



Draft
Staff Report
Proposed Amendment of
Rule 403 – *Fugitive Dust Control*

Rescission of
Rule 403.1 – *Fugitive Dust Control for the
Searles Valley Planning Area*
Rule 403.2 – *Fugitive Dust Control for the
Mojave Desert Planning Area*

For amendment on
October 26, 2020

**Mojave Desert
Air Quality
Management District**

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List of Acronyms

APCO	Air Pollution Control Officer
BACT	Best Available Control Technology
BAAQMD	Bay Area Air Quality Management District
BARCT	Best Available Retrofit Control Technology
CARB	California Air Resources Board
CCAA	California Clean Air Act
CEQA	California Environmental Quality Act
CTG	Control Techniques Guidelines
DCP	Dust Control Plan
FCAA	Federal Clean Air Act
H&S Code	California Health & Safety Code
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
NAAQS	National Ambient Air Quality Standards
NO _x	Oxides of Nitrogen
PM ₁₀	Ultrafine particles with an aerodynamic diameter less than 0.1 micrometers
RACM	Reasonably Available Control Measures
RACT	Reasonably Available Control Technology
SCAQMD	South Coast Air Quality Management District
SIP	State Implementation Plan
SJVUAPCD	San Joaquin Valley Unified Air Quality Management District
SO _x	Oxides of Sulfur
USEPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

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STAFF REPORT

Rule 403– *Fugitive Dust Control*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

In response to the National Ambient Air Quality Standard (NAAQS) designation of the Mojave Desert Air Quality Management District (District) as nonattainment for PM₁₀ (40 CFR 81.305), as well as state nonattainment for PM₁₀ (17 CCR §60205), the District is proposing to amend Rule 403– *Fugitive Dust Control* and also rescind Rules 403.1 – *Fugitive Dust Control for the Searles Valley Planning Area* and Rule 403.2 – *Fugitive Dust Control for the Mojave Desert Planning Area*. This proposed action is intended to further reduce the PM₁₀ entrained in the ambient air as a result of anthropogenic Fugitive Dust sources. The proposed amendment will require sources of PM₁₀ to submit a Dust Control Plan in certain situations and to take actions to prevent, reduce, or mitigate Fugitive Dust by implementing Reasonably Available Control Measures (RACM). The proposed Rule details the prerequisites, exemptions, and requirements for Dust Control Plans. It will also combine, clarify, and compile the requirements of existing fugitive dust Rules 403, 403.1, and 403.2 into a single, comprehensive rule.

A Public hearing on the proposed amendment of Rule 403 and rescission of Rules 403.1 and 403.2 will be held on October 26, 2020 to receive comment from members of industry and the general public. Copies of the proposed amended Rule 403 and rescinded Rules 403.1 and 403.2 and the attendant staff report were made available August 7, 2020 for public comments, and appropriate notices were published on or about September 28, 2020 in compliance with the 30-day notice and comment period requirement.

The District has determined that the proposed Rule will not cause or create significant negative environmental impact. The District has prepared a Notice of Exemption pursuant to California Environmental Quality Act (CEQA) requirements.

Upon adoption, Rule 403 will be forwarded to the United States Environmental Protection Agency (USEPA) for inclusion into the State Implementation Plan (SIP) to maintain the SIP status of previously approved Rule 403, Rule 403.1 (Limited Approval/Limited Disapproval), and submitted Rule 403.2.

III. STAFF RECOMMENDATION

MDAQMD staff recommends that the Governing Board of the MDAQMD conduct a public hearing, make appropriate findings and determinations, certify the Notice of Exemption, and adopt amended Rule 403– *Fugitive Dust Control*, rescind Rules 403.1 – *Fugitive Dust Control for the Searles Valley Planning Area* and 403.2 – *Fugitive Dust Control for the Mojave Desert Planning Area*, and approve the appropriate California Environmental Quality Act (CEQA) documentation. Such actions are necessary to ensure compliance with the Federal Clean Air ACT and CEQA requirements.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendment of Rule 403 – *Fugitive Dust Control* and rescission of Rules 403.1 – *Fugitive Dust Control for the Searles Valley Planning Area* and 403.2 – *Fugitive Dust Control for the Mojave Desert Planning Area*. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

- Necessity
- Authority
- Clarity
- Consistency
- Nonduplication
- Reference
- Public Notice & Comment
- Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- Public Notice & Comment
- Availability of Document
- Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- Public Hearing
- Legal Authority to adopt and implement the document.
- Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION:

- Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- N/A Exemption
- Negative Declaration
- N/A Environmental Impact Report
- Appropriate findings, if necessary.
- Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- Written analysis of existing air pollution control requirements
- N/A Economic Analysis
- Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed amendment of Rule 403 and rescission of Rules 403.1 and 403.2. These are actions that need to be performed and/or information that must be provided in order to amend Rule 403 and rescind Rules 403.1 and 403.2 in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the Governing Board of the MDAQMD is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Governing Board in making these findings.

a. Necessity:

The proposed amendment of Rule 403 and the rescission of Rules 403.1 and 403.2 is necessary to address the USEPA requirement that moderate PM₁₀ non-attainment areas implement RACM for the control of PM₁₀ (42 U.S.C. §§7513a (FCAA §189)). Additionally, former H&S Code §39614(d) (expired by its own terms on January 1, 2011) required the adoption of the most readily available, feasible and cost-effective local control measures for PM as contained on a list developed by CARB. Pursuant to the requirements of H&S Code 39614(i), the District prepared the *Certification of District Measures to Reduce PM Pursuant to Former Health & Safety Code §39614(d)* received and filed with the Governing Board of the MDAQMD on January 27, 2020. The proposed action implements the commitment in this certification to revise Rule 403 and to update and consolidate the requirements of Rules 403, 403.1, and 403.2. This certification also indicates that the applicable CARB Measures were analyzed and determined to be sufficient to meet the CARB provisions for this Rule. Rescission of Rules 403.1 and 403.1 is necessary as the provisions of these rules have been consolidated and incorporated into a single rule, proposed Rule 403, for clarity and ease of use.

b. Authority:

The District has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend, or repeal rules and regulations.

c. Clarity:

The proposed amendments to Rule 403 and the rescission of Rules 403.1 and 403.2 are clear in that they are written so that the persons subject to the rule can easily understand the meaning.

d. Consistency:

The proposed amendments to Rule 403 and the rescission of Rules 403.1 and 403.2 are in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions. The proposed rule is consistent with the requirement that areas designated nonattainment and classified moderate implement RACM for the control of PM₁₀.

e. Non-duplication:

The proposed adoption of Rule 403 and the rescission of Rules 403.1 and 403.2 does not impose the same requirements as any existing state or federal law or regulation because while RACM is required by federal law, and cost-effective PM control was required by former state law, neither provision specified exact measures to be adopted. This action primarily updates and consolidates provisions from Rules 403, 403.1 and 403.2 for clarity and ease of use.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendments to Rule 403 was published September 28, 2020 for the October 26, 2020 meeting. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to United States Environmental Protection Agency (USEPA) are required to include various elements depending upon the type of document submitted and the underlying federal law that requires the submittal. FCAA U.S.C. §7410(a)(1); FCAA §110(a)(1) requires each state to submit an implementation plan (SIP) to ensure attainment of NAAQS for nonattainment pollutants. The MDAQMD is nonattainment for PM₁₀ and submitted Rules 403, 403.1 and 403.2 as part of the planning process. USEPA has indicated that once such rules have been approved, changes to the rules are also required to be SIP

submitted. The information below indicates which elements are required for the proposed amendments to Rule 403 and the rescission of Rules 403.1 and 403.2 and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The FCAA requires areas designated non-attainment and classified moderate and above to implement RACM for the control of PM₁₀ (42 U.S.C. §7513a(a)(1)(C); FCAA §189(a)(1)(C)).

b. Public Notice and Comment:

Notice for the public hearing for the proposed amendments to Rule 403 and the rescission of Rules 403.1 and 403.2 was published September 28, 2020 for the October 26, 2020 meeting. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

c. Availability of Document:

Copies of proposed amended Rule 403 and the accompanying draft staff report was made available to the public on August 14, 2020. Proposed amended Rule 403 was reviewed by the Technical Advisory Committee (TAC), a committee consisting of a variety of regulated industry and local government entities. The TAC reviewed Rule 403 multiple times, most recently on August 26, 2020. Following discussion, with no objections, TAC consensus recommended amendment of Rule 403 for adoption October 26, 2020.

d. Notice to Specified Entities:

Copies of the proposed amendments to Rule 403 and the accompanying draft staff report were sent to all affected agencies. The proposed rule amendments were sent to CARB and USEPA on August 14, 2020.

e. Public Hearing:

A public hearing to consider the proposed amendments to Rule 403 has been set for October 26, 2020.

f. Legal Authority to Adopt and Implement:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations and to do such acts as may be necessary or proper to execute the duties imposed upon the District.

g. Applicable State Laws and Regulations Were Followed:

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Section (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Section (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Section (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Section (V)(D) below for compliance with provisions of the CEQA.

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district.

The FCAA requires areas designated non-attainment for PM₁₀ and classified moderate and above to adopt and maintain RACM rules to control the emissions of PM₁₀ from a variety of sources (42 U.S.C. §7513a(a)(1)(C); FCAA §189(a)(1)(C)). For purposes of the FCAA, portions of the District have been designated both maintenance and nonattainment status for PM₁₀ and classified moderate (40 CFR 81.305).¹

In 2003, the California Legislature enacted H&S Code §39614 (SB 656, Sher), to reduce public exposure to PM₁₀ and PM_{2.5}. H&S Code §39614(d) required the California Air Resources Board (CARB) in consultation with local air pollution control and air quality management districts (air districts), to develop and adopt, by January 1, 2005, a list of the most readily available, feasible, and cost-effective control measures that could be employed by CARB and the air districts to reduce PM₁₀ and PM_{2.5} (collectively PM). On November 18, 2004, CARB adopted Proposed List of Measures to Reduce Particulate Matter – PM₁₀ and PM_{2.5} to satisfy the initial requirements of H&S Code §39614.

H&S Code §39614 also required that by July 31, 2005, air districts to adopt an implementation schedule for the most cost-effective local measures from this list. The MDAQMD prepared the List and Implementation Schedule for District Measures to Reduce PM Pursuant to Health & Safety Code §39614(d) to meet the requirements of H&S Code §39614(d) by analyzing each control measure on the Local PM Measures List.

H&S Code §39614 expired by its own terms on January 1, 2011. Pursuant to the requirements of H&S Code 39614(i), the District prepared a report to show the actions taken by the District to comply with this section. The *Certification of District Measures*

¹ The Searles Valley or Trona area subject to Rule 403.1 met the Federal 24-hour and annual PM₁₀ standard as of December 31, 1994 (67 FR 50805). Subsequently, this area has maintained their attainment of the Federal 24-hour and annual PM₁₀ standard and has not relied on the rule to achieve and maintain its attainment status. Consequently, the provisions of Rule 403.1 are not required to fulfill RACM.

to Reduce PM Pursuant to Former Health & Safety Code §39614(d) was received and filed with the Governing Board of the MDAQMD on January 27, 2020. This certification indicated that the District was proposing to revise Rule 403 to update and consolidate the requirements of Rules 403, 403.1, and 403.2. The current action proposed to amend Rule 403– *Fugitive Dust Control*, and rescind Rules 403.1 – *Fugitive Dust Control for the Searles Valley Planning Area* and 403.2 – *Fugitive Dust Control for the Mojave Desert Planning Area*. The proposed action implements the commitment in the PM Certification. This certification also indicates that the applicable CARB Measures were analyzed and determined to be sufficient to meet the requested provisions for this Rule.

C. ECONOMIC ANALYSIS

1. General

42 U.S.C. §7513a(a)(1)(C); FCAA §189(a)(1)(C) requires PM₁₀ nonattainment areas to submit nonattainment plans which implement RACM. RACM means the control technology which enables a particular fugitive dust source to achieve the lowest particulate matter emission level possible and which is reasonably available considering technological feasibility and cost-effectiveness. The *Mojave Desert Planning Area Federal Particulate Matter (PM10) Attainment Plan* (July 31, 1995) includes RACM strategies and describes how they are implemented in existing District rules. The proposed adoption incorporates provisions from existing District rules, and updates and extends existing rule provisions to sources that were not significantly present in the District at the time the plan was adopted. The primary addition to the rule is a Dust Control Plan requirement for additional sources. The DCP filing and evaluation fees are \$634 effective January 1, 2020. Other clarified and additional provisions generally represent management practices already implemented by affected sources and minimal costs, if any, are expected from these provisions.

The fees for these measures was analyzed in §(VI)(G) of the *Draft Staff Report Proposed Amendments to Rule 301 – Permit Fees, Rule 302 – Other Fees, and Rule 3030 – Hearing Board Fees*, August 24, 2020.

2. Incremental Cost Effectiveness

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act (CCAA) requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds (VOCs), oxides of nitrogen (NO_x) or oxides of sulfur (SO_x). The amendment of Rule 403 is not subject to incremental cost effectiveness calculations because it does not involve BARCT or “all feasible measures.”

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed adoption of Rule 403 and the rescission of Rule 403.1 and 403.2 was determined.

1. The proposed adoption of Rule 403 and the rescission of Rules 403.1 and 403.2 meets the CEQA definition of “project.” They are not “ministerial” actions.

2. The proposed adoption of Rule 403 and the rescission of Rules 403.1 and 403.2 is exempt from CEQA review because the proposed amendments and rescissions will not create any adverse impacts on the environment. The update and consolidation of Rule 403 and the rescission of Rule 403.1 and 403.2 require additional sources to submit a DCP which will help reduce PM. There are additional provisions for upwind and downwind PM monitoring and DCPs for solar facilities. Because there is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D”.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

There are no potential adverse environmental impacts of compliance with the adoption of Rule 403 and the rescission of Rules 403.1 and 403.2. Proposed Rule 403 includes more stringent applicability and requirements.

2. Mitigation of Impacts

N/A.

3. Alternative Methods of Compliance

N/A.

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B.”

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

Rule 403 has been amended to combine and clarify the requirements of existing fugitive dust Rules 403, 403.1, and 403.2 into a single, comprehensive rule. The provisions are largely the same as the existing Rules, with the addition of requirements for solar projects (§C)(9)), and expanding the requirement for sources required to submit a DCP. This rule applies to any project or facility capable of generating fugitive dust, including but not limited to a project or facility with a Disturbed Surface Area of at least twenty acres, Residential Construction/Demolition Activity with a Disturbed Surface Area of at least ten acres, Non-residential Construction/Demolition Activity with a Disturbed Surface Area of at least five acres, Bulk Material moving, deposition, or relocating operations involving more than 2,500 cubic yards per day of Bulk Materials on at least three days,

Solar Projects capable of generating at least one megawatt of electrical energy or covering at least one acre, Heavily-Traveled unpaved roads used for industrial activity, and any other project or facility where visible fugitive dust beyond the property line of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public, or so designed by the Air Pollution Control Officer (APCO). This Rule also applies to the Owner/Operator of Disturbed Surface Areas.

B. EMISSIONS

The adoption of Rule 403 and the rescission of Rules 403.1 and 403.2 does not cause the release of additional air contaminants or create any environmental impacts.

C. CONTROL REQUIREMENTS

Please see section (C) of the rule (Appendix A) for control requirements.

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Rule 403– *Fugitive Dust Control*.

Rule 403– *Fugitive Dust Control* is proposed for amendment to better outline the requirements and applicability of Dust Control Plans to be implemented in the District’s fugitive dust Rules. It will also revise, clarify, and consolidate the requirements of existing fugitive dust Rules 403, 403.1, and 403.2 into a single, comprehensive rule.

Rule 403 is formatted to normal District conventions, with sections for: General; Definitions; Requirements; Dust Control Plans; Exemptions; Recordkeeping; Compliance Schedule; and, Contingency Measures. Proposed Rule 403 combines and clarifies the requirements of existing fugitive dust Rules 403, 403.1, and 403.2 into a single, comprehensive rule. Rules 403.1 and 403.2 are proposed for rescission.

Section (A) – Purpose and Applicability are specified. Solar projects capable of generating at least one megawatt of electrical energy or covering at least one acre has been added.

Section (B) – Definitions specific to this rule are included. General rules with broad applicability are contained in Rule 102 – *Definition of Terms*.

Section (C) – Requirements have generally been moved and modified from Rules 403.1 and 403.2. (C)(9) has been added as new language applicable to Solar Projects. Solar projects will be required to submit a DCP and maintain upwind and downwind samplers at the property line.

Section (D) – The requirement for DCPs has been clarified and expanded.

Section (E) – Provisions moved and updated form Rules 403.1 and 403.2. Several exemptions have been added for clarification and necessary operations.

Section (F) – Records to be maintained for two years, including DCPs.

Section (G) – Compliance schedule has been modified to reflect date of rule amendment.

Section (H) – Contingency measures included from Rules 403.1 and 403.2.

E. SIP HISTORY

1. SIP History

a. SIP in the San Bernardino County Portion of MDAQMD

On July 1, 1993 the MDAQMD was formed pursuant to statute. Pursuant to statute it also retained all the rules and regulations of the San Bernardino County Air Pollution Control District (SBCAPCD) until such time as the Governing Board of the MDAQMD wished to adopt, amend or rescind such rules. The Governing Board of the MDAQMD, at its very first meeting, reaffirmed all the rules and regulations of the SBCAPCD. Rule 403 was first adopted by the Southern California Air Pollution Control District (a predecessor agency to the SBCAPCD and MDAQMD) on May 7, 1976, and approved in the SIP at 40 CFR 52.220(c)(32)(iv)(A) on June 14, 1978 (43 FR 25684). After the creation of the South Coast Air Quality Management District (SCAQMD) on February 1, 1977, Rule 403 was then re-adopted by CARB via Executive Order G-73 of 1977 for the San Bernardino County APCD (Southeast Desert Portion) outside the boundaries of the newly created SCAQMD on February 1, 1977, which was approved into the SIP at 40 CFR 52.220(c)(39)(ii)(C) on September 8, 1978 (43 FR 40011). It was again re-adopted by the SBCAPCD on July 25, 1977 and submitted to USEPA but no action was taken.

Subsequently, The Governing Board of the MDAQMD adopted Rule 403.1 – *Respirable Particulate Matter in SVPA* on June 22, 1994. It was later amended and renamed as Rule 403.1 – *Fugitive Dust Control for SVPA* on July 31, 1995, and again amended on November 25, 1996. This version was approved into the SIP with a Limited Approval/Disapproval on August 13, 2009 (74 FR 40750).

In addition, the Governing Board of the MDAQMD adopted Rule 403.2 – *Fugitive Dust Control for the MDPA* on July 22, 1996. It was submitted as a SIP revision on October 18, 1996, but no action was taken by USEPA.

b. SIP in the Riverside County (Blythe/Palo Verde Valley) Portion of the MDAQMD

One of the provisions of the legislation creating the MDAQMD allowed areas contiguous to the MDAQMD boundaries and within the same air basin to leave their current air district and become a part of the MDAQMD. On July 1, 1994 the area commonly known as the Palo Verde Valley in Riverside County, including the City of Blythe, left SCAQMD and joined the MDAQMD. Since USEPA adopts SIP revisions in California as effective within the jurisdictional boundaries of local air districts, when the local boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Upon annexation of the Blythe/Palo Verde Valley the MDAQMD acquired the SIP prior to July 1, 1994 that was effective in the Blythe/Palo Verde Valley. Therefore, the SIP history for the Blythe/Palo Verde Valley Portion of the MDAQMD is based upon the rules adopted and approved for that portion of Riverside County by SCAQMD.

Rule 403 – *Fugitive Dust* was adopted May 7, 1976 by the Southern California Air Pollution Control District (a predecessor agency to the SCAQMD) on May 7, 1976, and approved in the SIP at 40 CFR 52.220(c)(32)(iv)(A). It was then re-adopted by CARB via Executive Order G-73 of 1977 for the portion of Riverside County outside the boundaries of the newly created SCAQMD, which was approved into the SIP at 40 CFR 52.220(c)(39)(iv)(C) on September 8, 1978 (43 FR 40011). Thereafter Riverside County “opted in” to include the non-South Coast Air Basin areas of the county within SCAQMD. On December 1, 1977 USEPA replaced all Riverside County rules in the SIP with SCAQMD Rules via a textual notation on June 9, 1982 (47 FR 25013). SCAQMD subsequently amended Rule 403 on November 6, 1992 and July 9, 1993. USEPA does not appear to have acted on either the November 6, 1992 or the July 9, 1993 version so the version of Rule 403 in effect for the Riverside County portion of the MDAQMD is the G-73 version of February 1, 1977.

SCAQMD first adopted Rule 403.1 – *Wind Entrainment of Fugitive Dust* on January 15, 1993 (SCAQMD Rule 403.1 is now *Supplemental Fugitive Dust Control Requirements for Coachella Valley Sources*). The approval of this Rule (63 FR 67784, December 9, 1998) was not applicable to the Riverside County portion of the MDAQMD since USEPA’s action was taken after the July 1, 1994 inclusion of the Palo Verde Valley inclusion in the MDAQMD.

Since the Blythe/Palo Verde Valley area of Riverside County became part of the MDAQMD on July 1, 1994 the June 22, 1994 of MDAQMD Rule 403.1 – *Respirable Particulate Matter in SVPA* was not effective either by its own terms or by operation of law in that area. The amendment of MDAQMD Rule 403.1 – *Fugitive Dust Control for SVPA* on July 31, 1995 and November 25, 1996 while technically applicable are not, by their own terms, effective within the Riverside County portion of the MDAQMD.

Rule 403.2 – *Fugitive Dust Control for the MDPA* as adopted on July 22, 1996 likewise is technically applicable but not, by its own terms effective within the Riverside County portion of the MDAQMD. Rule 403.2 was sent to USEPA for inclusion in the SIP on October 18, 1996 but no action was taken.

2. SIP Analysis

Rule 403 as adopted on February 1, 1977 was submitted and approved for both the San Bernardino and Riverside County portions of the MDAQMD. Rule 403.1 as amended on November 25, 1996 was submitted and given Limited Approval/Limited Disapproval for both the San Bernardino and Riverside County portions of the MDAQMD. Rule 403.2 as adopted on July 22, 1996 was submitted though never acted on by USEPA.

The District will request CARB to submit the current amended version of Rule 403 for the San Bernardino County portion of the MDAB and for the Blythe/Palo Verde Valley portion of Riverside County while rescinding Rule 403.1 and 403.2. The District also requests removal of all prior versions of Rule 403 from the Blythe/Palo Verde Valley portion of the MDAQMD, and that the Region IX SIPs webpage be updated to reflect the appropriate SIP information.

The MDAQMD is specifically requesting that CARB submit this action as a SIP revision along with a request that USEPA take the following actions:

- a. Approve the October 26, 2020 version of Rule 403 as a part of the SIP for the entire jurisdiction of the MDAQMD.
- b. Withdraw any outstanding submittals of Rules 403, 403.1 403.2 for the MDAQMD.
- c. Remove the Southern California Air Pollution Control District version of Rule 403 as listed at 40 CFR 52.220(c)(32)(iv)(A) from the SIP for both the Desert portion of San Bernardino County within the MDAQMD and the portion of Riverside County within the MDAQMD
- d. Remove the CARB Executive Order G-73 of 1977 of Rule 403 from the SIP for the Desert portion of San Bernardino County within the MDAQMD as listed at 40 CFR 52.220(c)(39)(ii)(B).

- e. Remove the CARB Executive Order G-73 of 1977 of Rule 403 from the SIP for the portion of Riverside County within the MDAQMD as listed at 40 CFR 52.220(c)(39)(ii)(C).
- f. Remove any remaining versions of Rule 403 which were adopted or amended by SCAQMD after the USEPA replaced all Riverside County rules in the SIP with SCAQMD Rules via a textual notation on June 9, 1982 (47 FR 25013) and acted upon by USEPA prior to July 1, 1994 from the SIP for the portion of Riverside County within the MDAQMD.
- g. Remove the MDAQMD 1996 version of Rule 403.1 as listed at 40 CFR 52.220(c)(224)(i)(C)(2) from the SIP.
- h. Update the Region IX SIP webpage to reflect the above actions.

Appendix “A”
Rule 403 – *Fugitive Dust Control* Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.
4. [*Bracketed italicized text*] is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

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Rule 403

Fugitive Dust Control

(A) General

(1) Purpose

- (a) The purpose of this rule is to reduce the amount of PM₁₀ entrained in the ambient air from anthropogenic Fugitive Dust sources within the District by requiring actions to prevent, reduce, or mitigate Fugitive Dust.

(2) Applicability

- (a) This Rule shall apply to the following Active Operations:
- (i) A project or facility with a Disturbed Surface Area of at least twenty acres (including Mining, Stone, Asphalt, and Clay Facilities); *[Moved from 403.1(C)(4)]*
 - (ii) Residential Construction/Demolition Activity with a Disturbed Surface Area of at least ten (10) acres; *[Moved and modified from 403.1(A)(2)(a)(iii), 403.2(C)(2), 403.2(C)(3),]*
 - (iii) Non-residential Construction/Demolition Activity with a Disturbed Surface Area of at least five (5) acres; *[Moved and modified from 403.1(A)(2)(a)(iii), 403.2(C)(2), 403.2(C)(3),]*
 - (iv) Moving, depositing, or relocating more than 2,500 cubic yards per day of Bulk Materials on at least three consecutive days; *[403.1(C)(2), 403.2(C)(5), 403.2(C)(6),]*
 - (v) Solar Projects capable of generating at least one (1) megawatt of electrical energy or covering at least one (1) acre;
 - (vi) Heavily-Traveled unpaved roads used for industrial activity; and *[403.1(A)(2)(a)(i)-(ii)]*
 - (vii) Any other project or facility where visible fugitive dust beyond the property line of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public, or so designated by the APCO.
- (b) In addition, this Rule also applies to the Owner/Operator of Disturbed Surface Areas. *[403.1(A)(2)(vi)]*

(B) Definitions

The definitions contained in District Rule 102 – *Definition of Terms* shall apply unless the term is otherwise defined herein:

- (1) “Active Operation” – Activity capable of generating Fugitive Dust, including, but not limited to: Bulk Material storage, handling and processing; Earth-Moving Activity; Construction/Demolition Activity; and movement of vehicles on Unpaved roads, unpaved access areas, unpaved traffic areas, disturbed surface areas, and unpaved equipment storage areas. [taken from 403.1(A)(2), though 403.1(A)(2) is more specific]
- (32) “Bulk Material” – Sand, gravel, soil, aggregate, and any other organic or inorganic solid matter capable of releasing Fugitive Dust when stored, disturbed, or handled, and is generally un-packaged. [Derived from El Dorado AQMD Rule 223]
- (43) “Construction/Demolition Activity” – Any on-site mechanical activity preparatory to or related to building, altering, rehabilitating, demolishing, or improving property that results in Disturbed Surface Area, including, but not limited to, the following activities: grading; excavation; loading; crushing; cutting; planing; shaping; or ground breaking. [Derived from 403.2(B)(7)]
- (54) “Disturbed Surface Area” – Portion of the earth’s surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition, thereby increasing the potential for emission of Fugitive Dust. Does not include areas restored to a natural state with vegetative ground cover and soil characteristics similar to adjacent or nearby natural conditions; paved or otherwise covered by a permanent structure; and sustained a vegetative ground cover over at least 70 percent of an area for period of at least six months. Includes projects with planned or forecasted disturbances. [Derived from 403.2(B)(6) and added with El Dorado AQMD Rule 223(J)]
- (65) “Dust Control Plan” (DCP) – A document that describes what fugitive dust control measures will be taken for the full duration of a project to comply with this Rule.
- (76) “Earth-Moving Activity” – The use of any equipment for any activity where soil is being moved or uncovered, and shall include, but is not limited to the following: grading, earth cutting and filling, loading or unloading of dirt or other Bulk Materials, adding to or removing from Open Storage Piles of Bulk Materials, landfilling, and soil mulching. [Derived from 403.2(B)(7) but combined with language/format of SCAQMD Rule 403.1(c)(12)]
- (87) “Fugitive Dust” – Any solid particulate matter that becomes airborne, without first passing through a stack or duct, directly or indirectly as a result of anthropogenic activities. [Derived from El Dorado AQMD Rule 223(223.2)(N)]

- (98) “Heavily-Traveled” – Typically carrying more than 800 vehicle trips per day. [Derived from 403.2(B)(14)]
- (109) “High Winds” – When the wind speed instantaneously exceeds 40 kilometers (25 miles) per hour, or when the average wind speed is greater than 24 kilometers (15 miles) per hour. The average wind speed determination shall be on a 15-minute average at the nearest District-approved meteorological station. [taken from 403 (e)]
- (110) “Hygroscopic Materials” – Any materials that are readily capable of absorbing moisture from the air. Chemical/organic stabilization/suppression materials control PM₁₀ emissions from fugitive dust by applying any non-toxic chemical or organic dust suppressant, other than water, which meets any specifications, criteria, or tests required by any federal, state, or local water agency and is not prohibited for use by any applicable law, rule, or regulation.
- (121) “Mining, Stone, Asphalt, and Clay Facilities” – Any company, business, facility, process, or operation which uses or processes crustal materials including stone, asphalt and clay materials and is classified under Standard Industrial Classification (SIC) 10, 14, 29, and 32.
- (132) “Open Storage Pile” – Any accumulation of Bulk Material not fully enclosed, covered, or chemically Stabilized with five percent (5%) or greater Silt content. Pile Silt content shall be assumed to be five percent (5%) or greater, unless a person can show, by sampling and analysis in accordance with ASTM method C-136 or other equivalent method approved in writing by the APCO and the California Air Resources Board, that the Silt content is less. ~~The results of ASTM Method C-136 or equivalent method are valid for 60 days from the date the sample was taken.~~ [Reworded version of 403.1(B)(13). Language removed pursuant to comment of 10/8/20 from cement industry.]
- (143) “Paved Road” – An improved street, highway, alley, public way, or easement that is covered by typical roadway materials excluding access roadways that connect a facility with a public Paved Road and are not open to through traffic. Public Paved Roads are those open to public access and that are owned by any federal, state, county, municipal, or any other governmental or quasi-governmental agencies. Private Paved Roads are any paved Roads not defined as public. [derived from El Dorado AQMD 223(223.3)(W)]
- (154) “Publicly Maintained” – Under the jurisdiction of, physically maintained by, and owned by Federal, State, county, municipal, or other governmental or quasi-governmental agencies. [variation on 403.2 definition w/ SCAQMD terminology]
- (165) “Road Surface Silt Loading” – A measurement of the amount of loose material accumulated on a road surface in terms of weight of material per unit area. For the purposes of this Rule, Road Surface Silt Loading shall be calculated in ounces of silt per square yard and be determined by sweeping or vacuuming at least 5

pounds of material from representative strips of known area of the surface and establishing the 75 micrometers or silt fraction through the use of a No. 200 sieve (USEPA AP-42 “Compilation of Air Pollutant Emission Factors” Section 11.2.6, ASTM Standard D-75 “Standard practice for Sampling Aggregates,” and ASTM Standard C-136 “Sieve Analysis of Fine and Course Aggregates”). [Expanded from 403.1(B)(18)]

- (176) “Silt” – Any aggregate material with a particle size less than 75 micrometers in diameter which passes through a No. 200 sieve. [Reworded from SCAQMD 1158(c)(30)]
- (187) “Stabilize” – To reduce the Visible Fugitive Dust generating capability of a surface by paving, chemically treating, watering, or compacting. For purposes of this definition, a surface with a Visible Crust is deemed Stabilized. Chemical treatment must be performed with a non-toxic chemical dust suppressant substance not disapproved for such use by the applicable Regional Water Quality Control Board, the California Air Resources Board, the United States Environmental Protection Agency, or any applicable law, rule, or regulation, and should moreover meet any specifications, criteria, or tests required by any federal, state, or local water agency. [updated with El Dorado AQMD 223]
- (198) “Trackout” – Visible Bulk Material deposited upon public roadways as a result of Active Operations, including any Bulk Material that adheres to and agglomerates on the exterior surface of motor vehicles, haul trucks, and equipment (including tires) that have been released onto a Paved Road and can be removed by a vacuum sweeper or a broom sweeper under normal conditions. [403.2(B)(30) with addition from SCAQMD 403(c)(32)]
- (2019) “Unpaved” – Not covered by one or more of the following: concrete, asphaltic concrete, recycled asphalt, or asphalt. 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. This definition excludes horse trails, hiking paths, bicycle paths, or other similar pathways used exclusively for purposes other than travel by motorized vehicles. [updated from SCAQMD 1186 – PM₁₀ Emissions from Paved and Unpaved Roads and Livestock Operations]
- (240) “Visible Crust” – Having a surface that “passes” the dropped ball test method pursuant to Attachment C of this Rule.
- (221) “Visible Fugitive Dust” – Dust emissions from a fugitive source as dark as or darker in shade than that shade designated No. 1 on the Ringelmann Chart or equivalent, as published by the United States Bureau of Mines, or of equivalent opacity, for a period or periods aggregating more than three (3) minutes in any one (1) hour. [403.2(B)(33)]

(C) Requirements

- (1) Any person shall not cause or allow the emissions of fugitive dust from any transport, handling, construction or storage activity so that the Visible Fugitive Dust remains visible in the atmosphere beyond the property line of the emission source, except during High Winds. [403] [Moved and modified from 403.2(C) specifies how to comply with this Rule, but DCP allows flexibility in compliance]
- (2) A person shall take every reasonable precaution to minimize fugitive dust emissions from wrecking, excavation, grading, clearing of land, and solid waste disposal operations.
- (3) A person shall not cause or allow PM₁₀ to exceed 100 micrograms per cubic meter when determined as the difference between upwind and downwind samples collected on federal reference method samplers at the property line for a minimum of five hours, except during High Winds. Installation of samplers or monitors to determine compliance with this subsection shall be required at the APCO's discretion.
- (4) Cities, Towns, and the County of San Bernardino shall collectively: [403.2(C)(4)]
 - (a) Stabilize sufficient Publicly Maintained Heavily Traveled Unpaved Roads to reduce fugitive dust entrainment and wind erosion by at least 1,541 tons per year of PM₁₀ emissions relative to 1990.
- (5) The Owner/Operator of a site undergoing weed abatement activity shall not: [403.2(C)(5)]
 - (a) Disrupt the soil crust to the extent that Visible Fugitive Dust is created due to wind erosion.
- (6) The Owner/Operator of any Construction/Demolition activities subject to this Rule in accordance with Subsection (A)(2) of this Rule shall: [403.2(C)(2)]
 - (a) Obtain and maintain a District-approved Dust Control Plan as set forth by Section (D) of this Rule; and
 - (b) Use periodic watering for short-term stabilization of Disturbed Surface Area to minimize visible fugitive dust emissions. For the purposes of this Rule, use of a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes shall be considered sufficient to maintain compliance; and
 - (c) Take actions sufficient to prevent project-related Trackout onto paved surfaces; and

- (d) Cover loaded haul vehicles while operating on Publicly Maintained paved surfaces; and
- (e) Stabilize graded site surfaces upon completion of grading when subsequent development is delayed or expected to be delayed more than thirty days, except when such delay is due to precipitation that dampens the disturbed surface sufficiently to eliminate Visible Fugitive Dust emissions; and
- (f) Cleanup project-related Trackout or spills on Publicly Maintained paved surfaces within twenty-four hours; and
- (g) Reduce non-essential Earth-Moving Activity under High Wind conditions. For purposes of this Rule, a reduction in Earth-Moving Activity when visible dusting occurs from moist and dry surfaces due to wind erosion shall be considered sufficient to maintain compliance; and
- (h) Maintain the natural topography to the extent possible during grading and other earth movement; and [403.1(C)(3)]
- (i) Provide a construction schedule that specifies construction of parking lots and paved roads first, where feasible, and upwind structures prior to downwind structures; and [403.1(C)(3)]
- (j) Cover or otherwise contain Bulk Material carried on haul trucks operating on paved roads; and [403.1(C)(3)]
- (k) Remove Bulk Material tracked onto paved road surfaces. [403.1(C)(3)]
- (7) In addition to the provisions of subsections (C)(6) of this Rule, the Owner/Operator of a Construction/Demolition source disturbing 10 or more acres shall: [403.2(C)(3)]
 - (a) Provide Stabilized access route(s) to the project site as soon as is feasible. For purposes of this Rule, as soon as is feasible shall mean prior to the completion of Construction/Demolition activity;
 - (b) Maintain natural topography to the extent possible;
 - (c) Construct parking lots and paved roads first, where feasible; and
 - (d) Construct upwind portions of project first, where feasible;
- (8) The Owner/Operator of a Mining, Stone, Asphalt, and/or Clay Facility shall: [403.2(C)(6)]
 - (a) Obtain and maintain a District-approved Dust Control Plan as set forth by Section (D) of this Rule; and

- (b) Stabilize industrial Unpaved Roads carrying more than ten vehicle trips per day with the majority of those vehicles weighing 30 tons or more;
- (c) Enclose exterior belt conveyors sufficiently to cover the top and sides of the Bulk Material being transferred (including portable belt conveyors where feasible), or employ an alternate suppression system sufficient to prevent Visible Fugitive Dust;
- (d) Manage or treat Bulk Material Open Storage Piles sufficiently to prevent Visible Fugitive Dust emissions. For purposes of this Rule, active watering during visible dusting episodes shall be sufficient to maintain compliance;
- (e) Cover loaded Bulk Material haul vehicles while traveling upon publicly maintained paved surfaces. For the purposes of this Rule, maintain at least six (6) inches of freeboard on haul vehicles when transporting Bulk Material (equivalent to the vehicle freeboard requirements of the California Vehicle Code (§23114)); [SCAQMD Rule 403 Table 1 Control Measure]
- (f) Employ a dust suppression system at Bulk Material transfer points sufficient to prevent Visible Fugitive Dust;
- (g) Stabilize or eliminate Bulk Material Open Storage piles that have been or are expected to be inactive for at least one (1) year;
- (h) Stabilize as much unpaved operations area as is feasible;
- (i) Vacuum sweep Bulk Material spills on paved surfaces weekly or more often, as needed;
- (j) Prevent facility-related Bulk Material Trackout on Publicly Maintained paved surfaces;
- (k) Clean up facility-related Bulk material Trackout and spills on Publicly Maintained roads within twenty-four hours; and
- (l) Employ belt cleaners and/or conveyor return scrapers to minimize conveyor spillage where feasible (including portable conveyor belts).
- (9) The Owner/Operator of any Solar Project subject to this Rule in accordance with Subsection (A)(2) of this Rule shall:
 - (a) Obtain and maintain a District-approved Dust Control Plan as set forth by Section (D) of this Rule; and
 - (b) Not cause or allow PM₁₀ to exceed 100 micrograms per cubic meter when determined as the difference between upwind and downwind samples

collected on federal reference method samplers at the property line for more than four (4) hours in any consecutive 24 hours, except during High Winds.

A written request to remove said monitors may be sent to the APCO after thirty-six consecutive months of data demonstrate compliance, and subsequently removed upon APCO approval of such written request.

(10) Searles Valley Minerals or its successor shall comply with the following requirements: [403.1(C)(2)]

(a) Obtain and maintain a District-approved Dust Control Plan as set forth by Section (D) of this Rule; and

(b) Treat and maintain a minimum of 12 miles of heavily traveled unpaved roads on Searles Dry Lake in a manner sufficient to maintain Road Surface Silt Loading less than or equal to 0.58 ounces per square yard:

(i) For purposes of this subsection, weekly brackish watering of non-Heavily Traveled Searles Dry Lake unpaved roads is presumed to be sufficient to maintain Road Surface Silt Loadings less than or equal to 0.58 ounces per yard.

(ii) Searles Valley Minerals or its successor shall maintain records of treatment activity sufficient to establish location, type, and timing of such treatment.

(c) Treat and maintain a minimum of eight (8) miles of heavily traveled unpaved roads on the Searles Dry Lake, in a manner sufficient to maintain Road Surface Silt Loading less than or equal to 0.17 ounces per square yard. [403.1(C)(2)]

(i) For the purposes of this subsection, treatment with salt and weekly brackish watering is sufficient to maintain Road Surface Silt Loadings less than or equal to 0.17 ounces per square yard.

(ii) Searles Valley Minerals or its successor shall maintain records of treatment activity sufficient to establish location, type, and timing of treatment.

(d) Clean paved roads used for industrial activity on a biweekly basis or more often as needed to ensure that spilled and tracked-on Bulk material is removed rapidly. [403.1(C)(2)]

(i) Searles Valley Minerals or its successor shall maintain records of cleaning activities sufficient to establish location, time, and amount of cleaning activities.

- (e) Treat or clean heavily traveled paved roads and areas used for industrial activity in a manner sufficient to maintain Road Surface Silt Loading less than or equal to 2.94 ounces per square yard. [403.1(C)(2)]
 - (i) For purposes of this subsection, mechanical sweeping, and collection on a biweekly basis is sufficient to maintain Road Surface Silt loadings less than or equal to 2.94 ounces per square yard.
 - (ii) Searles Valley Minerals or its successor shall maintain records of mechanical sweeping and collection sufficient to establish location, time, and amount of vacuum sweeping.
- (f) Enclose exterior belt conveyors greater than thirty ~~(30)~~ feet in length sufficient to cover the top and sides of Bulk Material being transferred.
- (g) Permanently eliminate at least 2,750 square feet of Bulk Material storage pile surface area that was exposed during 1990:
 - (i) Searles Valley Minerals or its successor shall maintain records of storage pile reduction or limitation shall be maintained sufficient to identify the location, type (including storage pile silt content) and timing of storage pile modification.
- (h) Cover or otherwise contain Bulk Material carried on haul trucks while operating on paved roads:
 - (i) Fly and bottom ash haul trucks maintaining the moisture content of at least 12 percent need not be covered.
- (i) Treat and maintain ~~H~~heavily ~~T~~raveled ~~U~~npaved/~~P~~paved ~~R~~oad access points in a manner sufficient to maintain a Road Surface Silt loading of 2.94 ounces per square yard on the ~~P~~paved ~~R~~oad surface adjacent to the ~~U~~npaved ~~R~~oad:
 - (i) For purposes of this subsection, mechanical sweeping and collection on a biweekly basis is sufficient to maintain Road Surface Silt loadings less than or equal to 2.94 ounces per square yard.
 - (ii) Searles Valley Minerals or its successor shall maintain records of activities performed to maintain the specified Road Surface Silt Loading sufficient to establish location, time, and type of treatment.

(D) Dust Control Plans [this entire subsection is adapted from never-released 403.3] [covers provisions of 403.1(C)(3)-(4)]

- (1) Any Owner/Operator required by Section (C) above or as directed by the APCO in writing shall obtain and maintain a District-approved Dust Control Plan (DCP).
- (2) The Owner/Operator shall submit a DCP as per Attachment A of this Rule to the APCO prior to the start of any Active Operations. An Owner/Operator may submit one (1) DCP covering multiple projects/facilities/sites at different sites where Active Operations will commence within the next 12 months provided the DCP includes each project/facility/site size, location, and types of activities to be performed. The DCP shall specify the expected start and completion date of each project.
- (3) The Owner/Operator shall install and maintain project/facility/site signage that meets the minimum standards of Attachment B prior to the start of any Active Operations.
- (4) Active Operations shall not commence until the APCO has approved the DCP.
- (5) The APCO shall approve, disapprove, or conditionally approve the DCP within ten days of DCP submittal. The approved DCP shall remain valid until the termination of all Active Operations. Failure to comply with the provisions of an approved DCP is deemed to be a violation of this rule.
- (6) The Owner/Operator shall submit a copy of the DCP approval to the land use agency upon request.
- (7) The Owner/Operator shall provide written notification to the APCO not less than ten days prior to the commencement of Active Operations via delivery, facsimile, mail or confirmed email. Prior to the start of any Active Operations, the Owner/Operator must meet with a District staff on-site to review DCP requirements and confirm compliance with this rule.
- (8) The Owner/Operator must notify the District within ten days if a significant change occurs to the project/facility/site or operations covered by the DCP. An appropriately modified DCP must be submitted to the District within thirty days of the change.
- (9) An approved DCP shall be valid for a period of one (1) year from the date of approval of the DCP. DCPs must be resubmitted annually to recertify the measures included in the DCP, at least sixty days prior to the expiration date, or the DCP shall become disapproved as of the expiration date. If all Fugitive Dust sources and corresponding control measures or special circumstances remain identical to those identified in the previously approved DCP, the resubmittal may contain a simple statement of 'no change', in which case all corresponding resubmittal fees shall be waived.
- (10) The Owner/Operator shall notify the APCO in writing within thirty days after a project/facility/site no longer qualifies as an Active Operation.

(11) Any person subject to a Dust Control Plan requirement shall be assessed the following fees that must be paid in full for the Dust Control Plan to be processed and approved:

- (a) Any person subject to a Dust Control Plan submittal pursuant to this Rule shall be assessed applicable filing and evaluation fees pursuant to Regulation III - Fees.
- (b) The submittal of an annual statement of 'no change,' pursuant to this Rule, shall not be subject to filing fees pursuant to Regulation III - Fees.
- (c) The performance of a DCP site inspection or DCP site stability inspection will incur inspection fees pursuant to Regulation III - Fees.

(12) Failure to comply with any provisions in an approved or conditionally approved Dust Control Plan shall be a violation of this Rule. [403.1(G)(6)]

[403.1's ACP not included in the DCP flowchart, also similar requirements to DCP, hence the exclusion]

(E) Exemptions

(1) The requirements of this Rule shall not apply to:

- (a) Agricultural Operations, as defined by California Health & Safety Code §41074(b), including such operations on Unpaved Roads; [403(f)]
- (b) Construction/Demolition projects disturbing less than one-half total acre or 21,780 square feet; [403.2(D)(1)(d)]
- (c) Active Operations required by federal or state endangered species legislation, rule, policy or biological opinion, or any Active Operation, Open Storage Pile, or Disturbed Surface Area for which necessary Visible Fugitive Dust preventive or mitigative actions are in conflict with the Federal Endangered Species Act (50 CFR §402.01); [modified from El Dorado AQMD 223(223.2)(E)]
- (d) Active Operations conducted during emergency life-threatening situations, or in conjunction with any officially (by local, regional, state or federal government) declared disaster or state of emergency; [modified from El Dorado AQMD 223(223.2)(B)]
- (e) Active Operations conducted by essential service utilities to provide electricity, natural gas, telephone, water and sewer services during periods of unplanned service outages and emergency disruptions; [taken from El Dorado AQMD 223(223.2)(C)]

- (f) Non-periodic (occurring no more than three (3) times per year and lasting less than thirty cumulative days per year) or emergency maintenance of flood control channels and water spreading basins; [403.2(D)(1)(g)]
- (g) Emergency fire suppression operations ordered, performed or sanctioned by Federal, state, or local government (including, but not limited to, creation of fuel breaks); [403.2(D)(1)(i)]
- (h) The removal of debris due to storms, earthquakes, or other emergency situations.
- (i) APCO-approved motion picture, television, and video production activities when dust emissions are required for visual effects. In order to obtain this approval, the APCO must receive notification in writing at least 72 hours in advance of any such activity. [modified from SCAQMD 403(g)(4)(B)]
- (j) Officially-designated public parks and recreational areas, including national parks, national monuments, national forests, state parks, state recreational parks, and county regional parks. [modified from SCAQMD 403(g)(7)(A)]
- (k) Paved and Unpaved roads under the jurisdiction of and maintained by a public authority and open to public travel. [403(a)]
- (l) Activities within the fence line of Edwards Air Force Base, China Lake Naval Air Weapons Station, National Training Center Fort Irwin, Marine Corps Logistics Base, Marine Corps Air Ground Combat Center (or any other military installation so designated by the APCO), so long as those activities do not create Visible Fugitive Dust beyond the fence line.
- (m) Weed abatement operations disturbing less than one (1) acre on a lot that includes a residence; [403.2(D)(1)(m)]
- (n) Dust generated by mowing performed for weed abatement purposes; [403.2(D)(1)(n)]

(F) Record Keeping

- (1) The Owner/Operator of an Active Operation shall maintain the following records (as applicable) on site, or readily accessible, for at least two (2) years after the date of each entry (or through the completion of the project). Such records shall be provided to the District upon request:
 - (a) The District-approved DCP; and,

- (b) Supporting documents to demonstrate compliance with the requirements of this Rule only for those days that a control measure was implemented, such as operational records, information regarding operations, source tests, laboratory analyses, monitoring data, and other appropriate information in a manner and form sufficient in demonstrating compliance with the DCP. [taken from 403.1(G)(5)(a)]

(G) Compliance Schedule

- (1) All Active Operations subject to this Rule existing as of ~~the [date of adoption]~~ ~~amendment]~~ shall submit a DCP to the APCO within sixty days of ~~the [date of adoption]~~ ~~amendment]~~ ~~of this Rule~~. Existing Active Operations covered by a ~~pre-existing APCO approved DCP~~ approved by the APCO prior to [date of amendment] shall submit a DCP in accordance with this Rule at the direction of the APCO.
- (2) All new Active Operations subject to this Rule shall submit a DCP to the APCO prior to the commencement of Active Operations.
- (3) Any Project or Facility required to install PM₁₀ monitors by this Rule shall have those monitors installed and operating within six (6) months of [date of amendment] ~~the adoption of this Rule~~, or within six (6) months of written notification of such a requirement by the APCO.

(H) Contingency Measures [403.1 and 403.2]

The requirements of this section only apply if the USEPA makes a finding, as evidenced by publication in the Federal Register, that there has been a violation of the PM₁₀ National Ambient Air Quality Standard (NAAQS) within MDAQMD boundaries.

(1) Contingent Requirements

(a) Cities, Towns, and the County of San Bernardino shall:

- (i) Stabilize sufficient Unpaved Roads to generate at least 2,267 tons per year of fugitive PM₁₀ emission reductions.

Attachment A

Mandatory Fugitive Dust Control Plan Elements

- (a) Project, facility, or site name, address, major cross streets, and city.
- (b) Land use agency name and assessor's parcel number (if necessary to locate the project/site/facility).
- (c) Mailing address, telephone number, mobile phone number and email address for:
 - (i) Project or facility owner
 - (ii) Project general contractor
 - (iii) Project or facility contact person
 - (iv) Project or facility ~~24 hour~~24-hour contact person² (if separate from the above)
 - (v) Dust Control Plan preparer (if separate from the above), specifying contact person
- (d) Total area of disturbed land surface (in acres), total area of entire project or facility site (in acres), and total disturbed area to be left inactive for more than seven (7) days (in acres).
- (e) Expected start and completion dates of Active Operations. For phased projects attach a map indicating phase areas and specify date ranges for each phase area.
- (f) Specify location(s) of required fugitive dust contact information signage, including posting loaded haul truck speed limit signage on permanent private roads.
- (g) Specify fugitive dust control measures that will be used to Stabilize each of the following activities (as applicable):
 - (i) Structural demolition; Pre-activity; Active Operations; Inactive operations (including after work hours, weekends and holidays); Temporary Stabilization of disturbed areas to be left inactive for more than seven days; Unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas (including a ~~maximum of~~suggested 15 miles per hour speed limit for loaded haul trucks ~~which may be exceeded if Visible Fugitive Dust is not generated~~); Wind events; Outdoor handling of Bulk Materials; Outdoor storage of Bulk Materials; On-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; and Outdoor transport using chutes and conveyors. *[Modified to address Cement Industry comment, 10/08/2020.]*

² 24 hour contact person is an individual available by telephone at any hour of the day or night and capable of marshaling a response to a dust complaint

- (h) Specify water application equipment and/or dust suppressant types, number, capacity, water and/or dust suppressant application frequency, hours of operation, including water and/or dust suppressant application equipment and/or dust suppressants available for use after normal working hours, on weekends and holidays with name and phone number of after-hours contact, and for an alternate after-hours contact. Specify water supply and/or dust suppressant type, number, capacity and source, including distance to off-site source and specifying details of approval for access to off-site source (owner, contact name and telephone number).
- (i) Applicable dust suppressants are inclusive of water, Hygroscopic Materials, or chemical/organic stabilization/suppression materials.
- (i) Specify dust suppressants other than water that will be used (if applicable), including area of application, product name, contractor name and telephone number, application rate, application frequency, application equipment type and capacity. Attach product specifications, instructions and environmental impacts (and approvals or certifications related to the appropriate and safe use for ground application).
- (j) Specify other dust control methods as applicable, including physical barriers, speed limit signs, use of vegetation, gravel, and pavement. Physical barriers, if used, will include a minimum of four feet of wind fencing on the entire perimeter of the project, which will be maintained as needed to be kept intact and to remove windblown dropout. *[Modified to address Cement Industry comment, 10/08/2020.]*
- (k) Specify contingency measures that will be implemented if any of the above become inoperable or are found to be insufficient. Active Operations will cease whenever visible dust emissions cannot be effectively controlled.
- (l) Specify long-term stabilization methods. Including the stabilization of storage piles and disturbed surfaces which are idle for two weeks or more.
- (m) Specify carryout and trackout prevention and cleanup procedures as applicable, including grizzlies, gravel pads, paved access areas, wheel washers, haul truck housekeeping, cleanup method and frequency.
- (n) If required by the APCO or this Rule, specify the type of PM₁₀ monitors, the upwind location, the downwind location, the monitoring frequency, and the data storage method, and acknowledge that all monitored PM₁₀ data shall be provided to District personnel upon request.
- (o) Specify any actions or procedures required by other District Rules (as and if applicable) if not already listed above.
- (p) A responsible official certification including printed name, title, signature, date of signature, telephone number, mobile number and email address.

Attachment B Signage Minimum Requirements

This signage allows the public to contact the responsible party if Fugitive Visual Dust emissions or Trackout of material is observed from a project or facility.

<u>Sign size</u>	<u>48" x 96"</u>
------------------	------------------

Sign Template

<i>Permit # (if applicable)</i>	<u>4"</u>
<i>Site Name</i>	<u>4"</u>
<i>Project Name</i>	<u>4"</u>
<u>IF YOU SEE DUST COMING FROM THIS SITE CALL</u>	<u>4"</u>
<i>Contact: (XXX) XXX-XXXX</i>	<u>6"</u>
<u>If You Do Not Receive a Response, Please Call The Mojave Desert AQMD at 1-800-635-4617</u>	<u>3"</u>

Signage must be located within 50 feet of each public site entrance.

One sign is sufficient for multiple site entrances with the approval of the APCO.

Text height shall be at a minimum as shown on right side of sign template above.

Sign background must contrast with lettering, typically black text with white background.

Sign should be one-inch AC laminated plywood board.

The lower edge of the sign board must be a minimum of six feet and a maximum of seven feet above grade.

The telephone number listed for the contact must be a local or a toll-free number and shall be accessible 24 hours per day. The contact name requirement may be waived with the approval of the APCO.

If contactor phone number changes the sign must be updated with new contact information within 30 days.

Original signage used during site construction will satisfy the signage requirement during operations and can remain if contact information is current and the sign is in satisfactory condition.

Attachment C

Dropped Ball Test Method

Equipment: One steel ball, 0.625 inches in diameter (5/8 inch), 16.33 grams
A ruler or measuring tape
(Optional) A cardboard frame with a one foot by one foot opening

Step 1. Select a one foot by one foot survey area that is representative, or typical, of the crusted surface. Remove any blow sand from the survey area (loose grains which have not originated from the surface you are testing).

Step 2. Hold the small steel ball one foot above the survey area, using the ruler or tape to ensure that the ball is at the correct height. Drop the ball into the survey area.

Step 3. Observe the ground around the dropped ball closely.

A. Did the ball sink into the surface so that it is partially or fully surrounded by loose grains of dirt?

B. Did the ball drop out of view entirely?

Pick up the ball from the survey area and observe the impact location closely.

C. Are loose grains of dirt visible?

If any of the three questions posed in this step can be answered “yes” then this location on the surface does not pass the dropped ball test.

Step 4. Select two additional areas within the survey area to drop the ball. Repeat Steps 2 and 3 on each location. If more than one location within the survey area fails Step 3, the survey area fails the dropped ball test.

Step 5. Select at least two other representative survey areas. Pick the areas randomly and spaced out.

Step 6. Examine results. If all survey areas have passed Step 4 the surface is stable and has a Visible Crust.

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Appendix “B”
Public Notice Documents

1. Proof of Publication – Daily Press
2. Proof of Publication – Riverside Press Enterprise

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PROOF OF PUBLICATION

(2015.5 C.C.P.)

**STATE OF CALIFORNIA,
County of San Bernardino**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the publisher of the DAILY PRESS, a newspaper of general circulation, published in the City of Victorville, County of San Bernardino, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of San Bernardino, State of California, under the date of November 21, 1938, Case number 43096, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

September 28

All in the year 2020.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated this: 28th day of September, 2020.

Signature

Leslie Jacobs

This space is the County Clerk's Filing Stamp

**Proof of Publication of
NOTICE OF HEARING**

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on October 26, 2020 at 10:00 A.M. to consider the proposed amendment of Rule 403 - Fugitive Dust Control and rescission of Rules 403.1 - Fugitive Dust Control for the Searles Valley Planning Area and 403.2 - Fugitive Dust Control for the Mojave Desert Planning Area.

SAID HEARING may be conducted, in the interests of public health and safety and in accordance with the guidelines set forth in the Governor's Order N-29-20 of March 17, 2020, via alternative means. Please see the applicable Governing Board Meeting Agenda at <https://www.mdaqm-d.ca.gov/meetings/meeting-schedule> or call (760) 245-1661 extension 6244 for participation information.

This proposed amendment of Rule 403 Fugitive Dust Control intended to further reduce the PM10 entrained in the ambient air as a result of anthropogenic Fugitive Dust sources. Copies of proposed Rule 403 - Fugitive Dust Control and the Staff Report are on file and may be obtained from the Senior Executive Analyst at the MDAQMD Offices. Written comments may be submitted to Brad Poirier, APCO at 14306 Park Avenue, Victorville, CA 92392. Written comments should be received no later than October 23, 2020 to be considered. If you have any questions you may contact Tracy Walters at (760) 245-1661 extension 6122 for further information. Traducción esta disponible por solicitud.

Pursuant to the California Environmental Quality Act (CEQA) the MDAQMD has determined that a Categorical Exemption (Class 8 - 14 Cal. Code Reg §15308) applies and has prepared a Notice of Exemption for this action.

This proposed amendment of Rule 403 Fugitive Dust Control is published in the Daily Press September 28, 2020 (M-28)

**RECEIVED
MOJAVE DESERT AQMD
CLERK OF THE BOARD**

OCT 01 2020

BY

THE PRESS-ENTERPRISE

1825 Chicago Ave, Suite 100
Riverside, CA 92507
951-684-1200
951-368-9018 FAX

**PROOF OF PUBLICATION
(2010, 2015.5 C.C.P)**

Publication(s): The Press-Enterprise

PROOF OF PUBLICATION OF

Ad Desc.: MD 403 /

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper in general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673, under date of August 25, 1995, Case Number 267864, and under date of September 16, 2013, Case Number RIC 1309013; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

09/28/2020

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: September 28, 2020
At: Riverside, California



Legal Advertising Representative, The Press-Enterprise

MOJAVE DESERT AQMD
14306 PARK AVE
ATTN: D. HERNANDEZ
VICTORVILLE, CA 92392

Ad Number: 0011413467-01

P.O. Number:

Ad Copy:

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on October 26, 2020 at 10:00 A.M. to consider the proposed amendment of Rule 403 – Fugitive Dust Control and rescission of Rules 403.1 – Fugitive Dust Control for the Searles Valley Planning Area and 403.2 – Fugitive Dust Control for the Mojave Desert Planning Area.

SAID HEARING may be conducted, in the interests of public health and safety and in accordance with the guidelines set forth in the Governor's Order N-29-20 of March 17, 2020, via alternative means. Please see the applicable Governing Board Meeting Agenda of <https://www.mdaqmd.ca.gov/meetings/meeting-schedule> or call (760) 245-1661 extension 6244 for participation information.

This proposed amendment of Rule 403 – Fugitive Dust Control is intended to further reduce the PM10 entrained in the ambient air as a result of anthropogenic Fugitive Dust sources. Copies of proposed Rule 403 – Fugitive Dust Control and the Staff Report are on file and may be obtained from the Senior Executive Analyst at the MDAQMD Offices. Written comments may be submitted to Brad Pairiez, APCO at 14306 Park Avenue, Victorville, CA 92392. Written comments should be received no later than October 23, 2020 to be considered. If you have any questions you may contact Tracy Walters at (760) 245-1661 extension 6122 for further information. Traducción esta disponible por solicitud.

Pursuant to the California Environmental Quality Act (CEQA) the MDAQMD has determined that a Categorical Exemption (Class 8 – 14 Cal. Code Reg §15308) applies and has prepared a Notice of Exemption for this action.

Press-Enterprise: 9/28

RECEIVED
MOJAVE DESERT AQMD
CLERK OF THE BOARD

SEP 28 2020

BY 

Appendix “C”
Public Comments and Responses

1. CALCIMA comment, 10/31/2019
2. Cement Industry comment, 11/15/19
3. Cement Industry comment (Mitsubishi Cement Corporation, Cemex Construction Materials Pacific, LLC, CalPortland), 10/08/20
4. CALCIMA comment, 10/09/2020

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California Construction and
Industrial Materials Association

October 31, 2019

Kevin Hendrawan
Air Quality Specialist – Planning & Rulemaking
Mojave Desert Air Quality Management District
14306 Park Avenue
Victorville, CA 92392
khendrawan@mdaqmd.ca.gov

Re: Comments – Proposed Draft Rule 403 Fugitive Dust Control

Dear Mr. Hendrawan,

California Construction and Industrial Materials Association (CalcIMA) is a statewide trade association representing construction and industrial material producers in California. Our members supply the materials that build our state's infrastructure, including public roads, rail, and water projects; help build our homes, schools and hospitals; assist in growing crops and feeding livestock; and play a key role in manufacturing wallboard, roofing shingles, paint, low-energy light bulbs, and battery technology for electric cars and windmills.

CalcIMA understands Mojave Desert Air Quality Management District (District) is proposing to amend Rule 403 'Fugitive Dust Control' to consolidate current District Rules 403, 403.1 'Fugitive Dust Control for the Searles Valley Planning Area', and 403.2 'Fugitive Dust Control for the Mojave Desert Planning Area' while simultaneously clarifying and updating requirements. We appreciated the opportunity to participate in the District's Rule 403 Task Force Meeting on Wednesday, October 2nd, 2019 related to the limestone industry.

Pursuant to our discussion at the Rule 403 Task Force Meeting, it was explained that current Rules 403.1 and 403.2 are not approved by EPA, and the District intends to submit proposed amended Rule 403 which was introduced to limestone industry stakeholders in August 2019, to EPA for approval making it a more enforceable document. Specific to the limestone industry, for reasons determined at the time of creation of current Rules 403.1 and 403.2, only facilities located in the Lucerne Valley and Searles Valley planning areas are addressed. Although no new correlating air quality data has been released to justify an expansion of the current fugitive dust control rules' scope, proposed amended rule 403 addresses limestone facilities throughout the District's jurisdiction. CalcIMA understands that the District is encumbering issues related to visible fugitive dust. However the limestone processing facilities strive to work in coordination with the District to maintain ambient air quality. Be that as it may, in order to further supplement District efforts to amend Rule 403, CalcIMA has drafted the following comments and recommendations for your review and consideration.

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Fax: 916 554-1042

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3890 Orange Street, #167
Riverside, CA 92501-9998
Phone: 951 941-7981

www.calcima.org www.distancematters.org

Bulk Material Haul Vehicles

Pursuant to loaded bulk material haul vehicles while traveling upon publicly maintained paved surfaces, we appreciate the District recognizing that in addition to covering loaded bulk material haul vehicles, the implementation of six inches of freeboard is also an acceptable control measure. This change is consistent with Rule 403.1 section (F)(1)(c) and Rule 403.2 section (F)(1)(b) that both state “Compliance with the requirement “Cover Haul Trucks” is equivalent to complying with the vehicle freeboard requirements of section 23114 of the California Vehicle Code on both public and private roads.” Recommended language is posted below that we find critically important to the limestone industry because most vehicles leaving these facilities are not owned and controlled by plant operations but are private transportation vehicles hired by contractors directly or indirectly to pick up and deliver materials to their projects.

(C) Requirements

...

(C)(8) The Owner/Operator of a Limestone Processing Facility shall:

...

(C)(8)(e) Cover loaded Bulk Material haul vehicles while traveling upon publicly maintained paved surfaces or complying with the vehicle freeboard requirements of the California Vehicle Code (§23114);

Consistency Related to ‘Project’

To be consistent with section (A)(2)(a)(i) Applicability language and Attachment A Mandatory Dust Control Plan Elements and to make the intended meaning more clear, it is recommended to add the following language to section (D) Dust Control Plans:

(D) Dust Control Plans

...

(D)(2) The Owner/Operator shall submit a DCP as per Attachment A of this Rule to the APCO prior to the start of any Active Operations. An Owner/Operator may submit one DCP covering a facility or multiple projects at different sites where Active Operations will commence within the next 12 months provided the DCP includes each project size, location, and types of activities to be performed. The DCP shall specify the expected start and completion date of each project.

(D)(3) The Owner/Operator shall install and maintain facility or project signage that meets the minimum standards of Attachment B prior to the start of any Active Operations.

...

(D)(8) The Owner/Operator must notify the District within ten days if a significant change occurs to the facility or project operations covered by the DCP. An appropriately modified DCP must be submitted to the District within thirty (30) days of the change.

Limestone Processing Facilities Covered by Permit

Limestone processing facilities covered by permit currently pay an annual fee to participate in a national or local permit program that establishes compliance certification related to testing, monitoring, record keeping and reporting. The permit is administered by the District in coordination with the U.S. Environmental Protection Agency, the California Air Resources Board, or the District and requires these facilities to comply with District rules and to collect data from process systems, including emissions measured directly or indirectly through continuous monitoring systems which

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includes reporting to the District deviations in operations or air emissions inclusive of the time it occurred, why it occurred, how long it lasted, and the corrective actions taken. Proposed draft rule 403 adds another layer of annual reporting and annual fees to a comprehensive and detailed permit program. For this reason we are requesting that limestone processing facilities maintain a DCP that complies with all parts of subsection (D) as a living document that gets updated as the facility changes and is available upon inspection but not submitted/reviewed.

(D) Dust Control Plans

...

(D)(9) An approved DCP shall be valid for a period of one (1) year from the date of approval of the DCP. DCPs must be resubmitted annually, at least sixty (60) days prior to the expiration date, or the DCP shall become disapproved as of the expiration date. If all Fugitive Dust sources and corresponding control measures or special circumstances remain identical to those identified in the previously approved DCP, the resubmittal may contain a simple statement of 'no change.'

(D)(9)(a) The Owner/Operator of a Limestone Processing Facility covered by permit shall maintain a DCP that complies with all parts of subsection (D) as a living document that is updated as the facility changes and is available upon inspection but not submitted or reviewed annually.

Record Keeping

Because visible fugitive dust control measures are not all implemented daily, the following language is recommended:

(F) Record Keeping

...

(F)(1)(b) Daily Supporting documents to demonstrate compliance with the requirements of the rule only for those days that a control measure was implemented such as operational records, information regarding operations, source tests, laboratory analyses, monitoring data, and other appropriate information in a manner and form sufficient in demonstrating compliance with the DCP.

Mandatory Dust Control Plan (DCP) Elements

At the Task Force meeting, the District recognized that once proposed amended rule 403 is adopted all requirements are fully enforceable regardless of whether a DCP is implemented or not. For this reason, CalcIMA believes that the performance standards detailed within Rule 403 is sufficient in lieu of requiring a supplemental DCP. In any circumstance, posted below is feedback related to 'Attachment A Mandatory Dust Control Plan Elements'.

To be consistent with the title of the proposed draft rule, it is recommended to change the title 'Attachment A Mandatory Dust Control Plan Elements' to the following:

'Attachment A Mandatory Fugitive Dust Control Plan Elements.'

Pursuant to the discussion at the Taskforce meeting, we appreciate the District modifying section Attachment A(c)(iv) to read as follows:

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Attachment A(c)(iv) Project or facility 24 hour contact person (if separate from above)

Section Attachment A(g)(i) specifies fugitive dust control measures as it relates to unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas. Because the quantity of dust emission from a given segment of unpaved area varies based on surface treatments, vehicle-related source conditions such as weight, speed, number of wheels for all traveling the road, the volume of traffic, and depends on source parameters that characterize the condition of a particular road, we recommend that the control measure requiring a maximum of 15 miles per hour speed limit for loaded haul trucks be removed to allow for flexibility related to these variables. The following language is recommended:

Attachment A(g)(i) Structural demolition; Pre-activity; Active Operations; Inactive operations (including after work hours, weekends and holidays); Temporary Stabilization of disturbed areas to be left inactive for more than seven days; Unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas (including a maximum of 15 miles per hour speed limit for loaded haul trucks); Wind events; Outdoor handling of Bulk Materials; Outdoor storage of Bulk Materials; On-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; and Outdoor transport using chutes and conveyors.

Attachment A(h) and Attachment A(i) require clarifications be made in relation to water applications and dust suppressants other than water. We are requesting the proposed amended rule language be modified to allow operators implementing varying solutions to list general stability control methods:

Attachment A(h) Specify water application equipment types, number, capacity, water application frequency, hours of operation, including water application equipment available for use after normal working hours on weekends and holidays with name and phone number of after-hours contact, and for an alternate after-hours contact. Specify water supply type, number, capacity and source, including distance to off-site source and specifying details of approval for access to off-site source (owner, contact number and telephone number); the dust suppressant type being used inclusive of water, hygroscopic materials, or chemical/organic stabilization/suppression materials. Hygroscopic materials are any material that is readily capable of absorbing moisture from the air. Chemical/organic stabilization/suppression materials control PM10 emissions from fugitive dust by applying any non-toxic chemical or organic dust suppressant, other than water, which meets any specifications, criteria, or tests required by any federal, state, or local water agency and is not prohibited for use by any applicable law, rule, or regulation.

Attachment A(i) Specify dust suppressants other than water that will be used (if applicable), including area of application, product name, contractor name and telephone number, application rate, application frequency, application equipment type and capacity. Attach product specifications, instructions and environmental impacts (and approvals of certifications related to the appropriate and safe use for ground application are required).

Pursuant to Attachment A(j), to allow for unique operations, we recommend the following language:

Attachment A(j) Specify other dust control methods as applicable, that may include physical barriers, speed limit signs, use of vegetation, gravel, and pavement. Physical barriers will include a minimum of four

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California Construction and
Industrial Materials Association

feet of wind fencing on the entire perimeter of the project, which will be maintained as needed to be kept intact and to remove windblown dropout.

Additionally, although it has been clarified that the current DCP form will not be significantly changed, prior to approval of Rule 403, we kindly request to review a draft of the updated version the DCP form so that we understand the rule to the form.

Signage Minimum Requirements

Pursuant to Attachment B Signage Minimum Requirements, we appreciate that the District will be reducing the signage size requirements, and removing the 'Tract' information from the sign template.

Visible Fugitive Dust Rule Expansion

The District's expansion of fugitive dust control rules are concerning and should be carefully evaluated. Increasing regulatory burdens across industry pursuant to PM10 when no new correlating air quality data has been released to justify an expansion can be understood as an inadvertent use of resources.

CalCIMA respectfully asks the District to consider our comments. Please contact me with any questions or concerns at (951) 941-7981 or at sseivright@calcima.org.

Sincerely,

Suzanne Seivright
Director of Local Governmental Affairs

cc: Brad Poirez, Executive Director
Alan DeSalvio, Deputy Director

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District Response to CALCIMA Comment, 10/31/19

1. Comments regarding Bulk Material Haul Vehicles were evaluated and implemented. Subsection (C)(8)(e) now includes the suggested language “or complying with the vehicle freeboard requirements of the California Vehicle Code (§23114)”
2. Comments regarding Consistency Related to ‘Project’ were evaluated and implemented. Various Subsections in Section (D) of Rule 403 now clarifies that the DCP affects “projects/facilities/sites” as opposed to only projects, including Subsections (D)(2), (D)(3), (D)(8), and (D)(10).
3. Comments regarding Limestone Processing Facilities Covered by Permit were thoroughly discussed and ultimately, the suggestions provided were refused as they were counterintuitive to the purpose of Rule 403’s adoption, which is that of monitoring and enforceability of fugitive dust emission controls. Several modifications were made to Subsection (D)(9) for clarification, however.
4. Comments regarding Record Keeping were evaluated and implemented. Subsection (F)(1)(b) now refers to “supporting documents” for demonstration of compliance.
5. Comments regarding Mandatory Dust Control Plan (DCP) Elements were evaluated and partially implemented:
 - a. The subtitle of Attachment A now reads “Mandatory Fugitive Dust Control Plan Elements”.
 - b. The suggestion to remove the “15 miles per hour” language currently in Attachment A, subsection (g) was refused on the basis that the language is only applicable in certain cases and its removal would loosen restrictions on all cases regardless of applicability.
 - c. Suggestions made to modify Attachment A, subsection (h) were thoroughly discussed and ultimately partially refused as they removed much of the information deemed crucial to the dust control plan, including water and/or dust suppressant types, number, capacity, frequency, as well as after-hour contacts. However, suggestions made towards definition of applicable dust suppressants were implemented in the new Attachment A, subsection (h)(i).
 - d. The suggestion made to modify the language currently in Attachment A, subsection (j) was deemed redundant and refused.
6. Comments regarding Signage Minimum Requirements were evaluated and partially implemented. The “Tract Number” requirement was removed from Attachment B as per CALCIMA’s suggestion. The suggestion to reduce the signage size requirements was refused as the current signage size requirements are consistent with that of surrounding Air Quality Management Districts.
7. Comments regarding Visible Fugitive Dust Rule Expansion were evaluated.

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2. Cement Industry comment, 11/15/19

November 15, 2019

Kevin Hendrawan
Air Quality Specialist – Planning & Rulemaking
Mojave Desert Air Quality Management District
14306 Park Avenue
Victorville, CA 92392
khendrawan@mdaqmd.ca.gov

Re: Comments – Proposed Draft Rule 403 Fugitive Dust Control

Dear Mr. Hendrawan,

CalPortland Company, Cemex, and Mitsubishi Cement Corporation (collectively, “We” or “Us”) would like to comment on the Proposed Draft Rule 403 regarding Fugitive Dust Control. There are specific items that affect cement companies that We believe should be given extra consideration.

We understand the Mojave Desert Air Quality Management District (District) is proposing to amend Rule 403 ‘Fugitive Dust Control’ to consolidate current District Rules 403, 403.1 ‘Fugitive Dust Control for the Searles Valley Planning Area’, and 403.2 ‘Fugitive Dust Control for the Mojave Desert Planning Area’ while simultaneously clarifying and updating requirements. We appreciated the opportunity to participate in the District’s Rule 403 Task Force Meeting on Wednesday, October 2, 2019 related to the limestone industry.

During our discussion at the Rule 403 Task Force Meeting, it was explained that current Rules 403.1 and 403.2 are not approved by EPA, and the District intends to submit proposed amended Rule 403 which was introduced to cement manufacturers in August 2019, to EPA for approval making it a more enforceable document. Currently, Rules 403.1 and 403.2, only apply to facilities located in the Lucerne Valley and Searles Valley planning areas. Although no air quality issues have arisen to justify an expansion of the current fugitive dust control rules’ scope, proposed amended rule 403 addresses cement facilities throughout the District’s jurisdiction. We understand that the District is concerned about visible fugitive dust. However, We strive to work in coordination with the District to maintain ambient air quality standards and currently are already under the requirements of the proposed draft through our various Title V permits.

Mandatory Dust Control Plan

Cement manufacturing facilities, covered by permit, currently pay an annual fee to participate in a national or local permit program that establishes compliance certification related to testing, monitoring, record keeping and reporting. The permit is administered by the District in coordination with the U.S. Environmental Protection Agency, the California Air Resources Board, or the District and requires Us to comply with District rules and to collect data from process systems, including emissions measured directly or indirectly through continuous monitoring systems which includes reporting to the District deviations in operations or air emissions. We must report the time of breakdowns or deviations, why they occurred, how long

they lasted, and any corrective actions taken. Proposed draft rule 403 adds another layer of annual reporting and annual fees to a comprehensive and detailed permit program. For this reason, we are requesting that Title V cement facilities be exempt from all parts of subsection (D) or be allowed to keep a Dust Control Plan as a living document that gets updated as We change our facilities or methods and be made available upon inspection but not submitted and reviewed annually. We further suggest that the fees are redundant considering the amount of fees we currently pay.

(D) Dust Control Plans

...

(D)(2) The Owner/Operator shall submit a DCP as per Attachment A of this Rule to the APCO prior to the start of any Active Operations. An Owner/Operator may submit one DCP covering a facility or multiple projects at different sites where Active Operations will commence within the next 12 months provided the DCP includes each project size, location, and types of activities to be performed. The DCP shall specify the expected start and completion date of each project.

(D)(3) The Owner/Operator shall install and maintain facility or project signage that meets the minimum standards of Attachment B prior to the start of any Active Operations.

...

(D)(8) The Owner/Operator must notify the District within ten days if a significant change occurs to the facility or project operations covered by the DCP. An appropriately modified DCP must be submitted to the District within thirty (30) days of the change.

(D)(9) An approved DCP shall be valid for a period of one (1) year from the date of approval of the DCP. DCPs must be resubmitted annually, at least sixty (60) days prior to the expiration date, or the DCP shall become disapproved as of the expiration date. If all Fugitive Dust sources and corresponding control measures or special circumstances remain identical to those identified in the previously approved DCP, the resubmittal may contain a simple statement of 'no change.'

(D)(9)(a) The Owner/Operator of a Limestone Processing Facility covered by permit that requires the same or more stringent dust control measures than Rule 403 shall maintain a DCP that complies with all parts of subsection (D) as a living document that is updated as the facility change and is available upon inspection but not submitted or reviewed annually.

Record Keeping

Because visible fugitive dust control measures are only utilized when necessary, the following language is recommended:

(F) Record Keeping

...

(F)(1)(b) ~~Daily~~ Supporting documents to demonstrate compliance with the requirements of the rule only for those days that a control measure was implemented such as operational records, information regarding operations, source tests, laboratory analyses, monitoring data, and other appropriate information in a manner and form sufficient in demonstrating compliance with the DCP.

Mandatory Dust Control Plan (DCP)

At the Task Force meeting, the District recognized that once proposed amended rule 403 is adopted, all requirements are fully enforceable regardless of whether a Dust Control Plan is implemented or not. For this reason, We believe that the performance standards detailed within Rule 403 are sufficient and that we should not also be required to write a Dust Control Plan.

Unpaved Roads

During the meeting of Wednesday, October 2, 2019, Attachment A(g)(i) which specifies fugitive dust control measures as it relates to unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas was discussed. Because the quantity of dust emission from a given segment of unpaved area varies based on surface treatments, vehicle-related source conditions such as weight, speed, number of wheels for all traveling the road, the volume of traffic, and depends on source parameters that characterize the condition of a particular road, we request that the control measure requiring a maximum of 15 miles per hour speed limit for loaded haul trucks be removed to allow for flexibility related to these variables. The following language is recommended:

Attachment A(g)(i) Structural demolition; Pre-activity; Active Operations; Inactive operations (including after work hours, weekends and holidays); Temporary Stabilization of disturbed areas to be left inactive for more than seven days; Unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas (including a maximum of 15 miles per hour speed limit for loaded haul trucks); Wind events; Outdoor handling of Bulk Materials; Outdoor storage of Bulk Materials; On-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; and Outdoor transport using chutes and conveyors.

Attachment A(h) and Attachment A(i) require clarifications be made in relation to water applications and dust suppressants other than water. We are requesting the proposed amended rule language be modified to the following to allow operators implementing varying solutions to list general stability control methods:

Attachment A(h) Specify water application equipment types, number, capacity, water application frequency, hours of operation, including water application equipment available for use after normal working hours on weekends and holidays with name and phone number of after-hours contact, and for an alternate after-hours contact. Specify water supply type, number, capacity and source, including distance to off-site source and specifying details of approval for access to off-site source (owner, contact number and telephone number). the dust suppressant type being used inclusive of water, hygroscopic materials, or chemical/organic stabilization/suppression materials. Hygroscopic materials are any material that is readily capable of absorbing moisture from the air. Chemical/organic stabilization/suppression materials control PM10 emissions from fugitive dust by applying any non-toxic chemical or organic dust suppressant, other than water, which meets any specifications, criteria, or tests required by any federal, state, or local water agency and is not prohibited for use by any applicable law, rule, or regulation.

Attachment A(i) Specify dust suppressants other than water that will be used (if applicable), including area of application, product name, contractor name and telephone number, application rate, application frequency, application equipment type and capacity. Attach product specifications, instructions and environmental impacts (and approvals of certifications related to the appropriate and safe use for ground application are required).

Pursuant to Attachment A(j), to allow for unique operations, we recommend the following language:

Attachment A(j) Specify other dust control methods as applicable, that may include physical barriers, speed limit signs, use of vegetation, gravel, and pavement. Physical barriers may include a minimum of four feet of wind fencing on the entire perimeter of the project, which will be maintained as needed to be kept intact and to remove windblown dropout.

Additionally, although it has been clarified that the current DCP form will not be significantly changed, prior to approval of Rule 403, we kindly request to review a draft of the updated version the DCP form.

Signage Minimum Requirements

Pursuant to Attachment B Signage Minimum Requirements, we appreciate that the District will be reducing the signage size requirements as well as the locations and removing the 'Tract' information from the sign template.

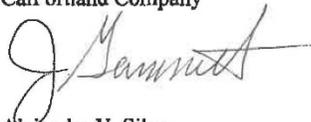
Visible Fugitive Dust Rule Expansion

The District's expansion of fugitive dust control rules is concerning and should be carefully evaluated. Increasing regulatory burdens across industry pursuant to PM10 when no new correlating air quality data has been released to justify an expansion can be understood as an inadvertent use of resources.

We respectfully ask you to consider our comments. Please contact Us with any questions or concerns at jgammett@calportland.com, alejandrav.silva@cemex.com, and drib@mitsubishicement.com

Sincerely,

Jessica Gammett
CalPortland Company



Alejandra V. Silva
CEMEX



David M. Rib
Mitsubishi Cement



District Response to Cement Industry Comment, 11/15/19

1. Comments regarding Bulk Material Haul Vehicles were evaluated and implemented. Subsection (C)(8)(e) now includes the suggested language “or complying with the vehicle freeboard requirements of the California Vehicle Code (§23114)”
2. Comments regarding Consistency Related to ‘Project’ were evaluated and implemented. Various Subsections in Section (D) of Rule 403 now clarifies that the DCP affects “projects/facilities/sites” as opposed to only projects, including Subsections (D)(2), (D)(3), (D)(8), and (D)(10).
3. Comments regarding Limestone Processing Facilities Covered by Permit were thoroughly discussed and ultimately, the suggestions provided were refused as they were counterintuitive to the purpose of Rule 403’s adoption, which is that of monitoring and enforceability of fugitive dust emission controls. Several modifications were made to Subsection (D)(9) for clarification, however.
4. Comments regarding Record Keeping were evaluated and implemented. Subsection (F)(1)(b) now refers to “supporting documents” for demonstration of compliance.
5. Comments regarding Mandatory Dust Control Plan (DCP) Elements were evaluated and partially implemented:
 - a. The subtitle of Attachment A now reads “Mandatory Fugitive Dust Control Plan Elements”.
 - b. The suggestion to remove the “15 miles per hour” language currently in Attachment A, subsection (g) was refused on the basis that the language is only applicable in certain cases and its removal would loosen restrictions on all cases regardless of applicability.
 - c. Suggestions made to modify Attachment A, subsection (h) were thoroughly discussed and ultimately partially refused as they removed much of the information deemed crucial to the dust control plan, including water and/or dust suppressant types, number, capacity, frequency, as well as after-hour contacts. However, suggestions made towards definition of applicable dust suppressants were implemented in the new Attachment A, subsection (h)(i).
 - d. The suggestion made to modify the language currently in Attachment A, subsection (j) was deemed redundant and refused.
6. Comments regarding Signage Minimum Requirements were evaluated and partially implemented. The “Tract Number” requirement was removed from Attachment B as per the Cement Industry’s suggestion. The suggestion to reduce the signage size requirements was refused as the current signage size requirements are consistent with that of surrounding Air Quality Management Districts.
7. Comments regarding Visible Fugitive Dust Rule Expansion were evaluated.

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3. Cement Industry comment, 10/08/20

October 8, 2020

Mr. Alan De Salvio
Deputy Director - Operations
Mojave Desert Air Quality Management District
14306 Park Avenue
Victorville, CA 92392
adesalvio@mdaqmd.ca.gov

Re: Comments – Proposed Amended Rule 403 Fugitive Dust Control

Dear Mr. Hendrawan,

CalPortland Company, Cemex Construction Materials Pacific, LLC, and Mitsubishi Cement Corporation (collectively, “We” or “Us”) would like to clarify certain aspects of the Proposed Amended Rule 403 regarding Fugitive Dust Control. We appreciate the time and consideration given to us during the last meeting, but we are still concerned about the language of the rule and how it would present itself in the future. We are concerned that the rule, as written, may create problems for us if future inspectors determine that we are not following the letter of the rule rather than the intent of it. The following items are still of concern: silt tests of open storage piles, the 15-mph speed limit, dust suppression, 4-foot wind fences, signage, Federal Operating Permit number requirements, the ball drop test as well as some possible omissions as regards the process associated with the rule. Below is a discussion of each item.

Silt Testing of Open Storage Piles

Definitions B(13)- “Open Storage Pile” - Any accumulation of Bulk Material not fully enclosed, covered, or chemically Stabilized with five percent (5%) or greater Silt content. Pile Silt content shall be assumed to be five percent (5%) or greater, unless a person can show, by sampling and analysis in accordance with ASTM method C-136 or other equivalent method approved in writing by the APCO and the California Air Resources Board, that the Silt content is less. The results of ASTM Method C-136 or equivalent method are valid for 60 days from the date the sample was taken.

As written, testing piles for silt appears to be required every sixty days if less than 5% silt is claimed. We have been instructed to specify in our dust control plans (DCP) that our silt is typically lower. As written however, the rule leaves little room to avoid testing legally. We would like this amended to allow for recognition of existing silt percentage standards of different types of materials without requiring verification every 60 days. It is not clear why the determination would be good only for 60 days or how this 60 day time frame correlates to the DCP being valid until termination of all Active Operations or the annual filing requirements. We recommend the following amendment:

1. →

Definitions B(8)- “Open Storage Pile” - Any accumulation of Bulk Material not fully enclosed, covered, or chemically Stabilized with five percent (5%) or greater Silt content.

Pile Silt content shall be assumed to be five percent (5%) or greater, unless a person can show, by sampling and analysis in accordance with ASTM method C-136 or other equivalent method approved in writing by the APCO and the California Air Resources Board, that the Silt content is less. The results of ASTM Method C-136 or equivalent method are valid for 60 days from the date the sample was taken.

15 MPH Speed Limit

Attachment A(f)-Specify fugitive dust control measures that will be used to Stabilize each of the following activities (as applicable): Structural demolition; Pre-activity; Active Operations; Inactive operations (including after work hours, weekends and holidays); Temporary Stabilization of disturbed areas to be left inactive for more than seven days; Unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas (including a maximum of 15 miles per hour speed limit for loaded haul trucks); Wind events; Outdoor handling of Bulk Materials; Outdoor storage of Bulk Materials; On-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; and Outdoor transport using chutes and conveyors.

2. → Currently, we use enough trucks to operate efficiently. The 15 mph limit would not only prevent efficiency, it would be a financial burden and cause more environmental concerns. We would be required to purchase more trucks to accomplish our current levels of production, and these extra trucks would add their own emissions and *more* road emissions to maintain the current production level (in addition to fuel emissions). We do not believe this to be of benefit to the environment. Again, we have also been instructed to add to our DCPs that we will be implementing our own plans rather than strictly abiding by the rule.

We recognize that Attachment A(f) does say “*as applicable*”, but we would like the rule amended to eliminate the speed limit requirement because we do not believe it is applicable or desirable. Furthermore, we do not believe that adding more trucks is beneficial or in the spirit of the regulation. We recommend the following amendment:

Attachment A(f)-Specify fugitive dust control measures that will be used to Stabilize each of the following activities (as applicable): Structural demolition; Pre-activity; Active Operations; Inactive operations (including after work hours, weekends and holidays); Temporary Stabilization of disturbed areas to be left inactive for more than seven days; Unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas (including a maximum of 15 miles per hour speed limit for loaded haul trucks); Wind events; Outdoor handling of Bulk Materials; Outdoor storage of Bulk Materials; On-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; and Outdoor transport using chutes and conveyors.

Dust Suppression

Attachment A(i)-Specify dust suppressants other than water that will be used (if applicable), including area of application, product name, contractor name and telephone

number, application rate, application frequency, application equipment type and capacity. Attach product specifications, instructions and environmental impacts (and approvals or certifications related to the appropriate and safe use for ground application).

3.

As written, we believe that we are constrained to using only specifically named dust suppressants and vendors for the entire year that a DCP is valid and that we will not be able to change vendors or types without rewriting our DCPs. It was suggested at the August 26, 2020 Technical Advisory Committee (TAC) meeting during the Rule 403 discussion that we only need to add the type of dust suppressant that we will use to our DCPs which appears to be a direct contradiction to the rule. We recommend the following amendments:

Attachment A(i)-Specify dust suppressants other than water that will be used (if applicable), including area of application, ~~product name, contractor name and telephone number,~~ product type, application rate, application frequency, application equipment type and capacity. Attach product specifications, instructions and environmental impacts (and approvals or certifications related to the appropriate and safe use for ground application).

4 Foot Wind Fence

Specify other dust control methods as applicable, including physical barriers, speed limit signs, use of vegetation, gravel, and pavement. Physical barriers will include a minimum of four feet of wind fencing on the entire perimeter of the project, which will be maintained as needed to be kept intact and to remove windblown dropout.

4.

During the TAC meeting Rule 403 discussion, it was noted by Mojave Desert AQMD, that Proposed Amended Rule 403, Attachment A, section j specifically states, “as applicable” in regards to wind fences. However, a strict reading of the rule does not appear to allow wind fencing at the discretion of the cement plants. It states, “Physical barriers will include a minimum of four feet of wind fencing on the entire perimeter of the project.” While the intention of the rule as written may be to give businesses the flexibility to do what is necessary, it appears to bind us specifically to a 4-foot perimeter wind fence. We recommend the following amendments:

Specify other dust control methods as applicable, including physical barriers, speed limit signs, use of vegetation, gravel, and pavement. Physical barriers will may include a minimum of four feet of wind fencing on all or some of the perimeter of the project, which will be maintained as needed to be kept intact and to remove windblown dropout if it is determined that other dust control methods are ineffective at controlling dust.

Signage Minimum Requirements

Attachment B (sign template)-Permit # (if applicable)

5.

Attachment B requires the use of signage at each entrance greater than 300 feet from another entrance. The sign template specifically lists that the permit number of the facility be listed as the first item on the sign. It was suggested that this did not apply to Title V permit holders. As the rule does not specifically state that Title V permit holders are exempt, we believe that this could become an issue in the future. We would ask that this be clarified in the rule to unequivocally exempt Title V holders. We recommend the following amendments:

Attachment B (sign template)-Permit # (if not applicable to active Title V sites)

Ball Drop Test

Attachment C Dropped Ball Test Method

Equipment: One steel ball, 0.625 inches in diameter (5/8 inch), 16.33 grams A ruler or measuring tape (Optional) A cardboard frame with a one foot by one foot opening

Step 1. Select a one foot by one foot survey area that is representative, or typical, of the crusted surface. Remove any blow sand from the survey area (loose grains which have not originated from the surface you are testing).

Step 2. Hold the small steel ball one foot above the survey area, using the ruler or tape to ensure that the ball is at the correct height. Drop the ball into the survey area.

Step 3. Observe the ground around the dropped ball closely. A. Did the ball sink into the surface so that it is partially or fully surrounded by loose grains of dirt? B. Did the ball drop out of view entirely? Pick up the ball from the survey area and observe the impact location closely. C. Are loose grains of dirt visible? If any of the three questions posed in this step can be answered "yes" then this location on the surface does not pass the dropped ball test.

Step 4. Select two additional areas within the survey area to drop the ball. Repeat Steps 2 and 3 on each location. If more than one location within the survey area fails Step 3, the survey area fails the dropped ball test.

Step 5. Select at least two other representative survey areas. Pick the areas randomly and spaced out.

Step 6. Examine results. If all survey areas have passed Step 4 the surface is stable and has a Visible Crust.

6.

We believe the language of step 3 is very vague, ambiguous and therefore, open to different interpretations by different inspectors. Also, there appears to be no provisions regarding when a dropped ball test will be used, other than at the discretion of the inspector. We would like this section to be clarified as it relates to testing and application.

Other Concerns

7. →

We very much appreciate the inclusion of the ten day approval time frame for the DCP. However, the draft does not state what we believe to be the intent: that the DCP will be deemed approved unless we are otherwise informed within the stated window. Also, some information as to why a DCP might be conditionally approved and rights of appeal in the event of conditional approval or disapproval have not yet been provided. This is particularly important if the approval sought is for an annual submittal for an active facility.

8. →

Consistent with the need for clarification of rights of appeal, it is not clear when the APCO can require PM10 monitoring at/for a facility. Although the potential need for such monitoring is referred to at least twice, the draft rule as provided does not indicate how or under what circumstances this can be required.

9. →

The draft rule provides for an annual resubmittal although the fees will be waived if there are “no changes”. For no changes to be possible, this is understood to mean no significant changes such that contact persons, types/brand names of suppressants consistent with those already approved or other such matters not reflecting a significant change in the operations or controls proposed would be eligible for a “no changes” submittal. It also needs to be clarified that a “no changes” also means no re-review as the DCP approval is stated, in Section D, to be through termination of Active Operations. For approval to be through termination of Active Operations would necessarily allow minor changes to such as noted above without further review on the part of the District.

10. →

Section C of the draft rule states that: “Any person shall not cause or allow the emissions of fugitive dust ... beyond the property line of the emissions source, except during High Winds.” While this is certainly the goal, it is typically the expectation or observation of dusting that would cause the facility to take actions such as additional sweeping, dust suppression sprays, etc. We do not believe the rule is intended to be enforced as strictly as written and would propose a revision to reflect a requirement to take prompt action to remedy or mitigate such emissions associated with the facility.

11. →

Section C further contains measures specified to be conducted on a weekly basis, within 24 hours or other such frequencies. It is understood that such measures would only be required when the facility or applicable portions thereof are active, and it is safe to do so. Clarification of the rule to reflect these normal limitations is requested.

12. →

Section D indicates a fee schedule will be provided for DCP inspection fees. Our understanding is that inspection fees are already incorporated into the cost of our Title V permits. It is assumed that any additional fees would apply in the event the facility were to request an inspection but please clarify intended applicability.

13. →

Section E provides exemptions including one for “preventative or mitigative actions in conflict with the Federal Endangered Species Act”. Actual conflict may be unlikely although it is reasonable to expect that mitigation measures under the rule may be detrimental to or inconsistent with ESA obligations and subject the facility to enforcement under multiple

regulatory programs while acting in good faith to comply with all. We would request the word conflict be revised or defined to reflect reasonable interpretations of requirements and good faith efforts at compliance.

14.

Section H specifies that in the event of the finding on the part of USEPA of a violation, the locality will be required to stabilize sufficient Unpaved Roads to generate at least 2,267 tons per year of fugitive PM10 emission reductions. It is unclear where this number comes from or why it is included in the draft rule as it may or may not address such a potential finding. Please clarify the intent behind this requirement.

15.

Attachment A provides that "Active Operations will cease whenever visible dust emissions cannot be effectively controlled." We believe the intent of this statement to be for the actual operations believed to be causing or contributing to the dust emissions and that it is a temporary cessation only until control is reasonably achieved. Please clarify the language to reflect the intent.

16.

Lastly, in our communications with the District regarding the proposed amendment, we have come to understand that at least some portions of the rule (including some sections commented on above) are not intended to apply to mining operations. Formal clarification of the intended applicability or inapplicability of each of the sections or subsections is needed for our understanding of actual obligations under the proposed amendments.

We do appreciate the District working with us to produce a clear and fair rule in regard to dust control. However, we respectfully ask that any exemptions or variances to Rule 403 that we will be allowed under the current District administration be articulated unequivocally in the rule. We respectfully ask you to consider our comments. Please contact Us with any questions or concerns by email or phone.

Sincerely,



David M. Rib
Mitsubishi Cement Corporation



Alejandra Silva
Cemex Construction Materials Pacific, LLC



Catalina Fernandez-Moores
CalPortland Company

3. District response to Cement Industry comment, 10/08/20

1. Change made as requested.
2. Modified Attachment A §(f) (see §(g)(i)) to read “including a suggested 15 miles per hour speed limit for loaded haul trucks which may be exceeded if Visible Fugitive Dust is not generated.”
3. Attachment A §(i) (see §(h)) was previously modified to remove the specific requested language.
4. Attachment A §(j) has been modified to include “Physical barriers, *if used*, “
5. Requirement states “if applicable”. The District does not concur that certain facilities should be exempt and others not. No change made.
6. The “Dropped Ball Test: will only be used if a surface is claimed to be “stabilized” and the MDAQMD disagrees. This test has not been used since Rule 403.2 adoption in the 1990s.
7. A DCP that addresses all applicable requirements will be approved. As with other submissions to the District, approval is at the APCO’s discretion.
8. This requirement may be required due to non-compliance with opacity standards beyond the property line. PM10 monitoring is an existing provision in Rule 403 §(c) as readopted on 07/25/1977 and has been included as a general requirement in §(C)(3), and specifically applicable to Solar Projects in §(C)(9).
9. The commenter is correct – only substantive changes merit a ‘change’ filing.
10. The rule language being commented on is existing language as adopted on 07/25/1977.
11. The commenter is correct, active fugitive dust control measures (and associated recordkeeping, if any) are only required when a source is active. Please note that conditional requirements in case of fugitive dust crossing the property line during a not-active period still apply, hence the after-hours contact requirement.
12. Rule 302 – *Other Fees* as amended on 08/24/2020 §(J)(2) includes a specific Dust Control Plan filing and evaluation fee.
13. Exemption §(E)(c) specifies that rule requirements do not apply if there is a conflict with the ESA.
14. §(H)1)(a)(i) is a contingency measure that will be applicable ONLY if the USEPA makes a finding, as evidenced by publication in the Federal Register, that there has been a violation of the PM₁₀ National Ambient Air Quality Standard (NAAQS) within MDAQMD boundaries. The requirement will be satisfied by unpaved roads stabilized by cities, towns, or the County of San Bernardino.
15. Comment is correct. No need to change existing language.
16. Mining Operations are subject to §(C)(1), §(C)(2), §(C)(3), and §(C)(8) of proposed Rule 403. Construction at a mining operation may be subject to additional applicable sections as determined by the type of project.

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4. CalCIMA comment, 10/09/2020



October 9, 2019

Alan De Salvio
Deputy Director of Mojave Desert Operations
Mojave Desert Air Quality Management District
14306 Park Avenue
Victorville, CA 92392
adesalvio@mdaqmd.ca.gov

Re: Comments – Proposed Draft Rule 403 Fugitive Dust Control

Dear Mr. De Salvio,

The California Construction and Industrial Materials Association (CalCIMA) is the statewide voice of the construction and industrial materials industry. With over 500 local plants and facilities throughout the state, producing aggregate, concrete, cement, asphalt, industrial minerals, and precast construction products, our members produce the materials that build our state's infrastructure, including public roads, rail, and water projects; homes, schools and hospitals; assist in growing crops and feeding livestock; and play a key role in manufacturing consumer products as well, including roofing, paint, low-energy light bulbs, and battery technology for electric cars and windmills. The continued availability of our members' materials are vital to California's economy, as well as ensuring California meets its renewable energy, affordable housing, and infrastructure goals.

CalCIMA understands Mojave Desert Air Quality Management District (District) is proposing to amend Rule 403 'Fugitive Dust Control' to consolidate current District Rules 403, 403.1 'Fugitive Dust Control for the Searles Valley Planning Area', and 403.2 'Fugitive Dust Control for the Mojave Desert Planning Area' while simultaneously clarifying and updating requirements. We appreciated the opportunity to participate in the District's Rule 403 Task Force Meeting on Wednesday, October 2, 2019 related to the limestone industry, and to meet on Wednesday, September 30, 2020 related to the limestone, mining, and clay collective industry.

Pursuant to our discussion at the Rule 403 Task Force Meeting in 2019, it was explained that current Rules 403.1 and 403.2 are not approved by EPA, and the District intends to submit proposed amended Rule 403 which was introduced to limestone industry stakeholders in August 2019, to EPA for approval making it a more enforceable document. Specific to the limestone industry, for reasons determined at the time of creation of current Rules 403.1 and 403.2, only facilities located in the Lucerne Valley and Searles Valley planning areas are addressed. Although no new correlating air quality data has been released to justify an expansion of the current fugitive dust control rules' scope, proposed amended rule 403 addresses limestone facilities throughout the District's jurisdiction. CalCIMA understands that the District is encumbering issues related to visible fugitive dust. However the limestone processing facilities strive to work in coordination with the District to

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maintain ambient air quality. Be that as it may, in order to further supplement District efforts to amend Rule 403, CalcIMA has drafted the following comments and recommendations for your review and consideration.

Installation of Samplers and Monitors

In August 2020, new language was added to the ‘Requirements’, ‘Compliance Schedule’, and ‘Attachment A – Mandatory Dust Control Plan Element’ sections specifying installation of samplers or monitors at the APCO’s discretion. At our September 30th, 2020 meeting it was explained that installation of samplers and monitors would be required in cases of ‘Visible Fugitive Dust’ and when PM10 exceeds 100 micrograms per cubic meter.

‘Visible Fugitive Dust’ is defined in the ‘Definitions’ section as (B)(22) *“Visible Fugitive Dust” - Dust emissions from a fugitive source as dark as or darker in shade than that shade designated No. 1 on Ringelmann Chart or equivalent, as published by the United States Bureau of Mines, or of equivalent opacity, for a period or periods aggregating more than three minutes in any one hour. [403.2(B)(33)].*” In order to add clarity to the proposed rule language so that persons subject to the rule can easily understand applicability that installation of samplers or monitors would only be required in cases of visible fugitive dust, additional clarifying language is proposed.

1.

It should be noted that the ‘Applicability’ section explains that rule language applies to both (A)(2)(a)(i) *A project or facility with a Disturbed Surface Area of at least twenty acres (including Mining, Stone, Asphalt, and Clay Facilities); [Moved from 403.1(C)(4)] and/or (A)(2)(a)(vii) Any other project or facility where ‘visible fugitive dust’ beyond the property line of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public, or so designated by the APCO.* This is to say that unless ‘visible fugitive dust’ language is specified in definitive sections of the proposed rule’s scope, the rule may be misunderstood to be applicable to any form of fugitive dust less than the shade designated No. 1 on Ringelmann Chart or equivalent at mining, stone, asphalt, and clay facilities.

Pursuant to PM10 exceeding 100 micrograms per cubic meter, it is unclear within the proposed rule language how the District would determine the occurrence of an exceedance. It is recommended that the District document exceedances using EPA Method 9 prior to requiring installation of a sampler or monitor. By quantifiably validating that an exceedance has occurred using EPA Method 9, it would prevent facilities from haphazardly purchasing costly equipment that has not been proven to be necessary. Accordingly, suggested language is proposed below.

(C) Requirements

...
(C)(3) A person shall not cause or allow PM10 to exceed 100 micrograms per cubic meter when determined as the difference between upwind and downwind samples collected on federal reference method samplers at the property line for a minimum of five hours, except during High Winds. Installation of samplers or monitors to determine compliance with this subsection shall be required at the APCO’s discretion based on documented exceedances using EPA Method 9 for three minutes or more in any hour, except during High Winds, or when visible fugitive dust beyond the property line

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of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public or so designated by the APCO.

...
(G) Compliance Schedule

...
(G)(3) Any Project or Facility required to install PM10 monitors by this Rule shall have those monitors installed and operating within six months of the adoption of this Rule, or within six months of written notification of such a requirement by the APCO based on documented exceedances using EPA Method 9 for three minutes or more in any hour, except during High Winds, or when visible fugitive dust beyond the property line of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public or so designated by the APCO.

...
Attachment A – Mandatory Dust Control Plan Elements

...
(Attachment A)(n) If required by the APCO or this Rule, specify the type of PM10 monitors, the upwind location, the downwind location, the monitoring frequency, and the data storage method, and acknowledge that all monitored PM10 data shall be provided to District personnel upon request based on documented exceedances using EPA Method 9 for three minutes or more in any hour, except during High Winds, or when visible fugitive dust beyond the property line of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public or so designated by the APCO.

Additionally, we noticed that only section (C)(9)(b) discusses removal of monitors while (C)(3) does not, to resolve this inconsistency with section (C)(3), we suggest moving the installation of samplers and monitors language in section (C)(3) to section (C)(9)(b) as it seems the District intended.

(C) Requirements

...
(C)(3) A person shall not cause or allow PM10 to exceed 100 micrograms per cubic meter when determined as the difference between upwind and downwind samples collected on federal reference method samplers at the property line for a minimum of five hours, except during High Winds. ~~Installation of samplers or monitors to determine compliance with this subsection shall be required at the APCO's discretion.~~

...
(C)(9)(b) Not cause or allow PM10 to exceed 100 micrograms per cubic meter when determined as the difference between upwind and downwind samples collected on federal reference method samplers at the property line for a minimum of five hours, except during High Winds. Installation of samplers or monitors to determine compliance with this subsection shall be required at the APCO's discretion based on documented exceedances using EPA Method 9 for three minutes or more in any hour, except during High Winds, or when visible fugitive dust beyond the property line of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public or so designated by the APCO.

A written request to remove said monitors may be sent to the APCO after thirty-six consecutive months of data demonstrate compliance, and subsequently removed upon APCO approval of such written request.

Enclosure of Belt Conveyors

Based on our discussion on September 30th, we understand that drop points of conveyors are not intended to be included within this language, and the enclosure of belt conveyors would only be required in cases of 'Visible Fugitive Dust'. And, to further clarify the applicability of this language applies to a project or facility with a Disturbed Surface Area of at least twenty acres (including

2. →

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Mining, Stone, Asphalt, and Clay Facilities) as noted in section (A)(2)(a)(i) and any other project or facility where visible fugitive dust beyond the property line of the emissions source causes injury, detriment, nuisance, or annoyance to any considerable number of persons or the general public as noted in section (A)(2)(a)(i), suggested language to add clarity is posted below for your consideration.

(C)(8)(c) To prevent Visible Fugitive Dust beyond the property line of the emissions source, enclose belt conveyors sufficiently to cover the top and sides of the Bulk Material being transferred (including portable belt conveyors, where feasible, and not including drop points of conveyors), or employ an alternate suppression system to prevent Visible Fugitive Dust.

Definition of 'Project', 'Site', and 'Operation'

In CalcIMA's last set of comments, we requested consistency related to when the term 'Project' is used within the proposed rule language. This request was addressed by the District. However upon further review, we understand that both 'Project', 'Site', and 'Operation' are not defined in District Rule 102 'Definition of Terms' or Proposed Amended Rule 403 'Fugitive Dust Control'.

Accordingly, it is recommended to only use the term 'Facility' which is defined in Rule 102, and remove the terms 'Project' and 'Site' from Proposed Amended Rule 403 as outlined below. In Rule 102, 'Facility' is defined as follows:

Rule 102 – Definition of Terms

(42) Facility – Any Permit Unit, group of Permit Units, non-permitted Equipment, or any combination thereof which

(a) Emits or many emit an Air Pollutant; and

(b) Belongs to a single major industrial group in the Standard Industrial Classification Manual; and

(c) Is located on a single parcel of land or on contiguous or adjacent property within the District; and

(d) Which is owned or operated by the same Person or by Persons under common control.

(e) For the purpose of this definition, such above-described grouping, remotely located but connected only by land carrying a pipeline, shall not be considered one Facility.

Proposed Amended Rule 403 – Fugitive Dust Control

(D) Dust Control Plans

...

(D)(2) The Owner/Operator shall submit a DCP as per Attachment A of this Rule to the APCO prior to the start of any Active Operations. An Owner/Operator may submit one DCP covering multiple ~~projects/facilities/sites~~ at different ~~sites~~ ~~facilities~~ where Active Operations will commence within the next 12 months provided the DCP includes each ~~project/facility/site~~ size, location, and types of activities to be performed. The DCP shall specify the expected start and completion date of each project.

(D)(3) The Owner/Operator shall install and maintain ~~project/facility/site~~ signage that meets the minimum standards of Attachment B prior to the start of any Active Operations.

...

(D)(8) The Owner/Operator must notify the District within ten days if a significant change occurs to the ~~project/facility/site or operations~~ covered by the DCP. An appropriately modified DCP must be submitted to the District within thirty (30) days of the change.

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3.

4.

Dust Control Plans

During our meetings, it was explained that a purpose of requiring a Dust Control Plan is for the District to have an enforceable document. In order to circumvent redundancy of this effort by facilities that already have an applicable enforceable document related to visible fugitive dust, we recommend including the language posted below.

(D) Dust Control Plans

...

(D)(9) An approved DCP shall be valid for a period of one (1) year from the date of approval of the DCP. DCPs must be resubmitted annually, at least sixty (60) days prior to the expiration date, or the DCP shall become disapproved as of the expiration date. If all Fugitive Dust sources and corresponding control measures or special circumstances remain identical to those identified in the previously approved DCP, the resubmittal may contain a simple statement of 'no change,' in which case all corresponding resubmittal fees shall be waived. In cases that a facility has a pre-existing, enforceable document that complies with subsection (D) as determined by the APCO, this section will be waived.

Mandatory Dust Control Plan (DCP) Elements

As discussed in CalcIMA's previous comment letter, section Attachment A(g)(i) specifies fugitive dust control measures as it relates to unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas. Because the quantity of dust emission from a given segment of unpaved area varies based on surface treatments, vehicle-related source conditions such as weight, speed, number of wheels for all traveling the road, the volume of traffic, and depends on source parameters that characterize the condition of a particular road, we had recommended that the control measure requiring a maximum of 15 miles per hour speed limit for loaded haul trucks be removed to allow for flexibility related to these variables. This recommendation was not accommodated. However, we would like to share supplemental discussion and recommendations related to this language for your consideration.

4a.

Specifically to address dust emissions from a fugitive source as dark as or darker in shade than that shade designated No. 1 on the Ringelmann chart or equivalent, as published by the United States Bureau of Mines, or of equivalent opacity, for a period or periods aggregating more than three minutes in any one hour, we recommend including 'visible' as it relates to fugitive dust. And, in cases that the maximum of 15 miles per hour is not feasible for a specific facility or if emissions are overall increased by establishment of a 15 miles per hour speed limit due to additional trucks being needed to fulfill operations, we recommend including language to allow flexibility by approval of the APCO.

Attachment A – Mandatory Dust Control Plan Elements

...

Attachment (A)(g) Specify visible fugitive dust control measures that will be used to Stabilize each of the following activities (as applicable):

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Attachment A(g)(i) Structural demolition; Pre-activity; Active Operations; Inactive operations (including after work hours, weekends and holidays); Temporary Stabilization of disturbed areas to be left inactive for more than seven days; Unpaved access areas, unpaved haul roads, unpaved traffic areas, and unpaved equipment storage areas (including a maximum of 15 miles per hour speed limit for loaded haul trucks unless otherwise approved by the APCO); Wind events; Outdoor handling of Bulk Materials; Outdoor storage of Bulk Materials; On-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; Off-site transportation of Bulk Materials; and Outdoor transport using chutes and conveyors.

Signage Minimum Requirements

5.

Pursuant to signage minimum requirements, CalcIMA kindly requests flexibility related to signage size requirements perhaps based on acreage requirements as other air districts have implemented. Additionally, pursuant to listing a contact name, we recommend inclusion of language to allow for flexibility at the approval of the APCO.

(Attachment B) The telephone number listed for the contact must be a local or a toll-free number and shall be accessible 24 hours per day. The contact name requirement may be waived with the approval of the APCO.

CalcIMA respectfully asks the District to consider our comments. Please contact me with any questions or concerns at (951) 941-7981 or at sseivright@calcima.org.

Sincerely,



Suzanne Seivright
Director of Local Governmental Affairs

cc: Brad Poirez, Executive Director
Tracy Walters, Air Quality Planner

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4. District response to CalCIMA comment, 10/09/20

1. Proposed language has not been included. The requirement in (C)(3), (G)(3), Attachment (A)(n) and (C)(9)(b) may be required due to non-compliance with opacity standards beyond the property line. PM10 monitoring is an existing provision in Rule 403 §(c) as readopted on 07/25/1977 and has been included as a general requirement. Proposed wording is already appropriate action at the discretion of the APCO.
2. §(C)(8)(c) is revised existing language from existing Rule 403.2 (C)(6)(k) and will be maintained as proposed.
3. Not all operations covered by this rule are included in the definition of Facility so it is not appropriate for replace these three terms (Project, Site and Operation) with the term “Facility”.
4. Please see the change made to §(G)(1).
- 4a. Modified Attachment A §(g)(i) to read “including a suggested 15 miles per hour speed limit for loaded haul trucks which may be exceeded if Visible Fugitive Dust is not generated.”
5. Please see Attachment B existing language which states “The telephone number listed for the contact must be a local or a toll-free number and shall be accessible 24 hours per day. The contact name requirement may be waived with the approval of the APCO”.

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Appendix “D”
California Environmental Quality Act
Documentation

1. Draft Notice of Exemption – San Bernardino County
2. Draft Notice of Exemption – Riverside County

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NOTICE OF EXEMPTION

TO: County Clerk
San Bernardino County
385 N. Arrowhead, 2nd Floor
San Bernardino, CA 92415
FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310



X MDAQMD Senior Executive Analyst

PROJECT TITLE: Amendment of Rule 403 – *Fugitive Dust Control* and rescindment of Rule 403.1 – *Fugitive Dust Control for the Searles Valley Planning Area* and Rule 403.2 – *Fugitive Dust Control for the Mojave Desert Planning Area*

PROJECT LOCATION – SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

PROJECT LOCATION – COUNTY: San Bernardino and Riverside Counties

DESCRIPTION OF PROJECT: The MDAQMD is proposing to update Rule 403 – *Fugitive Dust Control* to implement a Dust Control Plan as a measure to reduce fugitive dust emissions within the MDAQMD, as well as to revise, clarify, and compile the requirements of existing Fugitive Dust Rules 403, 403.1, and 403.2 into a single comprehensive Rule.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Mojave Desert AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

X Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Rule 403 are exempt from CEQA review because the amendments will not create any adverse impacts on the environment. The proposed rule amendments are more stringent than the previous rule version. Because there is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** October 26, 2020

DATE RECEIVED FOR FILING:

NOTICE OF EXEMPTION

TO: Clerk/Recorder
Riverside County
3470 12th St.
Riverside, CA 92501
FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310



X MDAQMD Senior Executive Analyst

PROJECT TITLE: Amendment of Rule 403 – *Fugitive Dust Control* and rescindment of Rule 403.1 – *Fugitive Dust Control for the Searles Valley Planning Area* and Rule 403.2 – *Fugitive Dust Control for the Mojave Desert Planning Area*

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NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

- Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)
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LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** October 26, 2020

DATE RECEIVED FOR FILING:

Appendix “E” Bibliography

The following documents were consulted in the preparation of this staff report.

1. Mojave Desert AQMD Rule 403 – *Fugitive Dust*
2. Mojave Desert AQMD Rule 403.1 – *Fugitive Dust Control for the Searles Valley Planning Area*
3. Mojave Desert AQMD Rule 403.2 – *Fugitive Dust Control for the Mojave Desert Planning Area*
4. September 2006 Central Arizona Salinity Study Phase II Report
5. El Dorado AQMD Rule 223 – *Fugitive Dust*
6. South Coast AQMD Rule 403 – *Fugitive Dust*
7. South Coast AQMD Rule 403.1 – *Supplemental Fugitive Dust Control Requirements for Coachella Valley Sources*
8. South Coast AQMD Rule 1186 – *PM₁₀ Emissions from Paved and Unpaved Roads and Livestock Operations*

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