

Businesses facing stricter rules for dust control

BY TY YOUNG

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While Maricopa County's new \$1.4 million clean-air campaign may be shifting its focus to individuals, local businesses will continue to face heavy scrutiny for contributing to the Valley's brown cloud.

On Feb. 13, the county's Air Quality Department unveiled its new campaign, an edgier, more interactive message than the "Bring Back Blue" campaign of the past two years. With its new campaign, "Running Out of Air," the county is looking to "shock" residents into realizing the air is full of dust — and if that doesn't change soon, it will lead to \$1 billion in lost federal highway funds, said department spokeswoman Holly Ward.

The U.S. Environmental Protection Agency came down hard on the county in 2005 and has threatened to pull federal highway funding if the county's air does not meet its standards. Despite the PR campaign's shift in focus from business to individuals, the Maricopa County Board of Supervisors soon will decide on new, stricter rules and heavier fines for businesses violating dust ordinances.

Once again, the construction industry is under the microscope for kicking up dust particles that hover in Valley skies.



Kard

On Feb. 20, the county will hear public comment about rules relating to individuals, specifically restrictions on leaf blowers, wood burning and off-road vehicles. During a public hearing March 26, the most contentious changes to the business community will be debated. One rule in particular could expand the scope of responsibility for "fugitive" dust, or particulate matter suspended in the air—common at construction sites. Many call the rules too vague and say they do not target the actual causes of dust generation, said David Armstrong, environmental law attorney with the Phoenix law office of Ballard Spahr Andrews & Ingersoll LLP.

Armstrong conducts business seminars about those regulations and represents many local and national home-building companies. There is a groundswell of fear that new restrictions and fines will unfairly target businesses holding earth-moving equipment licenses rather than the contractors using them, he said.

"What they are doing is penalizing the home builders even though they aren't the ones violating the rules," he said. "It is not equitable to issue notices of violations to a home builder who is contracting work

out simply because their name is on the permits."

County Air Quality Director Bob Kard disagreed. With the earth-moving permit, home builders are required to establish dust-control plans and bring people in to enforce them. While there could be hundreds of workers on a construction site, it is the responsibility of the earth-moving permit holder to control the dust, he said.

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"With this, if our inspectors observe someone — such as a subcontractor — obviously causing problems on an otherwise well-managed site, we may well cite that person (or) company," Kard said. "This is nothing new."

Officials at Southwest Gas Corp., which paid more than \$40,000 in fines last year, have decided to push the air quality issue onto its contractors to fend off potential violations. For future projects, the company will require its contractors to apply for earth-moving equipment permits.

This is in direct response to the county fines, said Garth Andrews, Southwest Gas spokesman.

"None of the violations we were fined for were because of Southwest Gas employees," he said. "All the projects were contracted out, but we paid the fines because our name was on the permit."

The county is not planning to change its compliance or enforcement practices, Kard said.

fuse to do this. I don't know if it's laziness, if they are afraid to issue (violations) to workers, or what. But this is unfair and unjust."