
 - i. §4-3-160 (As amended ###/###/15)
 - ii. §4-3-170 (As amended ###/###/15)
 - iii. §4-3-180 (As amended ###/###/15)
 - iv. §4-3-190 (As amended ###/###/15)
 - d. Article 4 (As amended 6/3/09).
 - e. Article 5 (As amended 6/3/09).
 - f. Reserved.
 - g. Article 7 (As amended 6/3/09)
 - h. Reserved.
 - i. Article 9, limited to:
 - i. §4-9-320 (As amended 6/3/09)
 - ii. §4-9-340 (As amended 6/3/09)
- B. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save §3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:
- 1. “construction,” as defined in Nov. '93 Code §1-3-140.28; or
 - 2. “modification,” as defined in Nov. '93 Code §1-3-140.85; and
- C. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:
- 1. Operate as elements of the SIP insofar as they pertain to other than “conventional pollutants,” as defined in §1-3-140.33;
 - 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. §111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
 - 3. Operate as an element of the SIP, at least insofar as they impose a “fee”;
 - 4. Operate as an element of the SIP, at least insofar as they require a “certification”;
 - 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to “renewals”;
 - 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding “excess emissions”; or
 - 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding “compliance plans.”
- D. As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of



Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:

1. §§1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
2. Chapter 2, Article 8 (As amended 1/7/09) *Visibility Limiting Standard*
3. Chapter 3, Article 8 (2/22/95) *Open Burning*
4. [Reserved]
5. [Reserved]
6. [Reserved]
7. [Reserved]
8. [Reserved]
9. [Reserved]
10. [Reserved]
11. [Reserved]
12. §5-18-740 (2/22/95) *Storage of Organic Compounds - Organic Compound Emissions*
13. §5-19-800 (2/22/95) *Loading of Volatile Organic Compounds - Organic Compound Emissions*
14. §5-21-920 (2/22/95) *Fossil Fuel Fired Industrial and Commercial Equipment Standard Applicability*
15. §5-21-930 (2/22/95 and 7/12/00) *Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard*
16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*
20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*
21. §5-24-1040 (2/22/95) *Carbon Monoxide Emissions - Industrial Processes*
22. §5-24-1045 (2/22/95) *Sulfite Pulp Mills - Sulfur Compound Emissions*
23. §5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions - Default Limitation*
24. §5-24-1055 (2/22/95) *Pumps and Compressors - Organic Compound Emissions*

ARTICLE 3. CONSTRUCTION SITES - FUGITIVE DUST

4-3-160. General Provisions – West Pinal PM10 Nonattainment Area

A. Intent and Applicability

1. Intent

The intent of this Article is to control dust emissions associated with CONSTRUCTION activities. This Article focuses on fugitive dust emissions from process activity, site activity and a lack of adequate surface stabilization, all associated with CONSTRUCTION.

2. Effective Date

The rules in this Article will become effective on January 1, 2016.

3. Geographic Scope

The rules in this Article shall be effective throughout the West Pinal County PM₁₀ Moderate Nonattainment area as defined in 40 CFR Part 81.303. These rules exclude the rest of Pinal County and the Pinal County portion of the Phoenix PM10 Serious Nonattainment area, more specifically Township 1 North, Range 8 East, Gila & Salt River Base and Meridian (“T1N R8E”) which is covered under Chapter 4, Article 7.

B. General Prohibition and Exemptions

1. Subject to the exemptions set forth in this Article, it constitutes a violation of this Article for any person to conduct any DUST GENERATING OPERATION at any WORK SITE, without complying with this Article:

2. Exemptions



The following are exempt from this Article, or portions of this Article:

- a. The application and permit requirements of this Article shall not apply to any facility operating under authority of a permit issued pursuant to ARS §§49-426 or 49-480, however, any DUST GENERATING OPERATIONS are subject to the requirements of §4-3-180 sections (A) and (B), and facilities must keep records pursuant to §4-3-180(C)(2)(b).
- b. In the case of an EMERGENCY, action may be taken to stabilize a DUST GENERATING OPERATION or DISTURBED SURFACE AREA before submitting a DUST GENERATING OPERATION application form. Upon stabilizing the EMERGENCY situation, a DUST GENERATING OPERATION application form shall be submitted.
- c. In the case of legitimate vehicle test and development facilities and operations conducted by or for an equipment manufacturer, where dust is required to test and validate the design integrity, product quality and/or commercial acceptance, those specific activities shall be exempt from the application, permit and applicable standards in section §4-3-180 under this Article.
- d. The application and permit requirements of this rule shall not apply to ROAD MAINTENANCE activities, however, any DUST GENERATING OPERATIONS are subject to the requirements of §4-3-180 sections(A) and (B), and records must be kept pursuant to §4-3-180(C)(2)(b).
- e. The application and permit requirements shall not apply with respect to DUST GENERATION OPERATIONS associated with the EMERGENCY repair of utilities.
- f. Establishment of initial landscapes without the use of mechanized equipment, conducting landscape maintenance without the use of mechanized equipment, and playing on or maintaining a field used for non-motorized sports are exempt from the application, permit, and standards in section §4-3-180 of this Article. However, establishing initial landscapes without the use of mechanized equipment and conducting landscape maintenance without the use of mechanized equipment shall not include grading, or trenching performed to establish initial landscapes or to redesign existing landscapes.
- g. The provisions of this rule shall not apply to rooftop operations for cutting, drilling, grinding, or coring roofing tile when such activity is occurring on a pitched roof.

4-3-170. Definitions

See Chapter 1, Article 3 (General Provisions and Definitions) of this code for definitions of terms that are used but not specifically defined in this Article.

1. “BULK MATERIAL” as used in this Article, means any material including but not limited to earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter, dirt, mud, demolition debris, trash, cinders, pumice, saw dust, and dry concrete, which are capable of producing fugitive dust at an industrial, institutional, commercial, governmental, construction and/or demolition site.
2. “BULK MATERIAL HANDLING, STORAGE AND/OR TRANSPORTING OPERATION” as used in this Article, means the processing of BULK MATERIALS, including but not limited to, the loading, unloading, conveying, transporting, piling, stacking, screening, grading, or moving of bulk materials.
3. CONSTRUCTION as used in this Article means building, maintaining or modifying a capital improvement resting upon, connected to or buried in the earth. Construction includes, but is not limited to, vertical construction, residential construction, installing underground utilities, installing above-ground utilities, and building physical infrastructure including roads, highways, railways, flood structures, drainage works and irrigation works. Notwithstanding any other exemption under these rules, weed abatement by discing or blading and conducted for the purpose of enabling Development Activity or maintaining a work site shall qualify as construction.
4. “CONTROL MEASURE” as used in this Article means, a preemptive or concurrent technique used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust at a WORK SITE in order to comply with applicable standards in section §4-3-180. CONTROL MEASURES include but are not limited to:



CONTROL MEASURES	Description
<u>Watering (pre-wetting)</u>	<u>Application of water by means of trucks, hoses, and/or sprinklers prior to conducting any DUST GENERATION OPERATION. This will increase the moisture content of the soils and increase stability of the soil.</u>
<u>Watering (operational control)</u>	<u>For DISTURBED SURFACE AREAS and DUST GENERATING OPERATIONS water is applied at sufficient intervals and quantity to increase the moisture content of the soils and increase stability of the soil. Also during stacking, loading and unloading operations on open storage piles, apply water as necessary.</u>
<u>Applying chemical stabilizers or DUST SUPPRESSANTS</u>	<u>Apply chemical stabilizers/DUST SUPPRESSANTS to DISTURBED SURFACE AREAS and DUST GENERATING OPERATIONS. Effective in areas which are not subject to daily disturbances.</u>
<u>Altering load-in/load-out procedures and watering</u>	<u>Confine load-in-load out procedures to downwind side of the material and mist material with water prior to loading. Empty loader slowly and keep bucket close to the truck while dumping.</u>
<u>Reducing vehicular speeds</u>	<u>Restrict maximum vehicular speeds to 15 miles per hour on unpaved easements, right of way, unpaved haul/access roads and parking lots.</u>
<u>Controlling Freeboard and spillage and covering haul vehicles</u>	<u>Load all trucks such that the FREEBOARD is not less than three inches; and prevent spillage or loss of BULK MATERIAL from holes or other openings in the conveyance; cover all haul trucks (empty or full) with an anchored tarp or other suitable anchored material.</u>
<u>TRACKOUT CONTROL DEVICE</u>	<u>Install a TRACKOUT CONTROL DEVICE for WORK SITES 5 acres or larger. When TRACKOUT extends a cumulative distance of 50 linear feet or more, be cleaned up as soon as practicable; but, in any case, by the end of the work day.</u>
<u>Limit, restrict or reroute MOTOR VEHICLES access to work site</u>	<u>Erect signs or install physical barriers to limit access of WORK SITE.</u>
<u>Other measures as proposed by registrant</u>	<u>Specific measures that are adequate to address applicable standards in section §4-3-180 at the WORK SITE. Alternative measures must be approved by the Control Officer and the EPA Administrator.</u>

5. “DISTURBED SURFACE AREA” as used in this Article, means any portion of the earth's surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition.
This definition excludes those permanently stabilized areas that have:
 - a. Been restored to a natural condition, such that vegetative ground cover and soil characteristics are similar to adjacent or nearby natural conditions;
 - b. Been paved or otherwise covered by a permanent structure; or
 - c. Sustained a vegetative ground cover over at least 70 percent of the area for at least 30 days.
6. “DUST GENERATING OPERATION” as used in this Article, means any activity capable of generating fugitive dust, including but not limited to:
 - a) EARTHMOVING ACTIVITIES



- b) Land clean-up, leveling, back filling
- c) Drilling
- d) CONSTRUCTION
- e) Demolition
- f) BULK MATERIAL HANDLING, STORAGE AND/OR TRANSPORTING OPERATIONS
- g) Operation of motorized machinery used in CONSTRUCTION
- h) Establishing and/or using UNPAVED PARKING LOTS, haul/access roads within a WORK SITE
- i) Installing initial landscapes using mechanized equipment

For the purpose of this rule, landscape maintenance and/or playing on a ball field shall not be considered a dust generating operation.

7. “DUST SUPPRESSANT” as used in this Article, means hygroscopic material, solution of water and chemical surfactant foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U. S. Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing fugitive dust emissions.
8. “EARTHMOVING ACTIVITY” as used in this Article, means any land clearing, land cutting and filling operations, blasting, trenching, ROAD CONSTRUCTION, grading, landscaping, landfill operations, weed abatement through discing, soil mulching, or any other activity associated with land development where the objective is to disturb the surface of the earth.
9. “EMERGENCY” as used in this Article means a situation arising from sudden and reasonably unforeseeable events beyond the control of the owner and/or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the DUST GENERATING OPERATION to exceed a limitation in this rule, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include any noncompliance due to improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
10. “FREEBOARD” as used in this Article, means the vertical distance between the top edge of a cargo container and the highest point at which the bulk material contacts the sides, front, and back of the container.
11. “FUGITIVE DUST”, as used in this Article, means the regulated particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, such as but not limited to, movement of soils, vehicles, equipment, blasting, and wind. For the purpose of this Article, fugitive dust does not include particulate matter emitted directly from the exhaust of MOTOR VEHICLES and other internal combustion engines, from portable brazing, soldering, or welding equipment, and from piledrivers.
12. “GRAVEL PAD” as used in this Article, means a layer of washed gravel, rock, or crushed rock at the intersection with the PAVED PUBLIC ROADWAY and a work site entrance to dislodge mud, dirt, and/or debris from the tire of the MOTOR VEHICLES or HAUL TRUCKS prior to leaving the WORK SITE.
13. “GRIZZLY” as used in this Article, means a device maintained at the point of intersection of a PAVED PUBLIC ROADWAY and a WORK SITE entrance to dislodge mud, dirt and/or debris from the tires of the MOTOR VEHICLES or HAUL TRUCKS prior to leaving the WORK SITE.
14. “HAUL TRUCK” as used in this Article, is any fully or partially open-bodied self-propelled vehicle including any non-motorized attachments, such as but not limited to, trailers or other conveyances, which are connected to or propelled by the actual motorized portion of the vehicle used for transporting BULK MATERIALS.
15. “MOTOR VEHICLE” as used in this Article, is a self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments, such as but not limited to, trailers and other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
16. “OWNER AND/OR OPERATOR” as used in this Article, is any person including, but not limited to, the property owner, lessee, developer, responsible official, DUST GENERATING OPERATION permit applicant (who may also be the responsible party contracting to do the work), general or prime contractor, supervisor, management company, or any person who owns, leases, operates, controls, or supervises a DUST GENERATING OPERATION subject to the requirements of this rule.



- 17. “PAVED PUBLIC ROADWAY” means a publicly owned paved roadway, owned by federal, state, county, municipal, or other governmental or quasi-governmental agencies as evidenced by a formal acceptance by the state or a political subdivision of the state of either:
 - 1. An on-going maintenance obligation for the roadway; or
 - 2. A title or easement for the roadway.
- 18. “PINAL COUNTY DUST CONTROL FORECAST” means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department of Environmental Quality shall consider all of the following:
 - a) Projected meteorological conditions, including:
 - i) Wind speed and direction,
 - ii) Stagnation,
 - iii) Recent precipitation, and
 - iv) Potential for precipitation;
 - b) Existing concentrations of air pollution at the time of the forecast; and
 - c) Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
- 19. “ROAD CONSTRUCTION” as used in this Article, means the use of any equipment for the paving or new construction of a road surface, street or highway.
- 20. “ROAD MAINTENANCE” as used in this Article, means the use of any equipment for the repair and preservation of an old road surface, street or highway.
- 21. “STABILIZE” means any previously disturbed surface area which, through application of water or DUST SUPPRESSANTS, shows visual or other evidence of surface crusting and is resistant to wind-driven fugitive dust. Stabilization shall be demonstrated by application of the drop ball test in Article 9 (§4-9-320.B.1).
- 22. “TRACKOUT” means visible material deposited onto any PAVED PUBLIC ROADWAY, as defined in this Article, by traffic leaving a WORK SITE.
- 23. “TRACKOUT CONTROL DEVICE” as used in this Article, means a GRAVEL PAD, GRIZZLY, wheel wash system, or a paved area, located at the point of intersection of an unpaved area and a PAVED PUBLIC ROADWAY that controls or prevents vehicular trackout.
- 24. “TRENCH” as used in this Article, means a long, narrow excavation dug in the earth (as for drainage).
- 25. “UNPAVED HAUL/ACCESS ROAD” as used in this Article, means any on-site UNPAVED ROAD used by commercial, industrial, institutional, and/or governmental traffic.
- 26. “UNPAVED PARKING LOT” as used in this Article, means any area larger than 5,000 square feet that is not paved and that is used for parking, maneuvering, or storing MOTOR VEHICLES on a WORK SITE.
- 27. “UNPAVED ROAD” as used in this Article, means any unsealed or unpaved roads, equipment path, or travel ways that are not covered by typical roadway materials. Public unpaved roads are any unpaved roadway owned by federal, state, county, municipal, or other governmental or quasi-governmental agencies. Private unpaved roads are all other unpaved roadways not defined as public. For the purpose of this rule, an unpaved road is not a horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by MOTOR VEHICLES.
- 28. “WORK SITE” as used in this Article, means any property upon which DUST GENERATING OPERATIONS occur during CONSTRUCTION, and which covers an area of 0.1 acres or larger.
 - a. TRENCHES that are equal to or larger than the following dimensions are considered WORK SITES and are subject to the requirement of this Article:
 - i. TRENCHES less than four feet in depth, that exceed a length of 726 feet;
 - ii. TRENCHES that are four feet or greater in depth, that exceed a length of 363 feet;
 - b. For calculations of DISTURBED SURFACE AREAS for land clearing or earthmoving activities, 25 feet will be added to each dimension of all structures, driveways, concrete pads, and other construction projects being built on the site to allow for an equipment utilization zone. If this final figure equals or exceeds 0.1 acres, a DUST GENERATING OPERATION application is required for the site.



- c. If the registrant identifies situations in which the amount of surface area for TRENCHES, land clearing or EARTHMOVING ACTIVITIES should be calculated differently, a case-by-case determination may be made.

4-3-180. DUST GENERATING OPERATIONS Standards, Application, Permit and Recordkeeping Requirements

- A. Within the WORK SITE, an OWNER AND/OR OPERATOR:
1. Shall not conduct or allow DUST GENERATING OPERATIONS that result in OPACITY of the dust on the property to exceed twenty percent (20%) as measured using an OPACITY method, as determined by the applicable test method in §4-9-340 or an equivalent test method approved by the Control Officer and the EPA Administrator.
 2. Shall stabilize any DISTURBED SURFACE AREA. The OWNER AND/OR OPERATOR shall conduct every other week inspections to ensure that the WORK SITE is STABILIZED. Ensuring the WORK SITE is STABILIZED shall include a site-wide inspection to ensure all applicable CONTROL MEASURES [as described in §4-3-170.4] as specified in the permit, are implemented on DUST GENERATING OPERATIONS and DISTURBED SURFACE AREAs are STABILIZED.
- B. Where an OWNER AND/OR OPERATOR obtains a DUST GENERATING OPERATION permit for a WORK SITE, or a combination of WORK SITES, which are 5 acres or larger, the OWNER AND/OR OPERATOR shall as soon as practicable:
1. Install a suitable TRACKOUT CONTROL DEVICE prior to the start of DUST GENERATING OPERATIONS;
 2. For areas, or portions of areas, in which the DUST GENERATING OPERATIONS have ceased or will cease for more than 30 days, erect signs or install physical barriers to limit trespass; and
 3. Ensure the WORK SITE is STABILIZED the day leading up to and the day that is forecast to be high risk for dust emissions, as noticed by the Pinal County Dust Control Forecast. Ensuring the WORK SITE is STABILIZED shall include a site-wide inspection to ensure either:
 - a. All applicable CONTROL MEASURES [as described in §4-3-170.4] as specified in the permit, are implemented on DUST GENERATING OPERATIONS, and DISTURBED SURFACE AREAS are STABILIZED; or
 - b. All DUST GENERATING OPERATIONs are ceased and DISTURBED SURFACE AREAS are STABILIZED.
- C. Prior to engaging in any DUST GENERATING OPERATIONS on a WORK SITE, the OWNER AND/OR OPERATOR shall file a DUST GENERATING OPERATION application form with the Control Officer, pay the appropriate fee in Appendix C, and receive a signed permit from the Control Officer.
1. DUST GENERATING OPERATIONS Application Form:
 - a. The applicant shall present a DUST GENERATING OPERATION application on a form approved by the Control Officer, and shall include all essential identification information as specified on that form. A separate application form is required for each site location that is not A CONTIGUOUS GEOGRAPHIC AREA to the location on the original application form, unless an annual block application is approved.
 - b. The OWNER AND/OR OPERATOR shall provide a valid cell phone number or email address on the DUST GENERATING OPERATION application form. The OWNER AND/OR OPERATOR shall subscribe to the Pinal County Dust Control Forecast as part of the permit application process.
 - c. Each DUST GENERATING OPERATION application shall also include a plot plan with linear dimensions in feet. The plot plan must be on 8-1/2 by 11 inch paper, and may be on one or more sheets. The plan shall identify the parcel (if a parcel number exists; if no parcel number exists, then Global Positioning System (GPS) coordinates of the center of the parcel shall be included), the street address, the direction north, the total area to be disturbed and indicate the sources of fugitive dust emissions on the plot plan.
 - d. Using the options on the application form each DUST GENERATING OPERATION application shall contain an explanation of how the applicant will demonstrate compliance with this rule by selection of at least one CONTROL MEASURE for each DUST GENERATING OPERATION.
 - e. Annual Area Block Application:
 - i. Area block applications shall only be available for DUST GENERATING OPERATIONS associated with:



- a) Maintenance of existing underground or above-ground lines;
 - b) Effecting end-user connections, including but not limited to water connections, sewer connections, natural gas connections, electrical power connections, and communication connections;
 - c) Underground utility line extensions not exceeding 500' in length; and
 - d) Overhead utility line extensions; and
 - e) Expansion or extension of paved roads, UNPAVED ROADS, road shoulders, and/or alleys and public right of ways at non-contiguous sites.
 - ii. Area block applications shall only be available to:
 - a) Political subdivisions; and
 - b) Public Utility Corporations regulated by the Arizona Corporation Commission; and
 - c) Contractors or subcontractors for Political subdivisions or Public Utility Corporations
 - iii. The OWNER AND/OR OPERATOR operating at the WORK SITE may submit to the Control Officer one DUST GENERATING OPERATION application for more than one DUST GENERATING OPERATION at which CONSTRUCTION will commence within 12 months of permit issuance.
 - iv. An annual block application must include all the requirements listed above in this subsection (1 a. through 1 d.) and a description of each site and type of DUST GENERATING OPERATIONS to be conducted.
 - v. The OWNER AND/OR OPERATOR of an area block permit operating at a WORK SITE shall adhere to the requirements of all current permits issued to the WORK SITE and will be required to re-apply CONTROL MEASURES as reasonable and necessary, or re-stabilize any DISTURBED SURFACE AREA that becomes disturbed as a result of the area block permit holder's work being done at the WORK SITE.
 - vi. For any project not listed in the DUST GENERATING OPERATION Annual Block Application, the applicant must notify the Control Officer in writing at least three working days prior to commencing the DUST GENERATING OPERATION. Such notification must include the site location, size, and type of DUST GENERATING OPERATION, selected control measures, and start date.
2. DUST GENERATING OPERATION Permit and Recordkeeping:
- a. The signed DUST GENERATING OPERATION permit from the control officer will contain the requirements set under §4-3-180 (A) and (B), and conditions regarding the necessary CONTROL MEASURES specific to the applicable project as proposed by the registrant. The signature of the OWNER AND/OR OPERATOR on the DUST GENERATING OPERATION permit form shall constitute agreement to accept responsibility for meeting the conditions of the permit and for ensuring the applicable CONTROL MEASURES are implemented throughout the WORK SITE, at all times that DUST GENERATING OPERATIONS are being performed and during the duration of the project. The OWNER AND/OR OPERATOR shall maintain a copy of the signed permit form and provide it upon request of the Control Officer or his designee.
 - b. On a form approved by the Control Officer the OWNER/OPERATOR shall keep records of the every other week inspection reports and site-wide inspection reports from the day leading up to and the day that is forecast to be high risk for dust emissions, including any necessary corrective actions. A demonstration of compliance shall include inspections of the work site conducted pursuant to, and any actions taken to comply with, §4-3-180 sections (A)(2) and (B)(3).
 - c. Upon verbal or written request by the Control Officer, inspection records shall be provided as soon as practicable, but no later than 72 hours, excluding weekends. If the Control Officer is at the WORK SITE where the requested records are kept, the records shall be provided without delay. Records of inspections on a form approved by the Control Officer, shall be submitted within 30 days following the termination or expiration of the permit.
 - d. Owners and/or Operators shall notify the Control Officer as soon as practicable, but no later than 30 days, of the-completion of the project.



- e. Permit Renewal: The first permit obtained for an affected project must cover a contiguous area (unless it is an “annual area block permit”) and is valid for one year from the date of issue. If the project has not been completed at the end of the one-year period, the DUST GENERATING OPERATION permit must be renewed. The OWNER AND/OR OPERATOR shall reapply for a DUST GENERATING OPERATION permit prior to the expiration date of the original permit. Upon renewal, the new permit will be valid starting on the first calendar day after the completion of the initial one year period of the first permit and is valid for one year from that date. Upon renewal, the total acreage covered by the DUST GENERATING OPERATION permit does not have to be contiguous, although all acreage covered by the renewed DUST GENERATING OPERATION permit must have been included in the original DUST GENERATING OPERATION permit.
- f. At all sites that are five acres or larger, the OWNER AND/OR OPERATOR shall erect a project information sign at the main entrance that is visible to the public or at each end of the ROAD CONSTRUCTION project site. The sign shall be a minimum of 24 inches tall by 30 inches wide, have a white background, and have the words “DUST CONTROL” shown in black block lettering which is at least four inches high, and shall contain the following information in legible fashion:
 - i. Project Name
 - ii. Name and phone number of person(s) responsible for conducting project
 - iii. Pinal County Air Quality Control District phone number.

4-3-190. Violations

- A. Failure by any person to comply with the applicable requirements of this Article shall constitute a violation.
- B. Violation Exemptions:
If all records were maintained in accordance with §4-3-180 section (C)(2)(b), the provisions of section §4-3-180 (A)(1) shall not apply to a WORK SITE during:
 - 1. Wind conditions that cause FUGITIVE DUST to exceed the opacity requirements of §4-3-180 (A)(1), if all CONTROL MEASURES as specified in the permit, are implemented, applied and maintained, all DISTURBED SURFACE AREAs are STABILIZED, and one of the following:
 - a. All DUST GENERATING OPERATIONS are ceased until the opacity requirements of §4-3-180(A)(1) are no longer being exceeded; or
 - b. Maintain documentation that any DUST GENERATING OPERATIONS that are still being performed are not the cause of and do not contribute to the opacity violation. Documentation may include onsite opacity observations by a certified observer.
 - 2. EMERGENCY maintenance of flood control channels and water retention basins if all CONTROL MEASURES, as specified in the permit are implemented, applied, and maintained.

NOTICE OF RULEMAKING DOCKET OPENING

[M15-212]

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

(Ref. A.R.S. §41-1021)

- 1. **Title and its heading:** Pinal County Air Quality Control District Code of Regulations
- Regulations and headings:** Chapter 1, Article 1, Section 105 – SIP List
Chapter 4, Article 1 – Adopted Documents
- Rules and headings:** §1-1-105. SIP List
§4-1-010. Adopted document(s)
§4-1-015. Exemptions
§4-1-020. Definitions
§4-1-030. Standards
§4-1-040. Recordkeeping
§4-1-045. Reporting Requirements
§4-1-050. Records Retention



§4-1-060. Violations

2. Subject Matter of the Proposed Rule:

Due to ongoing monitoring violations of the PM₁₀ (Particulate Matter 10 microns and smaller) National Ambient Air Quality Standard (NAAQS) in Pinal County, the Environmental Protection Agency (EPA) in 2012 designated a large portion of Pinal County as a moderate nonattainment area (West Pinal PM₁₀ Nonattainment Area). Subsequently as a Clean Air Act (CAA) requirement for nonattainment areas, The Arizona Department of Environmental Quality (ADEQ) in coordination with Pinal County Air Quality Control District (PCAQCD) developed base year and attainment year PM₁₀ emissions inventories (EI) for the nonattainment area. The top three emissions sources in the 2008 base year PM₁₀ inventory for the West Pinal PM₁₀ Nonattainment area are windblown dust, unpaved roads and construction.

PCAQCD will follow up this proposed rulemaking docket opening with a formal rulemaking proposal in which the rules currently in Chapter 4, Article 1 will be proposed to be amended in order to replace them with general fugitive dust rules that will achieve the emissions reductions in the West Pinal PM₁₀ Nonattainment. The ultimate goal of the proposed rulemaking will be adoption of the rules by the Pinal County Board of Supervisors and submittal to EPA (through ADEQ) for inclusion into the Arizona SIP.

Also as part of this rulemaking, Pinal County may add, delete or modify additional rules as necessary.

3. Prior Related Notices:

None

4. Contact Information:

Those wishing further information regarding any aspect of this proposal may contact

Name: Scott DiBiase,
Title: Air Quality Planning Manager
Address: Pinal County Air Quality
31 North Pinal St., Building F, Florence, AZ, 85132
Telephone: 520-866-6929
Fax: 520-866-6967
E-mail: scott.dibiase@pinalcountyyaz.gov

To the extent possible, the District will also post information on the County's website, www.pinalcountyyaz.gov, under the "air quality" link.

5. Opportunity for Written or Oral Comments:

The District will publish a Notice of Proposed Rulemaking that will define a formal timetable for submittal of written comments. At any time prior to the close of that to-be-defined comment period, anyone may seek information or submit comments by contacting the Planning Manager at the address shown above. Ultimately, the public will also have an opportunity to offer comment in the public hearing before the Board of Supervisors.

6. Anticipated Timetable:

To be announced in the Notice of Proposed Rulemaking.

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

[M15-213]

COMBINED

NOTICE OF PROPOSED RULEMAKING

PURSUANT TO A.R.S. §49-112 AND §49-471.01 *et seq.*

AND

NOTICE OF ORAL PROCEEDING

PURSUANT TO A.R.S. 49-471.06



1. Preamble

- A. The Pinal County Air Quality Control District (PCAQCD), an operating division of Pinal County, proposes that the Board of Supervisors (BOS) adopt or amend certain rules under authority of A.R.S. §§49-479, which respectively authorize the board to adopt rules to control air pollution.

Due to ongoing monitoring violations of the PM₁₀ (Particulate Matter 10 microns and smaller) National Ambient Air Quality Standard (NAAQS) in Pinal County (under both stagnation and high wind conditions), in 2012 the Environmental Protection Agency (EPA) designated a large portion of Pinal County as a moderate PM₁₀ nonattainment area (West Pinal PM₁₀ Nonattainment Area – defined in 40 CFR §81.303). Subsequently as a Clean Air Act (CAA) requirement for nonattainment areas, The Arizona Department of Environmental Quality (ADEQ) in coordination with Pinal County Air Quality Control District (PCAQCD) developed base year and attainment year PM₁₀ emissions inventories (EI) for the nonattainment area. The top three emissions sources in the 2008 base year PM₁₀ inventory for the West Pinal PM₁₀ Nonattainment area were windblown dust (53%), unpaved roads (32%) and construction (9%).

Windblown PM₁₀ emissions are related to both activity and ground surface conditions (i.e. unstable ground surface conditions caused by activities impacted by windy conditions that result in PM₁₀ emissions). There are a number of land use categories associated with windblown PM₁₀ emissions, including open areas/vacant lands, unpaved roads and unpaved parking lots. The unpaved roads PM₁₀ emissions associated with PM₁₀ exceedances in the nonattainment area occur under both windblown and stagnation conditions. The proposed rules include standards (opacity, stabilization) which are designed to limit unpaved roads emissions under both windblown and stagnation conditions.

These proposed general fugitive dust rules include opacity and ground stabilization standards which limit PM₁₀ emissions attributed to both stagnation and windy conditions for the aforementioned land use categories. In addition the proposed rules provide recordkeeping requirements that ensure verification by PCAQCD, ADEQ and EPA.

The proposed amended and new rules are identified below and include an amendment to §1-1-105 with the ultimate purpose of this rulemaking being the submittal of the adopted rules in Chapter 4, Article 1, as elements of the Arizona State Implementation Plan (SIP) as required under the Clean Air Act (CAA).

- B. All of the proposed corresponding changes are discussed in subsection E. of this preamble, and include the following sections:

Section Affected	Rulemaking Action
§1-1-105. SIP List.....	Amend
§4-1-010. Adopted document(s).....	Amend
§4-1-015. Exemptions.....	New
§4-1-020. Definitions.....	New
§4-1-030. Standards.....	New
§4-1-040. Recordkeeping.....	New
§4-1-045. Reporting Requirements.....	New
§4-1-050. Records Retention.....	New
§4-1-060. Violations.....	New

- C. Those wishing further information regarding any aspect of this proposal may contact Scott DiBiase, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, AZ, 85132, 520-866-6929,



scott.dibiase@pinalcountyyaz.gov. To the extent possible, the District will also post information on the County's website, *pinalcountyyaz.gov*, under the “air quality” link.

D. The rule making process will consist of an initial administrative rule development process, including this notice, a 30 day public comment period, and an oral proceeding before the Control Officer or his designee. The date and location for the oral proceeding are set forth below. Written comments are due prior to the close of the comment period, which shall be the close-of-business on the day of the oral proceeding. The final step in the rule adoption process will be a hearing before the Board of Supervisors. The Board of Supervisors hearing will be separately scheduled and noticed in accord with A.R.S. §49-479, and, where applicable, the requirements of 40 C.F.R. §51.102.

E. The proposed revisions include the following:

1. §1-1-105 – Proposed addition of Chapter 4, Article 1 and its adoption date to Section 1-1-105 which is a list designating which rules (and their corresponding adoption dates) are to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP
2. Proposed amendment of Chapter 4, Article 1, §010,
 - Proposed amendment of the section titled “Adopted document(s)” by replacement of title with the new title “General Applicability”. Proposed removal of the original language which adopted ADEQ rules (Title 18, Chapter 2, Article 6) by reference and replacement with the purpose of the general fugitive dust rules, effective date and geographic scope of the rules.
3. Proposed addition of new section (§4-1-015. Exemptions) which define the exemptions to the new general fugitive dust rules, including the following:
 - Vehicle test and development facilities and operations where dust is required to test and validate the design integrity, product quality and/or commercial acceptance of the product(s).
 - Emergency response activities that address a situation arising from a sudden and unforeseeable event beyond the control of the owner and/or operator, including acts of God.
 - Normal farm cultural practices with reference to the Arizona Revised Statutes that define what normal farm cultural practices are and the ADEQ rules that regulate them.
 - Dust generating operations (i.e. construction).
 - Establishment of initial landscapes without use of mechanized equipment, and playing on or maintaining a field used for non-motorized sports.
4. Proposed addition of Chapter 4, Article 1, §020 (Definitions),
 - Sixteen definitions directly related to these rules.
5. Proposed addition of Chapter 4, Article 1, §030 (Standards)
 - Subsection 1 – General requirements
 - A. The owner and/or operator of several land use categories (open areas/vacant lots, unpaved commercial lots, unpaved roads and paved public roadways) shall be subject to the standards and/or requirements in the rule. Failure to do so is deemed a violation.
 - B. The owner and/or operator shall implement applicable control measures.
 - C. The control measures are implemented to meet the visible emissions and stabilization requirements along with compliance determinations for each applicable category.
 - D. Failure to implement control measures and/or failure to maintain stabilization requirements is deemed a violation of this rule.
 - Subsection 2 – Open areas/vacant lots
 - A. Visible emissions and stabilization requirements – 20% opacity limit for fugitive dust emissions on the property.
 - B. When trespass takes place in open areas/vacant lots, the owner and/or operator shall install and maintain either no trespassing signs or physical barriers (i.e. curbs, fences, gates, etc.).
 - C. Surface stabilization requirement for open areas/vacant lots 1.0 acre or larger that have 0.5 acre or more of disturbed surface area with control measures listed.



- D. Within thirty days following discovery of disturbed surface areas (0.5+ acre for open areas/vacant lots 1.0+ acre) in open areas/vacant lots, the owner and/or operator shall sign up to receive the Pinal County Dust Control Forecast. The owner and/operator shall ensure their respective open area/vacant lot is stabilized the day leading up to and day of high risk forecast.
- E. Open areas/vacant lots stabilization and trackout requirements for vegetation removal.
- F. Compliance determination.
- Subsection 3- Unpaved lots
 - A. Visible emissions and stabilization requirements for unpaved lots (5,000+ ft² in size) including control measures.
 - B. Control measures shall be considered effectively implemented when the unpaved lot meets the opacity and stabilization requirements.
- Subsection 4 – Unpaved roads
 - A. Unpaved roads with Average Daily Traffic (ADT) greater than 150 are subject to the opacity (20%) and stabilization (silt loading or silt content) standards and need to implement one of the control measures (i.e. pave, dust suppressants, gravel)
 - B. Control measures are considered effectively implemented when:
 - i. One of the control measures is implemented on 15 miles per year of unpaved roads having ADT great than 150.
 - a. When the control measure is the application/maintenance of dust suppressants, it will only count towards the 15 miles per year requirement when,
 - i. Done on unpaved roads previously untreated, and
 - ii. Dust suppressant application/maintenance of unpaved road previously treated continues annually until the unpaved road is paved.
 - iii. For year 2019 and beyond, the mileage equivalency method for determining the number of miles of unpaved roads with ADT less than 150 that have control measures applied on them when compared to public unpaved roads with ADT greater than 150. The equivalency method is used to determine compliance with the 15 miles per year stabilization requirement of public unpaved roads with ADT great than 150 to those public unpaved roads that have ADT less than 150 and are treated by control measures.
- Subsection 5 – Paved public roadway
 - A. Trackout cleanup provisions for trackout that extends 50 feet or more.
 - i. Within 24 hours of discovery, remove the trackout with one of the control measures listed.
 - ii. During removal of trackout, do so in a manner that doesn't cause another source of fugitive dust.
 - iii. Trackout cleanup extension provision
 - B. Stabilization and trackout provisions for work done on unpaved shoulders adjacent to paved public roadways.
- 6. Proposed addition of Chapter 4, Article 1, §040 (Recordkeeping)
Recordkeeping requirements for any person subject to the rules including records of control measure application, date(s) of application. Records should be provided within 48 hours of request by control officer. However records should be provided without delay if the control officer is at the location where the records are kept.
- 7. Proposed addition of Chapter 4, Article 1, §050 (Records retention)
Two year records retention requirement.
- 8. Proposed addition of Chapter 4, Article 1, §060 (Violations)
Violation provisions for these rules.
Violation exemptions include:



- i. Wind conditions that cause fugitive dust to exceed the opacity standard – as long the control measures are implemented, applied and maintained and all dust contributing surface areas are stabilized.
 - ii. Emergency maintenance of flood control channels as long as at least one control measure is applied and maintained.
- F. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study (See contact information in subsection C above), all data underlying each study, and any analysis of each study and other supporting material:

Draft ADEQ document “Pinal PM₁₀ Emission Inventories and Source Apportionment Modeling Results”.

G. Economic, small business and consumer impact statement

Open areas/Vacant lots

There are currently no estimated costs to owners and/or operators of open areas/vacant lots that may be potentially affected by the proposed general fugitive dust rules. PCAQCD is in the process of assessing the extent of the ownership for parcels classified as open areas/vacant lots and the subset of them that exceed the proposed 1.0 acre or larger threshold. For those open areas/vacant lots that do reach the proposed 1 acre threshold, there may be some incremental costs associated with determining stability at their respective open area/vacant lot. Additionally, if there is evidence of trespass the owner and/or operator of the open area/vacant lot will be required to either install no trespassing signs or physical barriers. The size of the open area/vacant lot and control measure chosen by the owner and/or operator will determine the additional incremental costs potentially affecting them.

The proposed rules include new restrictions on owners and/or operators that choose to remove vegetation from their lots. The restrictions include applying a dust suppressant to the surface area disturbed prior to, during and after the weed abatement. The proposed rules include additional trackout requirements associated with weed abatement activities. All of these new proposed restrictions will add to the incremental costs associated with owners and/or operators of open area.

Unpaved Lots

Currently there are no estimated costs to potentially affected parties of unpaved lots by the proposed general fugitive dust rules. PCAQCD is in the process of assessing the extent of the parcels that have unpaved lots greater than the size threshold proposed (5,000 square feet). For those unpaved lots that do exceed the 5,000 square foot threshold, there may be some incremental costs associated with determining stability at their respective unpaved lot. If the stability of the unpaved lots needs to be addressed, there will be additional costs by the owner and/ operator to stabilize by use of one of the following control measures (paving, applying dust suppressants, applying gravel or an alternative control measure).

Unpaved Roads

The regulated community in the proposed rules for unpaved public roads includes Pinal County, Casa Grande, Maricopa, Florence, Coolidge, Eloy and Queen Creek. The requirements in §4-1-030.4, in particular subsection 4.B.ii will add significant costs to the regulated communities. The application of control measures on 15 miles per year of unpaved roads are in addition to what’s already in the 2016-2018 Transportation Improvement Program (TIP). The TIP is a five year plan of transportation projects for each entity that includes projects such as application of dust suppressants to unpaved roads, chip-seal and paving projects, etc. Therefore the requirement to apply control measures on an additional 15 miles per year of public unpaved roads has significant economic and fiscal impact to the regulated community. The approximate cost to chip-seal an average 28 foot wide unpaved road



is \$100,000 per mile. Assuming the 15 miles per year requirement in 4-1-030.4.B.ii were accomplished by chip sealing then the added economic impact to the regulated community would be approximately \$1.5 million per year. The regulated community does have other control measures available including application of dust suppressants. However in order to be counted towards the 15 miles per year requirement, the regulated entity that does use dust suppressant will be required to do so on a public unpaved road not previously treated and continue application and maintenance of the dust suppressant on that particular road until it is eventually paved.

Paved Public Roadways

The trackout requirements in the proposed rules (§4-1-030.5) will create incremental costs to the regulated entities. However current business practice by most of the regulated community is to address cleanup of trackout by conducting street sweeping on the offending portion of the paved road. Several of the street sweepers in the West Pinal PM₁₀ nonattainment area are PM₁₀ efficient street sweepers. The PM₁₀ efficient street sweepers are typically purchased through the Congestion Mitigation and Air Quality (CMAQ) process which includes a requirement for the local agency to match a certain percentage of the cost of the street sweeper. In this case the local match requirement for CMAQ funding is 5.7% which is approximate \$13,500 per PM₁₀ efficient street sweeper. In addition, labor costs associated with each street sweeper for maintenance and operation is ongoing.

The proposed rules also include stabilization requirements for work done on unpaved shoulders. The stabilization requirements (application of dust suppressant(s) to the total surface area subject to the disturbance in sufficient quantity and frequency) associated with any work done on unpaved shoulders will also add incremental costs to the regulated universe. There is also a trackout provision attributed to the treatment of unpaved shoulders which will require the application of a dust suppressant but also potentially the use of a PM₁₀ efficient street sweeper.

Pinal County

The estimated costs for PCAQCD are those that accrue from development, implementation and enforcement of the new standards. PCAQCD has an internal assessment of the costs associated with implementation and enforcement of its permitting, administration and field services activities associated with dust (construction fugitive dust and general fugitive dust) and open burning. Future rulemaking proposals will include estimates on the costs associated with these various programs and if needed, any proposed changes to associated dust and open burning permit fees.

H. The proposed changes will take effect January 1, 2016.

I. Compliance with the Fee-limitations of A.R.S. §49-112 (A) or (B).

Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable. To the extent the County's program affects certain sources that ADEQ either does not regulate or does not charge, these proposed changes do not impose any additional fees on those sources at this time.

J. Persons may obtain a full copy of the proposed rule or existing rules at:

Pinal County Air Quality Control District
31 North Pinal St., Building F.
P.O. Box 987
Florence, AZ. 85132



<http://www.pinalcountyz.gov/AirQuality/Pages/home.aspx>

K. A list of all previous notices appearing in the Register addressing the proposed rules:
Notice of Rulemaking Docket Opening: 21 A.A.R. 35, 1730, August 28, 2015.

L. Date, time and location of oral proceeding:

1) Oral Proceeding

Date: September 28, 2015

Time: 10 a.m.

Location: 31 N. Pinal St., Florence, AZ
Building F, Ocotillo room

Nature of meeting: Oral proceeding before the Control Officer or his designee in accord with A.R.S. §49-471.06(C) to consider public comments upon any or all of this proposal.

2. The full text of the proposed changes follows:

1-1-105. SIP list

A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

1. Chapter 1

- a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
- b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
- c. Article 3. (As amended 5/14/97, 5/27/98 and 10/27/04, 07/23/14, except for §1-3-130 and the definition in §1-3-140.82 (10/12/95) of “maximum achievable control technology.”)

2. Chapter 2

- a. Article 1. (As amended 10/12/95).
- b. Article 2. (As amended 5/14/97).
- c. Article 3. (As amended 10/12/95).
- d. Article 4. (As amended 10/12/95).
- e. Article 5. (As amended 10/12/95).
- f. Article 6. (As amended 10/12/95).
- g. Article 7. (As amended 10/12/95).
- h. Article 8. (As amended 5/18/05, as amended 1/7/09).

3. Chapter 3

- a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. §3-1-020
 - ii. §3-1-045
 - iii. §3-1-080
 - iv. §3-1-100
- b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
- c. Article 3. (As amended 10/12/95, 5/27/15).
- d. Article 8. (As amended 10/12/95 and 10/27/04).

4. Chapter 4

- a. Article 1. (As amended 2/22/95, ~~###/###/15~~).
- b. Article 2. (As amended 5/14/97, 7/12/00, 12/4/02 and 10/27/04).
- c. Reserved.
- d. Article 4 (As amended 6/3/09).
- e. Article 5 (As amended 6/3/09).
- f. Reserved.
- g. Article 7 (As amended 6/3/09)



- h. Reserved.
 - i. Article 9, limited to:
 - i. §4-9-320 (As amended 6/3/09)
 - ii. §4-9-340 (As amended 6/3/09).
- B. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save §3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:
- 1. “construction,” as defined in Nov. '93 Code §1-3-140.28; or
 - 2. “modification,” as defined in Nov. '93 Code §1-3-140.85; and
- C. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:
- 1. Operate as elements of the SIP insofar as they pertain to other than “conventional pollutants,” as defined in §1-3-140.33;
 - 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. §111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
 - 3. Operate as an element of the SIP, at least insofar as they impose a “fee”;
 - 4. Operate as an element of the SIP, at least insofar as they require a “certification”;
 - 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to “renewals”;
 - 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding “excess emissions”; or
 - 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding “compliance plans.”
- D. As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:
- 1. §§1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
 - 2. Chapter 2, Article 8 (As amended 1/7/09) *Visibility Limiting Standard*
 - 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
 - 4. [Reserved]
 - 5. [Reserved]
 - 6. [Reserved]
 - 7. [Reserved]
 - 8. [Reserved]
 - 9. [Reserved]
 - 10. [Reserved]
 - 11. [Reserved]
 - 12. §5-18-740 (2/22/95) *Storage of Organic Compounds - Organic Compound Emissions*
 - 13. §5-19-800 (2/22/95) *Loading of Volatile Organic Compounds - Organic Compound Emissions*
 - 14. §5-21-920 (2/22/95) *Fossil Fuel Fired Industrial and Commercial Equipment Standard Applicability*
 - 15. §5-21-930 (2/22/95 and 7/12/00) *Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard*
 - 16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
 - 17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
 - 18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
 - 19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*
 - 20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*



- 21. §5-24-1040 (2/22/95) Carbon Monoxide Emissions - Industrial Processes
- 22. §5-24-1045 (2/22/95) Sulfite Pulp Mills - Sulfur Compound Emissions
- 23. §5-24-1050 (2/22/95, as amended June 20, 1996) Reduced Sulfur Emissions - Default Limitation
- 24. §5-24-1055 (2/22/95) Pumps and Compressors - Organic Compound Emissions

ARTICLE 1. ~~ADOPTED DOCUMENTS~~

WEST PINAL PM10 MODERATE NONATTAINMENT AREA FUGITIVE DUST

4-1-010. ~~Adopted document(s)~~ General Applicability

~~A.A.C. , Title 18, Chapter 2, Article 6 is hereby adopted by reference and made a part of this Code.~~

- 1. The purpose of this Article is to control FUGITIVE DUST from OPEN AREAS/VACANT LOTS, UNPAVED ROADS, UNPAVED LOTS and PAVED PUBLIC ROADWAYS by requiring measures to prevent, reduce or mitigate FUGITIVE DUST emissions.
- 2. Effective Date
The rules in this Article will become effective on January 1, 2016.
- 3. Geographic Scope
The rules in this Article shall be effective throughout the West Pinal County PM₁₀ Moderate Nonattainment area as defined in 40 CFR Part 81.303.

4-1-015. Exemptions

- 1. In the case of legitimate vehicle test and development facilities and operations conducted by or for an equipment manufacturer, where dust is required to test and validate the design integrity, product quality and/or commercial acceptance, those specific activities shall be exempt from the applicable standards and requirements in this Article.
- 2. The standards and requirements of this Article shall not apply to Emergency response activities that may disturb the soil conducted by any utility or government agency in order to prevent public injury or to restore critical utilities to functional status. For purposes of this subsection, an emergency response must address a situation arising from a sudden and unforeseeable event beyond the control of the OWNER AND/OR OPERATOR, including acts of God. Activities by an OWNER AND/OR OPERATOR to address a disturbance resulting from improperly designed equipment, lack of preventative maintenance, careless or improper operation or operator error shall not qualify as an emergency response.
- 3. The standards and requirements of this Article shall not apply to Normal farm cultural practices according to A.R.S. §49-457 and A.R.S. §49-504.4 which are subject to Arizona Department of Environmental Quality (ADEQ) rules R18-2-610, R18-2-610.01, R18-2-611 and R18-2-611.01.
- 4. The standards and requirements of this Article shall not apply to DUST GENERATING OPERATIONS subject to the standards and/or requirements described in Chapter 4, Article 10.
- 5. The standards and requirements of this Article shall not apply to the establishment of initial landscapes without the use of mechanized equipment, conducting landscape maintenance without the use of mechanized equipment, and playing on or maintaining a field used for non-motorized sports. However, establishing initial landscapes without the use of mechanized equipment and conducting landscape maintenance without the use of mechanized equipment shall not include grading, or trenching, performed to establish initial landscapes or to redesign existing landscapes.

4-1-020. Definitions

For the purpose of this Article, the following definitions shall apply:

- 1. ADT (Average Daily Trips) – As used in this Article, means the average number of vehicles that cross a given point surface during a specific 24-hour period as determined by the most recent Institute of Transportation Engineers trip generation manual, tube counts, or observations.
- 2. CONTROL MEASURES- as used in this Article means, a preemptive or concurrent technique used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of FUGITIVE DUST in order to comply with applicable standards.



3. DISTURBED SURFACE AREA – As used in this Article, means any portion of the earth’s surface that has been physically moved, uncovered, deSTABILIZED, or otherwise modified from its undisturbed natural condition.
4. DUST SUPPRESSANT – As used in this Article, means water, hygroscopic material, solution of water and chemical surfactant foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U. S. Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing FUGITIVE DUST emissions.
5. EMERGENCY - as used in this Article means a situation arising from sudden and reasonably unforeseeable events beyond the control of the OWNER AND/OR OPERATOR, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the associated activities to exceed a limitation in this rule, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include any noncompliance due to improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
6. FUGITIVE DUST – As used in this Article, means the regulated particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, such as but not limited to, movement of soils, vehicles, equipment, blasting, and wind. For the purpose of this rule, FUGITIVE DUST does not include particulate matter emitted directly from the exhaust of MOTOR VEHICLES and other internal combustion engines, from portable brazing, soldering, or welding equipment, and from piledrivers.
7. MOTOR VEHICLE - As used in this Article, means a self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform MOTOR VEHICLE Act, including any non-motorized attachments, such as but not limited to, trailers and other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
8. OPEN AREAS/VACANT LOTS – As used in this Article, means any of the following described in Subsections a through c below. For the purposes of this rule, vacant portions of residential or commercial lots and contiguous parcels that are immediately adjacent to and owned and/or operated by the same individual or entity are considered one open area.
 - a. An unsubdivided or undeveloped land whether or not it is adjoining a developed or a partially developed residential, industrial, institutional, governmental, or commercial area.
 - b. A subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings or structures of a temporary or permanent nature.
 - c. A partially developed residential, industrial, institutional, governmental, or commercial lot and contiguous lots under common ownership.
9. OWNER AND/OR OPERATOR – As used in this Article, means any person including, but not limited to, the property owner, lessee or responsible official.
10. PAVE – As used in this Article, to apply and maintain asphalt, concrete, or other similar material to a roadway surface, such as asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt.
11. PAVED PUBLIC ROADWAY – As used in this Article, means a publicly owned paved roadway, owned by federal, state, county, municipal, or other government or quasi-governmental agencies as evidenced by a formal acceptance by the state or a political subdivision of the state of either:
 - a. An on-going maintenance obligation for the roadway; or
 - b. A title or easement for the roadway.



- 12. PINAL COUNTY DUST CONTROL FORECAST as used in this Article, means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department of Environmental Quality shall consider all of the following:
 - a. Projected meteorological conditions, including:
 - i) Wind speed and direction.
 - ii) Stagnation.
 - iii) Recent precipitation, and
 - iv) Potential for precipitation.
 - b. Existing concentrations of air pollution at the time of the forecast; and
 - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.

- 13. STABILIZED – As used in this Article, means any previously DISTURBED SURFACE AREA which, through the application of CONTROL MEASURES, shows visual or other evidence of surface crusting and is resistant to wind-driven FUGITIVE DUST.
- 14. TRACKOUT – As used in this Article, any and all bulk materials that adhere to and agglomerate on the exterior surface of MOTOR VEHICLES, haul trucks, and/or equipment (including tires) and that have fallen onto a paved roadway.
- 15. UNPAVED LOT – as used in this Article, is any area that is not paved and that is used for parking, maneuvering, material handling, or storing MOTOR VEHICLES and equipment. An UNPAVED LOT includes, but is not limited to, automobile impound yards, wrecking yards, automobile dismantling yards, salvage yards, material handling yards, and storage yards. For the purpose of this rule, maneuvering shall not include military maneuvers or exercises conducted on federal facilities.
- 16. UNPAVED ROAD - as used in this Article, means any roads, equipment paths, or travel ways that are not PAVED. UNPAVED ROADS are owned only by federal, state, county, municipal, or other governmental or quasi-governmental agencies. For the purposes of this Article, an UNPAVED ROAD is not an agricultural road, horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by MOTOR VEHICLES.

4-1-030. Standards

1. GENERAL REQUIREMENTS

- A. The OWNER AND/OR OPERATOR of OPEN AREAS/VACANT LOTS, UNPAVED LOTS, UNPAVED ROADS and PAVED PUBLIC ROADWAYS shall be subject to the standards and/or requirements described in this rule. Failure to comply with any such standards and/or requirements is deemed a violation of this rule.
- B. The OWNER AND/OR OPERATOR shall implement applicable CONTROL MEASURES.
- C. CONTROL MEASURES shall be implemented to meet the visible emissions requirements, stabilization requirements and compliance determinations for each applicable category.
- D. Failure to implement CONTROL MEASURES as required by this rule, as applicable and/or failure to maintain stabilization in order to prevent wind erosion as measured by the requirements of this rule shall be deemed a violation of this rule.

2. OPEN AREAS/VACANT LOTS

- A. Visible Emissions and Stabilization Requirements: The OWNER AND/OR OPERATOR of OPEN AREAS/VACANT LOTS shall not cause, suffer, allow, or permit FUGITIVE DUST emissions which result in opacity of the dust to exceed twenty percent (20%) as measured using an opacity method, as determined by the applicable test



method in §4-9-340 or an equivalent test method approved in writing by the Control Officer and the EPA Administrator.

- B. Upon evidence of trespass in OPEN AREAS/VACANT LOTS, an OWNER AND/OR OPERATOR shall install and maintain one of the following:
- i. No trespassing signs
 - ii. Physical barriers such as curbs, fences, gates, posts, shrubs, trees, or other effective CONTROL MEASURES to effectively prevent access to the OPEN AREAS/VACANT LOTS.
- C. OWNERS AND/OR OPERATORS of OPEN AREAS/VACANT LOTS 1.0 acre (43,560 square feet) or larger and have a cumulative of 0.5 acre (21,780 square feet) or more DISTURBED SURFACE AREA shall implement at least one CONTROL MEASURE described below on the DISTURBED SURFACE AREA in order to stabilize:
- i. Apply and maintain water or dust suppressants; or
 - ii. Establish vegetation; or
 - iii. Install and maintain pavement; or
 - iv. Apply and maintain gravel uniformly; or
 - v. Apply and maintain chemical/organic stabilizers/suppressants; or
 - vi. Apply and maintain an alternative control measure approved in writing by the Control Officer and the EPA Administrator.
- D. For OPEN AREAS/VACANT LOTS 1.0 acre (43,560 square feet) or larger and have a cumulative of 0.5 acre (21,780 square feet) or more DISTURBED SURFACE AREA, within 30 calendar days following the initial discovery of the DISTURBED SURFACE AREA on the OPEN AREAS/VACANT LOTS, the OWNER AND/OR OPERATOR shall sign up to receive the PINAL COUNTY DUST CONTROL FORECAST. The OWNER AND/OR OPERATOR shall ensure the OPEN AREAS/VACANT LOTS is STABILIZED the day leading up to and the day that is forecast to be high risk for dust emissions, as noticed by the PINAL COUNTY DUST CONTROL FORECAST.
- E. No person shall remove vegetation from any OPEN AREAS/VACANT LOTS by blading, disking, plowing under or any other means without implementing all of the following CONTROL MEASURES to prevent or minimize FUGITIVE DUST.
- i. Apply a DUST SUPPRESSANT(s) to the total surface area subject to the disturbance immediately prior to or during the weed abatement.
 - ii. Prevent or eliminate material TRACKOUT onto paved surfaces and access points adjoining paved surfaces through one of the CONTROL MEASURES in 4-1-030.5.A.i.
 - iii. Apply a DUST SUPPRESSANT (s), gravel, compaction or an alternative CONTROL MEASURE immediately following weed abatement to the entire DISTURBED SURFACE AREA such that the surface is STABILIZED.
- F. Compliance with the stabilization requirement in paragraphs C, D and E shall be determined by one of the following:
- i. Observation of a visible crust as determined by the drop ball test in Article 9 (§4-9-320.B.1); or
 - ii. A Threshold Friction Velocity (TFV), corrected for non-erodible elements, of 100 cm/second or higher as determined by the test method in Article 9 (§4-9-320.B.2); or
 - iii. Flat vegetation cover equal to at least 50 percent as determined by the test method in Article 9 (§4-9-320.B.3); or
 - iv. Standing vegetation cover equal to or greater than 30 percent as determined by the test method in Article 9 (§4-9-320.B.4); or
 - v. Standing vegetation cover equal to or greater than 10 percent as determined by the test method in Article 9 (§4-9-320.B.4) where threshold friction velocity, corrected for non-erodible elements, is equal to or greater than 43 cm/second.



3. UNPAVED LOTS

A. The OWNER AND/OR OPERATOR of an UNPAVED LOT greater than 5,000 square feet in size shall be subject to the requirements described in 4-1-030.3.A.i and shall comply with at least one of the CONTROL MEASURES described in 4-1-030.3.A.ii:

i. **Visible Emissions Requirements and Stabilization Requirements:** The OWNER AND/OR OPERATOR of an UNPAVED LOT shall not cause or allow visible FUGITIVE DUST emissions to exceed 20% opacity as measured using an opacity method, as determined by the applicable test method in §4-9-340 or an equivalent test method approved in writing by the Control Officer and the EPA Administrator, and shall not allow silt loading equal to or greater than 0.33 oz/ft² as determined by the applicable test method in §4-9-320.A.1. However, if silt loading is equal to or greater than 0.33 oz/ft², then the OWNER AND/OR OPERATOR shall not allow the silt content to exceed 8%:

ii. **CONTROL MEASURES:**

- a. Pave; or
- b. Apply DUST SUPPRESSANT in sufficient quantity and frequency to maintain a STABILIZED surface; or
- c. Apply and maintain surface gravel uniformly such that the surface is STABILIZED; or
- d. Apply and maintain an alternative control measure approved in writing by the Control Officer and the EPA Administrator.

B. CONTROL MEASURE(s) in 4-1-030.3.A.ii shall be considered effectively implemented when the UNPAVED LOT meets the requirements of 4-1-030.3.A.i.

4. UNPAVED ROADS

A. The OWNER AND/OR OPERATOR of UNPAVED ROADS with average daily trips (ADT) greater than 150 (A traffic count shall measure MOTOR VEHICLE traffic over a 48-hour period, which may consist of two non-consecutive 24-hour periods. MOTOR VEHICLE traffic shall be measured continuously during each 24-hour period.) shall be subject to the requirements described in 4-1-030.4.A.i and shall comply with one of the CONTROL MEASURES described in 4-1-030.4.A.ii:

i. **Visible Emissions Requirements and Stabilization Requirements:** The OWNER AND/OR OPERATOR of UNPAVED ROADS shall not cause or allow visible FUGITIVE DUST emissions to exceed 20% opacity as measured using an opacity method, as determined by the applicable test method in §4-9-340 or an equivalent test method approved in writing by the Control Officer and the EPA Administrator and shall not allow silt loading equal to or greater than 0.33 oz/ft² as determined by the applicable test method in §4-9-320.A.1. However, if silt loading is equal to or greater than 0.33 oz/ft², then the OWNER AND/OR OPERATOR shall not allow the silt content to exceed 6%:

ii. **CONTROL MEASURES:**

- a. Pave; or
- b. Apply and maintain DUST SUPPRESANTS other than water; or
- c. Uniformly apply and maintain surface gravel

B. CONTROL MEASURE(s) in 4-1-030.4.A.ii shall be considered effectively implemented when:

i. One of the CONTROL MEASURES described in 4-1-030.4.A.ii is annually implemented on 15 miles per year of UNPAVED ROADS having ADT of 150 or more.



- a. When the CONTROL MEASURE is application and maintenance of DUST SUPPRESSANTS other than water, the application and maintenance of the DUST SUPPRESSANTS shall only be counted towards the 15 mile threshold when:
 - 1. Done on UNPAVED ROADS previously untreated, and
 - 2. Application and maintenance of DUST SUPPRESSANTS on UNPAVED ROADS previously treated continues annually until the UNPAVED ROAD is paved.
- ii. For year 2019 and beyond, CONTROL MEASURES applied on UNPAVED ROADS with less than 150 ADT can be used for compliance with 4-1-030.4.B.i through use of the following equivalency conversion.

<u>ADT Range</u>	<u>Mileage Equivalency (Miles of equivalent control / mileage of actual control)</u>
<u>0-14</u>	<u>0.000</u>
<u>14-62</u>	<u>0.121</u>
<u>62-103</u>	<u>0.514</u>
<u>103-146</u>	<u>0.531</u>
<u>146+</u>	<u>1.000</u>

Example equivalency conversion calculation:

In year one, City or County “A” paves 10 miles of UNPAVED ROADS with ADT of 100. 10 * 0.514 = 5.14 miles of 150 ADT equivalent UNPAVED ROADS.

5. PAVED PUBLIC ROADWAY

- A. Clean up of TRACKOUT, Erosion-Caused Deposition of Bulk Materials on PAVED PUBLIC ROADWAY: the OWNER AND/OR OPERATOR of the property from which the TRACKOUT or erosion-caused deposition came from shall upon discovery of mud/dirt that extends 50 feet or more from the nearest unpaved surface exit onto the PAVED PUBLIC ROADWAY shall:
 - i. Within 24 hours of discovery, remove the mud/dirt from PAVED PUBLIC ROADWAY with one of the following CONTROL MEASURES. (If needed, restrict vehicles from traveling over said mud/dirt until such time as the material can be removed from the travel lanes of the PAVED PUBLIC ROADWAY)
 - i. Manually sweeping and picking up; or
 - ii. Operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit opacity to 20% or less; or
 - iii. Operating a PM10 efficient street sweeper; or
 - iv. Flushing with water, if curb and gutters are not present and where the use of water will not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program
 - ii. During removal of mud/dirt, do so in a manner that does not cause another source of FUGITIVE DUST.
 - iii. In the event unsafe travel conditions would result from restricting traffic pursuant to section A.i and removal of such material isn’t possible within 72 hours due to a weekend or holiday condition, the provisions of section A.i can be extended upon notification to and approval by the Control Officer.
- B. The OWNER AND/OR OPERATOR of any existing PAVED PUBLIC ROADWAYs shall take the following actions prior to, during and after work on UNPAVED ROAD shoulders:
 - i. Apply a DUST SUPPRESSANT(s) to the total surface area subject to the disturbance in sufficient quantity and frequency to maintain a STABILIZED surface.



- ii. Prevent TRACKOUT by using one of the CONTROL MEASURES listed in 4-1-030.5.A.1.

4-1-040. Recordkeeping

Any person subject to the requirements of this rule shall compile and retain records that provide evidence of CONTROL MEASURE application (i.e. receipts and/or purchase records). Such person shall describe in the records, the type of treatment or CONTROL MEASURE, extent of coverage, and date applied. Upon verbal or written request by the Control Officer, such person shall provide the records and supporting documentation as soon as possible but no later than 48 hours, excluding weekends. If the Control Officer is at the site where requested records are kept, such person shall provide the records without delay.

4-1-045. Reporting Requirements

Each city, county, or state agency with primary responsibility for any existing PAVED PUBLIC ROADWAY and UNPAVED ROADS shall take the following actions:

- A. By January 30 of each year provide the DISTRICT with a list of all UNPAVED ROADS under its jurisdiction, including data on length of, and ADT (if available) on, each UNPAVED ROAD segment.
- B. By January 30 of each year, submit to the District a list of UNPAVED ROADS which were paved during the previous year including the total number of UNPAVED ROADS miles, ADTs (if available) and their respective segments.

4-1-050. Records Retention

Copies of the records required by 4-1-040 (Recordkeeping) and 4-1-045 (reporting) of this rule shall be retained for at least two years.

4-1-060. Violations

Failure by any person to comply with the applicable requirements of this Article shall constitute a violation subject to penalty as provided in these rules and A.R.S. Title 49, Chapter 3, Article 3, A.R.S. 49-471 et. seq.

Violation Exemptions:

- A. The opacity requirements of this rule shall not apply during:
 - i. Wind conditions that cause FUGITIVE DUST to exceed the opacity requirements if applicable CONTROL MEASURES are implemented, applied and maintained, and all dust contributing DISTURBED SURFACE AREAs are STABILIZED.
 - ii. EMERGENCY maintenance of flood control channels and water retention basins if at least 1 applicable CONTROL MEASURE is applied, and maintained.