

## **1.1 Applicability**

The provisions of this regulation shall apply to all persons who emit or cause to be emitted fugitive dust as defined in Section 1.2 below.

## **1.2 Definitions**

1.2.1 “Fugitive dust” is particulate matter which escapes and becomes airborne from unenclosed operations or activities or which is emitted into the atmosphere without passing or being conducted through a flue pipe, stack, or other structure designed for the purpose of emitting air pollutants into the atmosphere.

1.2.2 “Reasonably available control technology (RACT)” is the extent of emission control technology determined on a case by case analysis to be economically and technologically reasonable requirements for emission control.

## **1.3 Standard of Compliance**

1.3.1 No person shall emit or cause to be emitted fugitive dust from any source without applying reasonably available control technology (RACT) to that source or in such quantities that ambient air total suspended particulate concentration measurements taken violate National Ambient Air Quality Standards (NAAQS).

1.3.2 Total suspended particulate concentration measurements shall be in accord with standard methods specified by the U.S. Environmental Protection Agency, and at locations specified by the Air Quality Review Board as appropriate to the unique characteristics of the source.

1.3.3 Wind measurements shall be taken at locations and by methods specified by the Air Quality Review Board. Such methods shall specify that wind speeds during the sampling period not exceed 25 miles per hour.

## **1.4 Reasonably Available Control Technology Required**

1.4.1 In order to comply with the provisions of Section 1.3 above, all persons who own, operate, or are otherwise responsible for a source of fugitive dust shall utilize reasonably available control technology to prevent such dust from becoming airborne. Such reasonably available control technology may include, but are not limited to, the following:

(a) For land clearing, excavating, grading, earthmoving, dredging, or demolition:

(1) wetting down, including prewatering

(2) stabilizing with chemicals

(3) applying dust palliatives

(4) disturbing a minimum topsoil per unit of time and reclaiming disturbed areas as quickly as possible

(5) restricting the speed of vehicles traversing the area

(b) For constructing, using, altering, or repairing private roads or parking facilities:

- (1) watering, paving, or chemically stabilizing routinely used haul roads
- (2) restricting the speed of vehicles
- (3) watering down or chemically stabilizing roadway shoulders
- (4) enclosing or covering open bodied trucks
- (5) switching from moving materials by vehicle to moving them by conveyance systems
- (6) covering, shielding, or enclosing the area
- (7) preventing and/or promptly removing the deposit of dirt and mud on paved roads
- (8) cleaning paved roads frequently
- (c) For crushing, screening, handling, conveying, or processing materials:
  - (1) installing hoods, fans, and exhaust systems to enclose and vent the processing of dusty materials
  - (2) covering conveyance systems
  - (3) enclosing aggregate storage piles, or reducing the amount of vehicular or aggregate movement on open storage piles
  - (4) moisturizing or chemically treating the material during processing
  - (5) sealing leaks or openings in process enclosures
- (d) For exposure of land or materials subject to erosion by wind:
  - (1) landscaping and replanting exposed areas with native vegetation
  - (2) installing wind screens or equivalent wind speed reduction devices
  - (3) stabilizing the land with chemicals
  - (4) physically stabilizing the land by covering with a nonerodible material such as a gravel
  - (5) enclosing aggregate storage piles

1.4.2 Where owner or operator of a source had undertaken reasonably available control technology applicable under Section 1.4.1 but is found to cause violations of the standard specified in Section 1.3, the latter Section shall constitute the prevailing standard, in which case further controls would be required.

## **1.5 Fugitive Dust Control Permits Required for Construction Activities, i.e., temporary operations**

1.5.1 No person engaged in construction activities involving clearing and earthmoving on more than one acre of land shall initiate construction, after the date of enactment of this fugitive dust regulation, without first applying for and obtaining from the appropriate governing body, a construction permit.

1.5.2 Section 1.5.1 shall not apply to work performed under contract executed prior to the enactment of this regulation, provided that such work shall be complete prior to December, 31, 1981.

## **1.6 Compliance Plans and Schedules Required, i.e., continuous operations**

1.6.1 No person shall conduct an operation in a manner to emit or cause to emit fugitive dust without first having obtained from the Air Quality Review Board an operating permit.

1.6.2 Any person who emits or causes to be emitted fugitive dust such that Sections 1.3 or 1.4 are violated shall be required to submit a compliance plan and schedule which demonstrates to the satisfaction of the Air Quality Review Board that said standards will be met within a period of time acceptable to the Air Quality Review Board, (demonstrating reasonable progress with compliance of the standards by December 31, 1981). Said compliance plans and schedules shall be submitted to the Air Quality Review Board following formal notification by the Air Quality Review Board that such plans and schedules are necessary. Said notification shall specify reasonable time in which such plans and schedules must be submitted.

1.6.3 Operations which were in existence at the time of adoption of this ordinance shall have ninety (90) days to submit compliance plans and schedules and the Air Quality Review Board shall act upon such plans as soon as possible.

Nothing in this section shall require that those existing operations restrict their operations until a final decision is made by the Air Quality Review Board.

1.6.4 New applications received after the effective date of this ordinance will be approved or denied by the Air Quality Review Board within ninety (90) days of the application.

1.6.5 Such compliance plans and schedules shall, at a minimum, include the following:

- (a) A description of the nature and scope of the operations and conditions which may cause a violation.
- (b) A description of those reasonably available control technologies active at the time of the plan submission, and the anticipated effect of such controls upon ambient particulate concentrations.
- (c) A description on those additional, more stringent, emission abatement techniques which will be used to obtain compliance.
- (d) The economic and technical reasonableness of the proposed emission abatement techniques, including such cost analyses and copies of engineering reports or studies sufficient to demonstrate to the Air Quality Review Board's satisfaction that the compliance program will result in compliance with the standards of this regulation.
- (e) An implementation schedule and final compliance date.

1.6.6 Where the Air Quality Review Board is satisfied that the compliance plan and schedule submitted in accord with this section meet the requirements specified, the Air Quality Review Board shall issue an order requiring the person submitting the compliance schedule to perform the acts stipulated.

1.6.7 Whenever the Air Quality Review Board finds that the specifications of its order are being violated, or that a person required to submit a compliance plan by Section 1.6 has not submitted such a plan or has submitted an inadequate plan, it shall serve notice of violation to the person responsible for the compliance plan in the manner provided in Section 1.7.

## **1.7 Enforcement Procedures**

1.7.1 Whenever, on the basis of any information available, the Air Quality Review Board finds that any person is in violation of the provision of this regulation the Air Quality Review Board shall notify the person in violation and shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Air Quality Review Board determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with this regulation.

1.7.2 This Air Quality Review Board may issue an order to the person in violation requiring such person to comply with the requirements set forth in Sections 1.5 or 1.6 or the Air Quality Review Board may bring civil action in accordance with 1.7.4.

1.7.3 Any action under Section 1.7.2 shall not take effect until the person to whom action is initiated has had an opportunity, if requested by the person in violation, to confer with the Air Quality Review Board concerning this alleged violation.

1.7.4 The Air Quality Review Board may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person:

1. Fails or refuses to comply with the requirements of Sections 1.5 or 1.6.
2. Violates, fails, or refuses to comply with any order issued under Section 1.7.1.

## **1.8 Establishment of Administrative Mechanisms**

1.8.1 The County shall establish an Office of Air Quality for the administration of this regulation. The Office of Air Quality shall be the administrative mechanism for the provisions of Sections 1.1 through 1.7 of this regulation.

1.8.2 To provide guidance to the County and the Administrator of the Office of Air Quality, the county commissioners shall appoint a seven (7) person Air Quality Review Board to serve at the pleasure of the county commission for the purpose of providing overall supervision to the Air Quality Office, to recommend policy to the county commission regarding clean air matters, and approve actions of the Air Quality Office in relationship to Sections 1.1 through 1.7 of this regulation.

1.8.3 The composition of the Air Quality Review Board shall be: Two individuals representing industry, one individual representing the engineering profession, one individual representing environmental concerns, one individual representing affected homeowners, one individual representing the business community, and one individual on an at large basis. Each member will serve for three years on a staggered term basis.

## **1.9 Separability**

1.9.1 Each section and each provision or requirement of any section of this ordinance shall be considered separable, and the invalidity of any section, provision, or requirement, or any portion thereof, shall not affect the validity or enforceability of any other portion.