



December 22, 2022  
West Pinal Serious PM<sub>10</sub> Nonattainment Area Fugitive Dust  
Proposed Rulemaking –  
Pinal County Air Quality Control District (PDAQCD) response to comments

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**December 13, 2022 Environmental Protection Agency (EPA) comments and PDAQCD responses**

*Director's Discretion Provisions*

*Our previous comments noted that several provisions of the rules contain "director's discretion" provisions, which appear to be unapprovable. See, e.g., 80 FR 33917-33918. In response, PDAQCD removed or revised a number of these provisions. However, a few such provisions are still included in Article 3:*

- 4-3-170.23. "OPEN STORAGE PILE" " . . .or other equivalent method approved in writing by the Control Officer and the Administrator, that the silt content is less than 5%."
- 4-3-180.J.3.i.g. "an alternative test method, upon obtaining the written approval from the Control Officer and the Administrator."
- 4-3-180.K.1. "or an equivalent test method approved by the Control Officer and the EPA Administrator."

*These provisions should be removed or revised to provide for clear and specific criteria, so that we can determine how the exercise of director's discretion could affect compliance with CAA requirements.*

**PDAQCD response**

PDAQCD concurs with the EPA Director's Discretion Provisions comments and has removed the proposed rulemaking language in §4-3-170.23 and §4-3-180.J.3.i.g and added a strikeout to §4-3-180.K.1. See version changes below between what was originally proposed during the public comment period and what's going to be included in the January 25, 2023 Pinal County Board of Supervisors (BOS) Public Hearing resolution. The revisions going to the BOS Public Hearing will be summarized in a Concise Explanatory Statement (CES) to be included in the BOS Agenda packet.

§4-3-170.23 – Original rulemaking proposal (published on November 3, 2023 – Comment period ended Close of Business December 13, 2023).

23. "OPEN STORAGE PILE" as used in this Article, any accumulation of bulk material with a 5% or greater silt content that has a total surface area of 150 square feet or more and that at any one point attains a height of three feet. Silt content shall be assumed to be 5% or greater unless a person can show, by testing in accordance with ASTM Method C136-06 or other equivalent method approved in writing by the Control Officer and the Administrator, that the silt content is less than 5%.

§4-3-170.23 – Per EPA 12/13/22 comments, revised proposed rulemaking language included in Resolution No. 012523-AQ.

23. “OPEN STORAGE PILE” as used in this Article, any accumulation of bulk material with a 5% or greater silt content that has a total surface area of 150 square feet or more and that at any one point attains a height of three feet. Silt content shall be assumed to be 5% or greater unless a person can show, by testing in accordance with ASTM Method C136-06.

§4-3-180.J.3.i.g - Original rulemaking proposal (published on November 3, 2023 – Comment period ended Close of Business December 13, 2023).

3. Disturbed surface area:

i. Inactive areas stabilization requirements: The owner and/or operator of any disturbed surface area on which no activity is occurring (whether at a work site that is under construction or a work site that is temporarily or permanently inactive) shall meet at least one of the standards described in Section §4-3-180.J.3.i.a through §4-3-180.J.3.i.g below, as applicable. Should such a disturbed surface area contain more than one type of stabilization characteristic, such as soil, vegetation, or other characteristic, which is visibly distinguishable, then the owner and/or operator shall test each representative surface separately for stability, in an area that represents a random portion of the overall disturbed conditions of the site, in accordance with the appropriate test methods described in Chapter 4, Article 9. The owner and/or operator of such disturbed surface area on which no activity is occurring shall be considered in violation of this rule if the area is not maintained in a manner that meets at least one of the standards listed below, as applicable. An area is considered to be a disturbed surface area until the activity that caused the disturbance has been completed and the disturbed surface area meets the standards described below.

a. Maintain a soil crust;

b. Maintain a threshold friction velocity (TFV) for disturbed surface areas corrected for non-erodible elements of 100 cms/second or higher;

c. Maintain a flat vegetative cover (i.e. attached [rooted] vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) that is equal to at least 50%;

d. Maintain a standing vegetative cover (i.e. vegetation that is attached [rooted] with a predominant vertical orientation) that is equal to or greater than 30%;

- e. Maintain a standing vegetative cover (i.e. vegetation that is attached [rooted] with a predominant vertical orientation) that is equal to or greater than 10% and where the threshold friction velocity is equal to or greater than 43 cm/second when corrected for non-erodible elements;
- f. Maintain a percent cover that is equal to or greater than 10% for non-erodible elements; or
- g. Comply with a standard of an alternative test method, upon obtaining the written approval from the Control Officer and the Administrator.

§4-3-180.J.3.i.g - Per EPA 12/13/22 comments, revised proposed rulemaking language included in Resolution No. 012523-AQ.

3. Disturbed surface area:

- i. Inactive areas stabilization requirements: The owner and/or operator of any disturbed surface area on which no activity is occurring (whether at a work site that is under construction or a work site that is temporarily or permanently inactive) shall meet at least one of the standards described in Section §4-3-180.J.3.i.a through §4-3-180.J.3.i.g below, as applicable. Should such a disturbed surface area contain more than one type of stabilization characteristic, such as soil, vegetation, or other characteristic, which is visibly distinguishable, then the owner and/or operator shall test each representative surface separately for stability, in an area that represents a random portion of the overall disturbed conditions of the site, in accordance with the appropriate test methods described in Chapter 4, Article 9. The owner and/or operator of such disturbed surface area on which no activity is occurring shall be considered in violation of this rule if the area is not maintained in a manner that meets at least one of the standards listed below, as applicable. An area is considered to be a disturbed surface area until the activity that caused the disturbance has been completed and the disturbed surface area meets the standards described below.
  - a. Maintain a soil crust;
  - b. Maintain a threshold friction velocity (TFV) for disturbed surface areas corrected for non-erodible elements of 100 cms/second or higher;
  - c. Maintain a flat vegetative cover (i.e. attached [rooted] vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) that is equal to at least 50%;

- d. Maintain a standing vegetative cover (i.e. vegetation that is attached [rooted] with a predominant vertical orientation) that is equal to or greater than 30%;
- e. Maintain a standing vegetative cover (i.e. vegetation that is attached [rooted] with a predominant vertical orientation) that is equal to or greater than 10% and where the threshold friction velocity is equal to or greater than 43 cm/second when corrected for non-erodible elements;
- f. Maintain a percent cover that is equal to or greater than 10% for non-erodible elements; or

§4-3-180.K.1 - Original rulemaking proposal (published on November 3, 2023 – Comment period ended Close of Business December 13, 2023).

4K. VISIBLE EMISSIONS REQUIREMENTS FOR DUST-GENERATING OPERATIONS:

- 1. The owner and/or operator 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.

§4-3-180.K.1 - Per EPA 12/13/22 comments, revised proposed rulemaking language included in Resolution No. 012523-AQ.

4K. VISIBLE EMISSIONS REQUIREMENTS FOR DUST-GENERATING OPERATIONS:

- 1. The owner and/or operator 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.~~

EPA Additional Comments:

Article 1:

EPA Comment:

- §4-1-010.2. “The rules in this Article will become effective on ~~January 1, 2016~~ June 1, 2023.”
  - We recommend clarifying that the existing rules will remain in effect until the revisions take effect.

**PCAQCD Response**

PCAQCD concurs with the EPA recommendation, the revised proposed rulemaking language below is included in Resolution No. 012523-AQ.

§4-1-010.2 - The rules in this Article adopted on January 25, 2023 will become effective on ~~January 1, 2016~~ June 1, 2023. The rules in this Article that became effective on January 1, 2016 will be in effect through May 31, 2023.

EPA Comment:

- 4-1-050. “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.”
  - We recommend a five-year record retention period.

**PCAQCD response**

PCAQCD appreciates EPA’s recommendation to extend the record retention period to a five-year period. However the minimum of two years records retention is a sufficient time period for PCAQCD to request any records needed for compliance, enforcement or planning purposes. Therefore no revision has been made to §4-1-050.

Article 3:

EPA Comment:

- 4-3-160.2. “The rules in this Article will become effective on ~~January 1, 2016~~ June 1, 2023.”
  - We recommend clarifying that the existing rules will remain in effect until the revisions take effect.

**PCAQCD response**

PCAQCD concurs with the EPA recommendation, the revised proposed rulemaking language below is included in Resolution No. 012523-AQ.

§4-3-160.2 The rules in this Article adopted on January 25, 2023 will become effective on ~~January 1, 2016~~ June 1, 2023. The rules in this Article that became effective on January 1, 2016 will remain in effect through May 31, 2023.

EPA Comment:

- 4-3-160.A.5.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.”
  - We recommend that you remove or provide a rationale for this exemption, as Maricopa County did for their analogous exemption. See:  
<https://www.regulations.gov/document/EPA-R09-OAR-2010-0521-0016>

**PCAQCD response**

PCAQCD concurs with the EPA recommendation and will propose removal of §4-3-160.A.5.g shown below in the revised proposed rulemaking language included in Resolution No. 012523-AQ.

~~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.~~

EPA Comment:

- 4-3-180.C.4. “The Control Officer shall approve, disapprove, or conditionally approve the Dust Control Plan, in accordance with the criteria used to approve, disapprove or conditionally approve a permit, as described in §4-3-180.A.”
  - We recommend clarifying the criteria for approving, disapproving or conditionally approving a permit. We understand that this provision is modeled on MCAQD Rule 200 section 402.4, which provides that:

The Control Officer shall approve, disapprove, or conditionally approve the Dust Control

Plan, in accordance with the criteria used to approve, disapprove or conditionally approve a permit, as described in MCAQD Rule 200: Permit Requirements of these rules.

We suggest that PCAQCD reference its permitting rule analogous to MCAQD Rule 200 rather than 4-3-180.A.

### **PCAQCD response**

PCAQCD appreciates the EPA suggestion. However PCAQCD code doesn't include a rule analogous to MCAQD Rule 200. Additionally §4-3-180.A provides sufficient criteria by which the Control Officer can use to approve, disapprove or conditionally approve a permit (i.e. § 4-3-180.A.5). Therefore no change will be made to the originally proposed rule language in §4-3-180.C.

### **EPA Comment:**

- 4-3-180.C.3.d.iii. "A control measure that is not listed in §4-3-180.I of this rule may be chosen provided that such control measure is implemented to comply with the requirements of this rule."
  - We recommend removing this provision or specifying what standards apply to an alternative control measure to ensure that it is effective.

### **PCAQCD response**

PCAQCD concurs with the EPA recommendation, see the revised proposed rulemaking language which are included in Resolution No. 012523-AQ.

§4-3-180.C.3.d.iii – Original rulemaking proposal (published on November 3, 2023 – Comment period ended Close of Business December 13, 2023).

3. A Dust Control Plan shall, at a minimum, contain all of the following information:

- a. Name(s), address(es), and phone numbers of person(s) responsible for the submittal and implementation of the Dust Control Plan and responsible for the dust-generating operation.
- b. A drawing, on 8 ½" x 11" paper that shows:
  - i. Entire project site/facility boundaries, including boundaries of areas to be disturbed if less than entire project site/facility boundaries.
  - ii. Acres to be disturbed with linear dimensions or certification by a licensed engineer or surveyor showing the total square footage to be disturbed.
  - iii. Nearest public roads.
  - iv. North arrow.
  - v. Planned exit locations onto areas accessible to the public, and
  - vi. Unpaved parking lot(s).
- c. For projects with multiple parcels, a list of parcel number(s). - If only a mother/master parcel number is available at the time of the application and Dust control plan submittal,

once the full parcel list is available the owner and/or operator shall provide the full parcel list to Pinal County Air Quality within 3 business days.

- d. Appropriate control measures, or a combination thereof, as described in §4-3-180.I of this rule, for every actual and potential dust-generating operation.
  - i. Control measures must be implemented before, during and after conducting any dust-generating operation, including during weekends, after work hours, and on holidays.
  - ii. All required control measures and at least one contingency control measure must be identified for all dust-generating operations.
  - iii. A control measure that is not listed in §4-3-180.I of this rule may be chosen provided that such control measure is implemented to comply with the requirements of this rule.
  - iv. If complying with §4-3-180.I of this rule, the Dust Control Plan must include the maximum number of vehicle trips on the unpaved haul/access roads each day (including number of employee vehicles, earthmoving equipment, haul trucks, and water trucks).
- e. Dust suppressants to be applied, including all of the following product specifications or label instructions for approved usage:
  - i. Method, frequency, and intensity of application;
  - ii. Type, number, and capacity of application equipment; and
  - iii. Information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.
- f. Specific surface treatment(s) and/or control measures utilized to control material trackout and sedimentation where unpaved roads and/or access points to join areas accessible to the public.
- g. For construction projects, except for routine maintenance and repair done under a Dust Control Block Permit, an acknowledgement that the minimum water listed in tables 1 and 2 below are available onsite, depending on the total acreage disturbed and project phase.



§4-3-180.C.3.d.iii — Per EPA 12/13/22 comments, the revised proposed rulemaking language below is included in Resolution No. 012523-AQ.

3. A Dust Control Plan shall, at a minimum, contain all of the following information:

- a. Name(s), address(es), and phone numbers of person(s) responsible for the submittal and implementation of the Dust Control Plan and responsible for the dust-generating operation.
- b. A drawing, on 8 ½” x 11” paper that shows:
  - i. Entire project site/facility boundaries, including boundaries of areas to be disturbed if less than entire project site/facility boundaries,
  - ii. Acres to be disturbed with linear dimensions or certification by a licensed engineer or surveyor showing the total square footage to be disturbed,
  - iii. Nearest public roads,
  - iv. North arrow,
  - v. Planned exit locations onto areas accessible to the public, and
  - vi. Unpaved parking lot(s).
- c. For projects with multiple parcels, a list of parcel number(s). - If only a mother/master parcel number is available at the time of the application and Dust control plan submittal, once the full parcel list is available the owner and/or operator shall provide the full parcel list to Pinal County Air Quality within 3 business days.
- d. Appropriate control measures, or a combination thereof, as described in §4-3-180.I of this rule, for every actual and potential dust-generating operation.
  - i. Control measures must be implemented before, during and after conducting any dust-generating operation, including during weekends, after work hours, and on holidays.
  - ii. All required control measures and at least one contingency control measure must be identified for all dust-generating operations.
  - iii. If complying with §4-3-180.I of this rule, the Dust Control Plan must include the maximum number of vehicle trips on the unpaved haul/access roads each day (including number of employee vehicles, earthmoving equipment, haul trucks, and water trucks).

- e. Dust suppressants to be applied, including all of the following product specifications or label instructions for approved usage:
  - i. Method, frequency, and intensity of application;
  - ii. Type, number, and capacity of application equipment; and
  - iii. Information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.
- f. Specific surface treatment(s) and/or control measures utilized to control material trackout and sedimentation where unpaved roads and/or access points to join areas accessible to the public.
- g. For construction projects, except for routine maintenance and repair done under a Dust Control Block Permit, an acknowledgement that the minimum water listed in tables 1 and 2 below are available onsite, depending on the total acreage disturbed and project phase.

EPA Comment:

- 4-3-180.D.5. “Any person who conducts dust-generating operations that require a Dust Control Plan shall retain copies of approved Dust Control Plans, control measures implementation records, and all supporting documentation for at least six months following the termination of the dust-generating operation and for at least two years from the date such records were initiated. If a person has obtained a Title V permit and is subject to the requirements of this rule, then such person shall retain records required by this rule for at least five years from the date such records are established.”
  - We recommend a five-year record retention period for all operators.

**PCAQCD response**

PCAQCD appreciates EPA’s recommendation to extend the record retention period to a five-year period. However the minimum of two years (from the date such records were initiated) records retention is a sufficient time period for PCAQCD to request any records needed for compliance, enforcement or planning purposes. Therefore no revision to the originally proposed rule language have been made to §4-3-180.D.5.

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**December 12, 2022 Waste Management comments on Chapter 4, Article 3, West Pinal Construction Fugitive Dust Rulemaking and PCAQCD responses**

**Waste Management General Comments:**

As a general comment, please provide clarity between what's required for general Construction Projects and the requirements for dust generating activities at Title V and Non-Title V sites. Questions include specific requirements for the dust control plan, minimum water available requirements, signage, notifications, fencing, and high winds procedures.

**PCAQCD “General Comments” Response –**

**All of the responses to comments below are applicable to the West Pinal Serious PM10 Nonattainment Area.**

As a practical matter for the PCAQCD fugitive dust program the following applies – non-construction related dust generating activities at Title V and Non-Title V permitted sources are regulated under the general fugitive dust rules (i.e. Chapter 4, Articles 1 and 2) and are included in the permits (in response to the specific landfill/solid waste facilities questions posed by Waste Management – please see all of the PCAQCD issued landfill/solid waste facilities Title V permits [online](#)).

New construction at an existing permitted facility would be regulated under the construction fugitive dust rules during the construction phase. Separately, any new emissions units from the new portion of the permitted facility would be permitted under the industrial permit and would go through the permit revision process. For clarity purposes, regular ongoing activities at landfill/solid waste facilities such as construction of cells are not considered construction under PCAQCD Code of Regulations and are therefore regulated under the general fugitive dust rules (i.e. Chapter 4, Articles 1 and 2).

**Specific Comments:**

1. §4-3-160.A.4.a, Page 21: Please clarify the rule applicability as “before conducting dust generating activities” to avoid interpretations that controls need to be implemented immediately after permit issuance.

**PCAQCD Response** – “4-3-160.A.4.a begins with “Any person engaged in a dust-generating operation....”. The word “engaged” implies an existing and ongoing construction site and associated construction dust generating operation. Therefore this particular section doesn’t apply to the initial permit issuance.

2. §4-3-170.3, Page 24: The definition of “Bulk Material” should not include “trash”. Municipal Solid Waste (trash) contains larger materials and particles than the other materials listed. Some of the control requirements for bulk material regarding the handling of bulk materials includes wetting, which is discouraged for municipal solid waste.

**PCAQCD Response** – Please see response to general comments. The proposed West Pinal construction fugitive dust rules aren’t applicable to municipal solid waste facilities. The “trash” referred to in the definition of “bulk material” is in relation to “trash” on construction sites.

3. §4-3-170.5, Page 24: The definition of “Construction” doesn’t definitively include landfill activities. Are the landfill activities such as earth movement operations, including cell construction, and soil movement for daily cover included?

**PCAQCD Response** – Please see response to general comments. The proposed West Pinal construction fugitive dust rules aren’t applicable to landfills.

4. §4-3-170.9, Page 27: For the Dust Control Plan (DCP),
- a. Is there going to be a standard format? Or will they be site specific?
  - b. Are the DCPs going to be approved by the PCAQCD, and if so, please update #3, page 34 to more clearly call that out. Also, will the DCP approval process be independent of the processing of the Title V and Non-Title V Permit application? Or will an additional Title V and Non-Title V Permit approval be required?
  - c. Will the DCPs for existing Title V and Non-Title V sites need to be revised?
  - d. Will the DCP for Title V and Non-Title V Landfill sites be required to have all of the same components as those for typical construction projects?

**PCAQCD Response** –

**Comments 4.a & b** - In regards to the format and approval of the DCP, in current practice (see current [West Pinal construction dust permit application form](#), section 7) and the plan moving forward with the new rules, the construction dust permit application will include the dust control plan. Signature, review and subsequent issuance of the construction dust permit will be the process that includes approval of the DCP (included in the construction dust permit application). The DCP approval process is independent of the processing of the Title V and Non-Title V permit application.

**Comment 4.c** – Under the current West Pinal construction fugitive dust rules there are no DCP requirements for Title V and Non-Title V sites, unless they have ongoing construction (and have an approved dust permit). In that case the DCP would be included in the signed dust permit application (see PCAQCD response to comments 4.a & 4.b).

**Comment 4.d** –As defined in the proposed rule (§4-3-170.5) construction doesn’t include solid waste facilities/landfills. The proposed West Pinal construction fugitive dust rules also don’t require DCPs for normal operations at Title V and Non-Title V sites, only when there is construction at a new portion of a facility (once again, excludes solid waste facilities/landfills).

5. §4-3-170.9, Page 34: For the Permit Cancellation, a simple notification to the PCAQCD would seem adequate versus a Permit Cancellation Request. We see the PCAQCD receiving many of these requests, that plus many other Dust Program follow up actions, we propose that the text “or after three days following submittal the notification the notification will be deemed approved” be included in this proposed requirement.

**PCAQCD Response** – The rule language (MCAQD Rule 310, sections 401, 402) in the rulemaking proposal is from a Best Available Control Measure (BACM)/Most Stringent Measure (MSM) which is required for the West Pinal Serious PM10 Nonattainment area State Implementation Plan (SIP). Additionally, it’s standard practice for PCAQCD to review and on occasion conduct a site visit for projects that submit ‘close out’ forms in order to verify actual close out of the project. By adding proposed language to automatically approve a cancellation form within a short amount of time without on-site verification would potentially weaken the required BACM/MSM threshold in the rules.

6. §4-3-180.C.3., Page 36: Will the Dust Control Plans for Title V and Non-Title V sites be required to have all of the same components as those for typical construction projects? As an example will the Title V and Non-Title V be required to estimate the maximum vehicle traffic? This would be a difficult limit for the solid waste industry to quantify due to nonroutine circumstances, such as clean-up projects. If maximum isn’t intended to limit operations, then the use of maximum should be qualified in the text as “for informational purposes”.

**PCAQCD Response** – Please see response to general comments. The proposed West Pinal construction fugitive dust rules (including Dust Control Plans) aren’t applicable to the solid waste industry (i.e. landfills).

7. §4-3-180.C.4., Page 37: On-site water requirements
- a. Are Title V and Non-Title V sites subject to the minimum water requirements? If so, please provide a table that is suitable for dust generating activities that do not include soil movement on an acre basis. The problem for a 300 acre site is that the well would need to produce 3,000,000 gallons per day, which is beyond any reasonable request and would draw down groundwater.
  - b. Table 2 should also have a maximum requirement consistent with Maricopa County and similar to Table 1, i.e., 30,000 gallon per day for sites >100 acres. For large landfills, the 10,000 gallon/acre may exceed pump capacity and Arizona Department of Water Resources limitations.

**PCAQCD Response to 7.a** – Title V and Non-Title V sites are not subject to the minimum water requirements in the proposed West Pinal construction fugitive dust rules. However as mentioned in previous responses to comments, unless there’s an ongoing construction project for a Title V and Non-Title V site which would be covered with a West Pinal construction dust permit (and its associated requirements including minimum water requirements for only the area under construction). Additionally, to reiterate, new cell development in a solid waste facility/landfill aren’t regulated under the West Pinal construction fugitive dust rules, rather they are regulated under the West Pinal general fugitive dust rules (Chapter 4, Articles 1 and 2).

**PCAQCD Response to 7.b** – The proposed West Pinal construction fugitive dust minimum water available onsite language in “Table 2 – Mass grading” matches language in the SIP approved Maricopa County Air Quality Guidance for Application for Dust Control Permit “Project Phase – Mass grading section”. The minimum water available onsite has been a requirement in the Phoenix Serious PM10 Nonattainment Area for over fifteen years which supports the viability and sustainability of dust mitigation in a developing area. In regards to large landfills which are referenced in the comment, the proposed West Pinal construction fugitive dust rules are not applicable to solid waste facilities/landfills.

8. §4-3-180.D.4 Page 38: For dust generating projects included in Title V and Non-Title V permits, such as the construction of cell, are completion notifications required? Please note we continually construct new cells.

**PCAQCD Response** – Please see response to general comments. The proposed West Pinal construction fugitive dust rules aren’t applicable to solid waste facilities/landfills. Therefore completion notifications aren’t required for construction of cells at solid waste facilities/landfills.

9. §4-3-180.E., Page 39:

a. Will signage be required for Title V and Non-Title V sites?

b. If so, will the DCP for Title V and Non-Title V sites be required to have all of the same components as those for typical construction projects?

**PCAQCD Response** – Any Title V and Non-Title V sources which have construction projects over the five acre threshold will be required to have a sign pursuant to the requirements (§4-3-180.E.1) in the West Pinal construction fugitive dust proposal for the duration of the construction project. For construction projects at Title V and Non-Title V sites, the DCP will include the same components as those for typical construction projects (i.e. see response to comments 4.a and 4.b).

10. §4-3-180.G & H., Page 40: The training requirements do not specify Method 9 training, is this required?

**PCAQCD Response** – Method 9 training is not included in the training requirements in the West Pinal construction fugitive dust rulemaking proposal.

11. §4-3-180.G & H., Page 40: Will the dust control training be conducted online, or in person with PCQACD staff? Will the PCQACD training certifications be allowed to be fulfilled by the certifications training required for Maricopa County?

**PCAQCD Response** – The new dust control training (to be developed) is planned to be conducted online through self-paced training materials followed by a quiz. If the training participant passes the quiz then they will receive a training certificate. The proposed West Pinal construction fugitive dust rules are not identical to Maricopa County rule 310 so their respective certifications are not transferrable.

12. §4-3-180.I., Page 41: The requirements regarding the definition of “high wind conditions” should be referenced on a sustained basis not for an instantaneous burst to allow for temporary gusts often witnessed at larger sites. The verbiage regarding the “100 yards in length requires clarification; is this for a dust trail 100 yards long.

**PCAQCD Response** – The “High wind conditions” definition (including instantaneous language) in the rulemaking proposal is from a Best Available Control Measure (BACM)/Most Stringent Measure (MSM) (South Coast-Coachella Valley rule 403) which is required for the West Pinal Serious PM10 Nonattainment area State Implementation Plan (SIP). To revise the proposed definition to include “sustained” winds would potentially weaken the required BACM/MSM threshold in the rules.

The “One hundred (100) yards in length from the point of origin” is referring to the beginning point in space where the fugitive dust is blowing from and the length of one hundred yards is the standard by which determination is made whether or not to cease construction activities due to the high wind conditions. So, to answer the commenter’s question, yes this is for a dust trail 100 yards long or longer.

13. §4-3-180.I.2.a., Page 42: The high wind barrier is not reasonable for large sites, such as a landfill. Even if a barrier is installed around the active face, 3 feet isn’t sufficient for slowing high winds. In general wind speeds increase with height due to air density and surface friction. Episodes of “High winds” will most likely blow over a 3’ fence. The fence wouldn’t slow the winds and result would be a source of constant maintenance.

**PCAQCD Response** – Please see response to general comments. The proposed West Pinal construction fugitive dust rules (including high wind barrier) aren’t applicable to landfills and as such isn’t a requirement.

14. §4-3-180.I.2.a., Page 42: Limiting vehicle traffic by the use of fencing or barricades isn’t needed where roads are paved, stabilized, signs are present to direct traffic, or the site layout is obvious to direct truck traffic in the proper areas. Is this section meant to prohibit nonauthorized public traffic? This section needs to be updated to clarify the intent of this requirement.

**PCAQCD Response** – The intent of this requirement is to prohibit non-authorized traffic in general (public and construction related) on any construction site within the West Pinal PM10 nonattainment area. This is to minimize surface disturbances and associated fugitive dust emissions under both stagnant and windy conditions. This rule language (Clark County BMP10) in the rulemaking proposal is from a Best Available Control Measure (BACM)/Most Stringent Measure (MSM) which is required for the West Pinal Serious PM10 Nonattainment area State Implementation Plan (SIP). By adding to the proposed language to attempt to clarify intent may provide an unintended exemption and potentially weaken the required BACM/MSM threshold in the rules.



15. §4-3-180.I.2.d., Page 43: The requirements for backfilling needs to be limited to soil or aggregate. The definition of backfilling should exempt municipal solid waste. ADEQ discourages wetting municipal solid waste and liquid application may cause leachate, odors, vectors and other issues.

§4-3-180.I.2.g., Page 45: The pre-water requirements are unsustainable for the large earth moving projects, such as the regular landfill construction of 15 acre cells. Typically, the area is flooded days before construction begins. A test hole could, possibly cut to the depth of the first cut. But subsequent cuts are made one right after the other with watering, as needed, in between cuts. Waiting for water to descend to another cut depth, approximately 6", could take multiple applications of water and hours, even days to accomplish. For a trench, an enormous amount of water would be required and as much as 1' of hydraulic head to penetrate to a depth of 18". It could take up to 48-72 hours. A reasonable alternative would be to allow for initial watering, with the application of additional water on an as needed basis to avoid visible emissions.

**PCAQCD Response –**

The proposed definitions in the West Pinal construction fugitive dust rules align with other construction fugitive dust SIP approved rules such as Maricopa County rule 310. The act of backfilling on a construction site is by its nature done with soil or aggregate and not municipal solid waste.

The pre-water "cut and fill" requirements in the proposed West Pinal construction fugitive dust rules are for construction activities defined in §4-3-170.5 as "Construction includes....vertical construction, residential construction, installing underground utilities, installing above-ground utilities, and building physical infrastructure including roads, highways, railways....". The definition of construction in the proposed West Pinal construction fugitive dust rules does not include "regular landfill construction". Therefore the pre-water "cut and fill" requirements in the proposed West Pinal construction fugitive dust rules aren't applicable to landfill construction.

16. §4-3-180.L., Page 49: The trackout requirements need exceptions for areas during high traffic for safety purposes. It may be dangerous to operate water trucks or sweepers "immediately" after trackout exceeds 25' or at the end of the day.

**PCAQCD Response –** The rule language (MCAQD Rule 310, Section 306) in the rulemaking proposal is from a Best Available Control Measure (BACM)/Most Stringent Measure (MSM) which is required for the West Pinal Serious PM10 Nonattainment area State Implementation Plan (SIP). Adding an exemption to the cleanup of trackout to the proposed language may weaken the required BACM/MSM threshold in the rules and jeopardize inclusion into the Arizona State Implementation Plan (SIP).

17. §4-3-180.N., Page 50: The scope of inspection for “high risk forecast days” needs to be clarified. Disturbed areas that have been stabilized should be removed from detailed inspection as some landfills, for instance, have many acres of stabilized areas. Additionally, active areas should be exempted from stabilization. Adherence to the control measures in the approved DCP should exempt a permit holder from additional inspections.

**PCAQCD Response** – Please see response to general comments. The proposed West Pinal construction fugitive dust rules (including high risk forecast day inspections for construction sites) aren’t applicable to landfills.

Scope of inspection for “high risk forecast days” needs to be clarified - The proposed West Pinal construction fugitive dust rule high risk forecast language defines the scope of inspection. The scope is the work site (dust generating operations...during construction....which covers an area of 0.1 acres or larger) and the inspection by the owner/operator is to ensure all control measures specified in the permit are implemented and disturbed surface areas are stabilized or ensure that all dust generating operations are ceased and disturbed surface areas are stabilized<sup>1</sup>. The focus in the proposed rule language are disturbed surface areas, all other areas by default are considered stable and aren’t the emphasis for the owner/operator work site inspection.

Active areas should be exempted from stabilization - The proposed West Pinal BACM/MSM construction fugitive dust rules include control measures and stabilization requirements for the entire work site, including active areas including but not limited to periods after construction activities (§§4-3-160.A.4.a, 4-3-180.C.2, etc.). High risk forecast days can include weekends and holidays when construction sites are inactive, therefore the day leading up to the high risk day the worksite can have active areas. However after the construction activities for the day have ended, the entire worksite requires stabilization, including active areas in order to minimize windblown emissions.

In response to the last sentence related to additional inspections, adherence to the control measures are verified through an onsite inspection.

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<sup>1</sup> Underline of disturbed surface areas for emphasis of scope