

# COUNTY NOTICES OF PROPOSED RULEMAKING

## Pursuant to A.R.S. §§ 49-112(A) or 49-112(B)

### MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT, AIR QUALITY DIVISION

1. **Heading and number of the proposed rule, ordinance, or other regulations**

Rule 310 (Fugitive Dust Sources)

New Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots, and Unpaved Publicly Owned Roadways)

Rule 353 (Transfer of Gasoline into Stationary Storage Dispensing Tanks)

New Appendix C

2. **Summary of the proposed rules, ordinance, or other regulations**

Maricopa County is proposing to revise Rule 310 (Fugitive Dust Sources), New Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots, and Unpaved Publicly Owned Roadways), Rule 353 (Transfer of Gasoline into Stationary Storage Dispensing Tanks), and New Appendix C, and to submit such rules as a revision to the (Arizona) State Implementation Plan (SIP).

The proposed rule revisions are as follows:

**Proposed Revisions to Rule 310 (Fugitive Dust Sources) and New Appendix C**

In accordance with 1990 Clean Air Act Amendments (CAA) (56 FR 11101, March 15, 1991), the U.S. Environmental Protection Agency (EPA) designated a portion of Maricopa County as a moderate PM-10 nonattainment area. Under this designation, Maricopa County was required to submit moderate PM-10 nonattainment area plans and was required to show attainment of the PM-10 national ambient air quality standards (NAAQS) by December 31, 1994.

Moderate PM-10 nonattainment area plans were submitted in 1991 and 1993, but the Maricopa County moderate PM-10 nonattainment area, upon EPA's findings, failed to attain the NAAQS by December 31, 1994. Consequently, on May 10, 1996, in accordance with the CAA (61 FR 21372), EPA reclassified a portion of Maricopa County as a serious PM-10 nonattainment area and required Maricopa County to submit to EPA by December 10, 1997, a serious PM-10 nonattainment area plan. For the serious PM-10 nonattainment area plan, the CAA requires that best available control measures (BACM) be implemented no later than June 10, 2000 (CAA Sections 188(c)(2) and 189(b)), and EPA guidance indicates that BACM be designed to achieve the maximum degree of emissions reduction from a PM-10 source.

Meanwhile, on April 1, 1998, EPA published a proposed Federal Implementation Plan (FIP) (63 FR 19520) and on August 3, 1998 (63 FR 41326), EPA published a final FIP because specific unpermitted sources, vacant lots, unpaved parking lots, and unpaved roads were shown to contribute to continuing violations of the PM-10 24-hour standard in the nonattainment area. In the FIP, EPA proposed a fugitive dust rule to control PM-10 emissions from vacant lots, unpaved parking lots, and unpaved roads, and EPA agreed to provide additional inspection resources to Maricopa County through a CAA Section 105 grant.

In order for Maricopa County to replace EPA's proposed fugitive dust rule of the FIP, Maricopa County must demonstrate in the Arizona SIP that such replacement is as stringent as or is more stringent than reasonably available control measures (RACM) and must show that implementation of any approvable RACM is backed with adequate resources, in accordance with Section 110(a)(2)(E) of the CAA. To suffice as a RACM, a control measure must be economically and technologically feasible, enforceable as a practical matter, and implemented as "soon as practicable" (see 63 FR 15926).

Maricopa County and the state of Arizona are submitting new Rule 310.01 as a revision to the Arizona SIP. New Rule 310.01 meets the criteria for approvable RACM to control PM-10 emissions from vacant lots, unpaved parking lots and unpaved roads. In addition, since new Rule 310.01 was created to address PM-10 emissions from vacant lots, unpaved parking lots, and unpaved roads, Maricopa County had to revise Rule 310. Maricopa County has made the following revisions to Rule 310:

- Re-wrote 15 definitions;

- Deleted 7 definitions;
- Added 15 new definitions;
- Added a requirement for implementation of a High Wind Dust Control Plan, when wind gusts exceed 25 miles per hour;
- Added Table 2, which lists recommended control measures for high wind conditions;
- Added Table 1, which lists recommended control measures for specific fugitive dust sources;
- Deleted Section 302 (Dust Generating Operations-Permits Required) and added Section 302 (Stabilization Limitation For Fugitive Dust Sources);
- Moved Section 305 (Vehicle Use In Open Areas And Vacant Parcels) to Rule 310.01;
- Moved Section 306 (Unpaved Parking Areas/Staging Areas) to Rule 310.01;
- Added Section 307 (Project Information Sign);
- Added Section 308 (Work Practices);
- Moved Section 307 (Unpaved Haul/Access Roads) to Subsection 308.6 (Work Practices-Unpaved Roads);
- Moved Section 308 (Disturbed Surface Areas) to Rule 310.01;
- Moved Section 309 (Vacant Areas) to Rule 310.01;
- Moved Section 310 (Material Handling) to Subsections 308.2 and 308.3;
- Moved Section 311 (Material Transport) to Subsection 308.1 and 308.4;
- Moved Section 312 (Roadways, Streets, And Alleys) to Rule 310.01;
- Moved Section 313 (Erosion, Sedimentation And Deposition Of Bulk Materials Onto Paved Surfaces) to Subsection 308.5;
- Deleted Section 314 (Cattle Feedlots And Livestock Areas). Cattle feedlots and livestock areas will be addressed through A.R.S. § 49-457;
- Added Section 402 (Compliance Schedule); and,
- Added Section 502 (Stabilization Observations).

Maricopa County has also proposed new Appendix C, which describes the procedures for the test methods associated with Rule 310 and new Rule 310.01.

**New Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots, and Unpaved Publicly Owned Roadways)**

On April 1, 1998, EPA published a proposed FIP (63 FR 19520), and on August 3, 1998 (63 FR 41326), EPA published a final FIP because specific unpermitted sources, vacant lots, unpaved parking lots, and unpaved roads, were shown to contribute to continuing violations of the PM-10 24-hour standard in the nonattainment area. In the FIP, EPA proposed a fugitive dust rule to control PM-10 emissions from vacant lots, unpaved parking lots, and unpaved roads, and EPA agreed to provide additional inspection resources to Maricopa County through a CAA section 105 grant.

In order for Maricopa County to replace EPA's proposed fugitive dust rule of the FIP, Maricopa County must demonstrate in the Arizona SIP that such replacement is as stringent as or is more stringent than RACM and must show that implementation of any approvable RACM is backed with adequate resources, in accordance with Section 110(a)(2)(E) of the CAA. To suffice as a RACM, a control measure must be economically and technologically feasible, enforceable as a practical matter, and implemented as "soon as practicable" (see 63 FR 15926).

Maricopa County and the state of Arizona are submitting new Rule 310.01 as a revision to the Arizona SIP. New Rule 310.01 meets the criteria for approvable RACM to control PM-10 emissions from vacant lots, unpaved parking lots and unpaved roads.

**Proposed Revisions to Rule 353 (Transfer of Gasoline into Stationary Storage Dispensing Tanks)**

The revision clarifies the responsibility of managers and attendants of gas stations that are receiving gasoline with defective or obstructed vapor recovery equipment. Fill pipe and vapor return provisions are expanded. A tank's fill pipe is required to have its cap in place during deliveries to other tanks on the premises unless a hose is connected to it. Each new tank installation or major modification of a tank requires 2-point vapor-recovery in each tank; installation of coaxial vapor recovery systems are prohibited. Use of a 2nd fill-tube simultaneously with the 1st is prohibited in tanks equipped with 2 fill-tubes, unless allowed by the station's air pollution permit. Use of stage 1 vapor-recovery equipment that is approved by the California Air Resources Board (CARB) is now specified. CARB-certified "poppered" self-closing valves for all vapor recovery connections at gas stations are required, and delivery personnel are required to inform station management if there is a problem with these valves, with gasoline fill-tubes, or with spill containment equipment. Standards are set for spill containment devices and their use. Records retention is expanded to 5 years. Leak detection test procedures are now included in detail.

**3. A demonstration of the grounds and evidence of compliance with A.R.S. 49-112(A) or A.R.S. 49-112(B)**

The Control Officer of the Maricopa County Environmental Services Department affirms the following:

Pursuant to A.R.S. §49-112(A), as enacted in 1994, Maricopa County may adopt rules that are more stringent than or in addition to a provision of the state, provided that the rule is necessary to address a peculiar local condition; and if it is either necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible or if it is required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule is equivalent to federal statutes or regulations; and if any fee adopted under the rule will not exceed the reasonable costs of the county to issue and administer that permit program.

Pursuant to A.R.S. §49-112(A), Rule 310, new Rule 310.01 and new Appendix C comply with the requirements in the following ways: the rules address the peculiar local condition of the Maricopa County Nonattainment Area "serious" classification for PM-10; the rules implement best available control measures (BACM) as required by the federal Clean Air Act (CAA) for "serious" PM-10 nonattainment areas, and need to be submitted to EPA for inclusion in the SIP; and permit fees will not change as a result of these rules. On May 10, 1996, the Maricopa County Nonattainment Area was reclassified to "serious" for PM-10 in accordance with the CAA (61 FR 21372). Rule 310, as adopted on September 20, 1994, has been approved by EPA as a SIP revision implementing reasonably available control measures (RACM) for a "moderate" PM-10 nonattainment area. On August 3, 1998, EPA promulgated a Federal Implementation Plan (FIP) for Maricopa County. The FIP was initiated because, although Arizona had previously been able to show compliance in addressing sources contributing to violations of the annual standard, the state could not show full compliance in addressing specific fugitive dust sources. These sources were shown to contribute to violations of the PM-10 24-hour standard in the nonattainment area. EPA found that Rule 310, due to inadequate commitment of resources by the County, does not assure enforcement of RACM for unpermitted sources, including vacant lots, unpaved parking lots and unpaved roads, that are legally subject to the rule (63 FR 15925). Provisions addressing unpermitted sources have been separated from Rule 310 and are now addressed under proposed new Rule 310.01. With a demonstration of resources to accompany the proposed new Rule 310.01, this package will be submitted to EPA to replace the federal rule finalized by the FIP. Appendix C compiles test methods used for compliance purposes in Rules 310 and 310.01. The Section 112(B) demonstration does not apply because these particular rules are in that portion of Maricopa County's air quality program which is administered under direct statutory authority. Therefore, these rules are not being adopted/ revised in lieu of a state program.

Rule 353 complies with the requirements of A.R.S. §49-112(A) in the following ways: the rule addresses the peculiar local condition of the Maricopa County Nonattainment Area "serious" classification for ozone; the rule is necessary to prevent a significant threat to public health or the environment that results from the peculiar local condition of the Maricopa County Nonattainment Area being classified as "serious" for ozone and is technically and economically feasible; and permit fees will not change as a result of this rule. Rule 353 has been approved as a measure in the Maricopa County Ozone SIP. The proposed revisions to Rule 353 are designed to clarify and improve compliance with the standards in the rule. The revisions incorporate recommendations resulting from a rule effectiveness study which found the program was only 50% effective. The revisions are necessary to address the shortfall in SIP emission reductions resulting from the low compliance rate for this program. The Section 112(B) demonstration does not apply because this particular rule is in that portion of Maricopa County's air quality program which is administered under direct statutory authority. Therefore, this rule is not being adopted/ revised in lieu of a state program.

**4. Name and address of the person to whom persons may address questions or comments**

Name: Rick Kramer-Howe, Air Quality Planner (Rule 353)  
Or  
Johanna Kuspert, Air Quality Planner (Rules 310, 310.01 & Appendix C)

Address: Maricopa County Environmental Services Department  
Air Quality Division  
1001 North Central Avenue #201  
Phoenix, Arizona 85004

Telephone: Rick Kramer-Howe (602) 506-6706 or Johanna Kuspert (602) 506-6710

Fax: (602) 506-6179

**5. Where persons may obtain a full copy of the proposed rules, ordinance, or other regulations**

Name: Maricopa County Environmental Services Department  
Air Quality Division

Address: 1001 North Central Avenue #201  
Phoenix, Arizona 85004

Telephone: (602) 506-6010

Fax: (602) 506-6179

# NOTICE OF PUBLIC HEARING ON PROPOSED RULEMAKING

## Pursuant to A.R.S. §§ 49-112(A) or 49-112(B)

MARICOPA COUNTY  
ENVIRONMENTAL SERVICES DEPARTMENT, AIR QUALITY DIVISION

1. **Heading and number of the proposed rules, ordinance, or other regulations that are the subject to the public hearing**

Rule 310 (Fugitive Dust Sources)

New Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots, and Unpaved Publicly Owned Roadways)

Rule 353 (Transfer of Gasoline into Stationary Storage Dispensing Tanks)

New Appendix C

2. **Date, time, and location of public hearing scheduled**

Date: Wednesday, June 16, 1999

Time: 9 am

Location: Maricopa County Board of Supervisors Auditorium  
205 W. Jefferson St.  
Phoenix, Arizona

Nature of Public Hearing: To Discuss and Approve the Above Listed Rules.

3. **County personnel to whom questions and comments may be addressed**

Name: Rick Kramer-Howe, Air Quality Planner (Rule 353)  
Or  
Johanna Kuspert, Air Quality Planner (Rules 310, 310.01 & Appendix C)

Address: Maricopa County Environmental Services Department  
Air Quality Division  
1001 North Central Avenue #201  
Phoenix, Arizona 85004

Telephone: Rick Kramer-Howe (602) 506-6706 or Johanna Kuspert (602) 506-6710

Fax: (602) 506-6179

4. **Any other pertinent information concerning the above described rules, ordinance, or other regulations**

Please refer to the Notice of Proposed Rules which appears in this issue of the Arizona Administrative Register.