

**RULE 402** **Fugitive Dust** - (Adopted 11/29/93, Amended 3/07/94, 9/7/95, 11/3/4)

**I. Purpose**

The purpose of this Rule is to reduce the amount of respirable particulate matter (PM10) emitted from significant man-made fugitive dust sources and in an amount sufficient to maintain National Ambient Air Quality Standards. Rule 419 shall still be used to prevent/correct specific public nuisances and health hazards.

**II. Applicability**

The provisions of this Rule shall apply to specified bulk storage, earthmoving, construction and demolition, and man-made conditions resulting in wind erosion. It shall also apply to unpaved roadways located in the Kern County portion of the "Searles Valley Planning Area" shown on Page 402-11.

**III. Definitions**

- A. Active Operation - activity capable of generating fugitive dust, including any open storage pile, earth-moving activity, construction/demolition activity, disturbed surface area, and non-emergency movement of motor vehicles on unpaved roadways and any parking lot served by an unpaved road subject to this Rule.
- B. Bulk Material - sand, gravel, soil, aggregate, and any other organic or inorganic solid matter capable of releasing dust.
- C. Calendar Quarter - consecutive three month period and each consecutive three-month period thereafter, beginning on the first day of the calendar month in which an activity qualifies as a large operation.
- D. Construction and Demolition Activity - any on-site mechanical activity preparatory to or related to building, alteration, rehabilitation, demolition or improvement of property, including the following activities: grading, excavation, loading, crushing, cutting, planning, shaping or ground breaking.
- E. Contractor - any person or company, or licensed construction contractor having a contractual arrangement to conduct an active operation subject to this Rule for another person.
- F. Contingency Measure - additional PM10 control requirements automatically triggered in the event of failure to maintain the National Ambient Air Quality Standards for PM10 in the Indian Wells Valley.
- G. Disturbed Surface Area - portion of the earth's surface having been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition, thereby increasing the potential for emission of fugitive dust. Disturbed surface area does not include areas restored to a natural state with vegetative ground cover and soil characteristics similar to adjacent or nearby natural conditions.

- H. Dust Suppressant - water, hygroscopic materials, or non-toxic chemical stabilizers used as treatment to reduce fugitive dust emissions. A suppressant shall not be used if prohibited by the Regional Water Quality Control Board, the California Air Resources Board, the Environmental Protection Agency, or any other applicable law, rule or regulation. All suppressants shall meet all specifications, criteria, or tests required by any federal, state, or local water agency. The use of dust suppressants shall be of sufficient concentration and application frequency to maintain a stabilized surface.
- I. Earth-Moving Activity - grading, earth cutting and filling, loading or unloading of dirt or bulk material, adding to or removing from open storage piles of bulk material, landfilling, or soil mulching.
- J. Fugitive Dust - any particulate matter becoming airborne, other than being emitted from an exhaust stack, directly or indirectly as a result of human activity.
- K. Inactive Disturbed Surface Area - any disturbed surface area upon which an active operation has not occurred for a period of at least ten consecutive days.
- L. Large Operation - any active operation, including vehicle movement on unpaved roadways, on property involving in excess of 100 contiguous acres of disturbed surface area, or any earth-moving activity exceeding a daily volume of 7,700 cubic meters (10,000 cubic yards) three times during the most recent 365-day period.
- M. Motor vehicle - any engine-powered device used to convey people, or freight and registered for use on public highways.
- N. Non-Routine - non-periodic active operation occurring no more than three times per year, lasting less than 30 cumulative days per year, and scheduled less than 30 days in advance.
- O. Open Storage Pile - any accumulation of bulk material with 5 percent or greater silt content not fully enclosed, covered or chemically stabilized, and attaining a height of three feet or more and a total surface area of 500 or more square feet. Silt content level shall be assumed to be 5 percent or greater unless a person shows, by sampling and analysis in accordance with ASTM Method C-136, the silt content is less. Results of ASTM Method C-136 are valid for 60 days from the date the sample was taken unless the Control Officer is provided with a logical explanation as to why the silt content should be considered constant. If he concurs it is constant, future sampling may be required to confirm this conclusion.
- P. Particulate Matter - any solid material, existing in finely divided form.
- Q. PM10 - particulate matter with an aerodynamic diameter smaller than or equal to 10 microns as measured by California Air Resources Board Test Method 501.
- R. Prevailing Wind Direction - from Southwest to Northeast (in the Indian Wells Valley) or as specified by the Control Officer as being representative of local conditions.

- S. Property Line - boundaries of an area in which either a person causing fugitive dust emissions or a person allowing fugitive dust emissions has ownership or legal right to use the property.
- T. Reasonably Available Control Measure (RACM) - any technique or procedure used to prevent or reduce the emission and airborne transport of fugitive dust. RACM's include, but are not limited to, application of dust suppressants, use of coverings or enclosures, paving, enshrouding, planting, control of vehicle speeds, and any other measure recognized by the Control Officer as providing equivalent dust control. Table I (Page 402-4) and U.S. EPA's reference document "Control of Open Fugitive Dust Sources", Midwest Research Institute, September 1988 shall be used for guidance.
- U. Simultaneous Sampling - operation of two PM10 samplers such that one sampler is started within five minutes of the other, and each sampler is operated for a consecutive period of not less than 290 minutes and not more than 310 minutes.
- V. Stabilized surface - previously disturbed surface area showing visual or other evidence of surface particle conglomeration after application of a dust suppressant.
- W. Unpaved Road - any straight or curved length of well-defined travel way for motor vehicles not covered by one or the following: concrete, asphaltic concrete, or asphalt.
- X. Wind Gust - maximum instantaneous wind speed, as measured by an anemometer or as provided by the nearest local meteorological station.

**TABLE I**

**SUGGESTED**

**FUGITIVE DUST REASONABLY AVAILABLE CONTROL MEASURES**

<u>Source Category</u>	<u>Control Measure</u>
Unpaved Road	Improve Road Surface Control Vehicular Traffic Speed Apply Dust Suppressants
Construction/Demolition Activity	Use Wind Breaks Apply Dust Suppressants
Earth-moving or Open Storage Pile	Use Wind Screens Use Enclosures Around Storage Piles Apply Dust Suppressants
Disturbed Surface Area	Use Fences/Barriers Vegetate Apply Dust Suppressants Cover with Gravel Compact Surface

NOTE: If water is selected as a dust suppressant, use of nonpotable water is encouraged.

#### IV. Exemptions

A. Provisions of this Rule shall not apply to:

1. Agricultural operations, including activities directly related to raising fowl or animals, or growing crops, for a profit;
2. Actions required by federal or state endangered species legislation, or the Surface Mining and Reclamation Act;
3. Any disturbed surface area less than three acres on residential property in the Indian Wells Valley (see page 11) and less than two acres in the remainder of the District;
4. Active operations conducted during emergency life-threatening situations, or in conjunction with any officially-declared disaster or state of emergency;
5. Active operations conducted by essential service utilities to provide electricity, natural gas, telephone, water and sewer during periods of service outages and emergency disruptions;
6. Unpaved roads that are not part of a large operation and are outside the Indian Wells Valley and unpaved roads within the Indian Wells Valley, provided such Indian Wells Valley roads:
  - a. are less than 75 (50, if contingency measure triggered) feet long or,
  - b. have a motor vehicle traffic volume less than 25 (15, if contingency measure triggered) vehicle-trips per day, or
  - c. have a motor vehicle traffic volume of 25 (15, if contingency measure triggered) vehicle-trips per day or more, not more than six times per year, or
  - d. provide access to not more than 10 residences;

Contingency measure is triggered if U.S. EPA publishes a finding in the Federal Register that KCAPCD's portion of the Searles Valley Planning Area (see Page 402-11) has failed to maintain National Ambient Air Quality Standards for PM10.

7. Restorative grading of unpaved shoulders of paved roads;
8. Non-routine or emergency maintenance of flood control channels and water spreading basins;
9. Weed and dried vegetation removal required by a fire prevention/control agency;
10. Active operations conducted during freezing weather if applicable RACM involves application of water;

11. County or properly permitted private sanitary landfill disposal sites provided such sites conform to California Code of Regulations Title 14: Sections 17659, 17660 and 17706 (County) or KCAPCD dust control permit to operate conditions (private);
  12. Blasting operations permitted by the California Division of Industrial Safety;
  13. Motion picture, television, and video production activities when dust emissions are required for visual effects. This exemption shall be obtained from the Control Officer;
  14. Officially-designated public parks and recreational areas, including national parks, national monuments, national forests, state parks, state recreational areas, and County regional parks;
  15. Any contractor subsequent to a contract termination date, provided such contractor implemented Reasonably Available Control Measures during the contractual period; and
  16. Any grading contractor, for a phase of active operations conducted after his completion of earth-moving activities, provided such contractor implemented Reasonably Available Control Measures during the entire phase of earth-moving activities and until the final grading inspection.
  17. Federal facilities (outside of Indian Wells Valley) required by the National Environmental Protection Act (NEPA) to implement fugitive dust RACM's for activities otherwise subject to this rule, provided District receives an up-to-date description, including RACM's employed, of such activities.
- B. Provisions of Subsection V.A. (visible emissions limit) shall not apply when wind gusts exceed 25 miles per hour, provided:
1. Table I (Page 402-4) Reasonably Available Control Measures are implemented for each applicable fugitive dust source type, or;
  2. A person has on file with the District an approved "High Wind Fugitive Dust Control Plan" indicating technical reasons why any Reasonably Available Control Measure cannot be implemented. Such Plan shall provide an alternative measure of fugitive dust control, if technically feasible, and shall be subject to the same approval conditions as specified in Section V.
- C. If applicable, provisions of Subsection V.D.2. (large operation PM10 monitoring) shall not apply for a period of:
- a. One calendar quarter for each new large operation, or;
  - b. Fourteen calendar days after approval or conditional approval of a fugitive dust emission control plan.

## V. Requirements

- A. A person shall not cause or allow emissions of fugitive dust from any active operation to remain visible in the atmosphere beyond the property line of the emission source. This Subsection shall not apply to unpaved roadways.
- B. A person shall utilize one or more Reasonably Available Control Measures to minimize fugitive dust emissions from each fugitive dust source type which is part of any active operation subject to this Rule, including unpaved roadways.
- C. For any large operation, except those satisfying Subsection V.D.3. (implementation of RACM's), a person shall not cause or allow downwind PM10 ambient concentrations to increase more than 50 micrograms per cubic meter above upwind concentrations as determined by simultaneous upwind and downwind sampling. High-volume particulate matter samplers, or other EPA-approved equivalent method(s) for PM10 monitoring shall be used. Samplers shall be:
  - a. Operated, maintained, and calibrated in accordance with 40 Code of Federal Regulations (CFR), Part 50, Appendix J, or appropriate EPA-published documents for EPA-approved equivalent methods(s) for PM10 sampling;
  - b. Reasonably placed upwind and downwind of the large operation based on prevailing wind direction and as close to the property line as feasible, such that other sources of fugitive dust between the sampler and the property line are minimized; and
  - c. Operated during active operations.
- D. Special Requirements for Large Operations
  - 1. No person shall conduct or authorize conducting a large operation subject to requirements of this Rule without either: 1) conducting on-site PM10 air quality monitoring and associated recordkeeping, or 2) filing for and obtaining an approved fugitive dust emissions control plan pursuant to Subsection V.D.3.
  - 2. Any person subject to Subsection V.D.1. electing to conduct on-site PM10 monitoring and recordkeeping shall take the following actions:
    - a. Notify the Control Officer of intent to monitor PM10 at least seven days prior to initiating such monitoring. Notification shall contain, at a minimum, the person's name, address, telephone number, brief description and location of the operation(s), and anticipated first date of sampling.
    - b. Be responsible for acquisition, calibration and operation of PM10 samplers.
    - c. Collect samples on four separate days during each calendar quarter. Sampling shall be conducted during typical operations, and during prevailing wind direction conditions. All other provisions of this Rule shall continue to be applicable on days when monitoring is not conducted.

- d. Collect samples on four additional days during one calendar quarter if requested by the Control Officer based on receipt of complaints from the public, visible dust emissions, or other determinations by District personnel indicating violations of conditions specified in Subsection V. C. may be occurring. Each sampling day shall be conducted during typical operations, and during prevailing wind direction conditions.
  - e. Conduct laboratory analyses in accordance with 40 CFR, Part 50, Appendix J, for all samples collected as required by Subsections V.D.2.c and V.D.2.d.
  - f. Compile and submit records to the District on a quarterly basis, not later than 30 days after the end of each calendar quarter. Such records shall include:
    - 1) Brief description and location of the operation(s);
    - 2) Hours of active operations on days when particulate sampling occurred;
    - 3) Location, vendor, model, and serial number of PM10 samplers used on each sampling day;
    - 4) Date, start and end times of all PM10 sampling;
    - 5) Laboratory results (measured ambient concentrations) of all PM10 samples;
    - 6) List of consultants, laboratories, and other groups of individuals responsible for collection, analysis, evaluation and validation of each PM10 sample; and
    - 7) Documentation of any maintenance and calibration actions performed on each PM10 sampler conducted in accordance with 40 CFR, Part 50, Appendix J.
3. Any person subject to Subsection V.D.1. electing to obtain an approved fugitive dust emissions control plan shall take the following actions:
- a. At least 45 calendar days prior to a calendar quarter during which air monitoring would be conducted in accordance with Subsection V.D.2. submit to the Control Officer a fugitive dust emissions control plan, including at least:
    - 1) Name(s), address(es), and phone number(s) of person(s) responsible for the preparation, submission, and implementation of the plan;
    - 2) Description and location of operation(s);

- 3) Listing of all fugitive dust emissions sources included in the large operation;
  - 4) Description of Reasonably Available Control Measures to be applied to each source identified in Subsection V.D.3.a.3). Such description must be sufficiently detailed to demonstrate Reasonably Available Control Measures will be utilized and/or installed during all periods of active operations.
- b. If there are special technical, e.g., non-economic, circumstances preventing use of Reasonably Available Control Measures for any source identified in Subsection V.D.3.a.3), justification shall be provided in lieu of the description required in Subsection V.D.3.a.4). A justification statement shall explain reason(s) why Reasonably Available Control Measures cannot be implemented.
4. The Control Officer shall either approve, conditionally approve, or disapprove the plan, in writing, within 30 calendar days of receipt of the plan. For a plan to be approved or conditionally approved, three conditions shall be satisfied:
  - a. All sources of fugitive dust emissions shall be identified, e.g., earth-moving, storage piles, vehicular traffic on unpaved roads, etc.;
  - b. For each source identified, at least one Reasonably Available Control Measure shall be implemented; and
  - c. If, after implementation of control measures, visible dust emissions cross property line(s), standby control measures, e.g., increased watering, shall be specified for immediate implementation.
5. If a plan can be conditionally approved with actions not specified in the plan, the applicant shall be notified in writing. Such modifications shall be incorporated into the plan within 30 days of receipt of the notice of conditional approval, or the plan shall be disapproved. A letter to the Control Officer stating such modifications will be incorporated into the plan shall be used as a basis to approve the plan.
6. Any plan disapproved by the Control Officer shall require air monitoring and recordkeeping in accordance with Subsection V.D.2.
7. Failure to comply with any provisions in an approved or conditionally approved plan shall result in a violation of Subsection V.D.1.
8. An approved plan for a specific project shall be valid for a period of one year from date of approval or conditional approval. Plans shall be resubmitted, annually, at least 60 days prior to expiration date, or the plan shall be disapproved as of the expiration date. If all fugitive dust sources and corresponding Reasonably Available Control Measures or special circumstances remain identical to those identified in the previously approved plan, the

resubmittal may contain a simple statement of "no-change". Otherwise a resubmittal shall contain all items specified in Subsections V.D.3.a. and V.D.3.b.

9. A contractor may have on file with the District a pre-approved plan or plans for one or more types of large projects subject to Subsection V.D.3. Prior to initiation of any project, one or more applicable preapproved plans may be specified by the contractor in lieu of filing a new plan or plans.
10. Any person subject to requirements of Subsection V.D.1. making changes to an active operation resulting in it not fitting the definition for a large operation for a period of at least one year, may request reclassification as a non-large operation. To obtain this reclassification, a person shall submit a request in writing to the Control Officer specifying actions having taken place to reduce disturbed surface area and/or earth-moving process rate to levels below criteria for large operations. A person shall also indicate criteria for a large operation will not be exceeded during the subsequent 12-month period. The Control Officer shall either approve or disapprove reclassification within 60 days from receipt of a reclassification request. The Control Officer shall disapprove the request if indicated changes cannot be verified. If approved, a person shall be relieved of all requirements under Subsections V.D.1, V.D.2, and V.D.3. Any person so reclassified shall again be subject to requirements of Subsection V.D.1. if, at any time subsequent to reclassification, criteria for large operations are met.

## **VI. Compliance Schedule**

Any existing large operation becoming subject to this rule with its amendment on September 8, 2004, shall comply with Section V. no later than March 8, 2005.

# KERN COUNTY PORTION OF SEARLES VALLEY PLANNING AREA (18090205)

