

## **CHAPTER 4. EMISSIONS FROM EXISTING AND NEW NON-POINT SOURCES**

### **ARTICLE 1. WEST PINAL PM<sub>10</sub> SERIOUS NONATTAINMENT AREA FUGITIVE DUST**

#### **4-1-010. General Applicability**

1. The purpose of this Article is to control fugitive dust from open areas/vacant lots, unpaved roads, unpaved lots and paved public roadways by requiring measures to prevent, reduce or mitigate fugitive dust emissions.
2. Effective Date  
The rules in this Article adopted on January 25, 2023 will become effective on June 1, 2023. The rules in this Article that became effective on January 1, 2016 will be in effect through May 31, 2023.
3. Geographic Scope  
The rules in this Article shall be effective throughout the West Pinal County PM<sub>10</sub> serious Nonattainment area as defined in 40 CFR Part 81.303.

[Adopted effective June 29, 1993. Revised 5/14/97. Revised 10/28/15, effective January 1, 2016, Amended January 25, 2023, effective June 1, 2023]

#### **4-1-015. Exemptions**

1. In the case of legitimate vehicle test and development facilities and operations conducted by or for an equipment manufacturer, where dust is required to test and validate the design integrity, product quality and/or commercial acceptance, those specific activities shall be exempt from the applicable standards and requirements in this Article.
2. The standards and requirements of this Article shall not apply to emergency response activities that may disturb the soil conducted by any utility or government agency in order to prevent public injury or to restore critical utilities to functional status. For purposes of this subsection, an emergency response must address a situation arising from a sudden and unforeseeable event beyond the control of the owner and/or operator, including acts of God. Activities by an owner and/or operator to address a disturbance resulting from improperly designed equipment, lack of preventative maintenance, careless or improper operation or operator error shall not qualify as an emergency response.
3. The standards and requirements of this Article shall not apply to normal farm cultural practices according to A.R.S. §49-457 and A.R.S. §49-504.4 which are subject to Arizona Department of Environmental Quality (ADEQ) rules R18-2-610, R18-2-610.01, R18-2-611 and R18-2-611.01, R18-2-611.02, R18-2-611.03.
4. The standards and requirements of this Article shall not apply to dust generating operations subject to the standards and/or requirements described in Chapter 4, Article 3.
5. The standards and requirements of this Article shall not apply to the establishment of initial landscapes without the use of mechanized equipment, conducting landscape maintenance without the use of mechanized equipment, and playing on or maintaining a

field used for non-motorized sports. However, establishing initial landscapes without the use of mechanized equipment and conducting landscape maintenance without the use of mechanized equipment shall not include grading, or trenching, performed to establish initial landscapes or to redesign existing landscapes.

[Adopted October 28, 2015, effective January 1, 2016, Amended January 25, 2023, effective June 1, 2023]

#### **4-1-020. Definitions**

For the purpose of this Article, the following definitions shall apply:

1. ADT (Average Daily Trips) – As used in this Article, means the average number of vehicles that cross a given point surface during a specific 24-hour period as determined by the most recent Institute of Transportation Engineers trip generation manual, tube counts, or observations.
2. **CERTIFIED STREET SWEEPER: A street sweeper that is certified in accordance with South Coast Air Quality Management District Rule 1186 as meeting sweeper certification procedures and requirements for PM10 efficient sweepers.**
3. CONTROL MEASURES- as used in this Article means, a preemptive or concurrent technique used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust in order to comply with applicable standards.
4. DISTURBED SURFACE AREA – As used in this Article, means any portion of the earth’s surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition.
5. DUST SUPPRESSANT – As used in this Article, means water, hygroscopic material, solution of water and chemical surfactant foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U. S. 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.
6. EMERGENCY - as used in this Article means a situation arising from sudden and reasonably unforeseeable events beyond the control of the owner and/or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the associated activities to exceed a limitation in this rule, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include any noncompliance due to improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
7. FUGITIVE DUST – As used in this Article, means the regulated particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, such as but not limited to, movement of soils, 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.
8. MOTOR VEHICLE - As used in this Article, means 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 and other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.

9. **NON-TRADITIONAL SOURCE OF FUGITIVE DUST:** A source of fugitive dust that is located at a source that does not require any permit under these rules. The following non-traditional sources of fugitive dust are subject to the standards and/or requirements described in this Article:
  - a. Vehicle use in open areas and vacant lots
  - b. Open areas and vacant lots
  - c. Unpaved parking lots
  - d. Unpaved roadways (including alleys)
  - e. Erosion-caused deposition of bulk materials onto paved surfaces
  - f. Easements, rights-of-way, and access roads for utilities (electricity, natural gas, oil, water, and gas transmission)
  
10. **OPEN AREAS/VACANT LOTS** – As used in this Article, means any of the following described in Subsections a through c below. For the purposes of this rule, vacant portions of residential or commercial lots and contiguous parcels that are immediately adjacent to and owned and/or operated by the same individual or entity are considered one open area.
  - a. An unsubdivided or undeveloped land whether or not it is adjoining a developed or a partially developed residential, industrial, institutional, governmental, or commercial area.
  - b. A subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings or structures of a temporary or permanent nature.
  - c. A partially developed residential, industrial, institutional, governmental, or commercial lot and contiguous lots under common ownership.
  
11. **OWNER AND/OR OPERATOR** – As used in this Article, means any person including, but not limited to, the property owner, lessee or responsible official.
  
12. **PAVE** – As used in this Article, to apply and maintain asphalt, concrete, or other similar material to a roadway surface, such as asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt.
  
13. **PAVED PUBLIC ROADWAY** – As used in this Article, means a publicly owned paved roadway, owned by federal, state, county, municipal, or other government or quasi-governmental agencies as evidenced by a formal acceptance by the state or a political subdivision of the state of either:
  - a. An on-going maintenance obligation for the roadway; or
  - b. A title or easement for the roadway.
  
14. **PINAL COUNTY DUST CONTROL FORECAST** as used in this Article, means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department of Environmental Quality shall consider all of the following:
  - a. Projected meteorological conditions, including:
    - i) Wind speed and direction,
    - ii) Stagnation,
    - iii) Recent precipitation, and

- iv) Potential for precipitation;
  - b. Existing concentrations of air pollution at the time of the forecast; and
  - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
15. **STABILIZED** – As used in this Article, means any previously disturbed surface area which, through the application of control measures, shows visual or other evidence of surface crusting and is resistant to wind-driven fugitive dust.
  16. **STABILIZED UNPAVED ROAD/UNPAVED SHOULDER** – As used in this Article, any unpaved road, unpaved shoulder, or unpaved vehicle/equipment traffic area surface which meets the definition of stabilized as determined by the test methods in §4-9-340 and where opacity does not exceed 20%.
  17. **TRACKOUT** – As used in this Article, any and all bulk materials that adhere to and agglomerate on the exterior surface of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen onto a paved roadway.
  18. **UNPAVED LOT** – as used in this Article, is any area that is not paved and that is used for parking, maneuvering, material handling, or storing motor vehicles and equipment. An unpaved lot includes, but is not limited to, automobile impound yards, wrecking yards, automobile dismantling yards, salvage yards, material handling yards, and storage yards. For the purpose of this rule, maneuvering shall not include military maneuvers or exercises conducted on federal facilities.
  19. **UNPAVED ROAD** - as used in this Article, means any roads, equipment paths, or travel ways that are not paved. For the purposes of this Article, an unpaved road is not an agricultural road, horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by motor vehicles.

[Adopted October 28, 2015, effective January 1, 2016, Amended January 25, 2023, effective June 1, 2023]

## **4-1-030. Standards**

### **1. GENERAL REQUIREMENTS**

- A. The owner and/or operator of open areas/vacant lots, unpaved lots, unpaved roads and paved public roadways shall be subject to the standards and/or requirements described in this rule. Failure to comply with any such standards and/or requirements is deemed a violation of this rule.
- B. The owner and/or operator shall implement applicable control measures.
- C. Control measures shall be implemented to meet the visible emissions requirements, stabilization requirements and compliance determinations for each applicable category.
- D. Failure to implement control measures as required by this rule, as applicable and/or failure to maintain stabilization in order to prevent wind erosion as measured by the requirements of this rule shall be deemed a violation of this rule.

2. **VEHICLE USE IN OPEN AREAS AND VACANT LOTS:** The owner and/or operator of a non-traditional source of fugitive dust that involves vehicle use in open areas and

vacant lots shall be subject to the requirements described in Section §4-1-030.2.A of this rule and, unless otherwise specified and/or required, shall comply with the control measures described in Section §4-1-030.2.B of this rule and the additional requirements described in section §4-1-030.2.C

A. Visible Emissions and Stabilization Requirements: The owner and/or operator of a non-traditional source of fugitive dust that involves vehicle use in open areas and vacant lots shall not cause or allow visible emissions of particulate matter, including fugitive dust, beyond the property line within which the emissions are generated. The owner and/or operator of a non-traditional source of fugitive dust that involves vehicle use in open areas and vacant lots shall stabilize the open areas and vacant lots on which vehicles are used to meet one of the following stabilization requirements:

- i. A soil crust; or
- ii. A threshold friction velocity (TFV) corrected for non-erodible elements of 100 cm/second or higher; or
- iii. 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%; or
- iv. Standing vegetative cover (i.e., vegetation that is attached [rooted] with a predominant vertical orientation) that is equal to or greater than 30%; or
- v. 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; or
- vi. A percent cover that is equal to or greater than 10% for non-erodible elements

B. Control Measures:

- i. Prevent motor vehicle use and/or off-road vehicle trespassing, parking and/or access by installing barriers, curbs, fences, gates, posts, shrubs, trees, or other effective control measures;
- ii. Prevent motor vehicle and/or off-road vehicle trespassing, parking, and/or access by posting that consists of one of the following:
  - a. A sign written in compliance with ordinance(s) of local, County, State, or Federal sign standards
  - b. An order of a government land management agency
  - c. Most current maps approved by a government land management agency
  - d. Virtual posting a government land management agency
- iii. Uniformly apply and maintain surface gravel or chemical/organic stabilizers to all areas disturbed by motor vehicles and/or off-road vehicles

C. Additional Requirements:

- i. If open areas and vacant lots are 0.10 acre (4,356 square feet) or larger and have a cumulative of 500 square feet or more that are disturbed by being driven over and/or used by motor vehicles, by off-road vehicles, or for material dumping, then the owner and/or operator shall implement one or more of the control measures described in Section §4-1-030.2.B of this rule within 60 calendar days following the initial discovery by the Control Officer of disturbance or vehicle use on open areas and vacant lots. Additionally the owner and/or operator shall sign up to receive the Pinal County Dust Control Forecast and shall ensure one or more of the control measures are implemented on the day prior to and the day of a high dust risk forecast.
  - ii. Within 30 calendar days following the initial discovery by the Control Officer of disturbance or vehicle use on open areas and vacant lots, the owner and/or operator shall provide in writing to the Control Officer a description and date of the control measure(s) to be implemented to prevent such disturbance or vehicle use on open areas and vacant lots.
  - iii. The owner and/or operator shall implement all control measures necessary to limit the disturbance or vehicle use on open areas and vacant lots in accordance with the requirements of this rule. Control measure(s) shall be considered effectively implemented when the open areas and vacant lots meet the requirements described in §4-1-030.2.A of this rule.
  - iv. Use of or parking on open areas and vacant lots by the owner and/or operator of such open areas and vacant lots shall not be considered vehicle use in open areas and vacant lots and shall not be subject to the requirements of §4-1-030.2.B and §4-1-030.2.C.i through §4-1-030.2.C.iii of this rule. Such open areas and vacant lots shall still meet the requirements described in §4-1-030.3 of this rule.
  - v. Establishing initial landscapes without the use of mechanized equipment or conducting landscape maintenance without the use of mechanized equipment shall not be considered vehicle use in open areas and vacant lots and shall not be subject to the requirements of §4-1-030.2.C and §§4-1-030.2.C.i through 4-1-030.2.C.iv of this rule. Such open areas and vacant lots shall still meet the requirements described in §4-1-030.3.
3. OPEN AREAS AND VACANT LOTS: The owner and/or operator of a non-traditional source of fugitive dust that involves open areas and vacant lots shall be subject to the requirements described in §4-1-030.3.A and unless otherwise specified and/or required, shall comply with control measures described in §4-1-030.3.B and the additional requirements described in §4-1-030.3.C.

A. Visible emissions and stabilization requirements:

- i. The owner and/or operator of a non-traditional source of fugitive dust that involves open areas and vacant lots shall not cause or allow visible emissions of particulate matter, including fugitive dust, beyond the property line within which the emissions are generated.
  - ii. The owner and/or operator of a non-traditional source of fugitive dust that involves open areas and vacant lots shall stabilize the open areas and vacant lots to meet one of the following stabilization limitations:
    - a. A soil crust; or
    - b. A threshold friction velocity (TFV) corrected for non-erodible elements of 100 cm/second or higher; 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%; 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%; 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; or
    - f. A percent cover that is equal to or greater than 10% for non-erodible elements;
- B. Control Measures:
- i. Establish vegetative ground cover on all disturbed surface areas. Such control measure(s) must be maintained and reapplied, if necessary. Stabilization shall be achieved, per this control measure, within eight months after the control measure has been implemented; or
  - ii. Apply a dust suppressant to all disturbed surface areas; or
  - iii. Restore all disturbed surface areas within 60 calendar days following the initial discovery by the Control Officer 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. Stabilization shall be achieved, per such control measure, within eight months after such control measure has been implemented; or
  - iv. Uniformly apply and maintain surface gravel
- C. Additional requirements:
- i. If open areas and vacant lots are 0.10 acre (4,356 square feet) or larger and have a cumulative of 500 square feet or more that are disturbed and if such disturbed area remains unoccupied, unused, vacant, or undeveloped for more than 15 days, then the owner and/or operator shall implement one or more of the control measures described in §4-1-030.3.B within 60 calendar days following the

initial discovery by the Control Officer of the disturbance on the open areas and vacant lots. Additionally the owner and/or operator shall sign up to receive the Pinal County Dust Control Forecast and shall ensure one or more of the control measures are implemented on the day prior to and the day of a high dust risk forecast

- ii. 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 shall provide in writing to the Control Officer a description and date of the control measure(s) to be implemented.
  - iii. Control measure(s) shall be considered effectively implemented when the disturbance on the open areas and vacant lots meets the requirements described in §4-1-030.3.A.
4. UNPAVED PARKING LOTS: The owner and/or operator of a non-traditional source of fugitive dust that involves unpaved parking lots shall be subject to the requirements described in §4-1-030.4.A and, unless otherwise specified and/or required, shall comply with one of the control measures described in §4-1-030.4.B and the additional requirements described in §4-1-030.4.C.

A. Visible emissions and stabilization requirements:

- i. The owner and/or operator of a non-traditional source of fugitive dust that involves unpaved parking lots shall not cause or allow visible emissions of particulate matter, including fugitive dust, beyond the property line within which the emissions are generated.
- ii. The owner and/or operator of a non-traditional source of fugitive dust that involves unpaved parking lots shall not cause or allow fugitive dust emissions to exceed 20% opacity and shall not allow silt loading equal to or greater than 0.33 oz/ft<sup>2</sup>. However, if silt loading is equal to or greater than 0.33 oz/ft<sup>2</sup>. then the owner and/or operator shall not allow the silt content to exceed 8%.

B. Control Measures:

- i. For parking, maneuvering, ingress, and egress areas at developments other than residential buildings with four or fewer units that are utilized for more than 35 days during the calendar year:
  - a. Install and maintain pavement; or
  - b. Apply dust suppressant other than water and install, maintain, and use a suitable trackout control device that controls and prevents trackout and/or removes particulate matter from tires and the exterior surfaces of motor vehicles that traverse the site;  
or
  - c. Uniformly apply and maintain surface gravel.



- ii. For parking, maneuvering, ingress, and egress areas at developments other than residential buildings with four or fewer units that are utilized for 35 days or less during the calendar year:
  - a. Install and maintain one of the control measures listed in §4-1-030.4.B.i; or
  - b. Apply water and install, maintain, and use a suitable trackout control device that controls and prevents trackout and/or removes particulate matter from tires and the exterior surfaces of motor vehicles that traverse the site.

C. Additional requirements:

- i. Control measure(s) shall be considered effectively implemented when the unpaved parking lot meets the requirements described in §4-1-030.4.A.
- ii. If trackout occurs, the owner and/or operator shall repair and/or replace the control measure(s) and shall clean-up immediately such trackout from areas accessible to the public including curbs, gutters and sidewalks when trackout extends a cumulative distance of 25 linear feet or more and at the end of the day for all other trackout.

5. MECHANIZED WEED ABATEMENT AND/OR TRASH REMOVAL: If machinery is used to clear weeds and/or trash from open areas and vacant lots of 5,000 square feet or larger, then the control measures in §4-1-030.5.A shall be applied.

A. Control measures:

- i. Pre-wet surface soils before mechanized weed abatement and/or trash removal occurs; and,
- ii. Maintain dust control measures while mechanized weed abatement and/or trash removal is occurring; and
- iii. Pave, apply gravel, apply water, or apply a suitable dust palliative, in order to achieve stabilization compliance with §§4-1-030.3.A.ii.1 or 4-1-030.3.A.ii.2, or 4-1-030.3.A.ii.7.

6. UNPAVED ROADS

- A. Visible emissions and stabilization requirements: on any unpaved road segment with 26 or more ADT (A traffic count shall measure motor vehicle traffic over a 48-hour period, which may consist of two non-consecutive 24-hour periods. Motor vehicle traffic shall be measured continuously during each 24-hour period.), the owner and/or operator shall not exceed an opacity of 20%, as measured using an opacity method as determined by the

applicable test method in §4-9-340 and comply with requirements of a stabilized unpaved road by application and/or reapplication/maintenance of at least one of the following control measures.

- i. Watering;
  - ii. Uniform layer of washed gravel;
  - iii. Chemical/organic dust stabilizers/suppressants in accordance with manufacturer's specifications;
  - iv. Paving;
- B. Annual Road Paving Requirements: Each city, county, or state agency with primary responsibility for any existing unpaved road within the West Pinal Serious PM10 Nonattainment Area shall take the following actions:
- i. Starting January 1, 2024, pave an average of 20% annually (calendar year) of all unpaved roads identified in §4-1-030.6.A up to a maximum of 5 cumulative miles with priority given to roads with the highest ADT levels. In meeting this requirement, each jurisdiction must show incremental progress.
- C. Contingency Measure: The following contingency measure will go into effect without further action by the Control Officer if EPA determines that the West Pinal Serious PM10 Nonattainment Area has failed to make reasonable further progress, or to attain the National Ambient Air Quality Standard for PM10 by the attainment date.
- i. Pursuant to A.R.S. §28-703.C - In order to achieve the PM10 National Ambient Air Quality Standard in the West Pinal Serious PM10 Nonattainment Area, the owner and/or operator of any public unpaved road with an ADT of 26 or more shall have a speed limit of 15 mph.

## 7. PAVED PUBLIC ROADWAY

- A. Clean up of trackout, Erosion-Caused Deposition of Bulk Materials on paved public roadway: the owner and/or operator of the property from which the trackout or erosion-caused deposition came from shall upon discovery of mud/dirt that extends 25 feet or more from the nearest unpaved surface exit onto the paved public roadway shall:
- i. Immediately remove the mud/dirt from the paved public roadway with one of the following control measures in subsection §4-1-030.7.A.i.a through §4-1-030.7.A.i.c. For mud/dirt that extends less than 25 feet from the nearest unpaved surface exit onto the paved public roadway, removal of the mud/dirt from the paved public roadway shall be completed by the end of the day. If needed, restrict vehicles from traveling over said mud/dirt until such time as the

material can be removed from the travel lanes of the paved public roadway.

Trackout Control Measures:

- a. Manually sweeping and picking up; or
  - b. Operating a certified street sweeper; or
  - c. Flushing with water, if curb and gutters are not present and where the use of water will not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program.
- ii. During removal of mud/dirt, do so in a manner that does not cause another source of fugitive dust.
  - iii. In the event unsafe travel conditions would result from restricting traffic pursuant to section §4-1-030.7.A.i and removal of such material isn't possible within 72 hours due to a weekend or holiday condition, the provisions of section §4-1-030.7.A.i can be extended upon notification to and approval by the Control Officer.

**B. Paved road sweeping requirements:**

- i. Any government or government agency which contracts to acquire street sweeping equipment or street sweeping services for routine street sweeping on public roads that it owns and/or maintains within the West Pinal Serious PM10 Nonattainment area shall by January 1, 2025 acquire or use only certified street sweeping equipment.
- ii. Any government or governmental agency subject to the requirements of subsection §4-1-030.7.B.i and/or its contractors shall operate and maintain the certified street sweeping equipment in accordance with the manufacturer's specifications.

**C. Unpaved road shoulder work requirements:** The owner and/or operator of any existing paved public roadways shall take the following actions prior to, during and after work on unpaved road shoulders:

- i. Apply a dust suppressant(s) to the total surface area subject to the disturbance in sufficient quantity and frequency to maintain a stabilized surface.
- ii. Prevent trackout by using one of the control measures listed in §4-1-030.7.A.i.

**D. Paved road development standards:** Owners and/or operators having jurisdiction over, or ownership of, public or private paved roads shall construct, or require to be constructed, all new or modified paved roads in

conformance with the road shoulder width and drivable median stabilization requirements as specified below:

- i. New construction, modification, or approvals of paved roads shall be constructed with a paved travel section, and four (4) feet of paved or stabilized shoulder on each side of the paved travel section. The four (4) feet of shoulder shall be paved or stabilized with a dust palliative or gravel to prevent trackout of mud and dirt to the paved section. Where shoulder stabilization is used in place of paving, the stabilized shoulders must be maintained in compliance with the stabilization standards set forth in §4-1-030.7.E.
  - ii. New construction, modification, or approvals of paved roads on which vehicular traffic is greater than or equal to 3,000 vehicles per day shall be constructed with a paved travel section, and eight (8) feet of stabilized shoulder adjacent to the paved travel section where right-of-way is available for the stabilized shoulder. Where the right-of-way is not available for the full eight (8) feet of stabilized shoulder, curbing shall be installed adjacent to the shoulder. Stabilized shoulders must be maintained in compliance with the stabilization standards set forth in §4-1-030.7.E.
  - iii. Where curbing is constructed adjacent to and contiguous with the travel lane or paved shoulder of a road, the shoulder width design standards specified in §4-1-030.7.D.i shall not be applicable.
  - iv. Where paved roads are constructed, or modified with shoulders and/or medians, the shoulders and/or medians shall be constructed as set forth below.
    - a. With curbing, or
    - b. With solid paving across the median, or
    - c. Apply a dust palliative, in compliance with the stabilization standards set forth in §4-1-030.7.D of this rule, or apply two (2) inches of gravel in compliance with the stabilization standards set forth in §4-1-030.7.D of this rule, or
    - d. With materials that prevent trackout of mud and dirt to the paved section such as landscaping or decorative rock.
- E. Stabilization standards for unpaved shoulders and medians: Unpaved shoulders and medians of paved roads shall be considered to have control measures effectively implemented when fugitive dust emissions do not exceed 20% opacity and silt loading does not equal or exceed 0.33 oz/ft<sup>2</sup> as determined in §4-9-310 except for unpaved shoulders on which gravel has been applied. Failure to comply with either the 20% opacity limit or silt loading limit indicates that the shoulder is not stable. Where gravel is utilized to prevent trackout from unpaved shoulders and medians of paved roads, surface gravel shall be uniformly applied and maintained to a depth of two (2) inches to comply with the 20% opacity standards, the gravel depth and silt content test methods in §4-9-310. For the purposes of this section, the

term gravel shall include “aggregate” and shall mean unconsolidated material greater than 0.25 (¼) inch but less than three (3) inches, and contain no more than six (6) percent silt, by dry weight, that will pass through a No. 200 sieve. Failure to comply with either the 20% opacity limit or the gravel depth and silt content test method indicate that the shoulder is not stable.

- F. Requirements for existing nonconforming paved roads: Owners and/or operators having jurisdiction over, or ownership of, existing public or private paved roads which do not conform with the requirements of subsection §4-1-030.7.D shall reconstruct, or require to be reconstructed, the existing nonconforming paved road within 365 calendar days following the initial discovery that the road fails to meet the requirements set forth in §4-1-030.7.D. The Control Officer may require short-term stabilization of any paved road subject to the requirements set forth in §§4-1-030.7.D and 4-1030.7.E.

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#### **4-1-040. 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). 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 as soon as possible but no later than 48 hours, excluding weekends. If the Control Officer is at the site where requested records are kept, such person shall provide the records without delay.

Any person who creates a non-traditional source of fugitive dust shall compile and retain records (including records on any street sweeping, water applications, and maintenance of trackout control devices, gravel pads, fences, wind barriers and tarps) that provide evidence of control measure application, by indicating the type of treatment or control measure, extent of coverage, and date applied.

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#### **4-1-045. Reporting Requirements**

Each city, county, or state agency with primary responsibility for any existing paved public roadway and unpaved roads shall take the following actions:

- A. By January 30 of each year provide the district with a list of all unpaved roads under its jurisdiction, including data on length of, and ADT on each unpaved road segment.
- B. By January 30 of each year, submit to the district a list of unpaved roads which were paved during the previous year including the total number of unpaved roads miles, ADTs and their respective segments.
- C. By January 30 of each year, submit to the district a list of all paved public roads with unpaved shoulders, including data on length of, and ADT on, each segment of paved public roads with unpaved shoulders.

[Adopted October 28, 2015, effective January 1, 2016. Amended January 25, 2023, effective June 1, 2023]

#### **4-1-050. Records Retention**

Copies of the records required by §4-1-040 (Recordkeeping) and §4-1-045 (reporting) of this rule shall be retained for at least two years.  
[Adopted October 28, 2015, effective January 1, 2016]

#### **4-1-060. Violations**

Failure by any person to comply with the applicable requirements of this Article shall constitute a violation subject to penalty as provided in these rules and A.R.S. Title 49, Chapter 3, Article 3, A.R.S. 49-471 et. seq.

##### Violation Exemptions:

- A. The opacity requirements of this rule shall not apply during:
  - i. Wind conditions that cause fugitive dust to exceed the opacity requirements if applicable control measures are implemented, applied and maintained, and all dust contributing disturbed surface area are stabilized.
  - ii. Emergency maintenance of flood control channels and water retention basins if at least 1 applicable control measure is applied, and maintained.

[Adopted October 28, 2015, effective January 1, 2016]