

## COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

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### NOTICE OF PROPOSED RULEMAKING

#### MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

#### REGULATION III

#### RULE 310.01 - FUGITIVE DUST FROM OPEN AREAS, VACANT LOTS, UNPAVED PARKING LOTS, AND UNPAVED ROADWAYS

#### PREAMBLE

- 1. Sections affected** **Rulemaking action**  
Rule 310.01, all sections Amend
- 2. Statutory Authority for the rulemaking:**  
Authorizing statutes: Arizona Revised Statutes, Title 49, Chapter 3, Article 3, Sections 479 and 480 (A.R.S. § 49-479, A.R.S. § 49-480)  
Implementing statute: Arizona Revised Statutes, Title 49, Chapter 1, Article 1, Section 112 (A.R.S. § 49-112)
- 3. List of all previous notices appearing in the register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 10 A.A.R. 2266, June 4, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Johanna M. Kuspert or Jo Crumbaker  
Address: 1001 N. Central Ave, Suite 695  
Phoenix, AZ 85004  
Telephone: (602) 506-3476 or (602) 506-6705  
Fax: (602) 506-6179  
E-mail: jkuspert@mail.maricopa.gov or jcrumbak@mail.maricopa.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**  
Rule 310.01 (Fugitive Dust From Open Areas, Vacant Lots, Unpaved Parking Lots, And Unpaved Roadways) limits the emission of particulate matter (PM<sub>10</sub>) into the ambient air from open areas, vacant lots, unpaved parking lots, and unpaved roadways that are not regulated by Rule 310 (Fugitive Dust) of the Maricopa County Air Pollution Control Regulations and that do not require a permit nor a Dust Control Plan.  
Maricopa County adopted Rule 310.01 in June 1999 and revised Rule 310.01 in February 2000, in order to make Rule 310.01 approvable to the Environmental Protection Agency (EPA) as a replacement to the Federal Implementation Plan (FIP) and so that Rule 310.01 could be incorporated into the State Implementation Plan (SIP). Maricopa County is again proposing to revise Rule 310.01. The revisions being proposed now, however, are being made to address commitments proposed in the Salt River PM<sub>10</sub> State Implementation Plan (SIP) Revision.  
Other revisions to Rule 310.01 are being proposed in order to improve clarity and to fix typographical and formatting errors.  
**Section By Section Explanation Of Changes:**  
Section 101 This proposed revision deletes "sources".  
Section 102 This proposed revision deletes "sources".  
Section 200 This proposed revision deletes "For the purpose of this rule, the following definitions shall apply. See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used by not specifically defined in this rule" and adds "See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply".  
Section 201 This proposed revision adds "fluff (from shredders)", and "that are capable of producing

- fugitive dust”.
- Section 203 This proposed revision deletes the definition of commercial feedlots and/or commercial livestock areas.
- Section 204 This proposed revision deletes “Section 501” and adds “Section 300”.
- Section 206 This proposed revision adds the definition of feedlots and/or livestock areas.
- Section 207 This proposed revision deletes “which is” and “which” and adds “that”.
- Section 211 This proposed revision deletes “subsection 211.1” and “subsection 211.4” and adds “Section 211.1” and “Section 211.4”.
- Section 211.2 This proposed revision deletes “which” and adds “that”.
- Section 214 This proposed revision adds the definition of PM<sub>10</sub> nonattainment area.
- Section 301 This proposed revision deletes “subsection” and “measures” and adds “Section 301.1”, “Within 30 calendar days following the initial discovery by the Control Officer of vehicle use on open areas and vacant lots, the owner and/or operator of such open areas and vacant lots shall provide in writing to the Control Officer a description and date of the control measure(s) to be implemented to prevent such vehicle use on open areas and vacant lots”, “measure(s)”, “Section 301.2”, “Once a control measure in Section 301.1 of this rule has been effectively implemented, then such open area or vacant lot is subject to the requirements of Section 302 (Open Areas And Vacant Lots) of this rule. Although, such open area and vacant lot shall still meet the thresholds described in Section 302 of this rule and the stabilization limitations described in Section 302.2 of this rule”, and “although such open areas and vacant lots shall still meet the stabilization limitations described in Section 301.2 of this rule”.
- Section 301 addresses vehicle use in open areas and vacant lots. According to Section 301, if open areas and vacant lots are 0.10 acre or larger and have a cumulative of 500 square feet or more that are driven over and/or used by motor vehicles, then the owner and/or operator of such open areas and vacant lots must implement a control measure(s). During the rulemaking process in 2000, Stakeholders requested a minimum threshold for regulation of trespass on open areas and vacant lots, because without such threshold, Rule 310.01 is more strict than the Federal Implementation Plan (FIP). For example, Rule 310.01 does not require control measures for 100 cars in a parking lot for 35 days a year but does require control measures if one car trespasses on a vacant lot, and Rule 310.01 does not require control measures if less than 150 trips per day are made on an unpaved haul/access road and does not require control measures if an unpaved parking lot is less than 5,000 square feet, but does require control measures if one car trespasses on a vacant lot. EPA had concerns with allowing a specific number of vehicles to trespass an open area and vacant lot below which no regulation would occur; EPA reasoned that such allowance would be contrary to preventing trespass on open areas and vacant lots. Nevertheless, after many months of discussion, the Stakeholders, EPA, and Maricopa County agreed to revise Rule 310.01, Section 301 to include the “0.10 acre or larger and have a cumulative of 500 square feet or more” thresholds. The “cumulative of 500 square feet or more” threshold was added, per the EPA's comment made during a conference call on January 4, 2000 and was based-on the EPA's reasonableness test and visual inspections in Phoenix.
- Also, for the purpose of Rule 310.01, if there are maintenance roads and access roads on municipal property and/or in municipal parks, then such maintenance roads and access roads are not considered open areas and vacant lots and are not subject to the “cumulative of 500 square feet or more” threshold described in Rule 310.01, Section 301.
- Section 301.1(a) This proposed revision deletes “Once vehicular traffic has been restricted from an open area or a vacant lot, such open area or vacant lot is no longer subject to the requirements of Section 301 of this rule, but rather such open area and vacant lot is subject to the requirements of Section 302 (Open Areas And Vacant Lots) of this rule” and adds “(written in English and Spanish and in compliance with ordinance(s) of local jurisdictions)”.
- Section 301.1(b) This proposed revision deletes “subsection 301.2” and adds “Section 301.2”.
- Section 301.1(c) This proposed revision deletes “Environmental Protection Agency (EPA)” and adds “EPA”.
- Section 301.2(g) This proposed revision deletes “Environmental Protection Agency (EPA)” and adds “EPA”.
- Section 302 This proposed revision deletes “subsection 302.1” and “measures” and adds “Section 302.1”, “Within 30 calendar days following the initial discovery by the Control Officer of the disturbance on the open areas and vacant lots, the owner and/or operator of such open areas

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and vacant lots shall provide in writing to the Control Officer a description and date of the control measure(s) to be implemented”, “measure(s)”, “Section 302.2”, and “Should an open area or vacant lot on which no activity is occurring contain more than one type of disturbance, soil, vegetation, or other characteristics that are visibly distinguishable, then the owner and/or operator shall test each representative surface separately for stability, in an area that represents a random portion of the overall disturbed conditions of the site, according to the appropriate test methods in Appendix C of these rules and included or eliminated from the total size assessment of disturbed surface area(s) depending on test method results”.

- Section 302.1(a) This proposed revision deletes “subsection 302.2” and adds “Section 302.2”.
- Section 302.1(b) This proposed revision deletes “subsection 302.2” and adds “Section 302.2”.
- Section 302.1(c) This proposed revision deletes “subsection 302.2”, “this”, and “the” and adds “Section 302.2” and “such”.
- Section 302.1(d) This proposed revision deletes “subsection 302.2” and adds “Section 302.2”.
- Section 302.1(e) This proposed revision deletes “Environmental Protection Agency (EPA)” and adds “EPA”.
- Section 303 This proposed revision deletes “subsection 303.1”, “limitation”, and “For the purpose of this rule, the owner and/or operator of an unpaved parking lot on which vehicles are parked no more than 35 days per year, excluding days on which ten or fewer vehicles enter, shall implement either the control measure described in subsection 303.1(b) or subsection 303.1(c) below for the duration of time that over 100 vehicles enter and/or park on such unpaved parking lot. In addition, for the purpose of this rule, such control measures shall be considered effectively implemented when the unpaved parking lot meets the stabilization limitation described in subsection 303.2 of this rule” and adds “Section 303.1”, “and opacity limitations”, “on any surface area(s) of the lot on which vehicles enter, park, and exit. For unpaved parking lots that are utilized intermittently, for a period of 35 days or less during the calendar year, the owner and/or operator shall implement one of the control measures described in Section 303.1 of this rule, during that period that the unpaved parking lots are utilized for vehicle parking”, and “For the purpose of this rule”, “measure(s)”, “Section 303.2”.
- Section 303.1(b) This proposed revision deletes “subsection 303.2” and “limitation” and adds “Section 303.2” and “and opacity limitations”.
- Section 303.1(c) This proposed revision deletes “subsection 303.2” and “limitation” and adds “Section 303.2” and “and opacity limitations”.
- Section 303.2 This proposed revision deletes “limitation” and “do not equal or exceed 0.33 oz/ft<sup>2</sup> silt loading, or do not exceed 6% silt content, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization For Unpaved Roads And Unpaved Parking Lots) of these rules” and adds “and opacity limitations”, “and opacity”, and “meet one of the following as determined by Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules”.
- Section 303.2(a) This proposed revision adds “Silt loading is not equal to or greater than 0.33 oz/ft<sup>2</sup>; or”.
- Section 303.2(b) This proposed revision adds “Silt content does not exceed 8%”.
- Section 304 This proposed revision deletes “subsection 304.1”, “best available”, “Existing unpaved roadways (including alleys) with vehicular traffic of 250 vehicles or more per day must be stabilized by one of the best available control measures described in subsection 304.1 of this rule by June 10, 2000. Existing unpaved roadways (including alleys) with vehicular traffic of 150 vehicles or more per day must be stabilized by one of the best available control measures described in subsection 304.1 of this rule by June 10, 2004”, “the best available”, “measures”, and “complies with subsection 304.3”, and adds “PM<sub>10</sub>”, “Section 304.1”, “such”, “measure(s)”, and “meets the stabilization and opacity limitations described in Section 304.2”.
- Section 304 includes the threshold “150 vehicles or more per day”. For the purpose of Rule 310.01, “day” is defined in terms of the definition of average daily trips. Average daily trips is defined in the Federal Implementation Plan as “the average number of vehicles that cross a given surface during a specified 24-hour time period as determined by the Institute Of Transportation Engineers Trip Generation Report (6<sup>th</sup> Edition, 1997) or tube counts”.
- Section 304.1 This proposed revision deletes “Best Available” from the heading.
- Section 304.1(b) This proposed revision deletes “subsection 304.3” and “limitation” and adds “Section 304.2” and “and opacity limitations”.
- Section 304.1(c) This proposed revision deletes “subsection 304.3” and “limitation” and adds “Section 304.2”.

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- and “and opacity limitations”.
- Section 304.2 This proposed revision deletes Section 304.2 in its entirety. The dates for implementing best available control measures have passed.
- Section 304.2(a) This proposed revision adds “Silt loading is not equal to or greater than 0.33 oz/ft<sup>2</sup>; or”.
- Section 304.2(b) This proposed revision adds “Silt content does not exceed 6%”.
- Section 304.3 This proposed revision re-numbers “Section 304.3” to “Section 304.2”, deletes “limitation” and “do not equal or exceed 0.33 oz/ft<sup>2</sup> silt loading, or do not exceed 6% silt content, as determined in Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules” and adds “and opacity limitations”, “and opacity”, and “meet one of the following, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization For Unpaved Roads And Unpaved Parking Lots) of these rules”.
- Section 305 This proposed revision deletes “commercial” and “subsection 305.1” and adds “Section 305.1” and “For the purpose of this rule, such control measure(s) shall be considered effectively implemented when the feedlot and/or livestock area meets the opacity limitations described in Section 305.2 of this rule”.
- Section 305.1(a) This proposed revision deletes “subsection 305.2” and “stabilization” and adds “Section 305.2” and “opacity”.
- Section 305.1(b) This proposed revision deletes “subsection 305.2” and “stabilization” and adds “Section 305.2” and “opacity”.
- Section 305.1(c) This proposed revision deletes “subsection 305.2” and “stabilization” and adds “Section 305.2” and “opacity”.
- Section 305.2 This proposed revision deletes “stabilization” and “No fugitive dust plume emanating from commercial feedlots and/or commercial livestock areas shall exceed 20% opacity” and adds “opacity” and “For the purpose of this rule, control measures shall be considered effectively implemented when opacity observations for fugitive dust emissions from feedlots and /or livestock areas do not exceed 20% opacity”.
- Section 306 This proposed revision deletes “subsection 306.1”, “such”, “stabilization”, “subsection 306.2”, and “limit”, and adds “Section 306.1”, “For the purpose of this rule, such”, “opacity”, “Section 306.2”, and “limitation”.
- Section 306.2 This proposed revision deletes “stabilization” and adds “opacity”.
- Section 307 This proposed revision deletes “person”, “subsection 307.1”, “the”, “measures”, and “complies with subsection 307.2” and adds “an owner and/or operator”, “PM<sub>10</sub>”, “Section 307.1”, “such”, “measure(s)”, and “meets the stabilization and opacity limitations described in Section 307.2 of this rule”.
- Section 307.1(b) This proposed revision deletes “limitation” and “subsection 307.2” and adds “and opacity limitations” and “Section 307.2”.
- Section 307.1(c) This proposed revision deletes “limitation” and “subsection 307.2” and adds “and opacity limitations” and “Section 307.2”.
- Section 307.2 This proposed revision deletes “limitation” and “do not equal or exceed 0.33 oz/ft<sup>2</sup> silt loading, or do not exceed 6% silt content, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization For Unpaved Roads And Unpaved Parking Lots) of these rules” and adds “and opacity limitations” and “meet one of the following as determined by Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules”.
- Section 307.2(a) This proposed revision adds “Silt loading is not equal to or greater than 0.33 oz/ft<sup>2</sup>; or”.
- Section 307.2(b) This proposed revision adds “Silt content does not exceed 6%”.
- Section 502 This proposed revision deletes “The records should”, “shall be provided”, and “records shall be provided” and adds “such”, “in the records”, “such person shall provide”, and “such person shall provide the records”.

**6. Demonstration of compliance with A.R.S. § 49-112:**

Under A.R.S. § 49-479(c), a county may not adopt a rule that is more stringent than the rules adopted by the director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the requirements of A.R.S. § 49-112. Under that statute:

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When authorized by law, a county may adopt a rule, ordinance, or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition;
2. There is credible evidence that the rule, ordinance or other regulation is either:
  - (a) 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
  - (b) 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, ordinance or other regulation is equivalent to federal statutes or regulations.

A.R.S. § 49-112 (A).

Maricopa County is proposing to revise Rule 310.01 in order to address a peculiar local condition: the designation of Maricopa County as a serious nonattainment area for PM<sub>10</sub> and to address Best Available Control Measures (BACM) and Most Stringent Measures (MSM) proposed in the Salt River PM<sub>10</sub> State Implementation Plan (SIP) Revision.

Maricopa County is the only PM<sub>10</sub> serious nonattainment area in Arizona, consequently stronger regulations must be adopted in this area to address a serious health threat. Because of this, the revision complies with A.R.S. § 49-112 (A)(1). Additionally because Rule 310.01 is part of the Arizona State Implementation plan for the control of PM<sub>10</sub>, the regulation is federally enforceable and changes are required under 40 C.F.R. 51.120 (c)(102) to effect enforceable commitments made by Maricopa County. Therefore the rule revisions are also made pursuant to A.R.S. § 49-112 (2).

In addition, the purpose of the Salt River PM<sub>10</sub> SIP Revision is to meet the Environmental Protection Agency's (EPA's) requirements to implement control measures committed to in the Salt River Plan by February 2, 2005 and to demonstrate attainment of the 24-hour federal standard for coarse particulate matter air pollution by December 31, 2006 in the Salt River Study Area. The EPA requires that control measures applied to significant sources of PM<sub>10</sub> emissions in the Salt River Study Area be applied to similar sources throughout the Maricopa County serious PM<sub>10</sub> nonattainment area. The proposed revisions to Rule 310.01 should meet such requirements.

**7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

“Proposed Revised PM<sub>10</sub> State Implementation Plan For The Salt River Area”, Air Quality Division, Arizona Department Of Environmental Quality, June 2004.

Available for review at: <http://www.adeq.state.az.us/environ/air/plan/download/proposedsip.pdf>

Or contact:

Mark Lewandowski  
Arizona Department Of Environmental Quality  
Mailcode: 3415A-3  
ADEQ Central Office  
1110 W. Washington St.  
Phoenix, AZ 85007  
(602) 771-2230

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision:**

Not applicable

**9. The preliminary summary of the economic, small business, and consumer impact:**

**Economic Impacts On Regulated Sources:**

The proposed revisions to Rule 310.01 are administrative in nature and will not raise costs for regulated sources.

**Economic Impacts On County Resources:**

Along with the proposed revisions to Rule 310.01, Maricopa County is proposing to provide additional inspection and enforcement personnel.

In 1998, Maricopa County had four inspectors, one supervisor, and one enforcement officer on staff to enforce 1,700 earthmoving permits. In 2000, Maricopa County increased the number of personnel working on Maricopa County Rule 310 (Fugitive Dust) compliance to eight inspectors, one supervisor, one coordinator, two enforcement officers, one aide, and one county attorney. In 2000, Maricopa County was responsible for 2,500 earthmoving permits. Currently, Maricopa County is responsible for 4,150 earthmoving permits.

By September 2004, Maricopa County will complete three workload analyses. The first analysis will focus on three to five inspections per year at earthmoving sites ten acres or larger in size and one inspection per year at smaller sites for compliance with Maricopa County Rule 310 (Fugitive Dust). The second analysis will focus on inspections of 5,300

vacant lots per year, which constitutes 20% of the 26,446 vacant lots identified as of October 2003, for compliance with Maricopa County Rule 310.01 (Open Areas, Vacant Lots, Unpaved Parking Lots, And Unpaved Roadways).

The third analysis will focus on increasing inspection for compliance with Maricopa County Rule 316 (Nonmetallic Mineral Processing) to four times per year. The workload analysis will also address proposed enforcement for Maricopa County's proposed new Rule 325 (Brick And Structural Clay Manufacturing), which will provide PM<sub>10</sub> controls for structural clay and brick manufacturers.

These analyses are expected to result in identification of the number of additional personnel and salaries/fringe benefits totals necessary for an effective enforcement effort to attain the PM<sub>10</sub> standard. Interim funding to enable accelerated hiring of some additional personnel will also be explored and identified by September 2004. A resolution committing Maricopa County to a funding mechanism and specified number of enforcement positions to be added and filled in 2004-2005 will be presented to the Maricopa County Board Of Supervisors for adoption at its September meeting. Following adoption of the resolution, Maricopa County will hire additional personnel in October 2004 through September 2005. In the interim, Maricopa County will revise fees through revisions to Maricopa County Rule 280 (Fees) to fund the additional positions.

**Health Costs:**

Because Maricopa County is a serious nonattainment area for PM<sub>10</sub>, which these proposed revisions address, it is imperative to consider the medical and social costs of failing to take steps toward the improvement of the air quality. Adverse health effects from air pollution result in a number of economic and social consequences, including:

1. Medical Costs – Personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. Work Loss – Lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. Increased Costs For Chores And Caregiving – Special caregiving and services that are not reflected in medical costs. These costs may occur, because some health effects reduce the affected individual's ability to undertake some or all normal chores. The affected individual may require extra care.
4. Other Social And Economic Costs – Restrictions on or reduced enjoyment of leisure activities, increased discomfort or inconvenience, increased pain and suffering, anxiety about the future, and concern and inconvenience to family members.

**Rule Impact Reduction On Small Businesses:**

A.R.S. § 41-1055 requires Maricopa County to reduce the impact on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives of the rulemaking. A small business is defined in A.R.S. § 41-1001 as a “concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.” Maricopa County solicits input from stakeholders (i.e., small businesses) regarding administrative costs associated with compliance with proposed rulemakings and any other information relevant to the economics, small business, and consumer impact statement. Because of the nature of the proposed revisions to Rule 310.01, small businesses will be affected only minimally.

**Conclusion:**

Because the proposed changes to Rule 310.01 will essentially clarify requirements that already exist, there is only a minimal economic impact on regulated entities, county resources, small businesses, and the public at large.

**10. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Johanna M. Kuspert or Jo Crumbaker  
Address: 1001 N. Central Ave, Suite 695  
Phoenix, AZ 85004  
Telephone: (602) 506-3476 or (602) 506-6705  
Fax: (602) 506-6179  
E-mail: jkuspert@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

**11. The time, place and nature of the proceedings for the amendment of the rule:**

Written comments will be accepted if received between the date of this publication and Friday, December 3, 2004, 5:00 p.m. Written comments may be mailed or hand delivered to the Maricopa County Environmental Services

Department (see #4 above). Written comments received during the comment period will be considered formal comments to the proposed rules and will be responded to in the Notice Of Final Rulemaking.

An oral proceeding will be held Thursday, December 2, 2004 at 1:30 pm at the Maricopa County Environmental Services Department, Suite 560 (see Item #4 above). All comments made at this oral proceeding will be considered formal comments and will be recorded and transcribed. All formal comments will be addressed in the Notice Of Final Rulemaking.

**12. Any other matters prescribed by the statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

<u>Incorporation By Reference</u>	<u>Location</u>
Appendix C, Section 2.1	Rule 310.01, Section 501.1
Appendix C, Section 2.3	Rule 310.01, Section 501.2(a)
Appendix C, Section 2.4	Rule 310.01, Section 501.2(b)
Appendix C, Section 2.5	Rule 310.01, Section 501.2(c)
Appendix C, Section 2.6	Rule 310.01, Section 501.2(d) and (e)
Appendix C, Section 2.7	Rule 310.01, Section 501.2(f)

**14. The full text of the rule follows:**

**REGULATION III**

**RULE 310.01 - FUGITIVE DUST FROM OPEN AREAS, VACANT LOTS,  
UNPAVED PARKING LOTS, AND UNPAVED ROADWAYS**

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Adopted 06/16/99  
Revised 02/16/00

**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION III - CONTROL OF AIR CONTAMINANTS**

**RULE 310.01**

**FUGITIVE DUST FROM**

**OPEN AREAS, VACANT LOTS, UNPAVED PARKING LOTS, AND UNPAVED ROADWAYS**

**SECTION 100 - GENERAL**

**101 PURPOSE:** To limit the emission of particulate matter into the ambient air from open areas, vacant lots, unpaved parking lots, and unpaved roadways which are not regulated by Rule 310 (Fugitive Dust Sources) of these rules and which do not require a permit nor a Dust Control Plan. The effect of this rule shall be to minimize the amount of fine particulate matter (PM<sub>10</sub>) entrained into the ambient air as a result of the impact of human activities by requiring measures to prevent, reduce, or mitigate particulate matter emissions.

**102 APPLICABILITY:** The provisions of this rule shall apply to open areas, vacant lots, unpaved parking lots, and unpaved roadways which are not regulated by Rule 310 (Fugitive Dust Sources) of these rules and which do not require a permit nor a Dust Control Plan. In addition, the provisions of this rule shall apply to any open area or vacant lot that is not defined as agricultural land and is not used for agricultural purposes according to Arizona Revised Statutes (ARS) § 42-12151 and A.R.S. § 42-12152. The provisions of this rule shall not apply to normal farm cultural practices according to A.R.S. § 49-457 and A.R.S. § 49-504.4.

**SECTION 200 - DEFINITIONS:** ~~For the purpose of this rule, the following definitions shall apply. See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.~~ See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

**201 BULK MATERIAL** - Any material, including, but not limited to, earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter (i.e., aggregate base course (ABC)), dirt, mud, demolition debris, cotton, trash, cinders, pumice, saw dust, feeds, grains, fertilizers, fluff (from shredders), and dry concrete, that are capable of producing fugitive dust.

**202 CHEMICAL/ORGANIC STABILIZER** - 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.

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- 203 ~~COMMERCIAL FEEDLOTS AND/OR COMMERCIAL LIVESTOCK AREAS~~ - Any operation directly related to feeding animals, displaying animals, racing animals, exercising animals, and/or for any other such activity, for the primary purpose of livelihood.
- 204 **203 CONTROL MEASURE** - A technique, practice, or procedure used to prevent or minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust.
- 205 **204 DISTURBED SURFACE AREA** - A portion of the earth's surface (or material placed thereupon) which has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition, thereby increasing the potential for the emission of fugitive dust. For the purpose of this rule, an area is considered to be a disturbed surface area until the activity that caused the disturbance has been completed and the disturbed surface area meets the standards described in ~~Section 504~~ Section 300 of this rule, as applicable.
- 206 **205 DUST SUPPRESSANT** - Water, hygroscopic material, solution of water and chemical surfactant, foam, non-toxic chemical stabilizer, or any other dust palliative, which is not prohibited for ground surface application by the Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing fugitive dust emissions.
- 206 **FEEDLOTS AND/OR LIVESTOCK AREAS** - Any area on which an operation directly related to feeding animals, displaying animals, racing animals, exercising animals, and/or for any other such activity exists.
- 207 **FUGITIVE DUST** - The particulate matter, ~~which is~~ not collected by a capture system, ~~which that~~ is entrained in the ambient air and ~~which~~ is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind. For the purpose of this rule, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, and from piledrivers, and does not include emissions from process and combustion sources that are subject to other rules in Regulation III (Control Of Air Contaminants) of these rules.
- 208 **MOTOR VEHICLE** - A self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments, such as but not limited to, trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
- 209 **NORMAL FARM CULTURAL PRACTICE** - All activities by the owner, lessee, agent, independent contractor, and/or supplier conducted on any facility for the production of crops and/or nursery plants. Disturbances of the field surface caused by turning under stalks, tilling, leveling, planting, fertilizing, or harvesting are included in this definition.
- 210 **OFF-ROAD VEHICLE** - Any self-propelled conveyance specifically designed for off-road use, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motorbuggies.
- 211 **OPEN AREAS AND VACANT LOTS** - Any of the following described in ~~subsection 211.1~~ Section 211.1 through ~~subsection 211.4~~ Section 211.4 of this rule. For the purpose of this rule, vacant portions of residential or commercial lots that are immediately adjacent and owned and/or operated by the same individual or entity are considered one vacant open area or vacant lot.
- 211.1 An unsubdivided or undeveloped tract of land adjoining a developed or a partially developed residential, industrial, institutional, governmental, or commercial area.
- 211.2 A subdivided residential, industrial, institutional, governmental, or commercial lot, ~~which that~~ contains no approved or permitted buildings or structures of a temporary or permanent nature.
- 211.3 A partially developed residential, industrial, institutional, governmental, or commercial lot.
- 211.4 A tract of land, in the PM<sub>10</sub> nonattainment area, adjoining agricultural property.
- 212 **OWNER AND/OR OPERATOR** - Any person who owns, leases, operates, controls, or supervises a fugitive

dust source subject to the requirements of this rule.

**213 PAVE** - To apply and maintain asphalt, concrete, or other similar material to a roadway surface (i.e., asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt).

**214 PM<sub>10</sub> NONATTAINMENT AREA** - An area designated by the EPA as exceeding national ambient air quality standards based upon data collected through air quality monitoring. The geographical boundary of Maricopa County's PM<sub>10</sub> nonattainment area is defined as the rectangle determined by and including the following townships and ranges: T6N, R3W; T6N, R7E; T2S, R3W; T2S, R7E; and T1N, R8E. Maricopa County's PM<sub>10</sub> nonattainment area includes the following cities: Surprise, Peoria, Glendale, Phoenix, Scottsdale, Tempe, Mesa, Gilbert, Chandler, Avondale, Buckeye, and Goodyear.

**214 215 PUBLIC ROADWAYS** - Any roadways that are open to public travel.

**214 216 UNPAVED PARKING LOT** - Any area larger than 5,000 square feet that is not paved and that is used for parking, maneuvering, or storing motor vehicles.

**214 217 UNPAVED ROADWAY (INCLUDING ALLEYS)** - A road that is not paved and that is owned by Federal, State, county, municipal, or other governmental or quasi-governmental agencies. For the purpose of this rule, an unpaved roadway (including alleys) is not a horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by motor vehicles.

**214 218 VACANT LOT** - The definition of vacant lot is included in Section 211 (Definition Of Open Areas And Vacant Lots) of this rule.

### SECTION 300 - STANDARDS

**301 VEHICLE USE IN OPEN AREAS AND VACANT LOTS:** If open areas and vacant lots are 0.10 acre or larger and have a cumulative of 500 square feet or more that are driven over and/or used by motor vehicles and/or off-road vehicles, then the owner and/or operator of such open areas and vacant lots shall implement one of the control measures described in ~~subsection 301.1~~ Section 301.1 of this rule within 60 calendar days following the initial discovery of vehicle use on open areas and vacant lots. Within 30 calendar days following the initial discovery by the Control Officer of vehicle use on open areas and vacant lots, the owner and/or operator of such open areas and vacant lots shall provide in writing to the Control Officer a description and date of the control measure(s) to be implemented to prevent such vehicle use on open areas and vacant lots. For the purpose of this rule, such control ~~measures~~ measure(s) shall be considered effectively implemented when the open areas and vacant lots meet one of the stabilization limitations described in ~~subsection 301.2~~ Section 301.2 of this rule. Once a control measure in Section 301.1 of this rule has been effectively implemented, then such open area or vacant lot is subject to the requirements of Section 302 (Open Areas And Vacant Lots) of this rule. Use of or parking on open areas and vacant lots by the owner and/or operator of such open areas and vacant lots and/or landscape maintenance of such open areas and vacant lots shall not be considered vehicle use on open areas and vacant lots, although such open areas and vacant lots shall still meet the stabilization limitations described in Section 301.2 of this rule. For the purpose of this rule, landscape maintenance does not include grading, trenching, nor any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.

#### **301.1 Control Measures:**

a. Prevent motor vehicle and/or off-road vehicle trespassing, parking, and/or access, by installing barriers, curbs, fences, gates, posts, signs (written in English and Spanish and in compliance with ordinance(s) of local jurisdictions), shrubs, trees, or other effective control measures. ~~Once vehicular traffic has been restricted from an open area or a vacant lot, such open area or vacant lot is no longer subject to the requirements of Section 301 of this rule, but rather such open area and vacant lot is subject to the requirements of Section 302 (Open Areas And Vacant Lots) of this rule.~~

b. Uniformly apply and maintain surface gravel or chemical/organic stabilizers to all areas disturbed by motor vehicles and/or off-road vehicles in compliance with one of the stabilization limitations described in ~~subsection 301.2~~ Section 301.2 of this rule.

c. Apply and maintain an alternative control measure approved in writing by the Control Officer and the Administrator of the ~~Environmental Protection Agency (EPA)~~ EPA.

#### **301.2 Stabilization Limitations:**

- a. A visible crust shall be implemented, as determined by Appendix C, Section 2.3 (Test Methods For Stabilization-Visible Crust Determination) (The Drop Ball/Steel Ball Test) of these rules; or
- b. A threshold friction velocity (TFV) corrected for non-erodible elements of 100 cm/second or higher shall be implemented, as determined by Appendix C, Section 2.4 (Test Methods For Stabilization-Determination Of Threshold Friction Velocity (TFV)) (Sieving Field Procedure) of these rules; or
- c. Flat vegetative cover (i.e., attached (rooted) vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) that is equal to at least 50% shall be implemented, as determined by Appendix C, Section 2.5 (Test Methods For Stabilization-Determination Of Flat Vegetative Cover) of these rules; or
- d. Standing vegetative cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 30% shall be implemented, as determined by Appendix C, Section 2.6 (Test Methods For Stabilization-Determination Of Standing Vegetative Cover) of these rules; or
- e. Standing vegetative cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 10% and where the threshold friction velocity is equal to or greater than 43 cm/second when corrected for non-erodible elements shall be implemented, as determined by Appendix C, Section 2.6 (Test Methods For Stabilization-Determination Of Standing Vegetative Cover) of these rules; or
- f. A percent cover that is equal to or greater than 10% for non-erodible elements shall be implemented, as determined by Appendix C, Section 2.7 (Test Methods For Stabilization-Rock Test Method) of these rules; or
- g. An alternative test method approved in writing by the Control Officer and the Administrator of the ~~Environmental Protection Agency (EPA)~~ EPA shall be implemented.

**302 OPEN AREAS AND VACANT LOTS:** If open areas and vacant lots have 0.5 acre or more of disturbed surface area and remain unoccupied, unused, vacant, or undeveloped for more than 15 days, then the owner and/or operator of such open areas and vacant lots shall implement one of the control measures described in ~~subsection 302.1~~ Section 302.1 of this rule within 60 calendar days following the initial discovery of the disturbance on the open areas and vacant lots. Within 30 calendar days following the initial discovery by the Control Officer of the disturbance on the open areas and vacant lots, the owner and/or operator of such open areas and vacant lots shall provide in writing to the Control Officer a description and date of the control measure(s) to be implemented. For the purpose of this rule, such control ~~measures~~ measure(s) shall be considered effectively implemented when the open areas and vacant lots meet one of the stabilization limitations described in ~~subsection 302.2~~ Section 302.2 of this rule. Should an open area or vacant lot on which no activity is occurring contain more than one type of disturbance, soil, vegetation, or other characteristics that are visibly distinguishable, then each representative surface shall be tested separately for stability, in an area that represents a random portion of the overall disturbed conditions of the site, according to the appropriate test methods in Appendix C of these rules and included or eliminated from the total size assessment of disturbed surface area(s) depending on test method results.

**302.1 Control Measures:**

- a. Establish vegetative ground cover on all disturbed surface areas within 60 calendar days following the initial discovery of the disturbance. Such control measure(s) must be maintained and reapplied, if necessary, until the disturbed surface areas are stabilized, in compliance with one of the stabilization limitations described in ~~subsection 302.2~~ Section 302.2 of this rule. Stabilization shall be achieved, per this control measure, within eight months after the control measure has been implemented.
- b. Apply a dust suppressant to all disturbed surface areas, in compliance with one of the stabilization limitations described in ~~subsection 302.2~~ Section 302.2 of this rule.
- c. Restore all disturbed surface areas within 60 calendar days following the initial discovery of the disturbance, such that the vegetative ground cover and soil characteristics are similar to adjacent or nearby undisturbed native conditions. Such control measure(s) must be maintained and reapplied, if necessary, until the disturbed surface areas are stabilized, in compliance with one of the stabilization limitations described in ~~subsection 302.2~~ Section 302.2 of this rule. Stabilization shall be achieved, per ~~this~~ such control measure, within eight months after ~~the~~ such control measure has been implemented.
- d. Uniformly apply and maintain surface gravel, in compliance with one of the stabilization limitations described in ~~subsection 302.2~~ Section 302.2 of this rule.
- e. Apply and maintain an alternative control measure approved in writing by the Control Officer and the Administrator of the ~~Environmental Protection Agency (EPA)~~ EPA.

**302.2 Stabilization Limitations:**

- a. A visible crust shall be implemented, as determined by Appendix C, Section 2.3 (Test Methods For Stabilization-Visible Crust Determination) (The Drop Ball/Steel Ball Test) of these rules; or

- b. A threshold friction velocity (TFV), corrected for non-erodible elements of 100 cm/second or higher, shall be implemented, as determined by Appendix C, Section 2.4 (Test Methods For Stabilization-Determination Of Threshold Friction Velocity (TFV)) (Sieving Field Procedure) of these rules; or
- c. Flat vegetative cover (i.e., attached (rooted) vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) that is equal to at least 50% shall be implemented, as determined by Appendix C, Section 2.5 (Test Methods For Stabilization-Determination Of Flat Vegetative Cover) of these rules; or
- d. Standing vegetative cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 30% shall be implemented, as determined by Appendix C, Section 2.6 (Test Methods For Stabilization-Determination Of Standing Vegetative Cover) of these rules; or
- e. Standing vegetative cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) that is equal to or greater than 10% and where the threshold friction velocity is equal to or greater than 43 cm/second when corrected for non-erodible elements shall be implemented, as determined by Appendix C, Section 2.6 (Test Methods For Stabilization-Determination Of Standing Vegetative Cover) of these rules; or
- f. A percent cover that is equal to or greater than 10% for non-erodible elements shall be implemented, as determined by Appendix C, Section 2.7 (Test Methods For Stabilization-Rock Test Method) of these rules; or
- g. An alternative test method approved in writing by the Control Officer and the Administrator of the EPA shall be implemented.

**303 UNPAVED PARKING LOTS:** The owner and/or operator of an unpaved parking lot shall implement one of the control measures described in ~~subsection 303.1~~ Section 303.1 of this rule ~~on any surface area(s) of the lot on which vehicles enter, park, and exit. For unpaved parking lots that are utilized intermittently, for a period of 35 days or less during the calendar year, the owner and/or operator shall implement one of the control measures described in Section 303.1 of this rule, during the period that the unpaved parking lots are utilized for vehicle parking. For the purpose of this rule, the owner and/or operator of an unpaved parking lot on which vehicles are parked no more than 35 days per year, excluding days on which ten or fewer vehicles enter, shall implement either the control measure described in subsection 303.1(b) or subsection 303.1(e) below for the duration of time that over 100 vehicles enter and/or park on such unpaved parking lot. In addition, for the purpose of this rule, such~~ For the purpose of this rule, such control measures ~~measure(s) shall be considered effectively implemented when the unpaved parking lot meets the stabilization limitation and opacity limitations described in subsection 303.2~~ Section 303.2 of this rule.

**303.1 Control Measures:**

- a. Pave.
- b. Apply dust suppressants, in compliance with the stabilization ~~limitation and opacity limitations~~ described in ~~subsection 303.2~~ Section 303.2 of this rule.
- c. Uniformly apply and maintain surface gravel, in compliance with the stabilization ~~limitation and opacity limitations~~ described in ~~subsection 303.2~~ Section 303.2 of this rule.

**303.2 Stabilization ~~Limitation And Opacity Limitations:~~** For the purpose of this rule, control measures shall be considered effectively implemented when stabilization and opacity observations for fugitive dust emissions from unpaved parking lots do not exceed 20% opacity and ~~do not equal or exceed 0.33 oz/ft<sup>2</sup> silt loading, or do not exceed 8% silt content, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization For Unpaved Roads And Unpaved Parking Lots) of these rules. meet one of the following, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules:~~

- a. Silt loading is equal to or greater than 0.33 oz/ft<sup>2</sup>; or
- b. Silt content does not exceed 8%.

**304 UNPAVED ROADWAYS (INCLUDING ALLEYS):** If a person allows 150 vehicles or more per day to use an unpaved roadway (including alleys) in the PM<sub>10</sub> nonattainment area, then such person shall first implement one of the ~~best available~~ control measures described in ~~subsection 304.1~~ Section 304.1 of this rule. ~~Existing unpaved roadways (including alleys) with vehicular traffic of 250 vehicles or more per day must be stabilized by one of the best available control measures described in subsection 304.1 of this rule by June 10, 2000. Existing unpaved roadways (including alleys) with vehicular traffic of 150 vehicles or more per day must be stabilized by one of the best available control measures described in subsection 304.1 of this rule by June 10, 2004. For the purpose of this rule, the best available such control measures~~ measure(s) shall be considered effectively implemented when the unpaved roadway (including alleys) ~~complies with subsection 304.3~~ meets the stabilization and opacity limitation described in Section 304.2 of this rule.

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**304.1 Best Available Control Measures:**

- a. Pave.
- b. Apply dust suppressants, in compliance with the stabilization ~~limitation~~ and opacity limitations described in ~~subsection 304.3~~ Section 304.2 of this rule.
- c. Uniformly apply and maintain surface gravel, in compliance with the stabilization ~~limitation~~ and opacity limitations described in ~~subsection 304.3~~ Section 304.2 of this rule.

**304.2 Implementation Of Best Available Control Measures:** ~~For the purpose of this rule, best available control measures shall be considered effectively implemented, under the following conditions:~~

- a. ~~The unpaved roadway (including alleys) meets the stabilization limitation described in subsection 304.3 of this rule; and, where applicable,~~
- b. ~~Existing unpaved roadways (including alleys) are stabilized according to the following schedule:~~
  - (1) ~~Roadways with vehicular traffic of 250 vehicles or more per day are stabilized by June 10, 2000.~~
  - (2) ~~Roadways with vehicular traffic of 150 vehicles or more per day are stabilized by June 10, 2004.~~

**304.3 304.2 Stabilization Limitation And Opacity Limitations:** ~~For the purpose of this rule, control measures shall be considered effectively implemented when stabilization and opacity observations for fugitive dust emissions from unpaved roadways (including alleys) do not exceed 20% opacity and do not equal or exceed 0.33 oz/ft<sup>2</sup> silt loading, or do not exceed 6% silt content, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization For Unpaved Roads And Unpaved Parking Lots) of these rules. meet one of the following, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules:~~

- a. Silt loading is equal to or greater than 0.33 oz/ft<sup>2</sup>; or
- b. Silt content does not exceed 6%.

**305 ~~COMMERCIAL FEEDLOTS AND/OR COMMERCIAL LIVESTOCK AREAS:~~** ~~The owner and/or operator of any commercial feedlot and/or commercial livestock area shall implement one of the control measures described in ~~subsection 305.1~~ Section 305.1 of this rule. For the purpose of this rule, such control measure(s) shall be considered effectively implemented when the feedlot and/or livestock area meets the opacity limitation described in Section 305.2 of this rule.~~

**305.1 Control Measures:**

- a. Apply dust suppressants, in compliance with the ~~stabilization~~ opacity limitation described in ~~subsection 305.2~~ Section 305.2 of this rule.
- b. Uniformly apply and maintain surface gravel, in compliance with the ~~stabilization~~ opacity limitation described in ~~subsection 305.2~~ Section 305.2 of this rule.
- c. Install shrubs and/or trees within 50 feet to 100 feet of animal pens, in compliance with the ~~stabilization~~ opacity limitation described in ~~subsection 305.2~~ Section 305.2 of this rule.

**305.2 ~~Stabilization~~ Opacity Limitation:** ~~No fugitive dust plume emanating from commercial feedlots and/or commercial livestock areas shall exceed 20% opacity. For the purpose of this rule, control measures shall be considered effectively implemented when opacity observations for fugitive dust emissions from feedlots and/or livestock areas do not exceed 20% opacity, as determined by Appendix C, Section 3 (Visual Determination Of Opacity Of Emissions From Sources For Time-Average Regulations) of these rules.~~

**306 EROSION-CAUSED DEPOSITION OF BULK MATERIALS ONTO PAVED SURFACES:** In the event that erosion-caused deposition of bulk materials or other materials occurs on any adjacent paved roadway or paved parking lot, the owner and/or operator of the property from which the deposition eroded shall implement both of the control measures described in ~~subsection 306.1~~ Section 306.1 of this rule. ~~Such~~ For the purpose of this rule, such control measures shall be considered effectively implemented when the deposition meets the ~~stabilization opacity~~ limitation described in ~~subsection 306.2~~ Section 306.2 of this rule. Exceedances of the opacity ~~limit~~ limitation, due to erosion-caused deposition of bulk materials onto paved surfaces, shall constitute a violation of the opacity ~~limit~~ limitation.

**306.1 Control Measures:**

- a. Remove any and all such deposits by utilizing the appropriate control measures within 24 hours of the deposits' identification or prior to the resumption of traffic on pavement, where the pavement area has been closed to traffic; and
- b. Dispose of deposits in such a manner so as not to cause another source of fugitive dust.

**306.2 ~~Stabilization~~ Opacity Limitation:** For the purpose of this rule, control measures shall be considered effectively implemented when ~~stabilization opacity~~ observations for fugitive dust emissions from erosion-caused deposition of bulk materials onto paved surfaces do not exceed 20% opacity, as described in Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules.

**307 EASEMENTS, RIGHTS-OF-WAY, AND ACCESS ROADS FOR UTILITIES (ELECTRICITY, NATURAL GAS, OIL, WATER, AND GAS TRANSMISSION):** If a ~~person~~ an owner and/or operator allows 150 vehicles or more per day to use an easement, right-of-way, and access road for utilities (electricity, natural gas, oil, water, and gas transmission) in the PM<sub>10</sub> nonattainment area, then such ~~person~~ owner and/or operator shall first implement one of the control measures described in ~~subsection 307.1~~ Section 307.1 of this rule. For the purpose of this rule, ~~the such control measures~~ measure(s) shall be considered effectively implemented, when the easement, right-of-way, and access road for utilities (electricity, natural gas, oil, water, and gas transmission) ~~complies with subsection 307.2~~ meet the stabilization and opacity limitation described in Section 307.2 of this rule.

**307.1 Control Measures:**

- a. Pave.
- b. Apply dust suppressants, in compliance with the stabilization ~~limitation~~ and opacity limitations described in ~~subsection 307.2~~ Section 307.2 of this rule.
- c. Uniformly apply and maintain surface gravel, in compliance with the stabilization ~~limitation~~ and opacity limitations described in ~~subsection 307.2~~ Section 307.2 of this rule.

**307.2 ~~Stabilization Limitation~~ And Opacity Limitations:** For the purpose of this rule, control measures shall be considered effectively implemented when stabilization and opacity observations for fugitive dust emissions from easements, rights-of-way, and access roads for utilities (electricity, natural gas, oil, water, and gas transmission) do not exceed 20% opacity and ~~do not equal or exceed 0.33 oz/ft<sup>2</sup> silt loading, or do not exceed 6% silt content, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization For Unpaved Roads And Unpaved Parking Lots) of these rules.~~ meet one of the following, as determined by Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules:

- a. Silt loading is not equal to or greater than 0.33 oz/ft<sup>2</sup>; or
- b. Silt content does not exceed 6%.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 - MONITORING AND RECORDS**

**501 STABILIZATION OBSERVATIONS:**

**501.1** Stabilization observations for unpaved parking lots and/or unpaved roadways (including alleys) shall be conducted in accordance with Appendix C, Section 2.1 (Test Methods For Stabilization-For Unpaved Roads And Unpaved Parking Lots) of these rules.

**501.2** Stabilization observations for an open area and vacant lot shall be conducted in accordance with the following:

**a.** Appendix C, Section 2.3 (Test Methods For Stabilization-Visible Crust Determination) (The Drop Ball/ Steel Ball Test) of these rules; or

**b.** Appendix C, Section 2.4 (Test Methods For Stabilization-Determination Of Threshold Friction Velocity (TFV)) (Sieving Field Procedure) of these rules, where the threshold friction velocity (TFV) for disturbed surface areas corrected for non-erodible elements is 100 cm/second or higher; or

**c.** Appendix C, Section 2.5 (Test Methods For Stabilization-Determination Of Flat Vegetative Cover) of these rules, where flat vegetation cover (i.e., attached (rooted) vegetation or unattached vegetative debris lying on the surface with a predominant horizontal orientation that is not subject to movement by wind) is equal to at least 50%; or

**d.** Appendix C, Section 2.6 (Test Methods For Stabilization-Determination Of Standing Vegetative Cover) of these rules, where standing vegetation cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) is equal to or greater than 30%; or

**e.** Appendix C, Section 2.6 (Test Methods For Stabilization-Determination Of Standing Vegetative Cover) of these rules, where the standing vegetation cover (i.e., vegetation that is attached (rooted) with a predominant vertical orientation) is equal to or greater than 10% and where the threshold friction velocity, corrected for non-erodible elements, is equal to or greater than 43 cm/second; or

**f.** Appendix C, Section 2.7 (Test Methods For Stabilization-Rock Test Method) of these rules where a percent cover is equal to or greater than 10% for non-erodible elements.

**g.** An alternative test method approved in writing by the Control Officer and the Administrator of the EPA.

**502 RECORDKEEPING:** Any person subject to the requirements of this rule shall compile and retain records that provide evidence of control measure application (i.e., receipts and/or purchase records). ~~The records should~~ Such person shall describe, in the records, the type of treatment or control measure, extent of coverage, and date applied. Upon verbal or written request by the Control Officer, such person shall provide the records and supporting documentation ~~shall be provided~~ within 48 hours, excluding weekends. If the Control Officer is at the site where requested records are kept, ~~records shall be provided~~ such person shall provide the records without delay.

**503 RECORDS RETENTION:** Copies of the records required by Section 502 (Recordkeeping) of this rule shall be retained for at least one year.