

**NOTICE OF PROPOSED RULEMAKING**  
**MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS**  
**RULE 300 - VISIBLE EMISSIONS**

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections affected</u></b> | <b><u>Rulemaking action</u></b> |
| Rule 300                           | Amend                           |
- 
- 2. Statutory authority for the rulemaking:**  
Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480  
Implementing statute: A.R.S. § 49-112
- 3. List of all previous notices appearing in the register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 3373, October 5, 2007
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name:           Johanna M. Kuspert or Jo Crumbaker  
                    Maricopa County Air Quality Department  
Address:        1001 N. Central Ave, Suite 595  
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- 5. An explanation of the rule, including the agency’s reasons for initiating the rulemaking:**  
The Maricopa County Air Quality Department (MCAQD) is proposing revisions to Rule 300. The MCAQD is proposing these revisions to Rule 300 to implement a control measure and increase compliance with existing rules for the Five Percent Plan for PM<sub>10</sub>. On June 6, 2007, the Environmental Protection Agency (EPA) finalized its finding that the Phoenix Nonattainment Area did not attain the 24-hour PM<sub>10</sub> standard by the deadline mandated in the Clean Air Act (CAA), December 31, 2006. (72 FR 31183, June 6, 2007). Under Section 189(d) of the CAA, serious PM<sub>10</sub> nonattainment areas that fail to attain are required to submit within 12 months of the applicable attainment date, “plan revisions which provide for attainment of the PM<sub>10</sub> air quality standard and, from the date of such submission until attainment, for an annual reduction in PM<sub>10</sub> or PM<sub>10</sub> precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared

for such area.” In accordance with the CAA section 179(d)(3), the attainment deadline applicable to an area that misses the serious area attainment date is as soon as practicable. The region needs to submit to a Five Percent Plan for PM<sub>10</sub> by December 31, 2007.

**PM<sub>10</sub> Nonattainment Status History:**

In accordance with 1990 Clean Air Act Amendments, the Maricopa County nonattainment area was initially classified as "moderate" for PM<sub>10</sub> pollution. As a moderate nonattainment area, Maricopa County was required to submit to the EPA a moderate PM<sub>10</sub> nonattainment area plan and to show attainment of the PM<sub>10</sub> national ambient air quality standards (NAAQS) by December 31, 1994. Moderate PM<sub>10</sub> nonattainment area plans were submitted to the EPA in 1991 and 1993.

The Maricopa County moderate PM<sub>10</sub> nonattainment area, upon the EPA's findings, failed to attain the NAAQS by December 31, 1994. Consequently, on May 10, 1996, the EPA reclassified Maricopa County as a serious PM<sub>10</sub> nonattainment area. Maricopa County was then required to submit a serious PM<sub>10</sub> nonattainment area plan, which had to include best available control measures (BACM), measures designed to achieve the maximum degree of emissions reduction for PM<sub>10</sub> sources. Maricopa County had to show attainment of the PM<sub>10</sub> NAAQS by December 21, 2001.

Emission inventories and air quality modeling analysis of existing control measures showed that attainment could not be reached by December 21, 2001. A shortfall of a 16.4% reduction in PM<sub>10</sub> concentration was identified. The CAA allows states to request an extension of this attainment date for up to five years, providing the state demonstrates that the plan includes the most stringent measures (MSM) that are included in any state's plan or achieved in practice by any State, and can be feasibly implemented in the area. Consequently, a rigorous planning effort was conducted to develop 77 additional control measures. The serious PM<sub>10</sub> nonattainment area plan was submitted to the EPA on July 9, 1999. The EPA approved the revised serious PM<sub>10</sub> nonattainment area plan in April 2002, contingent on the completion of three commitments by Maricopa County. The revisions to Rule 310 (adopted April 7, 2004) addressed the commitments.

As a result of litigation on the moderate PM<sub>10</sub> nonattainment area plan, the Arizona Department Of Environmental Quality (ADEQ's) prepared and submitted a Plan For Attainment Of The 24-Hour PM<sub>10</sub> Standard–Maricopa County PM<sub>10</sub> Nonattainment Area in May 1997. EPA partially disapproved the Arizona 24-hour Standard PM<sub>10</sub> SIP revision triggering a federal implementation plan (FIP) obligation, which remains in place, related to the area's PM<sub>10</sub> moderate area plan. The obligation resulted from EPA disapproved those sections of the SIP addressing unpaved roads, unpaved shoulders, unpaved parking lots, vacant lots and agriculture. EPA found that the SIP did not contain measures to reduce the emissions from or the number of existing sources in these categories and therefore failed to implement

reasonably available control measures. Under the court ordered consent decree, EPA finalized a FIP in July 1998 for the Maricopa County PM<sub>10</sub> nonattainment area that addresses those four categories of sources.

On July 2, 2002, the Environmental Protection Agency (EPA) found the controls proposed in the, inadequate to ensure the attainment of the PM<sub>10</sub> national ambient air quality standards (NAAQS) at the Salt River air quality monitoring sites. The finding of inadequacy included the State Implementation Plan's (SIP's) attainment and reasonable further progress (RFP) demonstrations for the 24-hour PM<sub>10</sub> standard at the Salt River monitoring sites and three other microscale sites in the Maricopa County PM<sub>10</sub> nonattainment area (Maryvale, Gilbert, and West Chandler).

Although the EPA approved Arizona's 1997 SIP revision and additional required controls proposed by Maricopa County on August 4, 1997, EPA's Aerometric Information Retrieval System (AIRS) continued to show exceedances at the Maricopa County PM<sub>10</sub> nonattainment area Salt River site - recording expected exceedances in 1999, 2000, and through three quarters of 2001. Consequently, the EPA required Arizona to submit a SIP revision to identify and implement corrective PM<sub>10</sub> control provisions in the Salt River Study Area and for similar significant sources in the Maricopa County PM<sub>10</sub> nonattainment area.

Arizona's SIP revision was required to provide for attainment in the Salt River site no later than December 31, 2006, in accordance with CAA §189(b)(1)(A) and 188(e), and was required to include control strategies that meet the best available control measures (BACM) test and the most stringent measures (MSM) test for significant sources and source categories.

The Final Revised PM<sub>10</sub> State Implementation Plan For The Salt River Area dated August 2004 contained Arizona's revisions to the State Implementation Plan for the Maricopa County PM<sub>10</sub> serious nonattainment area and included the following State Implementation Plan requirements, as described by the EPA in its Federal Register notice of disapproval (67 FR 44369, July 2, 2002):

- A modeling demonstration showing that the level of emissions reductions from application of BACM-MSM for all significant sources of PM<sub>10</sub> will result in attainment of the 24-hour NAAQS by December 31, 2006, at the Salt River PM<sub>10</sub> monitoring site, in accordance with CAA §189(b)(1)(A) and §188(e).
- Commitments to implement best available control measures (BACM)-most stringent measures (MSM) for sources significantly contributing to exceedances of the 24-hour PM<sub>10</sub> standard in the Salt River area as expeditiously as possible (CAA §189(b)(1)(B)) and a commitment that all BACM and MSM control measures adopted and applied to sources in the Salt River Study Area

will be applied to all similar sources throughout the Maricopa County PM10 serious nonattainment area.

- A demonstration that the plan constitutes Reasonable Further Progress (RFP) up to the attainment deadline - December 31, 2006.
- A demonstration that all the requirements of the federal Clean Air Act Amendments that pertain to serious PM10 nonattainment areas are met - including CAA §110(l), §110(a)(2)(E)(i), and 40 CFR §51.280 and §51.111).

**Explanation For Current Rulemaking Proposals:**

For the Five Percent Plan for PM10, an analysis was again conducted to identify additional measures to reduce emissions and/or improve compliance with existing requirements. Finally, the MCAQD is also proposing to include a control measure adopted as BACM/MSM in Maricopa County Air Pollution Control Rule 316 in June 2005 for the Salt River SIP in Rule 300. Specifically, the MCAQD is proposing to add a no visible emissions of particulate matter at the property line standard to Rule 300. This proposed revision will make Rule 300 consistent with Rule 310, Rule 310.01, and Rule 316 that also limit particulate matter.

The MCAQD further sought to review rules from other agencies to increase the consistency of compliance with the existing visible emission standard of 20%. The MCAQD reviewed rules from Clark County, Nevada; South Coast Air Quality Management District, California (SCAQMD); and San Joaquin Unified Air Pollution Control District, California (SJUAPCD) to identify difference between County rules and rules from areas that successfully met the December 31, 2006 attainment date. The MCAQD also reviewed EPA’s notice finalizing Method 203 (A), (B), and (C) (71 FR 55119, September 21, 2006). In the summary of that notice EPA states, “The intended effect is to provide States with an expanded array of data reduction procedures for determining compliance with SIP opacity regulations.” These areas that successfully met the December 31, 2006 attainment date administer rules that utilize a time-exception form of the standard expressed as “... shall not exceed 20% opacity for more than 3 minutes out of any 60 minute period.” This form of data reduction for the 20% opacity standard limits the number of excursions over the 20% level of the standard resulting in more consistent compliance with the existing standard.

**Section By Section Explanation Of Changes:**

- Section 200: To add “See Rule 100-General Provisions And Definitions of these rules for definitions of terms that are used but not specifically defined in this rule.”
- Section 201: To delete “Intermittent Source - A source which causes or discharges visible emissions for a duration of less than 6 consecutive minutes.”

- Section 301: To delete from heading “Opacity/General”. To delete “No person shall discharge into the ambient air from any single source of emissions any air contaminant, other than uncombined water, in excess of 20% opacity.”
- Section 301.1: To add “No person shall discharge into the ambient air, from any single source of emissions, any air contaminant, other than uncombined water, in excess of 20% opacity for a period aggregating more than three minutes in any 60-minute period.”
- Section 301.2: To add “No person shall cause, suffer, or allow visible emissions of particulate matter, including fugitive dust, beyond the property line within which the emissions are generated.”
- Section 501: To delete “except as provided in Section 502 of this rule” and to add “as modified by EPA Reference Method 203B.”
- Section 502: To delete “Compliance Determination-Opacity Of Visible Emissions From Intermittent Sources: Opacity of visible emissions from intermittent sources shall be determined by observations of visible emissions conducted in accordance with EPA Reference Method 9, except that at least 12 rather than 24 consecutive readings shall be required at 15-second intervals for the averaging time.”

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

Under ARS §49-479(C), a county may not adopt a rule or ordinance 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 ARS §49-112:

ARS §49-112 (A)

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.

The MCAQD is proposing to revise Rule 300 in order to address a peculiar local condition: EPA’s finding that the Phoenix Nonattainment Area did not attain the 24-hour PM<sub>10</sub> standard by the deadline mandated in the Clean Air Act (CAA), December 31, 2006. (72 FR 31183, June 6, 2007). The Phoenix

Nonattainment Area is the only nonattainment area designated serious for PM<sub>10</sub> in Arizona. Consequently, stronger regulations must be adopted in this area to address a serious health threat. Under Section 189(d) of the CAA, serious PM<sub>10</sub> nonattainment areas that fail to attain are required to submit within 12 months of the applicable attainment date, “plan revisions which provide for attainment of the PM<sub>10</sub> air quality standard and, from the date of such submission until attainment, for an annual reduction in PM<sub>10</sub> or PM<sub>10</sub> precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.” In accordance with the CAA section 179(d)(3), the attainment deadline applicable to an area that misses the serious area attainment date is as soon as practicable. The region needs to submit to a Five Percent Plan for PM<sub>10</sub> by December 31, 2007. The Phoenix Nonattainment Area is one of three areas in the entire country for which EPA has issued a finding that Section 189(d) has been triggered. Because of this, the revision complies with A.R.S. § 49-112 (A)(1) and A.R.S. § 49-112 (A) (2).

**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:**

Not applicable.

**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:**

**Rule Identification:**

This rulemaking amends Rule 300, “Visible Emissions,” in Maricopa County Air Pollution Control Regulations. The proposed rule adds a no visible emissions of particulate matter at the property line standard to Rule 300. This proposed revision will make Rule 300 consistent with Rules 310, 310.01 and Rule 316 that also limit particulate matter. A second proposed revision changes the data reduction methodology for the existing 20% and reads “... shall not exceed 20% opacity for more than 3 minutes out of any 60 minute period.” This form of data reduction for the 20% opacity standard limits the number of excursions over the 20% level of the standard resulting in more consistent compliance with the existing standard.

**Entities Directly Impacted:**

Entities directly impacted by this rulemaking include certain permitted sources, pollution control vendors, contractors, consultants, lawyers, the County, private persons and consumers. The County

estimates that as few as 20-30 sources might be affected by this rulemaking. Although many industry categories, including woodworking operations, metallurgical operations, scrap metal operations, and cotton gins are potentially subject to Rule 300, most of these sources will be unaffected by this rule as they already comply with either form of data reduction for determining compliance with the standard, are already subject to 20%, or lower, opacity standards, or are regulated by New Source Performance Standards (NSPS), Title 40, Part 60 of the Code of Federal Regulations.

**Probable Costs and Benefits:**

A. Costs to the state of Arizona:

If Arizona is unable to submit a plan that demonstrates a Five Percent per year reduction and demonstrates attainment at the monitors based on implemented control measures such as this rule, EPA will be required to make a nondiscretionary finding that Arizona has failed to submit an approvable plan. If the County and Arizona fail to correct the identified deficiencies within the timeframe specified in the notice, the sanctions under § 179 of the Clean Air Act (CAA) will be imposed. Sanctions include loss of highway funds and stricter emission offset requirements for major sources. In addition, under § 110(c) of the CAA, EPA would then need to promulgate a Federal Implementation Plan no later than 24 months after the date of publication of the notice.

B. Potential Costs and Benefits to the Public:

The most obvious benefit arising from promulgation of this rule is reduction in the harmful effects of air pollution, most notably particulates. Air pollution harms lung function, damages lung tissue, and increases respiratory symptoms, such as coughing, shortness of breath, wheezing and asthma attacks, and can impair the body's immune system response to inhaled particles. Results may include restricted activities, and work time and revenues lost due to increased hospital admissions, illness and death. PM associated health risks occur even more frequently in susceptible subpopulations, such as the elderly, children with asthma, and persons with cardiopulmonary disease, and may contribute to up to 65,000 excess deaths in the U.S. annually (STAPPA and ALAPCO, Controlling Particulate Matter Under the Clean Air Act: A Menu of Options, July 1996). Even very low concentrations of particulate matter may increase risk of early death, particularly in elderly populations with preexisting cardiopulmonary diseases (STAPPA and ALAPCO, supra). Chronic obstructive pulmonary disease (COPD), a major cause of morbidity and mortality in the U.S., cost the country more than 32 billion dollars in 2002, a figure which does not include costs attributable to asthma (American Lung Assoc., "Trends in Chronic Bronchitis and Emphysema: Morbidity and Mortality," Epidemiology and Statistics Unit, Research and Scientific Affairs, March 2003). Notably, asthma death rates in Arizona equaled or exceeded U.S. rates from 1991-1998. In addition, in 1998, an estimated 316,200 Arizonans suffered breathing discomfort and asthma related stress (Arizona Department of Health Services, "Asthma Control Program," Office of Nutrition and Chronic Disease Prevention Services, October, 2002). Therefore,

the County expects the countywide property line standard and change in data reduction methodology to translate into cost-saving benefits to the general public by reducing emissions-related adverse health effects and the concurrent lost revenue and health care costs. In addition to direct health-related effects, a statewide opacity limit of 20% will affect the general quality of life, particularly for those persons living near sources. A lower opacity limit will concurrently increase visibility and enhance the public's enjoyment of Arizona's natural resources.

**C. Potential Costs and Benefits to the Regulated Community:**

Both the proposed property line standard for particulate matter and the new data reduction methods for the existing opacity standard will require that owners/operators more closely monitor their activities, processes, and controls to ensure proper operation at all times. As described in the explanation in #5 above, a number of western serious PM-10 nonattainment areas administer rules that include both of the proposed revisions. Those areas contain many similar sources that comply with the proposed standards and are in the same business as sources in Maricopa County. Furthermore, an EPA study (Office of Air Quality Planning and Standards, "Opacity Regulations: A Summary of State Regulations and Rulemaking Status", Special Report February 1983) contains information indicating that the state or a local agency in 28 states has adopted a time-exception form of data reduction for their opacity standard.

Although each regulated facility is unique, the costs of compliance associated with the new rule are similar and may include: new capital equipment or modification of existing equipment, adjusting or enhancing operations and maintenance; replacement or modification of processes and designs; and indirect and administrative costs. Compliance might also result, however, in a variety of offsetting financial benefits for the source. They range from lower operation and maintenance costs, as a result of updated and more efficient equipment, to fewer man-hours lost and lower health care costs due to a decrease in pollution-exacerbated illnesses. During the informal workshop process for this rulemaking, the County requested that information on source-specific costs to achieve compliance with these standards, but has not yet received any information. The County is specifically requesting in this preliminary EIS source-specific information on costs to achieve compliance with the new data reduction methodology for determining compliance with the existing 20% opacity standard and no visible emissions at the property line standard.

**Small Business Analysis:**

Several small business categories were represented during the stakeholder process for this proposed rule. The County has not identified all small businesses that could be affected by this rulemaking, however, those who did participate did not express any reservations about compliance. The County has considered a variety of methods to reduce the impact of this rule on small businesses, including five

methods prescribed by A.R.S. § 41-1035: establish less stringent compliance or reporting requirements; establish less stringent schedules or deadlines for compliance or reporting requirements; consolidate or simplify the rulemaking's reporting requirements; establish performance requirements to replace design or operational standards; or exempt them from some or all of the rule requirements. For the reasons stated in item #5 of the preamble, and due to the inherent difficulty in identifying all sources which are small businesses, including the possibility that such status may change from year to year, the County has determined that it is not feasible to apply a separate opacity standard to small businesses. The County does employ an ombudsman in the Business Resource Division, to whom small businesses may address their issues with regard to compliance with the rule.

Both the proposed property line standard for particulate matter and the new data reduction methods for the existing opacity standard will require that owners/operators more closely monitor their activities, processes, and controls to ensure proper operation at all times.

As described in the explanation in #5 above, a number of western serious PM<sub>10</sub> nonattainment areas administer a property line standard. Those areas contain many similar sources that comply with property line standards and are in the same business as sources in Maricopa County. Furthermore, existing Maricopa County sources are already required to employ good housekeeping practices and monitor control equipment. To date no source has provided examples of the activities, processes or controls that may need to be modified to comply with this new requirement. The MCAQD is asking for information or examples that would allow for more than a qualitative analysis of the economic impact of the proposed standard.

As described in the explanation in #5 above, a number of western serious PM<sub>10</sub> nonattainment areas administer a time-exception data reduction methodology for their visible opacity limits. Furthermore, an EPA study (Office of Air Quality Planning and Standards, "Opacity Regulations: A Summary of State Regulations and Rulemaking Status", Special Report February 1983) contains information indicating that the state or a local agency in 28 states has adopted a time-exception form of data reduction for their opacity standard. Those areas contain many similar sources that comply with time-exception data reduction methods for visible emission standards and are in the same business as sources in Maricopa County. To date no source has provided examples of the activities, processes or controls that may need to be modified to comply with this new requirement. The MCAQD is asking for information or examples that would allow for more than a qualitative analysis of the economic impact of the proposed standard.

**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  
Maricopa County Air Quality Department  
Address: 1001 N. Central Ave, Suite 595  
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Telephone: 602-506-6710 or 602-506-6705  
Fax Number: 602-506-6179  
Email Address: 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 December 11, 2007, 5:00 p.m. Written comments may be mailed or hand delivered to the Maricopa County Air Quality 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 on December 10, 2007 at 9:00 am at the Maricopa County Flood Control District, 2801 West Durango, Operations Building. 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:**

Not applicable

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

<u>Incorporation By Reference</u>	<u>Location</u>
EPA Reference Method 9	Rule 300, Section 501
EPA Reference Method 203B	Rule 300, Section 501

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

**REGULATION III – CONTROL OF AIR CONTAMINANTS**

**RULE 300**

**VISIBLE EMISSIONS**

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MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III – CONTROL OF AIR CONTAMINANTS  
RULE 300  
VISIBLE EMISSIONS

**SECTION 100 - GENERAL**

- 101 PURPOSE:** To limit the emission of air contaminants into the ambient air by establishing standards for visible emissions and opacity.
- 102 APPLICABILITY:** This rule applies to visible emissions from sources for which no source-specific opacity requirements apply. Exceptions to this rule are described in Section 302 of this rule.

**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.

- 201 INTERMITTENT SOURCE** – ~~A source which causes or discharges visible emissions for a duration of less than 6 consecutive minutes.~~
- 202201 OPACITY** - A condition of the ambient air, or any part thereof, in which an air contaminant partially or wholly obscures the view of an observer.
- 203202 PERCENT OPACITY** - The degree to which an effluent plume or any other emission of air contaminants obscures the transmission of light expressed as a percentage.
- 204203 SHUTDOWN** - The cessation of operation of any air pollution control equipment and/or process equipment for any purpose, except routine phasing out of process equipment.
- 205204 STARTUP** - The setting into operation of any air pollution control equipment and/or process equipment for any purpose, except routine phasing in of process equipment.
- 206205 UNCOMBINED WATER** - Condensed water containing no more than analytical trace amounts of other chemical elements or compounds.

## SECTION 300 – STANDARDS

**301**     **LIMITATIONS —OPACITY/GENERAL:** ~~No person shall discharge into the ambient air from any single source of emissions any air contaminant, other than uncombined water, in excess of 20% opacity.~~

**301.1**    No person shall discharge into the ambient air, from any single source of emissions, any air contaminant, other than uncombined water, in excess of 20% opacity for a period aggregating more than three minutes in any 60-minute period.

**301.2**    No person shall cause, suffer, or allow visible emissions of particulate matter, including fugitive dust, beyond the property line within which the emissions are generated.

### **302**     **EXCEPTIONS:**

**302.1**    **Charging Electric Arc Furnaces:** When charging or back-charging any electric arc furnace for which construction commenced prior to February 2, 1963, a person may discharge air contaminants, other than uncombined water, in excess of the applicable opacity limit in Section 301 of this rule for no more than an aggregate of 3 minutes in any 45 minute period; however, visible emissions resulting from such discharge of air contaminants shall not exceed 40% opacity.

**302.2**    **Emergency Diesel Generators (EDGs) And Equipment:** When emergency diesel generators (EDGs) and equipment must run for safety reasons and/or for safety and operational tests to meet the requirements legally imposed by the Nuclear Regulatory Commission, a person may discharge air contaminants, other than uncombined water, in excess of the applicable opacity limit in Section 301 of this rule. Any discharge of air contaminants, other than uncombined water, in excess of the opacity limit in Section 301 of this rule should not contribute to a violation of the national ambient air quality standard.

**302.3**    **Firing Of Ordnance At Test Facilities:** Visible emissions exceeding the opacity standards for short periods of time resulting from firing test rounds in enclosed bunkers at ordnance test facilities which do not exceed 6 minutes in length shall not constitute a violation of Section 301 of this rule.

**302.4 Opacity Training:** Equipment or processes used to train individuals in opacity observations shall be exempt from opacity standards during the preparation for and/or during the actual training session(s).

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

**SECTION 500 – MONITORING AND RECORDS**

**501 COMPLIANCE DETERMINATION - OPACITY:** Opacity shall be determined by observations of visible emissions conducted in accordance with EPA Reference Method 9 as modified by EPA Reference Method 203B. , ~~except as provided in Section 502 of this rule.~~

**502 ~~COMPLIANCE DETERMINATION – OPACITY OF VISIBLE EMISSIONS FROM INTERMITTENT SOURCES:~~** ~~Opacity of visible emissions from intermittent sources shall be determined by observations of visible emissions conducted in accordance with EPA Reference Method 9, except that at least 12 rather than 24 consecutive readings shall be required at 15-second intervals for the averaging time.~~