



33 N. Stone Avenue, Suite 700  
Tucson, Arizona 85701-1429  
[www.pima.gov/deq](http://www.pima.gov/deq)

Ursula Kramer Nelson, P.E.  
Director

(520) 724-7400  
FAX (520) 838-7432

January 24, 2020

**CERTIFIED MAIL**  
**Return Receipt Requested**

Freeport-McMoRan Sierrita Inc.  
Attn: David Rhoades, General Manager – Sierrita Operations  
6200 W. Duval Mine Rd.  
PO Box 527  
Green Valley, AZ 85622-0527

## **NOTICE OF VIOLATION # PC2001-039**

The Pima County Department of Environmental Quality (PDEQ) has reason to believe Freeport-McMoRan Sierrita Inc. (FMSI) has violated requirements of PDEQ Air Quality Operating Permit #6067 and the Pima County Code (PCC). PDEQ discovered the violations alleged below during a surveillance inspection of the Sierrita Tailings Impoundment in Green Valley, Arizona, conducted on January 09, 2020, and upon review of the report submitted by FMSI dated January 14, 2020.

### **I. ALLEGED VIOLATIONS – APPEALABLE AGENCY ACTIONS**

#### **FINDINGS OF FACT**

##### **Alleged Violation #1**

##### **Permit Condition Attachment B, ILE.1 (PCC 17.16.050.D)**

#### **II. FACILITY-WIDE REQUIREMENTS**

##### **E. Visibility Limiting Standard**

1. The Permittee shall not cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne. Sources may be required to cease temporarily the activity or operation which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.

##### **Findings**

Freeport-McMoRan Sierrita, Inc. allowed visible fugitive dust emissions of 37.9% opacity between 14:50PM and 14:59PM generated from the Sierrita Tailings Impoundment to cross northeast across Duval Mine Road on January 09, 2020, as measured by EPA Alternate Method 082.

### **Requested Corrective Actions**

Take adequate precautions to prevent visible emissions of fugitive dust generated from the Sierrita Tailing Impoundment from crossing property boundaries.

### **Alleged Violation #2**

#### **Permit Condition Attachment B, XIX.B.1.a (PCC 17.16.050.B)**

#### **XIX. REQUIREMENTS FOR FUGITIVE DUST SOURCES**

##### **B. Open Areas, Roadways and Streets, Material Handling, Storage Piles**

##### **1. Emission Limitations/Standards**

- a. The Permittee shall not cause, allow or permit visible emissions from any fugitive dust source in excess of 20% opacity measured in accordance with EPA Reference Method 9.

### **Findings**

Freeport-McMoRan Sierrita, Inc. allowed visible fugitive dust emissions generated from the Sierrita Tailings Impoundment of 39.6% between approximately 14:40PM and 14:49PM, on January 09, 2020, as measured by EPA Alternate Method 082.

### **Requested Corrective Actions**

Take adequate precautions to prevent visible emissions of fugitive dust generated from the Sierrita Tailing Impoundment from exceeding 20% opacity as measured by EPA Reference Method 9 or EPA Alternative Test Method ALT-082.

## **II. CITATION OF AUTHORITY**

Arizona Revised Statutes (ARS) § 49-513

Pima County Code § 17.28.070

## **III. REQUESTED COMPLIANCE DOCUMENTATION**

Freeport-McMoRan Sierrita Inc. shall submit a written response to PDEQ within **thirty (30)** calendar days of receipt of this notice. The response shall include:

- A thorough explanation of those actions that led to the violations
- The corrective actions taken to meet compliance
- The corrective measures taken to prevent future violations of this type

The above documentation shall be deemed "submitted" when received by PDEQ at the following address:

Pima County Department of Environmental Quality  
33 N. Stone Avenue, Suite 700  
Tucson, AZ 85701-1429  
Attention: Jacqueline Ronstadt  
Or via email: [Air.Permits@pima.gov](mailto:Air.Permits@pima.gov) with Subject: NOV PC2001-039

#### **IV. STATEMENT OF CONSEQUENCES**

Failure to achieve compliance or enter into a Consent Order will result in PDEQ initiating a unilateral enforcement action. Achieving compliance does not preclude PDEQ from seeking civil penalties. A unilateral enforcement action may result in a civil penalty. A civil penalty may be imposed for each violation for the entire non-compliance period.

PDEQ believes the alleged violations identified in the Notice of Violation (NOV) are significant and advises you they may be used to determine a pattern of non-compliance or used to determine civil penalties pursuant to ARS § 49-513. As such, PDEQ believes that NOV violations are appealable agency actions as defined in ARS § 49-471(4).

A person whose legal rights, duties or privileges were determined by an appealable agency action or who will be adversely affected by an appealable agency action and who exercised any right to comment on the action provided by law, rule or ordinance may appeal the action to the air pollution hearing board established pursuant to ARS § 49-478.

#### **V. ADMINISTRATIVE INFORMATION**

##### **OFFER TO MEET**

PDEQ personnel are willing to schedule a meeting to discuss the NOV and corrective actions. If you would like to meet, please contact me at (520) 724-7400. Before meeting, please submit the following:

- An agenda that specifies the objectives you wish to discuss.
- The names and affiliations of the participants that will be accompanying you.

##### **COMPLIANCE ASSISTANCE**

PDEQ personnel are also willing to help you achieve and maintain compliance. If you need assistance complying with the regulations please contact our department at (520) 724-7400.

##### **NOTICE OF NON-DISCRIMINATION**

The Pima County Department of Environmental Quality does not discriminate on the basis of race, color, national origin, sex, disability religion, or age in its programs or activities in accordance with applicable laws and regulations. Further, any person who is in need of special services (e.g., written material in large type, signer for the hearing impaired, or for free assistance in Spanish), please contact PDEQ's Environmental Justice Program Manager, Beth Gorman, 33 N. Stone Avenue, Suite 700, Tucson, Arizona, 85701, Phone

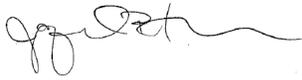
January 24, 2020  
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(520) 724-7446, email [beth.gorman@pima.gov](mailto:beth.gorman@pima.gov).

**AVISO DE NO DISCRIMINACIÓN**

El Departamento del Condado de Pima de Calidad Ambiental no discrimina en base de la raza, el color, el origen nacional, el sexo, la religión, discapacidad, o la edad en sus programas o actividades de acuerdo con leyes y regulaciones aplicables. Además, cualquier persona que esté necesitando los servicios especiales (e.g., material escrito en letra grande, intérpretes de lenguaje con señas, o para obtener asistencia gratuita en español), por favor contacte a la encargada del Programa de Justicia Ambiental del Departamento Calidad Ambiental del Condado de Pima, Beth Gorman, 33 N. Stone Avenue, Suite 700, Tucson, Arizona, 85701, teléfono (520) 724-7446, email [beth.gorman@pima.gov](mailto:beth.gorman@pima.gov).

Sincerely,



Jacqueline Ronstadt  
Air Compliance Manager

Attachment: Inspection Report dated January 09, 2020

cc: PDEQ File #: PC2001-039

Natalie Nunez, Senior Environmental Scientist – [nnunez@fmi.com](mailto:nnunez@fmi.com)