

(Adopted January 15, 1993)(Amended June 16, 2000)(Amended April 2, 2004)

**RULE 403.1. SUPPLEMENTAL FUGITIVE DUST CONTROL REQUIREMENTS FOR COACHELLA VALLEY SOURCES**

(a) Purpose

The purpose of this rule is to reduce or prevent the amount of fine particulate matter (PM<sub>10</sub>) entrained in the ambient air from anthropogenic (man-made) fugitive dust sources.

(b) Applicability

The provisions of this rule are supplemental to Rule 403 requirements and shall apply only to fugitive dust sources in the Coachella Valley.

(c) Definitions

- (1) ACTIVE OPERATIONS shall mean any source capable of generating fugitive dust, including, but not limited to, earth-moving activities, construction/demolition activities, disturbed surface areas, or agricultural operations.
- (2) AGRICULTURAL OPERATIONS means any operation occurring on a ranch or farm directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making a profit or for a livelihood.
- (3) ANEMOMETERS are devices used to measure wind speed in accordance with the performance standards, maintenance and calibration criteria specified in the Rule 403.1 Implementation Handbook.
- (4) BULK MATERIAL is sand, gravel, soil, aggregate material less than two inches in length or diameter and other organic and inorganic particulate matter.
- (5) CHEMICAL STABILIZERS are any non-toxic chemical dust suppressant which must not be used if prohibited for use by the Regional Water Quality Control Boards, the California Air Resources Board, the U.S. Environmental Protection Agency (U.S. EPA), or any applicable law, rule or regulation. The chemical stabilizers shall meet any specifications, criteria, or tests required by any federal, state, or local water agency. Unless otherwise indicated, the use of a non-toxic chemical stabilizer shall be of sufficient concentration and application frequency to maintain a stabilized surface.

- (6) COACHELLA VALLEY means that portion of Riverside County, as defined in Rule 103, subdivision (h).
- (7) COACHELLA VALLEY BLOWSAND ZONE means the corridor of land extending two miles to either side of the centerline of the I-10 Freeway beginning at the SR-111/I-10 junction and continuing southeast to the I-10/ Jefferson Street interchange in Indio.
- (8) CONSTRUCTION/DEMOLITION ACTIVITIES means any on-site mechanical activities conducted in preparation of or related to, the building, alteration, rehabilitation, demolition or improvement of property, including, but not limited to the following activities: grading, excavation, loading, crushing, cutting, planing, shaping or ground breaking.
- (9) DISTURBED SURFACE AREA means a portion of the earth's surface which has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural soil condition, thereby increasing the potential for emission of fugitive dust. This definition excludes those areas which have:
  - (A) been restored to a natural state, such that vegetative ground cover and soil characteristics are similar to adjacent or near-by natural conditions;
  - (B) been paved or otherwise covered by a permanent structure;
  - (C) sustained a vegetative ground cover of at least 70 percent of the average native cover for a particular area for at least 30 days.
- (10) DUST CONTROL SUPERVISOR means a person with the authority to expeditiously employ sufficient dust mitigation measures to ensure compliance with all Rule 403 and Rule 403.1 requirements at an active operation.
- (11) DUST SUPPRESSANTS are water, hygroscopic materials, or non-toxic chemical stabilizers used as a treatment material to reduce fugitive emissions.
- (12) EARTH-MOVING ACTIVITIES means the use of any equipment for any activity where soil is being moved or uncovered and shall include, but not be limited to the following: such operations as grading, loading or unloading of dirt or bulk materials, adding to or removing from open storage piles of bulk materials, landfill operations, weed abatement through disking, soil mulching and agricultural tilling.

- (13) FUGITIVE DUST means any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of the activities of any person.
- (14) FUGITIVE DUST CONTROL PLAN means a plan to control fugitive dust plan as described in subdivision (e).
- (15) ON-SITE means within the property lines of a property, or as otherwise approved by the Executive Officer.
- (16) OPEN STORAGE PILE is any accumulation of bulk material which is not fully enclosed, covered or chemically stabilized, and which attains a height of three feet or more and a total surface area of 150 or more square feet.
- (17) PARTICULATE MATTER means any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions.
- (18) PM<sub>10</sub> means particulate matter with an aerodynamic diameter smaller than or equal to 10 microns as measured by the applicable state and federal reference test methods.
- (19) PROPERTY LINE means the boundaries of an area in which a person allowing the emission has the legal use or possession of the property. Where such property is divided into one or more sub-tenancies, the property line(s) shall refer to the boundaries dividing the areas of all sub-tenancies.
- (20) RULE 403.1 IMPLEMENTATION HANDBOOK means a guidance document that has been approved by the Governing Board on April 2, 2004 or hereafter approved by the Executive Officer and the U.S. EPA.
- (21) STABILIZED SURFACE means any previously disturbed surface area which, through the application of dust suppressants, shows visual or other evidence of surface crusting and is resistant to wind-driven fugitive dust and is demonstrated to be stabilized. Stabilization can be demonstrated by one or more of the applicable test methods contained in the Rule 403.1 Implementation Handbook.
- (22) UNPAVED ROADS means any unsealed or unpaved roads, equipment paths, or travel ways that are not covered by one of the following: concrete, asphaltic concrete, recycled asphalt, asphalt or other materials with equivalent performance as determined by the Executive Officer, the California Air Resources Board, and the U.S. EPA. Public unpaved roads

are any unpaved roadway owned by federal, state, county, municipal or other governmental or quasi-governmental agencies. Private unpaved roads are all other unpaved roadways not defined as public.

- (23) WIND-DRIVEN FUGITIVE DUST means visible emissions from any disturbed surface area which is generated by wind action alone.
- (24) WIND GUST is the maximum instantaneous wind speed as measured by an anemometer.

(d) General Requirements

- (1) Any person who is responsible for any active operation, open storage pile, or disturbed surface area, and who seeks an exemption pursuant to Rule 403, paragraph (g)(2) shall be required to determine when wind speed conditions exceed 25 miles per hour. The wind speed determination shall be based on either District forecasts or through use of an on-site anemometer as described in subdivision (g).
- (2) Any person involved in active operations in the Coachella Valley Blowsand Zone shall stabilize new man-made deposits of bulk material within 24 hours of making such bulk material deposits. Stabilization procedures shall include one or more of the following:
  - (A) Application of water to at least 70 percent of the surface area of any bulk material deposits at least 3 times for each day that there is evidence of wind driven fugitive dust; or
  - (B) Application of chemical stabilizers in sufficient concentration so as to maintain a stabilized surface for a period of at least 6 months; or
  - (C) Installation of wind breaks of such design so as to reduce maximum wind gusts to less than 25 miles per hour in the area of the bulk material deposits.
- (3) Any person involved in active operations in the Coachella Valley Blowsand Zone shall stabilize new deposits of bulk material originating from off-site undisturbed natural desert areas within 72 hours. Stabilization procedures shall include one or more of the following:
  - (A) Application of water to at least 70 percent of the surface area of any bulk material deposits at least 3 times for each day that there is evidence of wind driven fugitive dust; or
  - (B) Application of chemical stabilizers in sufficient concentration so as to maintain a stabilized surface for a period of at least six months.

- (4) A person who conducts or authorizes the conducting of an active operation shall implement at least one of the control actions specified in Rule 403, Table 2 for the source category "Inactive Disturbed Surface Areas" to minimize wind driven fugitive dust from disturbed surface areas at such time when active operations have ceased for a period of at least 20 days.
  - (5) Any person involved in agricultural tilling or soil mulching activities shall cease such activities when wind speeds exceed 25 miles per hour. The wind speed determination shall be based on either District forecasts or through use of an on-site anemometer as described in subdivision (g).
- (e) Fugitive Dust Control Plan and Other Requirements for Construction Projects/Earth-Moving Activities
- (1) Any person who conducts or authorizes the conducting of an active operation with a disturbed surface area of more than 5,000 square feet shall not initiate any earth-moving activities unless a fugitive dust control plan is prepared and approved by the Executive Officer in accordance with the requirements of subdivision (f) and the Rule 403.1 Implementation Handbook. These provisions shall not apply to active operations exempted by paragraph (i)(4).
  - (2) Any operator required to submit a fugitive dust control plan under paragraph (e)(1) shall maintain a complete copy of the approved fugitive dust control plan on site in a conspicuous place at all times and the fugitive dust control plan must be provided upon request.
  - (3) Any operator required to submit a fugitive dust control plan under paragraph (e)(1) shall install and maintain signage with project contact information that meets the minimum standards of the Rule 403.1 Implementation Handbook prior to initiating any type of earth-moving activities.
  - (4) Any operator required to submit a fugitive dust control plan under paragraph (e)(1) for a project with a disturbed surface area of 50 or more acres shall have an Dust Control Supervisor that:
    - (A) is employed by or contracted with the property owner or developer; and
    - (B) is on-site or is available to be on-site within 30 minutes of initial contact; and

- (C) has the authority to expeditiously employ sufficient dust mitigation measures to ensure compliance with all Rule 403 and 403.1 requirements; and
  - (D) has completed the AQMD Coachella Valley Fugitive Dust Control Class and has been issued a valid Certificate of Completion for the class.
- (5) Failure to comply with any of the provisions of an approved fugitive dust control plan shall be a violation of this rule.
- (f) Fugitive Dust Control Plan Preparation, Submittal, and Approval Requirements
- (1) A fugitive dust control plan prepared pursuant to paragraph (e)(1) must include the following information in a 8 ½ by 11 inch format:
    - (A) the name(s), address(es), and phone number(s) of the person(s) responsible for the preparation, submittal, and implementation of the fugitive dust control plan; and
    - (B) a description of the operation(s), including a map depicting the location of the site; and
    - (C) a listing of all sources of fugitive dust emissions within the property lines; and
    - (D) a description of the control measures as identified by the Rule 403.1 Implementation Handbook as applied to each of the sources identified in the fugitive dust control plan. The description of the control measures must be sufficiently detailed to demonstrate that the applicable best available control measures will be utilized and/or installed during all periods of active operations; and
    - (E) a description of the required contingency control measures (e.g., increased watering) for immediate implementation upon notice of visible dust crossing any property line.
  - (2) In the event that there are special technical (e.g., non-economic) circumstances, including safety, which prevent the use of at least one of the control measures as identified by the Rule 403.1 Implementation Handbook for any of the sources identified in the fugitive dust control plan, a justification statement must be provided in lieu of the description. The justification statement must explain the reason(s) why the required control measures cannot be implemented.
  - (3) Within 30 calendar days of the receipt of a fugitive dust control plan submitted pursuant to paragraph (e)(1), the Executive Officer will either

approve or apply any necessary conditions to the fugitive dust control plan in writing. For a fugitive dust control plan to be approved, the requirements of paragraph (f)(1) must be satisfied.

- (4) The Executive Officer will apply conditions if the stated fugitive dust control plan measures do not satisfactorily conform to the best available control measures and guidance contained in the Rule 403.1 Implementation Handbook. The conditions necessary to modify the fugitive dust control plan will be provided in writing to the person(s) identified in subparagraph (f)(1)(A). A letter to the Executive Officer stating that such modifications will be incorporated into the fugitive dust control plan shall be deemed sufficient to result in approval of the fugitive dust control plan.
- (5) Any fugitive dust control plan approved by the Executive Officer shall be valid for a period of one year from the date of approval. Any approved fugitive dust control plan must be resubmitted annually, at least 30 days prior to the expiration date, or the fugitive dust control plan shall expire as of the expiration date. If all fugitive dust sources and corresponding control measures or special circumstances remain identical to those identified in the previously approved fugitive dust control plan, the submittal may contain a simple statement of no-change (Form 403NC). Otherwise, a resubmittal must contain all the items specified in subparagraphs (f)(1)(A) through (f)(1)(E).

(g) **Wind Monitoring Implementation Requirements**

- (1) The determination of wind speed conditions in excess of 25 miles per hour, as specified in paragraphs (d)(1) and (d)(5), shall be based on the following criteria:
  - (A) For facilities with an on-site anemometer:
    - (i) When the on-site anemometer registers at least two wind gusts in excess of 25 miles per hour within a consecutive 30-minute period. Wind speeds shall be deemed to be below 25 miles per hour if there is no recurring wind gust in excess of 25 miles per hour within a consecutive 30-minute period; or
  - (B) For facilities without an on-site anemometer:

- (i) When wind speeds in excess of 25 miles per hour are forecast to occur in the Coachella Valley for that day. This condition shall apply to the full calendar day for which the forecast is valid. (The Executive Officer shall determine meteorological conditions which will cause wind speeds in excess of 25 miles per hour, and shall issue daily forecasts of expected wind conditions. Such forecasts shall be available to the public); or
  - (ii) When wind speeds in excess of 25 miles per hour are not forecast to occur by the District, and fugitive dust emissions are visible for a distance of at least 100 feet from the origin of such emissions, and there is visible evidence of wind driven fugitive dust.
- (2) Any person who elects to install an on-site anemometer shall:
  - (A) Notify the Executive Officer no more than 10 days after installing such equipment. The notification shall contain, at a minimum, the person's name, address, telephone number, description of the operation(s), and first day of operation, as specified in the District's Rule 403.1 Implementation Handbook.
  - (B) Be subject to the provisions of subparagraph (g)(1)(B) for wind speed determinations if equipment outages, malfunctions, or invalid data exceed one hour during active operations on a calendar day.
- (h) Recordkeeping
  - (1) A person subject to the provisions of this rule shall compile written daily records to document the specific actions taken to comply with this Rule. Such records shall be retained for not less than three years and shall be made available to the Executive Officer upon request.
  - (2) In addition to the provisions of paragraph (h)(1), any person who elects to install an on-site anemometer shall also compile written records. Such records shall contain:
    - (A) Location, vendor, model, and serial number of the anemometer;
    - (B) The time of occurrence of any wind gust in excess of 25 miles per hour during hours of active operations;



- (C) The actions taken to comply with the provisions of paragraphs (d)(5) and (i)(3), as applicable.
- (i) Exemptions
- (1) The provisions of this rule shall not apply to ceased or inactive mining operations subject to the requirements of the Surface Mining and Recovery Act (SMARA) of 1975, provided that the provisions of the SMARA Reclamation Plan are implemented by the owner and are at least as stringent as those contained in this rule;
  - (2) The provisions of paragraphs (d)(2), (d)(3), and (d)(4) shall not apply to:
    - (A) Any active operation, open storage pile, or disturbed surface area for which necessary fugitive dust preventive or mitigative actions are in conflict with the Endangered Species Act as determined in writing by the State or federal agency responsible for making such determinations;
    - (B) Any disturbed surface areas or bulk material deposits with a surface area less than 2,500 square feet;
    - (C) Non-routine or emergency maintenance of flood control channels and water spreading basins.
  - (3) The provisions of paragraph (d)(5) shall not apply to agricultural tilling activities or soil mulching activities under the following conditions:
    - (A) If the prohibitory requirements of this Rule have occurred during six or more hours of active operations on each of two previous consecutive days, then a one-day exemption will be allowed. (These activities would again be subject to the prohibitory requirements of this Rule following this one day exemption.)
    - (B) If the prohibitory requirements of this Rule have occurred during sixty or more cumulative hours of active operations within a calendar month, then an exemption will be allowed for the remainder of the calendar month. (These activities would again be subject to the prohibitory requirements of this Rule at the start of the following month.)
    - (C) During periods of precipitation.

- (4) The provisions of paragraph (e)(1) shall not apply to any active operation which is required to submit a dust control plan to any city or county government that has adopted a District-approved dust control ordinance.
  
- (j) Fees
  - (1) Any person subject to a fugitive dust control plan submittal pursuant to paragraph (e)(1) shall be assessed applicable filing and evaluation fees pursuant to Rule 306.
  - (2) The submittal of an annual statement of no-change, pursuant to paragraph (f)(5), shall not be considered as an annual review, and therefore shall not be subject to annual review fees, pursuant to Rule 306.