

NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 314: OUTDOOR FIRES COMMERCIAL/INSTITUTIONAL SOLID FUEL
BURNING

The Maricopa County Air Quality Department (MCAQD) revised Rule 314 (Outdoor Fires and Commercial/Institutional Solid Fuel Burning). The Control Officer is posting this Notice of Final Rulemaking on the MCAQD website as required by A.R.S. § 49-471.07(G). This notice includes the preamble, as prescribed in A.R.S. § 49-471.05, and the text of the final rule. This notice also includes a list of all previous notices posted on the Maricopa County Enhanced Regulatory Outreach Program (EROP) website addressing the proposed rule and the concise explanatory statement prescribed in A.R.S. § 49-471.07, subsection B.

PREAMBLE

1. Statutory authority for the rulemaking:

A.R.S. §§ 11-871, 49-112, 49-474, 49-479 and 49-480

2. Name and address of department personnel with whom persons may communicate regarding the rulemaking:

Name: Kristi Beck or Kimberly Butler
Maricopa County Air Quality Department
Planning and Analysis Division

Address: 3800 N Central Avenue, Suite 1400
Phoenix, AZ 85012

Telephone: (602) 506-6010

Fax: (602) 506-6179

Submit Comments at: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

3. Rulemaking process:

This rulemaking followed procedures identified in state statutes and the Maricopa County EROP Policy.

County Manager Briefing:

December 2017

Stakeholder Workshops:	March 28, 2019
Board of Health Meeting to Approve Expedited Rulemaking:	April 22, 2019
Notice of Proposed Rulemaking:	June 19, 2019
Board of Supervisors Formal Meeting to Set the Public Hearing:	September 4, 2019
Board of Supervisors Public Hearing:	October 23, 2019

4. Explanation of the rule, including the control officer's reasons for initiating the rulemaking:

Fires emit nitrogen oxides and volatile organic compounds (which are precursors to ozone formation), carbon monoxide, and particulate matter. Rule 314 identifies the types of fires that are allowed in Maricopa County, when each type of fire is allowed, what types of materials can and cannot be burned, and other requirements that are applicable to each type of fire. Rule 314 also prohibits any fire that is not specifically listed in Rule 314. The MCAQD revised Rule 314 to clarify what types of fires are allowed in Maricopa County, when each type of fire is allowed, and which requirements are applicable to each type of fire.

The MCAQD also revised Rule 314 to reduce emissions from outdoor fires during restricted burn periods. When elevated concentrations of pollution are expected, the Arizona Department of Environmental Quality (ADEQ) will issue a health watch or a high pollution advisory, and the MCAQD will declare a restricted burn period. Rule 314 prohibits most types of outdoor fires during a restricted burn period; however, fires ignited for cooking and for proper disposal of flags are allowed during restricted burn periods. Over the last 10 years, the MCAQD has received numerous citizen complaints regarding outdoor fires ignited during restricted burn periods. When inspectors responded to these complaints, the person who ignited the fire frequently claimed the fire was ignited for cooking. When this occurred, there was little the MCAQD could do to limit the size or duration of the fire. To reduce emissions from outdoor fires for cooking, the MCAQD revised Rule 314 to define cooking, restrict the size of fires used for cooking, and require that fires ignited for cooking during a restricted burn period be extinguished once the food is suitable for human consumption.

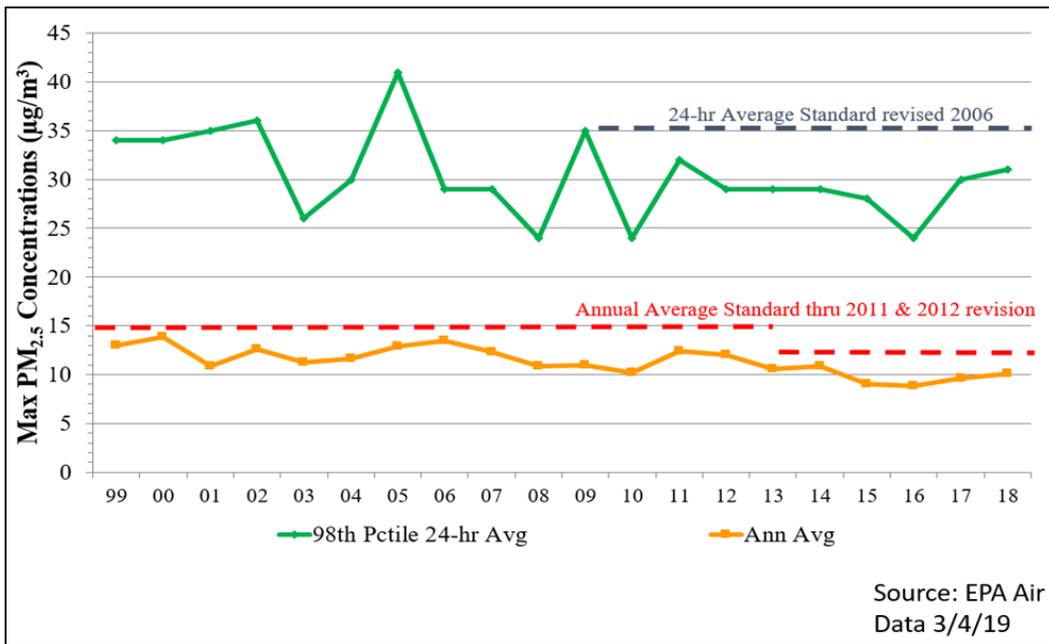
The MCAQD also revised Rule 314 to reduce total annual emissions from fireplaces, woodstoves, and chimineas at commercial and institutional establishments, and outdoor fires ignited for the following purposes:

- To provide warmth for human beings;

- For recreational purposes;
- For branding of animals;
- For cooking; and
- For proper disposal of the flag of the United States in accordance with 4 U.S.C. § 8.

These emissions reductions will be achieved by requiring the use of seasoned wood, which contains no more than 20% moisture. These reductions are necessary because the U.S. Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standards (NAAQS) for particulate matter in 2012. Specifically, the annual average standard for particulate matter less than 2.5 micrometers in diameter (PM_{2.5}) was lowered from 15 micrograms per cubic meter (µg/m³) to 12 µg/m³. Over the last 10 years, the annual average concentration of PM_{2.5} has ranged from 8.99 µg/m³ (2015) to 11.1 µg/m³ (2014) in Maricopa County. This regulatory change is part of the MCAQD’s proactive strategy to ensure that the 2012 annual average PM_{2.5} standard is not exceeded.

Figure 1. Average PM_{2.5} concentration in Maricopa County (1999-2018).



In addition, the MCAQD revised Rule 314 to:

- Incorporate existing MCAQD policies related to firefighter training during restricted burn periods and agricultural flame cultivation;
- Clarify the applicability and requirements of Rule 314; and

- Make other changes to ensure that the revised rule can be approved into the Arizona State Implementation Plan.

5. Studies relied on in the control officer's evaluation of or justification for the rule and where the public may obtain or review the studies, all data underlying the studies, any analysis of the studies and other supporting material.

Not applicable.

6. An economic, small business and consumer impact statement:

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement, as prescribed by A.R.S. §§ 41-1055, subsections A, B and C, and 41-1035:

An identification of the rulemaking, including all of the following:

This rulemaking revised Rule 314.

(a) The conduct and its frequency of occurrence that the rule is designed to change.

The MCAQD revised Rule 314 to reduce the number of open outdoor fires that are ignited during restricted burn periods and to limit the duration of open outdoor fires for cooking and proper disposal of flags. In addition, the revised rule will reduce emissions by requiring the use of seasoned wood in fireplaces, woodstoves, and chimineas that are located at commercial and institutional establishments and for outdoor fires ignited for any of the following purposes:

- To provide warmth for human beings;
- For recreational purposes;
- For branding of animals;
- For cooking; and
- For proper disposal of the flag of the United States in accordance with 4 U.S.C. § 8.

In 2018, The MCAQD received 643 citizen complaints regarding open outdoor burning. These complaints are typically clustered around restricted burn periods. For example, 45 complaints about open outdoor burning were received on January 1, 2018 (a day when the MCAQD declared a restricted burn period and air quality at several Maricopa County monitors exceeded the 1987 PM₁₀ NAAQS). In addition, 57 complainants specifically stated that the burning was occurring during a High Pollution Advisory (HPA) and 49

complainants specifically reported that the outdoor burning was occurring during a restricted burn period.

(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.

If this rule had not been revised, it is likely that Maricopa County would continue measuring air pollution concentrations that exceed the following NAAQS:

- 1987 NAAQS for particulate matter with a diameter less than or equal to 10 micrometers (PM₁₀);
- 2008 NAAQS for ozone; and
- 2015 NAAQS for ozone.

If Maricopa County fails to attain these standards, the MCAQD will be required to implement additional regulations to reduce emissions of PM₁₀ and/or ozone precursors. In addition, if Maricopa County is classified as a serious nonattainment area for either the 2008 or 2015 ozone NAAQS, the MCAQD will be required to lower the Title V permitting thresholds for ozone precursors, which would increase the number of facilities requiring Title V permits. Title V permits are more expensive to obtain and require the source to pay an annual fee based on their emissions of particulate matter and ozone precursors.

If this rule had not been revised, it is also possible that Maricopa County could exceed the 2012 NAAQS for PM_{2.5}. If Maricopa County is designated as nonattainment for the PM_{2.5} NAAQS, the MCAQD would have to develop a plan to reduce PM_{2.5} emissions. In addition, emissions offsets would be required for the construction of any new major source of PM_{2.5} emissions or for any major modification at an existing major source of PM_{2.5}. There are currently six major sources of PM_{2.5} in Maricopa County (one semiconductor manufacturer and five power plants).

If this rule had not been revised, sensitive groups (such as children, the elderly, and people with pre-existing cardiovascular disease) would have continued to experience health effects associated with elevated concentrations of air pollutants. Elevated concentrations of PM_{2.5} are associated with increases in serious health effects, such as asthma attacks and heart attacks. In addition, historical data has demonstrated that an

increased concentration of PM_{2.5} is associated with increased hospital admissions during the pollution event and for several days after the pollution event ends.

(c) The estimated change in frequency of the targeted conduct expected from the rule change.

The MCAQD revised Rule 314. As with other rules, the MCAQD will use education, outreach, and other compliance assurance tools to increase the number of people in compliance with the revised rule. The MCAQD strives to achieve the highest possible compliance rates.

A brief summary of the information included in the economic, small business and consumer impact statement.

This rulemaking should not have a significant economic impact on small businesses and consumers in Maricopa County.

Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.

Name: Kristi Beck or Kimberly Butler
Maricopa County Air Quality Department
Planning and Analysis Division
Address: 3800 N Central Avenue, Suite 1400
Phoenix, AZ 85012
Telephone: (602) 506-6010
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Submit Comments at: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

This rulemaking affects business and individuals that ignite outdoor fires. This rule should not impose any significant new costs on businesses or individuals. This rule will benefit children, senior citizens, and anyone with a preexisting health condition that makes them more susceptible to harm caused by air pollution. This rule will also benefit businesses by helping to ensure that the NAAQS are attained in Maricopa County.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.

This rulemaking should not impose any new costs on the MCAQD or on any other agencies affected by the rulemaking.

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking.

This rulemaking should not impose any new costs on political subdivisions of this state affected by the rulemaking.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.

This rulemaking should not increase costs for any businesses in Maricopa County and should not have any effect on revenues or payroll expenditures for businesses affected by the rulemaking. This rulemaking should benefit businesses by improving the health of employees and their families, thus improving employee productivity.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

This rulemaking should have no impact on private or public employment in businesses, agencies, and political subdivisions of this state.

A statement of the probable impact of the rulemaking on small businesses. The statement shall include:

(a) An identification of the small businesses subject to the rulemaking.

Small businesses subject to the revised rule include any businesses that ignite outdoor fires and any businesses that use fireplaces, woodstoves, and chimineas.

(b) The administrative and other costs required for compliance with the rulemaking.

There should be no significant costs required for compliance with the revised rule. Very minor costs may be incurred to purchase seasoned wood for use in fireplaces, woodstoves, chimineas, and open outdoor fires ignited for the following purposes:

- To provide warmth for human beings;
- For recreational purposes;
- For branding of animals;
- For cooking; and
- For proper disposal of the flag of the United States in accordance with 4 U.S.C. § 8.

However, seasoned wood combusts more completely so it produces more heat than unseasoned wood. Any costs associated with the purchase of seasoned wood will likely be offset by a reduction in the amount of wood needed to achieve a similar heat output.

(c) A description of the methods that the agency may use to reduce the impact on small businesses.

i. Establish less stringent compliance or reporting requirements in the rule for small businesses.

This rule does not impose any significant, new compliance requirements on small businesses. This rule does not establish any new reporting requirements for small businesses.

ii. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.

This rule does not impose any significant, new compliance requirements on small businesses. This rule does not establish any new reporting requirements for small businesses.

iii. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.

This rule does not impose any significant, new compliance requirements on small businesses. This rule does not establish any new reporting requirements for small businesses.

iv. Establish performance standards for small businesses to replace design or operational standards in the rule.

This rule does not impose any design requirements on small businesses. The operational requirements imposed on small businesses are minimal.

v. Exempt small businesses from any or all requirements of the rule.

This rule does not impose any significant, new requirements on small businesses.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.

This rulemaking should not result in any significant costs for private persons and consumers. Very minor costs may be incurred to purchase seasoned wood for use in open outdoor fires ignited for the following purposes:

- To provide warmth for human beings;
- For recreational purposes;
- For branding of animals;
- For cooking; and
- For proper disposal of the flag of the United States in accordance with 4 U.S.C. § 8.

However, seasoned wood combusts more completely so it produces more heat than unseasoned wood. Any costs associated with the purchase of seasoned wood will likely be offset by a reduction in the amount of wood needed to achieve a similar heat output.

A statement of the probable effect on state revenues.

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.

The changes do not include any intrusive or costly methods for reducing emissions from outdoor fires.

A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.

Not applicable.

7. The effective date of the rule:

The revised rule was adopted and took effect on October 23, 2019.

8. Such other matters as are prescribed by statute and that are applicable to the county or to any specific rule or class of rules:

Under A.R.S. § 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 applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or 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 of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or 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 regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as 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 the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or

tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The MCAQD is in compliance with A.R.S. §§ 49-112(A) and (B). Rule 314 is more stringent than the requirements of A.A.C. R18-2-602 (Unlawful Open Burning) because Maricopa County contains a maintenance area for the 1971 NAAQS for carbon monoxide, and nonattainment areas for the following NAAQS:

- 1987 NAAQS for PM₁₀;
- 2008 NAAQS for ozone; and
- 2015 NAAQS for ozone.

In addition, the costs for burn permits do not exceed the reasonable costs of the county to issue and administer the permit approval program.

9. List of all previous notices posted on the Maricopa County EROP website addressing the proposed rule and a concise explanatory statement, as prescribed by A.R.S. § 49-471.07, subsection B:

(a) List of all previous notices posted on the Maricopa County EROP website addressing the proposed rule:

Notice of Stakeholder Workshop:	March 12, 2019 (Date of Posting)
Notice of Board of Health Meeting:	April 4, 2019 (Date of Posting)
Notice of Proposed Rulemaking:	June 19, 2019 (Date of Posting)
Notice of Public Hearing	September 4, 2019 (Date of Posting)

(b) The following discussion addresses each of the elements required for a concise explanatory statement, as prescribed by A.R.S. § 49-471.07, subsection B:

The following changes were made after the Notice of Proposed Rulemaking was published on June 19, 2019:

1. Deleted an extraneous “and” at the end of Section 308.4.
2. Corrected the numbering of subsections in Section 322.
3. Replaced the word “plenum” with the term “air curtain” in Section A.1 of the Appendix.

4. Replaced the phrase “shall not extend beyond the length of the nozzle action” with the phrase “must not exceed the width of the air curtain” in Section A.4 of the Appendix.
5. Replaced the word “pipeline” with the phrase “fuel pipeline” in Section A.5 of the Appendix.

The following discussion evaluates the arguments for and against the rule and includes responses to comments received on the proposed rule or the preamble in the Notice of Proposed Rulemaking. The MCAQD received written comments from three stakeholders. All of the comments were reviewed and evaluated by the MCAQD.

Comment 1: This does not go far enough. Open Fire Burner abusers are already circumnavigating the current rules and tweaking this Rule does nothing to stop that. When you live outside of law, you have no issue playing fast and loose with rules, including on no burn days, by burning green wood, ignited with gasoline, and allowing it to smoulder all night long and telling visiting inspectors that you are cooking for your family. Thank you.

Response 1: Thank you for your comment. The MCAQD revised the rule to address this comment.

To prevent burning of green wood, revised Rule 314 requires the use of seasoned wood, which contains no more than 20 percent moisture, for all open outdoor fires ignited for the following purposes: warmth for human beings (Section 311), recreational purposes (Section 312), branding of animals (Section 313), cooking (Section 314), and proper disposal of flags (Section 316). The use of seasoned wood is also required in fireplaces, woodstoves, and chimineas at commercial and institutional establishments (Section 322).

To prevent the use of gasoline when igniting fires open outdoor fires, flammable liquids have been retained in the definition of prohibited material.

The MCAQD cannot prohibit fires used for cooking during restricted burn periods, because these types of fires are specifically authorized by A.R.S. § 49-501(B)(1). However, to reduce emissions from fires during restricted burn periods, the MCAQD has added a definition of cooking, and the following requirements have been added for all fires ignited for cooking during a restricted-burn period:

- A fire shall only be established to cook, smoke, or flavor food for immediate human consumption;
- Cooking, smoking, or flavoring of food must begin without delay once the fire has been established;
- The fire must be extinguished without delay once all parts of the food are suitable for immediate human consumption; and
- The dimensions of the fire shall not exceed 2 square feet, unless a larger fire is necessary to ensure that all parts of the food will reach the safe minimum internal temperature recommended by the United States Department of Agriculture.

Comment 2:

There is a huge problem in our neighborhood, North Central Phoenix! Wood smoke is incredibly toxic even to 'normal' healthy people, but I have asthma and there are a large number of people who burn wood in our area, sometimes every night, and often without any consideration for no burn days. This happens even throughout the summer and winter months, 24/7, 365 days a year! Maricopa absolutely does not have enough constraints on wood burning/smoke in the Phoenix valley! On top of that, Air Quality department is completely incapable of policing the general public to insure even the existing rules are followed! Inspectors are few and far between, they only work until 8 pm if you can get one out, and they have absolutely no tools with them to do their job, eg. thermal camera, or other testing equipment. They also are not even allowed to get out of their vehicles to confirm a complaint! How in the world are we supposed to be protected from law breakers and the incredible amount of wood smoke and other pollutants with this kind of (lack of) support? If it is so dangerous for inspectors to leave their vehicles then you should make those vehicles fully capable of 'seeing' and

'smelling' and recording the heat from fires, smoke from fires, and any other conditions to make them able to do their job! They should be able to call on local law enforcement by law, to get an escort if needed to proceed onto private property to investigate within reason, or with probable cause-from using a thermal camera device or other technology, to investigate where the smoke or other violation is coming from and document and cite the offender!!!! I have personally called over a dozen complaints that I have documented burning on no burn days and the offender has not been cited even once!!!! That is absolutely unacceptable and an embarrassment to everyone involved.

Response 2:

Thank you for your comment. The MCAQD has retained the prohibition on igniting open outdoor fires during restricted-burn periods (also known as no burn days) for most types of fires listed in Rule 314.

To reduce emissions during restricted burn periods, additional constraints on fires ignited for cooking have been added to the rule. In addition, revised Rule 314 requires the use of seasoned wood, which contains no more than 20 percent moisture, for all open outdoor fires ignited for the following purposes: warmth for human beings (Section 311), recreational purposes (Section 312), branding of animals (Section 313), cooking (Section 314), and proper disposal of flags (Section 316). The use of seasoned wood is also required in fireplaces, woodstoves, and chimineas at commercial and institutional establishments (Section 322). The use of seasoned wood will further reduce emissions from outdoor fires.

We appreciate your feedback regarding implementation of Rule 314. We have forwarded comments regarding implementation of Rule 314 to the Compliance and Enforcement Division of the MCAQD.

Comment 3:

I don't quite understand this process but I would like to say I have a neighbor that is a pervasive open fire burner who doesn't care about

his neighbors or the no burn day rules. My home and business have been nearly destroyed by repeated smoke saturation from dozens of these pervasive smoky fires. I have called in, as well as other neighbors, to report this abuse as no other organization has any authority to control this and NOT ONE FINE has been given. Why?! Because the inspectors, as nice as they are, have no tools to do their job and are not allowed to leave their vehicles or to accept an invite to an adjacent property or even walk down an alley to help catch a perpetrator! I have witnessed and reported dozens of illegal no burn day fires and all the inspectors can do is drive by on the street but they can't see in the back yard! There is technology available to allow them to see a column of heat rising from over a roof top called a thermal camera!!! I have never seen an enforcement agency so incapable of doing their assigned duties. I have attached a list of calls from your own records at this address. Still to date, nothing had been done.

[Attached Spreadsheet](#)

Response 3: We appreciate your feedback regarding implementation of Rule 314. We have forwarded comments regarding implementation of Rule 314 to the Compliance and Enforcement Division of the MCAQD.

Comment 4: We are providing comments based on our preliminary review of draft rule 314, Outdoor Fires and Commercial/Institutional Solid Fuel Burning. Maricopa County requested the EPA's pre-adoption review of this draft on April 15, 2019.

[Suggestions for Improvement](#)

Section 201 defines "Air Curtain Incinerators" and specifies that only self-contained above ground air curtain destructors allowed in Maricopa County. We suggest moving the prohibition on types of air curtain incinerators allowed in the district to a prohibition section.

Section 222 defines “Restricted-Burn Period,” but does not specify the air quality standards that apply. We suggest adding a provision similar to section 3(D) of Ordinance P-26 (“Declaration Of A Restricted-Burn Period”), or including a reference to that provision within Rule 314.

Approvability Issues

Section 309.1e, 310.1e, 402.3b describe requirements for fires destroying tumbleweeds, fires for agricultural land clearing, and burn permits for agricultural control of weeds. Each of these provisions only allows burning in these contexts if no other reasonable methods are available. This term is vague and could be difficult to enforce. Define “other reasonable methods” or provide examples of what methods may be reasonable as an alternative to burning for agricultural disposal.

Section 310 describes requirements for burning indigenous scrub for the purpose of agricultural operations in non-urban areas of low population. This term is vague, and the County should define the term “low population”. See, for example, Placer County APCD Rule 305, section 103.2.3 for a suitable method of defining low population.

Sections 320.2 and 321.2 describe requirements for the testing of potentially explosive-containing products and requires that the operator to comply with the permit requirements in section 303 unless the testing area is relatively small. This term is vague, and the County should define “relatively small”.

Section 402 describes administrative requirements for burn permit applications. Burn permits are required for several of the activities described in the prohibitory section of the rule. The form of the application is prescribed by the Control Officer, but at minimum the application should require information about the applicant, location of the burning activity, time of the burning activity, and type of

material being combusted. Please define what information, at minimum, is required in a burn permit application.

Section 403 describes administrative requirements for burn permit conditions. Burn permits are issued after a burn permit application is approved by the Control Officer. However, the conditions that are required in burn permits are at the discretion of the County, as the Control Officer may impose any permit conditions, and those conditions may include certain requirements. Please revise this language to require the imposition of enforceable permit conditions that are relevant for the types of burning activities requiring these permits.

Response 4: Thank you for your comments. Below are responses to the suggestions for improvement and approvability issues provided in your letter.

Suggestions for Improvement

The MCAQD has moved the requirement to use a self-contained, above ground air curtain destructor to Section 302.6.

The MCAQD has added the air quality standards that will be used to declare a restricted burn period to Section 222.

Approvability Issues

In most cases, mechanical equipment can be used to remove tumble weeds and indigenous vegetation, and the resulting debris can be loaded into haul trucks and transported to a disposal facility.

However, the use of the term "reasonable" has always been problematic because what is reasonable to one person may not be reasonable to another person. Due to the litigation risk associated with determining what is "reasonable" on a case by case basis, the MCAQD has not historically denied burn permit applications based on the availability of other methods. Instead, the MCAQD has evaluated the burn site to determine whether or not the fire is likely

to impact residents and businesses that are located near the burn site. Based on this comment, the MCAQD has aligned the rule with our historical business practices. Outdoor fires for destruction of tumbleweeds will be allowed, regardless of other methods that are available, as long as emissions are not limiting visibility on a roadway and as long as visible emissions do not extend to any occupied place that is not owned or occupied by the owner of the open outdoor fire. Outdoor fires for agricultural land clearing will be allowed, regardless of other methods that are available, in non-urban areas of low population.

The MCAQD has added a definition of “non-urban area of low population.”

The MCAQD has also evaluated your suggestion to define the term “relatively small.” During this evaluation, the MCAQD determined that any definition of “relatively small” would be arbitrary, because emissions are based on the type and amount of material combusted and not the size of the area where combustion occurs. Based on this evaluation, the MCAQD has replaced “relatively small” with a reference to the emission based permitting thresholds in Rule 200, Section 303.1.

The MCAQD revised Section 402 to include a list of information that must be submitted with the burn permit application.

The MCAQD revised Section 403 to state that each burn permit shall include enforceable permit conditions that are relevant for the types of fires that require a burn permit.

Comment 5: We have concerns about your approach for resolving these issues.

1. By removing the language "other reasonable methods", would actually weaken the rule because this language already exists in Rule 314 and in the SIP and could encourage open burning activities in lieu of whatever these other methods may be. Does

the Department have any data or information on what these other reasonable methods may be, so they may be characterized? What would be the potential impact on air quality be if more open burning occurred as a result of the removal of this language?

2. What would the impact be on basing the open burning requirements on the Rule 200 permitting thresholds? Are these thresholds equivalent in terms of emissions or other requirements? The Department would need to provide analysis comparing the two different requirements to demonstrate that the requirement is at least as stringent.

Response 5: The MCAQD will provide additional information on the impact of these changes when Rule 314 is submitted to EPA for approval into the Arizona SIP.

EXACT WORDING OF THE RULE

MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS REGULATION III – CONTROL OF AIR CONTAMINANTS

RULE 314

~~OPEN OUTDOOR FIRES AND INDOOR FIREPLACES AT COMMERCIAL AND INSTITUTIONAL ESTABLISHMENTS~~ **COMMERCIAL/INSTITUTIONAL SOLID FUEL BURNING**

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REQUIREMENTS FOR AIR CURTAIN DESTRUCTOR AND FIREBOX
PROCEDURES DESTRUCTORS

Revised 07/13/88
Revised 12/19/01
Revised 04/20/05
Revised 03/12/08
Revised 07/25/12

Revised 07/13/1988; Revised 12/19/2001; Revised 04/20/2005; Revised 03/12/2008; Revised 07/25/2012; and **Revised 10/23/2019**

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS**

RULE 314

~~OPEN OUTDOOR FIRES AND INDOOR FIREPLACES AT COMMERCIAL AND INSTITUTIONAL ESTABLISHMENTS~~ **COMMERCIAL/INSTITUTIONAL SOLID FUEL BURNING**

SECTION 100 – GENERAL

- 101** **PURPOSE:** To limit the emissions of air contaminants produced from open ~~burning and from indoor fireplaces at commercial and institutional establishments~~ outdoor fires and commercial/institutional solid fuel burning.
- 102** **APPLICABILITY:** ~~Rule 314 is applicable~~ The provisions of this rule apply to the owner or operator of: any open outdoor fire and burning in indoor fireplaces at commercial and institutional establishments that is conducted within Maricopa County.
- 102.1** Any open outdoor fire;
- 102.2** Any indoor fire for firefighter training;
- 102.3** Any appliance used for the cooking, smoking, or flavoring of food that burns solid fuel and is not located at a food establishment with a valid permit to operate from the Maricopa County Environmental Services Department; and
- 102.4** Any fireplace, woodstove, or chiminea that is located at a commercial or institutional establishment and burns solid fuel.
- 103** **EXEMPTIONS:** The provisions of this rule do not apply to:
- 103.1** Equipment and processes used for agricultural flame cultivation, if the fuel used is liquefied propane gas, the resulting flame desiccates the vegetative material without continued application of the flame, and the vegetative material is not burned or combusted.
- 103.2** Appliances, including but not limited to, grills, ovens, and smokers, that are used exclusively for the cooking, smoking, or flavoring of food, and are located at a food establishment with a valid permit to operate from the Maricopa County Environmental Services Department.

103.3 Any of the following fires or devices that are subject to Ordinance P-26 of these rules:

- a. Any residential woodburning device;
- b. Any chiminea, outdoor fireplace, and other outdoor device that is located at a residence and burns solid fuel; and
- c. Any fire pit or similar outdoor fire that is located at a residence, burns solid fuel, and is used exclusively for recreation or ambiance, or to provide warmth for human beings.

103.4 Any fire or device where the only fuel combusted is natural gas, propane, or liquefied petroleum gas and the fire or device is not used to ignite another type of fuel.

103.5 The use of consumer fireworks or display fireworks, as defined in A.R.S. § 36-1601.

SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control ~~Rules~~ Regulations, the definitions in this rule take precedence.

201 **AGRICULTURAL OPERATIONS:** Producing or harvesting crops or raising animals for the purposes of marketing for profit or providing a livelihood.

~~201~~ **202** **AIR CURTAIN DESTRUCTOR:** A device designed to form a curtain of air over a firebox in which burning occurs that aids in more complete combustion through increases in turbulence and combustion time. ~~Above-ground air curtain destructors are the only type of air curtain destructor allowed in Maricopa County.~~

~~202~~ **203** **AREA A:** As defined in Arizona Revised Statutes (A.R.S.) § 49-541(1), the area in Maricopa County delineated as follows:

Township 8 North, Range 2 East and Range 3 East
Township 7 North, Range 2 West through Range 5 East
Township 6 North, Range 5 West through Range 6 East
Township 5 North, Range 5 West through Range 7 East
Township 4 North, Range 5 West through Range 8 East
Township 3 North, Range 5 West through Range 8 East
Township 2 North, Range 5 West through Range 8 East
Township 1 North, Range 5 West through Range 7 East
Township 1 South, Range 5 West through Range 7 East
Township 2 South, Range 5 West through Range 7 East
Township 3 South, Range 5 West through Range 1 East
Township 4 South, Range 5 West through Range 1 East

A map of Area A is available at: <https://www.maricopa.gov/2686/Planning-Area-Maps>

204 **CHARCOAL:** The carbon and hydrocarbon residue that remains after water and other volatile constituents of wood have been removed by pyrolysis.

- 205 **CHIMINEA:** A device made from clay, aluminum, steel, or another non-combustible material, that is designed to burn solid fuel, and that is used outside to provide warmth or for aesthetic purposes.
- 206 **COOKING:** The application of heat to plant foods and raw animal foods to raise all parts of the food to the safe internal temperature recommended by the United States Department of Agriculture, or a higher temperature based on the preferences of the person who will consume the food. For the purposes of this rule, cooking does not include the application of heat to ready to eat foods, as defined in Subpart 1-201.10 of the 2017 Food Code published by the U.S. Food & Drug Administration, including but not limited to, hot dogs and marshmallows.
- 203 207 **DANGEROUS MATERIAL:** Any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
- 204 208 **DITCHBANK:** A lateral area not to exceed two and one half feet on either side of a ditch.
- 205 ~~EMISSION REDUCTION TECHNIQUES (ERTs): Methods for controlling emissions from outdoor fires to minimize the amount of emissions output per unit of area burned. Types of ERTs include minimizing the material to be burned, preventing fire from spreading by lining the area and applying fire retardant foam or water, allowing the material to dry before burning, extinguishing the smoldering burns, burning in piles, and burning in the opposite direction of the wind.~~
- 206 209 **FENCE ROW:** A lateral area not to exceed two and one half feet on either side of the centerline of a fence.
- 207 210 **FIREBOX:** The chamber or compartment inside of an air curtain destructor wherein materials are burned.
- 211 **FLAME CULTIVATION:** The practice of using a flame to expose vegetative material to intense heat (approximately 2000°F) for a short duration (approximately one-tenth of a second) to vaporize the water in the vegetative cells in order to destroy the photosynthetic process. This practice does not burn or combust the vegetative material.
- 208 212 **FLUE:** Any duct or passage for air or combustion gases, such as a stack or chimney.
- 213 **FUEL:** Any material which is burned to produce energy (such as heat), to reduce the volume or mass of solid material, or for firefighter training.
- 214 **HIGH TEMPERATURE MECHANICAL BURNER:** A portable device (such as a torch) that combusts propane or another hydrocarbon gas to create a flame that can be continuously maintained and applied until combustion is complete.
- 215 **INDOOR FIRE FOR FIREFIGHTER TRAINING:** Any fire ignited inside of a structure for the purposes of training career and volunteer firefighters whose duties are primarily structural in nature.

- 216 **MANUFACTURED FIRELOG:** A log that is made from recycled wood, such as sawdust, that is compressed to form a log or mixed with a binder and extruded into a log shape.
- 217 **NFPA 1001:** The National Fire Protection Association (NFPA) standard for firefighter professional qualifications. The standard identifies the minimum job performance requirements for career and volunteer firefighters whose duties are primarily structural in nature.
- 218 **NON-URBAN AREA OF LOW POPULATION:** Any geographic location where the nearest occupied place is more than 1,320 feet (one-fourth of a mile) away. For the purposes of this definition, an occupied place that is owned by the burn permit applicant will not be considered when determining if the burn location identified on the application is a non-urban area of low population.
- 219 **OCCUPIED PLACE:** A location where people are either residing (a residence) or working (a workplace) or any place where people might have an activity (e.g. bus stop, basketball court, or patio). For the purpose of this rule, this definition does not include an occupied place that is owned and occupied by the owner or operator of the open outdoor fire.
- 209 220 **OPEN OUTDOOR FIRE OR OPEN BURNING:** Any combustion of any type of material outdoors, where the products of combustion are not directed through a flue. ~~Open outdoor fires include agricultural, residential and prescribed burning. Purposes for fires can include prevention of a fire hazard, instruction in the methods of fighting fires, watershed rehabilitation, disease and pest prevention.~~
- 240 221 **ORCHARD HEATERS:** A device which helps prevent frost damage to fruit trees by heating. An orchard heater consists of a pipeline heater system operated from a central control from which fuel is distributed by a piping system from a centrally located tank.
- 222 **OUTDOOR FIRE:** Any open outdoor fire and any combustion of any solid fuel where the products of combustion are vented outdoors. For the purposes of this rule, outdoor fire includes, but is not limited to chimineas, smokers, cooking appliances, and forges where the products of combustion go through a flue or a stack and are discharged outdoors.
- 223 **PELLET FUEL:** Refined and densified fuel shaped into small pellets or briquettes that are uniform in size, shape, moisture, density and energy content.
- 244 224 **PROHIBITED MATERIALS:** Non-paper garbage from the processing, storage, service or consumption of food; books, magazines, fiberboard, packaging, rags, fabrics, office records, chemically treated or soaked wood; lead-painted wood; linoleum flooring, and composite counter tops; tires; animal wastes and carcasses, coal, liquid or gelatinous hydrocarbons tar, explosives or ammunition; oleanders, leaves, grass clippings, refuse; asphalt shingles or asphalt; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous

~~material containers including those that contained lead, cadmium, mercury and arsenic compounds; Aerosol spray cans; animal carcasses; animal waste; antifreeze; asbestos; asphalt, asphalt shingles and other asphalt products; batteries; chemically treated or soaked wood; cleaners; coal; counter tops; electrical wire insulation; explosives or ammunition; fabrics; fiberboard; flammable liquids; flooring; furniture; garbage; grass clippings; hazardous material containers, including those that contain lead, cadmium, mercury, and arsenic compounds; hazardous waste; insulation; landscape waste; painted wood; paper and paper products, including books, magazines, and office records; leaves; liquid or gelatinous hydrocarbons; oleanders; packaging; paints; pesticides, pesticide bags, and pesticide containers; plastic, including plastic bags and other plastic products; polyester products; rags; refuse; rubbish; solvents; stains; tar and tar paper; tires; transformer oils; tree trimmings; varnishes; waste petroleum products, including waste crankcase oil, transmission oil, and oil filters; and any substance that emits dense smoke or obnoxious odors.~~

212 **225** **PUBLIC OFFICER:** Any elected or appointed officer of a public agency established by charter, ordinance, resolution, state constitution or statute, but excluding members of the legislature.

213 **226** **RESTRICTED-BURN PERIOD:** A condition declared by the Control Officer whenever meteorological conditions are conducive to an accumulation of carbon monoxide (CO), ozone, and/or particulate matter in exceedance of the standards or when air quality reaches other limits established by the Control Officer or when there is increased fire danger. The Control Officer will declare a restricted-burn period if any of the following standards are likely to be exceeded:

- a. The primary ambient air quality standard for carbon monoxide, eight-hour average, in Rule 510 of these rules;
- b. The primary ambient air quality standard for ozone, eight-hour average, in Rule 510 of these rules; and
- c. Either of the following 24-hour average concentrations for particulate matter:
 - (1) PM₁₀ – 120 micrograms per cubic meter; or
 - (2) PM_{2.5} – 30 micrograms per cubic meter.

214 ~~**WOOD-BURNING CHIMINEAS:** Chimineas are burning devices made from clay, aluminum, and steel and are used for warmth and aesthetics outside in yards and patios. Chimineas are designed to burn solid fuels.~~

227 **SEASONED WOOD:** Wood with a moisture content less than or equal to 20 percent, as determined using a moisture meter that is operated in accordance with the manufacturer's recommendations. For the purposes of this rule, seasoned wood includes charcoal, pellet fuel, and manufactured firelogs.

228 **SOLID FUEL:** Any fuel that is in a solid state prior to combustion.

229 **SUITABLE FOR IMMEDIATE HUMAN CONSUMPTION:** Foods that have been cooked to the safe minimum internal temperature recommended by the United States Department of Agriculture and to the preferences of the person who will consume the food.

SECTION 300 – STANDARDS

301 **PROHIBITION-OPEN OUTDOOR FIRES:** It shall be unlawful for any person to ignite, cause or permit to be ignited, allow, maintain any open outdoor fire within the limits of Maricopa County, except as provided in Sections 302, 303, 304, 305 and in the Appendix of this rule. No person may ignite, cause to be ignited, permit to be ignited, suffer, allow, or maintain any fire or device listed in Section 102 of this rule, within the limits of Maricopa County, except as provided in Sections 304 through 322 of this rule.

302 **GENERAL REQUIREMENTS:** The owner or operator of any open outdoor fire listed in Sections 304 through 321 of this rule, or any indoor fire for firefighter training listed in Section 306 of this rule, shall comply with all of the following requirements from the time the fire is ignited until the fire has been completely extinguished:

302.1 Fire extinguishing equipment shall be readily available at all times;

302.2 An attendant trained in the use of fire extinguishing equipment shall be present at the location of the fire;

302.3 No items or materials that will cause the production of black smoke shall be present in or added to an open outdoor fire, however items or materials that will cause the production of black smoke may be added to an indoor fire for firefighter training;

302.4 Prohibited materials shall not be burned, except as provided in Sections 319, 320, and 321 of this rule;

302.5 The open outdoor fire shall not be used for disposal of dangerous materials unless the owner or operator complies with Section 319 of this rule; and

302.6 If vegetative material that is more than six inches in diameter will be burned, a self-contained, above ground air curtain destructor shall be used and the owner or operator shall:

a. Obtain a Title V Permit prior to igniting the open outdoor fire;

b. Obtain an approved site-specific burn plan from the Control Officer, in accordance with Section 407 of this rule; and

c. Comply with the Appendix to Rule 314

303 **PERMIT REQUIREMENTS:** The owner or operator of any open outdoor fire listed in Sections 304 through 310 of this rule, or any indoor fire for firefighter training allowed in Section 306 of this rule, shall comply with all of the following requirements before the open outdoor fire is ignited. These requirements shall not apply to the owner or operator of any open outdoor fire listed in Sections 311 through 321 of this rule. These requirements shall also not apply to any fireplace, woodstove, or chiminea that is subject to Section 322 of this rule.

303.1 Obtain a burn permit in accordance with the administrative requirements in Section 400 of this rule before the fire is ignited;

303.2 After the burn permit has been issued, call the local fire department and the Control Officer each day, before the fire is ignited, to obtain permission to ignite the fire. The Control Officer shall approve or deny permission to burn based on National

Weather Service forecasts or other meteorological analyses that indicate expected concentrations of criteria pollutants, the likelihood of stagnation events that may prevent the dispersion of air pollutants, the size of the fire, and the distance between the fire and affected communities.

303.3 Before the fire is ignited, ensure that the size of the fire will not exceed the size provided on the burn permit application and that the method of burning and the location of the fire match the information provided on the burn permit application.

304 **OPEN OUTDOOR FIRES FOR DISEASE AND/OR PEST PREVENTION:** The owner or operator of an open outdoor fire declared necessary by the Arizona Department of Agriculture, when such fires have been determined essential for the purposes of disease or pest prevention and have been certified by actual investigations conducted by the Arizona Department of Agriculture, shall comply with all of the following requirements.

304.1 Comply with general requirements in Section 302 of this rule;

304.2 Comply with the permit requirements in Section 303 of this rule;

304.3 Comply with the recordkeeping requirements in Section 501.1 of this rule;

304.4 Not ignite or maintain the open outdoor fire during a restricted-burn period;

304.5 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day; and

304.6 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day.

305 **OPEN OUTDOOR FIRES FOR PREVENTION OF FIRE HAZARDS:** The owner or operator of an open outdoor fire declared necessary, by a public officer in the performance of their official duties, for the control of weeds or for the prevention of fire hazards shall comply with all of the following requirements.

305.1 Comply with general requirements in Section 302 of this rule;

305.2 Comply with the permit requirements in Section 303 of this rule;

305.3 Comply with the recordkeeping requirements in Section 501.1 of this rule;

305.4 Not ignite or maintain the open outdoor fire during a restricted-burn period;

305.5 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day; and

305.6 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day.

306 **FIRES FOR FIREFIGHTER TRAINING:** The owner or operator of an indoor or open outdoor fire for firefighter training, including but not limited to firefighter training areas and firefighter training structures, shall comply with all of the following requirements.

306.1 Comply with general requirements in Section 302 of this rule;

306.2 Comply with the permit requirements in Section 303 of this rule;

306.3 Comply with the recordkeeping requirements in Section 501.1 of this rule; and

306.4 Not ignite or maintain the indoor or open outdoor fire during a restricted-burn period, unless the fire is necessary for NFPA 1001 required training and all of the following requirements are met:

- a.** The cumulative duration of the indoor or open outdoor fire shall not exceed 2 hours in any 24-hour period;
- b.** Permission to burn shall be requested in writing and include the date and time of the training, the cumulative duration of the indoor or open outdoor fire; and the type and amount of materials to be burned; and
- c.** The indoor or open outdoor fire shall not be ignited unless permission is granted in writing by the Control Officer for each day of NFPA 1001 required training. The Control Officer will base the decision to grant or deny permission to burn based on expected meteorological conditions and expected emissions from the indoor or open outdoor fire. The Control Officer may cancel permission to ignite the indoor or open outdoor fire if the Control Officer has reason to believe atmospheric conditions have changed.

307 **OPEN OUTDOOR FIRES FOR BURNING OF AGRICULTURAL DITCHBANKS AND FENCE ROWS:** The owner or operator of an open outdoor fire for burning ditchbanks and fence rows that are located adjacent to agricultural operations, shall comply with all of the following requirements.

307.1 Comply with general requirements in Section 302 of this rule;

307.2 Comply with the permit requirements in Section 303 of this rule;

307.3 Comply with the recordkeeping requirements in Section 501.1 of this rule;

307.4 Not ignite or maintain the open outdoor fire during a restricted-burn period;

307.5 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day;

307.6 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day;

307.7 Extinguish the open outdoor fire if emissions are limiting visibility on a roadway or if visible emissions extend to any occupied place that is not owned or operated by the owner or operator of the open outdoor fire;

307.8 Use a high temperature mechanical burner to ignite and maintain the open outdoor fire; and

307.9 Only burn vegetative materials.

308 **OPEN OUTDOOR FIRES FOR WATERSHED REHABILITATION OR CONTROL:** The owner or operator of any open outdoor fire declared necessary by the federal government or any of its departments, agencies, or agents, or the State of Arizona or any of its agencies, departments, or subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation shall comply with all of the following requirements.

308.1 Comply with general requirements in Section 302 of this rule;

- 308.2 Comply with the permit requirements in Section 303 of this rule;
- 308.3 Comply with the recordkeeping requirements in Section 501.1 of this rule;
- 308.4 Not ignite or maintain the open outdoor fire during a restricted-burn period; and
- 308.5 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day; and
- 308.6 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day.

309 **OPEN OUTDOOR FIRES FOR DESTRUCTION OF TUMBLEWEEDS:** The owner or operator of an open outdoor fire for the destruction of tumbleweeds to prevent a fire hazard, shall comply with all of the following requirements, as applicable depending on the location of the open outdoor fire.

- 309.1 Within all portions of Maricopa County, the owner or operator shall:
 - a. Comply with general requirements in Section 302 of this rule;
 - b. Comply with the permit requirements in Section 303 of this rule;
 - c. Comply with the recordkeeping requirements in Section 501.1 of this rule;
 - d. Not ignite or maintain the open outdoor fire during a restricted-burn period;
 - e. Not ignite the open outdoor fire on a Saturday, Sunday, or any holiday observed by Maricopa County;
 - f. Cut and place the tumbleweeds in small piles (less than 15 feet in diameter) before igniting the open outdoor fire;
 - g. Allow the tumbleweeds to dry before igniting the open outdoor fire. If it is not feasible to allow the tumbleweeds to dry, use a high temperature mechanical burner to ignite and maintain the open outdoor fire; and
 - h. Extinguish the open outdoor fire if emissions are limiting visibility on a roadway, or if visible emissions extend to any occupied place that is not owned or operated by the owner or operator of the open outdoor fire, or if winds are blowing tumbleweeds out of piles.
- 309.2 Within Area A, the owner or operator shall:
 - a. Not ignite the open outdoor fire between May 1 and September 30;
 - b. Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day; and
 - c. Between April 1 and April 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day.
- 309.3 Outside Area A, the owner or operator shall:
 - a. Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day; and

- b. Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day.

310 **OPEN OUTDOOR FIRES FOR AGRICULTURAL LAND CLEARING:** The owner or operator of an open outdoor fire for burning of indigenous scrub for the purpose of agricultural operations in non-urban areas of low population, shall comply with all of the following requirements, as applicable depending on the location of the open outdoor fire.

310.1 Within all portions of Maricopa County, the owner or operator shall:

- a. Comply with general requirements in Section 302 of this rule;
- b. Comply with the permit requirements in Section 303 of this rule;
- c. Comply with the recordkeeping requirements in Section 501.1 of this rule;
- d. Not ignite or maintain the open outdoor fire during a restricted-burn period; and
- e. Remove all materials other than indigenous scrub, including but not limited to, wood, rubber, tires, dirt, and metal, before igniting the open outdoor fire.

310.2 Within Area A, the owner or operator shall:

- a. Not ignite the open outdoor fire between May 1 and September 30;
- b. Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day; and
- c. Between April 1 and April 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day.

310.3 Outside Area A, the owner or operator shall:

- a. Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day; and
- b. Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day.

311 **OPEN OUTDOOR FIRES FOR WARMTH FOR HUMAN BEINGS:** The owner or operator of an open outdoor fire, that is ignited to provide warmth for human beings, shall comply with all of the following requirements, as applicable depending on the location of the open outdoor fire.

311.1 Within all portions of Maricopa County, the owner or operator shall:

- a. Comply with general requirements in Section 302 of this rule;
- b. Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to igniting the open outdoor fire, to determine whether a restricted burn period has been declared;
- c. Not ignite or maintain the open outdoor fire during a restricted-burn period; and
- d. Only ignite seasoned wood.

311.2 Within Area A, the owner or operator shall not ignite the open outdoor fire between May 1 and September 30.

312 **OPEN OUTDOOR FIRES FOR RECREATIONAL PURPOSES:** The owner or operator of an open outdoor fire, that is ignited for recreational purposes, including but not limited to, bonfires, campfires, and fire pits, shall comply with all of the following requirements, as applicable depending on the location of the open outdoor fire.

312.1 Within all portions of Maricopa County, the owner or operator shall:

- a. Comply with general requirements in Section 302 of this rule;
- b. Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to igniting the open outdoor fire, to determine whether a restricted burn period has been declared;
- c. Not ignite or maintain the open outdoor fire during a restricted-burn period; and
- d. Only ignite seasoned wood.

312.2 Within Area A, the owner or operator shall not ignite the open outdoor fire between May 1 and September 30.

313 **OPEN OUTDOOR FIRES FOR BRANDING OF ANIMALS:** The owner or operator of an open outdoor fire that is ignited to heat tools used for the branding of animals shall comply with all of the following requirements, as applicable depending on the location of the open outdoor fire.

313.1 Within all portions of Maricopa County, the owner or operator shall:

- a. Comply with general requirements in Section 302 of this rule;
- b. Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to igniting the open outdoor fire, to determine whether a restricted burn period has been declared;
- c. Not ignite or maintain the open outdoor fire during a restricted-burn period; and
- d. Only ignite seasoned wood.

313.2 Within Area A, the owner or operator shall not ignite the open outdoor fire between May 1 and September 30.

314 **FIRES FOR COOKING:** The owner or operator of an open outdoor fire that is used for cooking, and the owner or operator of an appliance that burns solid fuel and is used for the cooking, smoking, or flavoring of food, shall comply with all of the following requirements:

314.1 Comply with general requirements in Section 302 of this rule;

314.2 Only ignite seasoned wood;

314.3 During a restricted burn period:

- a. A fire shall only be established to cook, smoke, or flavor food for immediate human consumption;

- b. Cooking, smoking, or flavoring of food must begin without delay once the fire has been established;
- c. The fire must be extinguished without delay once all parts of the food are suitable for immediate human consumption; and
- d. The dimensions of the fire shall not exceed 2 square feet, unless a larger fire is necessary to ensure that all parts of the food will reach the minimum safe internal temperature recommended by the United States Department of Agriculture.

315 **OPEN OUTDOOR FIRES FOR ORCHARD HEATERS:** The owner or operator of an open outdoor fire that is ignited for purposes of frost protection in agricultural operations, including but not limited to farms, orchards, and nurseries, shall comply with the general requirements in Section 302 of this rule.

316 **OPEN OUTDOOR FIRES FOR PROPER DISPOSAL OF FLAGS:** The owner or operator of an open outdoor fire that is ignited for proper disposal of the flag of the United States in accordance with 4 U.S.C. § 8 shall comply with all of the following requirements:

316.1 Comply with general requirements in Section 302 of this rule;

316.2 Only ignite seasoned wood;

316.3 Disposal must begin without delay once the open outdoor fire has been established; and

316.4 The open outdoor fire shall be extinguished without delay once the flag has been reduced to ash.

317 **OPEN OUTDOOR FIRES FOR DISPLAY OF PYROTECHNICS:** The owner or operator of an open outdoor fire that is ignited as part of a pyrotechnic display for a musical, cinematic, or theatrical function shall comply with the general requirements for open outdoor fires in Section 302 of this rule.

318 **OPEN OUTDOOR FIRES FOR FIRE EXTINGUISHER TRAINING:** The owner or operator of an open outdoor fire that is used for fire extinguisher training shall:

318.1 Comply with general requirements in Section 302 of this rule;

318.2 Comply with the recordkeeping requirements in Section 501.1 of this rule;

318.3 Only burn a small amount of flammable liquid in a non-combustible container or on a non-combustible pan;

318.4 Not combust more than 2 gallons of flammable liquid per day;

318.5 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day;

318.6 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day;

318.7 Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to igniting the open outdoor fire, to determine whether a restricted burn period has been declared; and

318.8 Not ignite or maintain the open outdoor fire during a restricted-burn period, unless the fire is necessary for NFPA 1001 required training and all of the following requirements are met:

- a. The cumulative duration of the open outdoor fire shall not exceed 2 hours in any 24-hour period;
- b. Permission to burn shall be requested in writing and include the date and time of the training, the cumulative duration of the open outdoor fire; and the type and amount of materials to be burned; and
- c. The open outdoor fire shall not be ignited unless permission is granted in writing by the Control Officer for each day of NFPA 1001 required training. The Control Officer will base the decision to grant or deny permission to burn based on expected meteorological conditions and expected emissions from the open outdoor fire. The Control Officer may cancel permission to ignite the open outdoor fire if the Control Officer has reason to believe atmospheric conditions have changed.

319 **OPEN OUTDOOR FIRES FOR DISPOSAL OF DANGEROUS MATERIAL:** The owner or operator of an open outdoor fire for disposal of dangerous material shall:

319.1 Obtain a permit for an open outdoor fire for the disposal of dangerous materials from the Arizona Department of Environmental Quality;

319.2 Comply with general requirements in Section 302 of this rule, except that prohibited materials can be burned;

319.3 Burn or dispose of the dangerous material in accordance with A.A.C. R18-2-602;

319.4 Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to igniting the open outdoor fire, to determine whether a restricted burn period has been declared;

319.5 Not ignite or maintain the open outdoor fire during a restricted-burn period;

319.6 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day; and

319.7 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day.

320 **OPEN OUTDOOR FIRES FOR TESTING POTENTIALLY EXPLOSIVE-CONTAINING PRODUCTS IN ACCORDANCE WITH DEPARTMENT OF TRANSPORTATION (DOT) OR DEPARTMENT OF DEFENSE (DOD)**

GUIDELINES: The owner or operator of an open outdoor fire for testing potentially explosive containing, flammable, or combustible products (e.g. automotive airbags, rocket motors, gas generators, and vehicular assemblies) in accordance with DOT or DOD guidelines, shall:

- 320.1 Comply with general requirements in Section 302 of this rule, except that prohibited materials can be burned;
- 320.2 Comply with the permitting requirements in Section 303 of this rule, unless:
 - a. The testing is for purposes of hazard classification, packaging performance, propagation, and/or mass fire;
 - b. The testing area is controlled; and
 - c. Total emissions from all fires ignited for purposes of hazard classification, packaging performance, propagation, and/or mass fire do not exceed any of the permitting thresholds in Rule 200, Section 303.1.
- 320.3 Comply with the recordkeeping requirements in Section 501.2 of this rule;
- 320.4 Calculate emissions from the open outdoor fire using emission factors referenced in AP-42 or using other means of quantification that have been approved by the Control Officer and the Administrator;
- 320.5 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day;
- 320.6 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day;
- 320.7 Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to igniting the open outdoor fire, to determine whether a restricted burn period has been declared; and
- 320.8 Not ignite or maintain the open outdoor fire during a restricted-burn period, unless the Control Officer has granted permission to burn during the restricted-burn period. Permission to burn during the restricted-burn period shall be obtained prior to igniting the open outdoor fire. The Control Officer will grant permission to burn during a restricted-burn period if emissions from the open outdoor fire will not exceed two pounds of particulate matter per day.

321 **OPEN OUTDOOR FIRES FOR TESTING POTENTIALLY EXPLOSIVE-CONTAINING PRODUCTS FOR COMMERCIAL, MILITARY, OR LAW ENFORCEMENT USE:** The owner or operator of an open outdoor fire for testing potentially explosive products for commercial, military, or law enforcement use shall:

- 321.1 Comply with general requirements in Section 302 of this rule, except the prohibited materials can be burned;
- 321.2 Comply with the permitting requirements in Section 303 of this rule, unless:
 - a. The testing is for purposes of testing potentially explosive products for commercial, military, or law enforcement use;
 - b. The testing area is controlled; and
 - c. Total emissions from all fires ignited for purposes of testing potentially explosive products for commercial, military, and law enforcement use do not exceed any of the permitting thresholds in Rule 200, Section 303.1.
- 321.3 Comply with the recordkeeping requirements in Section 501.2 of this rule;

- 321.4 Calculate emissions from the open outdoor fire using emission factors referenced in AP-42 or using other means of quantification that have been approved by the Control Officer and the Administrator.
- 321.5 Between October 1 and March 31, ignite the open outdoor fire after 10:00 a.m. and completely extinguish the open outdoor fire by 5:00 p.m. on the same day;
- 321.6 Between April 1 and September 30, ignite the open outdoor fire after 6:00 a.m. and completely extinguish the open outdoor fire by 6:00 p.m. on the same day;
- 321.7 Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to igniting the open outdoor fire, to determine whether a restricted burn period has been declared; and
- 321.8 Not ignite or maintain the open outdoor fire during a restricted-burn period, unless the Control Officer has granted permission to burn during the restricted-burn period. Permission to burn during the restricted-burn period shall be obtained prior to igniting the open outdoor fire. The Control Officer will grant permission to burn during a restricted-burn period if emissions from the open outdoor fire will not exceed two pounds of particulate matter per day.

322 FIREPLACES, WOODSTOVES, AND CHIMINEAS AT COMMERCIAL AND INSTITUTIONAL ESTABLISHMENTS: The owner or operator of any fireplace, woodstove, or chiminea that combusts non-gaseous fuels and is located at a commercial or institutional establishment shall:

- 322.1 Not ignite or combust any prohibited materials;
- 322.2 Only ignite seasoned wood;
- 322.3 Check the burn restrictions advisory webpage or call the air quality hotline each day, prior to burning in the fireplace, woodstove, or chiminea, to determine whether a restricted burn period has been declared; and
- 322.4 Not ignite or burn any non-gaseous fuel in the fireplace, woodstove, or chiminea during a restricted-burn period.

~~302 OPEN OUTDOOR FIRES REQUIRED TO OBTAIN A BURN PERMIT: The types of fires described in Sections 302.1 and 302.2 of this rule require a burn permit that is obtained from the Control Officer prior to initiating the burn. Even after the Control Officer issues the burn permit, the person conducting the fire shall call both the fire department and the Control Officer to obtain permission to burn for each day. The Control Officer shall base his decision to approve or deny permission to burn on National Weather Service forecasts or other meteorological analyses that are indicative of a Restricted-Burn Period. See Section 402 of this rule for additional requirements regarding burn permits.~~

- ~~302.1 Fires Prohibited During Restricted-Burn Periods in Maricopa County, but Allowed From May 1 through September 30 Each Year in Area A:

 - a: ~~Open outdoor fires that are declared necessary by the County Agricultural Agent, when such fires have been determined as essential for the purposes of disease and/or pest prevention and certified by actual investigations by the County Agricultural Agent.~~~~

- b. ~~Open outdoor fires for the control of weeds for the prevention of fire hazards, when such fires are declared necessary by a public officer in the performance of his official duties.~~
- e. ~~Open outdoor fires for fire fighting training and fire fighting training areas and structures. See Section 303.2 (b) of this rule for an exemption to this requirement.~~
- d. ~~Open outdoor fires for the burning of agricultural ditchbanks and fence rows where other reasonable mechanical, chemical, or other methods of removal are not available. In addition:~~
 - (1) ~~A high-temperature mechanical burner must be used to burn ditchbanks, canal laterals, and/or fence rows.~~
 - (2) ~~Burning ditchbanks and/or fence rows is not allowed during a restricted-burn period from October 1 through February 29, unless such fires are required in the performance of an official duty of any public office, or such fires are necessary to thwart or prevent a hazard that cannot be properly managed by any other means, or are necessary for the protection of public health.~~
 - (3) ~~An on-site inspection by the Control Officer must be conducted to verify that only vegetative materials will be burned.~~
 - (4) ~~After an initial on-site inspection by the Control Officer has been completed, a Burn Permit may be issued for the same location(s) without having to conduct additional initial on-site inspections. However, periodic unscheduled, on-site inspections may be conducted by the Control Officer on days when such burning has been authorized by the Burn Permit.~~
- e. ~~Open outdoor fires declared necessary by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.~~

~~302.2 Fires Prohibited During Restricted-Burn Periods in Maricopa County and Also Prohibited from May 1 to September 30 Each Year in Area A:~~

- a. ~~Open outdoor fires for the destruction of tumbleweeds for the prevention of fire hazards in cases where other reasonable methods are not available.~~
 - (1) ~~Tumbleweeds must be cut, piled, and dried before burning.~~
 - (2) ~~A high temperature mechanical burner may be used to burn undried tumbleweeds in situations where it is not feasible to allow natural drying.~~
 - (3) ~~A high temperature mechanical burner must be used to burn tumbleweeds growing along canal laterals and fence rows.~~
- b. ~~Open outdoor fires for the burning of indigenous scrub vegetation cleared for the purpose of agricultural operations in non-urban areas of low population where other reasonable methods are not available.~~

- (1) ~~The Control Officer shall issue such Burn Permit only once per geographical location.~~
- (2) ~~An on-site inspection must be conducted to determine removal of all other materials (e.g. wood, rubber, tires, dirt and metal) before the issuance of the Burn Permit.~~

303 ~~OPEN OUTDOOR FIRES NOT REQUIRED TO OBTAIN A BURN PERMIT: The person conducting any type of fire listed in Section 303 of this rule does not need to obtain a burn permit. However, the person conducting the fire may be required to contact the Control Officer for permission to burn prior to igniting the fire when specified below in Subsections 303.1 through 303.4.~~

~~303.1 Fires Allowed at Any Time of the Year in Maricopa County or Area A:~~

- ~~a. Cooking for immediate human consumption.~~
- ~~b. Orchard heaters for frost protection in farming or nursery operations.~~
- ~~c. Proper disposal of flags under 4 U.S.C. § 8.~~
- ~~d. The display of fireworks for recreational purposes or pyrotechnics for musical or cinematic/theatrical functions.~~

~~303.2 Fires Prohibited During Restricted Burn Periods in Maricopa County: The person conducting any type of fire listed in Section 303.2 of this rule shall first call the County Air Quality Updates Hotline to hear the recorded message or check local government web sites to determine whether a Restricted Burn Period has been declared each day. If that is the case, then open outdoor burning is prohibited.~~

- ~~a. Fire extinguisher training. This exemption from needing a burn permit applies only when the training is limited to using a small amount of flammable liquid and a small container (i.e. a wastepaper basket or a flat pan).~~
- ~~b. Fire fighting training, training areas and training structures are exempt from needing a permit if the sole source of flame is a burner fueled by either liquefied petroleum gas or natural gas, with a British Thermal Unit (BTU) input per hour rating of less than 2,000,000 BTUs.~~
- ~~c. Disposal of dangerous material must be conducted in compliance with the Arizona Department of Environmental Quality's (ADEQ's) regulations.~~

~~303.3 Fires Prohibited During Restricted Burn Periods in Maricopa County and Also Prohibited from May 1 Through September 30 Each Year in Area A: The person conducting any type of fire listed in Section 303.3 of this rule shall first call the County Air Quality Updates Hotline to hear the recorded message or check local government web sites to determine whether a restricted burn period has been declared. If that is the case, then open outdoor burning is prohibited.~~

- ~~a. Warmth for human beings.~~
- ~~b. Recreational purposes.~~
- ~~c. Wood-burning chimineas and outdoor pits.~~
- ~~d. Branding of animals.~~

~~303.4 Fires for testing of potentially explosive-containing products during restricted-burn periods: The person conducting any type of fire listed in Section 303.4 of this rule shall keep and submit records as specified in Section 501 of this rule and call the County Air Quality Updates Hotline prior to burning to hear the recorded message or check local government web sites to determine whether a restricted-burn period has been declared. If a restricted-burn period has been declared, the person conducting the fire is required to contact the Control Officer for permission to burn prior to igniting the fire. Particulate emissions from the fires for testing of potentially explosive-containing products must not exceed two pounds per day for this permission to burn to be granted. The amount of particulate emissions are to be calculated using emission factors referenced in AP-42 or using other means of quantification that have been approved by the Control Officer and the Administrator.~~

- ~~a. Testing of potentially explosive-containing, flammable, or combustible products (e.g., automotive airbags, rocket motors, gas generators, and vehicular assemblies) in accordance with Department of Transportation (DOT) or Department of Defense guidelines. This exemption from needing a burn permit refers to testing of hazard classification, packaging performance, propagation, and/or mass fire, but only when the testing area is controlled, is relatively small, and when the testing is not considered to be nor is associated with the disposal of dangerous material.~~
- ~~b. Testing of potentially explosive-containing products for commercial, military, or law enforcement use. This exemption from the requirement to obtain a burn permit applies only when the testing area is controlled, is relatively small, and when the testing is not considered to be nor is associated with the disposal of dangerous material.~~

~~304 OPEN OUTDOOR FIRES IN AN AIR CURTAIN DESTRUCTOR: Prior to conducting an open outdoor fire in an air curtain destructor shall obtain a Title V permit from ADEQ and a site-specific Burn Plan approved by the Control Officer. See the Appendix to Rule 314 for further requirements for the use of air curtain destructors. See Section 406 of this rule for Burn Plan Applications and Conditions.~~

~~305 ADDITIONAL REQUIREMENTS FOR OPEN OUTDOOR FIRES ALLOWED PER SECTIONS 302, 303, AND 304:~~

- ~~305.1 Prohibited materials cannot be burned in open outdoor fires except as provided in Sections 303.2 and 303.4.~~
- ~~305.2 Open outdoor fires cannot be conducted before the hour of 10 a.m. and after 5 p.m. from October 1 to March 31 and before the hour of 6 a.m. and after 6 p.m. from April 1 to September 30 except as provided in Sections 302.1(c), 303.2(b), and 303.3.~~
- ~~305.3 Open outdoor fires cannot be conducted during any weekends or holidays except as provided in Sections 302.1(c), 303.1, 303.2(b), and 303.3.~~
- ~~305.4 Fire extinguishing equipment shall be available at all times during open outdoor fires.~~
- ~~305.5 An attendant shall be present at all times during open outdoor fires for the duration of the burn.~~

- ~~305.6 Open outdoor fires shall never be initiated with items that cause the production of black smoke.~~
- ~~305.7 An air curtain destructor must be used for the burning of certain vegetative materials greater than 6 inches in diameter and an on-site inspection must be conducted before burning.~~

306 ~~PROHIBITION – BURNING IN INDOOR FIREPLACES: Burning in indoor fireplaces that use any fuels other than gaseous fuels, including gas logs, at commercial and institutional establishments is prohibited during Restricted-Burn Periods in Maricopa County. The owner or operator of a commercial or institutional fireplace shall first call the County Air Quality Updates Hotline to hear the recorded message or check local government web sites to determine whether a Restricted-Burn Period has been declared. If that is the case, then burning is prohibited except if using gaseous fuels.~~

SECTION 400 – ADMINISTRATIVE REQUIREMENTS FOR BURN PERMITS AND BURN PLANS

- 401 **FEES REQUIRED:** A fee shall be charged for a Burn Permit or the approval of each site specific Air Curtain Destructor Burn Plan as set forth in Rule 280 (Fees) of these rules.
- 402 **BURN PERMIT APPLICATION:** A person shall file with the Control Officer, on a form prescribed by the Control Officer, a ~~Burn Permit~~ burn permit application and the complete application fee as described in Rule 280 (Fees) of these rules. The Control Officer shall act on a ~~Burn Permit~~ burn permit application and shall notify the applicant within 14 calendar days of the filing of ~~the completed~~ a complete burn permit application.
- 402.1 A separate ~~Burn Permit~~ burn permit application is required for each burn site location ~~not contiguous to the location on the original Burn Permit application.~~ A burn site location is one of the following:
- a. Contiguous areas under the same ownership; or
 - b. A geographic area not exceeding one mile in length or width where all areas on which burning will occur are under the same ownership.
- 402.2 ~~The Control Officer shall conduct an on-site inspection before issuing the Burn Permit.~~
- 402.3 **402.2** The issuance of a ~~Burn Permit~~ burn permit does not relieve the permittee from any of the requirements of a fire department having jurisdiction, including but not limited to having the ~~Burn Permit~~ burn permit validated by such fire department.
- 402.4 **402.3** Permission given by a Public Officer for setting any fire given by a public officer in the performance of official duty under Sections ~~300 through 304,~~ 305, or 308 of this rule shall be given in writing and a copy of the written permission shall be transmitted immediately to the Control Officer. The setting of any such fire shall be conducted in a manner and at such times as approved by the Control Officer, unless doing so would defeat the purpose of this exemption. The written permission from the Public Officer shall include one of the following statements:

- a. The open outdoor fire has been determined essential for the purposes of disease or pest prevention and has been certified by actual investigations conducted by the Arizona Department of Agriculture;
- b. The open outdoor fire is necessary for the control of weeds or for the prevention of fire hazards; or
- c. The open outdoor fire is necessary for the purposes of watershed rehabilitation or control through vegetative manipulation.

402.5 **402.4** If a person has obtained a Title V Permit, a Non-Title V Permit, or authority to operate under a General Permit under Regulation II (Permits and Fees) of these rules that includes condition(s) regarding open outdoor fires, then such person shall not be required to obtain a separate ~~Burn Permit~~ burn permit from the Control Officer. An owner or operator of an air curtain destructor that has obtained a Title V permit from the ADEQ shall submit a burn plan for each burn site location to the Control Officer as described in ~~the Appendix to Rule 314~~ Section 407 of this rule.

402.5 Each burn permit application shall include all of the following information:

- a. The name, address, and contact information for the burn permit applicant;
- b. A description of the burn location (including address(es), parcel number(s), or GIS coordinates);
- c. The date and time when burning will occur;
- d. The type of material that will be combusted; and
- e. The name and contact information of the person(s) authorized to ignite and extinguish the open outdoor fire if an order to extinguish open burning is issued.

403 **BURN PERMIT CONDITIONS:** Each burn permit issued under this rule shall include enforceable permit conditions that are relevant for the types of fires that require a burn permit. The Control Officer may impose any additional permit conditions that are necessary to ensure compliance with Federal laws, State laws, or these rules. ~~Burn Permit condition(s)~~ may include, but are not limited to, burning hours, notification of intent to burn, and ~~Burn Permit posting.~~

404 **BURN PERMIT AND BURN PLAN INSPECTIONS:** The Control Officer shall conduct an on-site inspection before issuing a burn permit or approving a burn plan. The purpose of the inspection is to ensure that the information provided in the burn permit application or burn plan application is accurate and complete and that no prohibited materials will be burned, except as provided in Sections 319, 320, and 321 of this rule. After an initial on-site inspection by the Control Officer has been completed, a burn permit may be issued for the same location(s) without having to conduct additional initial on-site inspections. However, periodic unscheduled, on-site inspections may be conducted by the Control Officer.

404 **405** **BURN PERMIT DENIAL:** The Control Officer shall deny a ~~Burn Permit~~ burn permit application if the material or operations do not meet the criteria described in this rule. If the purpose of burning is removal of indigenous scrub vegetation, the Control Officer shall deny

a burn permit application if the Control Officer has previously issued a burn permit for the same geographical location.

405 **406 BURN PERMIT TERMS:** A ~~Burn Permit~~ burn permit shall be issued for the following terms:

405.1 **406.1** Disease/Pest Prevention: 30 days from date of issuance

405.2 **406.2** Fire Hazard: 30 days from date of issuance

405.3 **406.3** Tumbleweeds: 30 days from date of issuance

405.4 **406.4** Ditchbank/Fence Row: 1 year from date of issuance

405.5 **406.5** Fire Fighting ~~Training/Structures~~ Instruction: 1 year from date of issuance

406.6 Indigenous Scrub Vegetation/Agricultural Land Clearance: 30 days from date of issuance

406.7 Watershed Rehabilitation: 30 days from date of issuance

406 **407 BURN PLAN APPLICATION AND CONDITIONS:** ~~In order to use an air curtain destructor, An owner or operator of an air curtain destructor that has obtained a Title V permit from the ADEQ shall obtain an approved site-specific burn plan for each burn site location. To obtain an approved site-specific burn plan, a person shall file with the Control Officer, on a form prescribed by the Control Officer, a Burn Plan~~ burn plan application and the complete application fee as described in Rule 280 (Fees) of these rules. The Control Officer shall act on a ~~Burn Plan~~ burn plan application and shall notify the applicant within 14 calendar days of the filing of ~~the completed~~ a complete burn plan application.

406.1 **407.1** A separate, site-specific ~~Burn Plan~~ burn plan application is required for each burn site location ~~not contiguous to the location.~~ A burn site location is one of the following:

a. Contiguous areas under the same ownership; or

b. A geographic area not exceeding one mile in length or width where all areas on which burning will occur are under the same ownership.

406.2 **407.2** A ~~Burn Plan Application~~ burn plan application shall be site-specific and shall list the following, at a minimum:

a. Notification of intent to burn;

b. The anticipated dates and hours of the burn;

c. The type and quantity of fuel that will be used;

d. The type of material burned;

e. The legal location, to the nearest township, range and section or latitude and longitude, to the nearest degree minute, street address, or parcel number;

f. The ~~Burn Plan~~ burn plan posting; and

g. The listing of the air curtain destructor's requirements as outlined in Section A of the Appendix to this rule.

- 406.3 **407.3** The Control Officer shall conduct an on-site inspection before approving the ~~Burn Plan Application~~ burn plan application. The purpose of the inspection is to ensure that the information provided in the burn plan application is accurate and complete, and that no prohibited materials will be burned.
- 406.4 **407.4** The ~~issuance of a Burn Plan approval of a burn plan~~ approval of a burn plan does not relieve the permittee from any of the requirements of a fire department having jurisdiction, including but not limited to having the ~~Burn Plan~~ burn plan validated by such fire department.
- 406.5 **407.5** The Control Officer may impose any conditions that are necessary to ensure compliance with Federal laws, State laws, or these rules.
- 406.6 **407.6** The Control Officer shall deny a ~~Burn Plan~~ burn plan application if the material or operations do not meet the criteria described in this rule.

SECTION 500 – MONITORING AND RECORDS

501 RECORDKEEPING AND REPORTING:

- 501.1 The owner or operator of an open outdoor fire that is subject to Section 304, 305, 306, 307, 308, 309, 310, 318, or 319 of this rule, shall submit the following information ~~shall be provided to the Control Officer for each time that open burning occurs for persons and operations subject to Sections 302, 303.2(c), or 304.~~ This information shall be provided on a daily basis either by writing, fax, or electronically and shall include:
- a. The date of the burn; and
 - b. The type and quantity of fuel burned for each date open outdoor burning occurs; and
 - c. The fire type such as a pile or windrow for each date that open outdoor burning occurs; and
 - d. The legal location, to the nearest township, range and section, or latitude and longitude, to the nearest degree minute, street address, or parcel number.
- 501.2 ~~For persons and operations subject to Sections 303.4~~ The owner or operator of an open outdoor fire that is subject to Section 320 or Section 321 of this rule, shall submit the following information ~~shall be provided to the Control Officer for each day that such testing is conducted.~~ This information shall be provided on a daily basis either by writing, fax, or electronically and shall include:
- a. The date of the testing;
 - b. The time of day of testing;
 - c. The legal location of such testing, to the nearest township, range and section, or latitude and longitude, to the nearest degree minute, street address, or parcel number;
 - d. The unit designation (if applicable) (e.g. part number and test item description);
 - e. The quantity of units tested;
 - f. The type and quantity of material burned;

- g. The total charge weight per unit tested;
- h. The total weight of airborne particulate matter and gaseous pollutant effluents produced per test unit;
- i. The test procedure used;
- j. The duration of burn of each test unit; and
- k. The estimated emissions resulting from the testing.

~~502 RECORDS RETENTION:~~

~~502.1 Maricopa County shall retain permits issued for open burning available for inspection by the ADEQ for five years.~~

~~502.2 For each permit issued, Maricopa County shall have a means of contacting the person authorized by the permit to set an open fire, if an order to extinguish open burning is issued by either the County or ADEQ. Therefore the permit application must contain the name of a contact person and shall list a means of contacting that person.~~

~~503 PROGRAM REVIEW:~~

~~503.1 Maricopa County shall hold or attend a public meeting annually for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.~~

~~503.2 Maricopa County shall annually submit to the ADEQ a record of daily burn activity by May 15 of each calendar year.~~

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS**

RULE 314

~~OPEN OUTDOOR FIRES AND INDOOR FIREPLACES AT COMMERCIAL AND INSTITUTIONAL ESTABLISHMENTS~~ **COMMERCIAL/INSTITUTIONAL SOLID FUEL BURNING**

APPENDIX

REQUIREMENTS FOR AIR CURTAIN DESTROYER AND FIREBOX PROCEDURES DESTROYERS

- A. Air Curtain Destroyer Requirements:** ~~The following must be complied with prior to approval of an air curtain destroyer by the Control Officer:~~
1. The length of the firebox must not exceed the length of the ~~plenum~~ air curtain.
 2. The firebox shall be lined with refractory materials.
 3. The depth of the firebox shall be of such a distance to allow all burning material to be below the curtain of air created by the air curtain destroyer.

4. The width of the firebox shall not ~~extend beyond the length of the nozzle action~~ exceed the width of the air curtain.
5. The firebox must have 4 stable, vertical sides.
6. ~~When~~ Each time an air curtain destructor ~~locations are changed~~ is moved, an inspection of the ~~newly located~~ air curtain destructor must be made by the Control Officer prior to burning.

B. Equipment Set-Up:

1. An owner or operator of an air curtain destructor shall use a firebox and not a pit or trench to conduct open outdoor burning.
2. The equipment must be positioned so as to allow the blower's airflow to strike at a downward angle no less than 24 inches below the opposite rim of the firebox.
3. There shall be at least 1,000 feet between any two air curtain destructors.
4. An air curtain destructor shall be located at least 500 feet from any residence or building structure.
5. An air curtain destructor shall be located at least 500 feet from any fuel pipeline or fuel storage area.
6. An air curtain destructor shall be located at least 250 feet from any power lines.
7. Material that is not being worked or is being stockpiled to be burned at a later date by using an air curtain destructor shall be kept at least 75 feet from the air curtain destructor while the burn is taking place.

C. Operation of Blower:

1. ~~The proper blower speed~~ All equipment must be operated and maintained according to manufacturer's specifications and the equipment manual.
2. The blower must be operating when and as long as any material in the firebox is burning.

D. Loading of the Firebox:

1. When loading (feeding) the firebox, the material must not extend above the air curtain (blower airflow).
2. The loading of materials into the firebox must be discontinued at a minimum of 2 hours prior to the end of the designated burning hours. The blower must continue to operate until the end of the burning hours or until combustion is completed.
3. Adequate measures must be taken to assure that no emissions emanate from materials left in the firebox (i.e., when combustion is completed). All materials left in the firebox must be extinguished with water or covered over with a minimum of 1 foot of mineral soil.

E. Firebox Clean-Out: All materials removed from the firebox must be completely extinguished and all reasonable precautions taken to control emissions.

~~F. Burning Hours for Air Curtain Destructors: The following burning hours apply :~~

• ~~April – September 6 a.m. – 6 p.m.~~

• ~~October – March 10 a.m. – 5 p.m.~~

~~While complying with the above schedule, the permittee must also obtain permission from the Control Officer on each day of burning. Burning using an air curtain destructor is not authorized on weekends nor on holidays. Prohibited materials shall never be burned in an air curtain destructor.~~

Attachment to Comment 3:

rf_cmpc_id	description	status
31	BURNING IN BACKYARD, VERY SMOKEY.	CO
56	BONFIRE ON NO BURN DAY	MAT
56	BURNING ON A NO BURN DAY	CO
31	SMOKE FROM BURNING OF TWIGS, ETC. PLEASE CONTACT CC BELOW THEY WILL TELL YOU THE ADDRESS	CO
31	NEIGHBOR IS BURNING WOOD AND OTHER STUFF IN BACK YARD WHICH IS CREATING A LOT OF SMOKE. COMPLAINTANT HAS LUNG PROBLEMS.	CO
31	BURNING IN BACK YARD NOT SURE WHAT THEY ARE BURNING BUT THEY DONT BELIEVE IT IS CLEAN WOOD.	CO
31	LEFT ON VM 11/11/14@1107PM ILLEGAL BURNING OF TRASH, ETC. SMOKE IS EVERY WHERE	CO
56	BURNING ON A NO BURN DAY	CO
31	NEIGHBOR IS BURNING ALL NIGHT WHICH CREATES HEAVY SMOKE OUTSIDE AND INSIDE OF HOME. (MAP 104)	CO
31	BURNING OF TRASH (4TH AVE & MOUNTAIN VIEW RD)	CO
31	CONSTANT/CONTINUOUS BURNING OF TRASH, LOGS, ETC.,	CO
31	BURNING OF DEBRIS ETC., BURNED ALL NIGHT AND TODAY IT IS STILL SMOLDERING ON A HPA DAY (SEE CC272355)	CO
31	PHONE 5/13@1045PM BURNING LATE AT NIGHT A CONTINUOUS PROBLEM BURNS ALL THE TIME EVEN ON HPA DAYS ETC.,	CO
31	PHONE 5/13@1120PM CONTINUOUS BURNING SEE CC272858	CO
31	PHONE 5/13@101AM STILL BURNING IF THIS DOESN'T GET RESOLVED HE WANTS TO SPEAK TO A SUPERVISOR SEE CC272858 & CC272859	CO
31	NEIGHBOR BURNING RIGHT NOW (4:40PM) & JUST ADDED ACCELERANT TO FIRE.	CO
31	PHONE 5/18@431PM CONTINUOUS BURNING STATED HE HAS COMPLAINED BEFORE MULTIPLE TIMES AND THE PERSON STILL CONTINUES TO BURN ETC., ETC.,	CO
31	5/22/18@4:45 RESIDENT HAS A FIRE ONGOING IN HIS BACKYARD, CC NOT HAPPY WITH ALL THE SMOKE. VINCINITY 7TH AVE AND MOUNTAIN VIEW RD.	CO
31	5/29/18@2:40 - RESIDENTCONSTANTLY BURNING WOOD IN BACKYARD, SMOKE IS STRONG CAUSING CC ALLERGIE PROBLEMS. HARD TRYING TO GET SMOKE SMELL OUT OF CC HOME. VINCINITY 4TH AVE AND MOUNTAIN VIEW RD.	CO
31	CC STATES NEIGHBOR IS BURNING WOOD AGAIN ON A NO BURN DAY. THE SMOKE SMELL IS BOTHERSOME. 4TH AVE/MOUNTAIN VIEW RD	CO
31	LEFT ON VM 6/6@847PM PERSON BURNING AGAIN A LOT OF SMOKE IN THE NEIGHBORHOOD	CO
31	LEFT ON VM 6/24@749PM PERSON BURNING AGAIN A LOT OF SMOKE IN THE NEIGHBORHOOD ETC.,	CO
31	BURNING OPEN WOOD FIRE AT9625 N 4TH AVE.	HFO
31	SMOKE FROM BURNING WOOD FIRE 3 TIME LAST WEEK AND APRIL 19, 2019, NO BURN DAY. BURNING OPEN FIRE TILL 6PM	HFO

status_date	received_date	routed_cd	ct_cmpl_id	complaint_date	caller_first_name	caller_last_name	caller_phone	business_name	compute_0013	assigned_to	rf_cmpt_id	ct_cmpt_id	complaint_city	complaint_st_num
12/31/2009 13:15:00	12/30/2009 16:15:00	AC	237880	12/30/2009 16:14:51.587				NA	9625 N 4TH AVE	SDEPENBR	88	238064	PHOENIX	9625
12/27/2013 09:49:00	12/26/2013 15:53:00	AC	253568	12/26/2013 15:53:01.997				RESIDENCE	9625 N 4TH AVE	DSHAW	348	253752	PHOENIX	9625
01/02/2014 15:51:00	01/02/2014 14:54:00	AC	253737	01/02/2014 14:54:12.653				RESIDENCE	9625 N 4TH AVE	HZOLKIEW	348	253921	PHOENIX	9625
10/21/2014 11:28:00	10/14/2014 16:59:00	AC	256753	10/14/2014 16:59:01.55				RESIDENCE	9625 N 4TH AVE	ELEM	88	256937	PHOENIX	9625
10/17/2014 17:49:00	10/16/2014 11:10:00	AC	256768	10/16/2014 11:09:42.81				UNKNOWN	9625 N 4TH AVE	SFLYNN	88	256952	PHOENIX	9625
10/27/2014 13:54:00	10/27/2014 10:00:00	AC	256853	10/27/2014 10:00:10.647				RESIDENCE	9625 N 4TH AVE	PGARCIA	88	257037	PHOENIX	9625
11/14/2014 12:15:00	11/12/2014 10:53:00	AC	257052	11/12/2014 10:53:25.517				RESIDENCE	9625 N 4TH AVE	ELEM	88	257236	PHOENIX	9625
12/09/2014 14:22:00	12/08/2014 09:09:00	AC	257366	12/08/2014 09:09:14.73				RESIDENCE	9625 N 4TH AVE	ARUBIO	348	257550	PHOENIX	9625
12/31/2014 13:06:00	12/31/2014 10:08:00	AC	257844	12/31/2014 10:08:27.027				UNKNOWN	9625 N 4TH AVE	MMETCALF	88	258028	PHOENIX	9625
05/01/2018 14:55:00	04/05/2018 13:28:00	AC	272206	04/05/2018 13:27:39.863				RESIDENT	9625 N 4TH AVE	MBLAZE	88	272390	PHOENIX	9625
04/12/2018 11:48:00	04/12/2018 07:36:00	AC	272355	04/12/2018 07:36:09.667				RESIDENT	9625 N 4TH AVE	MMETCALF	88	272539	PHOENIX	9625
04/12/2018 11:52:00	04/12/2018 07:39:00	AC	272356	04/12/2018 07:39:16.003				RESIDENT	9625 N 4TH AVE	MMETCALF	88	272540	PHOENIX	9625
05/23/2018 12:20:00	05/14/2018 08:34:00	AC	272858	05/14/2018 08:33:54.24				RESIDENT	9625 N 4TH AVE	MBLAZE	88	273042	PHOENIX	9625
05/23/2018 12:19:00	05/14/2018 08:39:00	AC	272859	05/14/2018 08:39:18.957				RESIDENT	9625 N 4TH AVE	MBLAZE	88	273043	PHOENIX	9625
05/23/2018 12:20:00	05/14/2018 08:43:00	AC	272860	05/14/2018 08:42:56.89				RESIDENT	9625 N 4TH AVE	MBLAZE	88	273044	PHOENIX	9625
05/29/2018 09:22:00	05/15/2018 17:34:00	AC	272903	05/15/2018 17:34:23.847				RESIDENT	9625 N 4TH AVE	MBLAZE	88	273087	PHOENIX	9625
05/21/2018 13:38:00	05/21/2018 08:17:00	AC	272965	05/21/2018 08:16:31.257				RESIDENT	9625 N 4TH AVE	MMETCALF	88	273149	PHOENIX	9625
05/29/2018 10:17:00	05/22/2018 16:50:00	AC	273018	05/22/2018 16:49:44.633				UNKNOWN	9625 N 4TH AVE	MBLAZE	88	273202	PHOENIX	9625
08/06/2018 07:54:00	05/29/2018 15:06:00	AC	273119	05/29/2018 15:05:31.313				UNKNOWN	9625 N 4TH AVE	MBLAZE	88	273303	PHOENIX	9625
08/06/2018 07:53:00	05/30/2018 16:03:00	AC	273135	05/30/2018 16:02:32.18				CHOPCO	9625 N 4TH AVE	MBLAZE	88	273319	PHOENIX	9625
06/07/2018 09:07:00	06/07/2018 07:57:00	AC	273268	06/07/2018 07:57:11.45				RESIDENT	9625 N 4TH AVE	MBLAZE	88	273452	PHOENIX	9625
06/25/2018 09:11:00	06/25/2018 07:23:00	AC	273566	06/25/2018 07:22:48.407				RESIDENT	9625 N 4TH AVE	MBLAZE	88	273750	PHOENIX	9625
04/22/2019 16:18:00	04/22/2019 10:44:00	AC	276704	04/22/2019 10:43:34.75				TOMMY CHOPKO	9625 N 4TH AVE	MBLAZE	88	276888	PHOENIX	9625
04/22/2019 16:47:00	04/22/2019 11:01:00	AC	276705	04/22/2019 11:00:53.88				TOMMY CHOPCO	9625 N 4TH AVE	MBLAZE	88	276889	PHOENIX	9625

complaint_st_dir	complaint_st_name	complaint_st_suffix	complaint_zip	last_modified_by	site_location	complaint_cross_st1	complaint_cross_st2	caller_email	latitude	longitude	description
N	4TH AVE		85021	MRODRIGU		7TH AVE	DUNLAP AVE				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	DPEREZ		7TH AVE	DUNLAP AVE				P-26 RESIDENTIAL WOODBURNING RESTRICTION
N	4TH AVE		85021	DPEREZ		7TH AVE	DUNLAP AVE				P-26 RESIDENTIAL WOODBURNING RESTRICTION
N	4TH AVE			BMUNOZ		7TH AVE	NORTHERN AVE				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	ARONCAL		7TH AVE	DUNLAP AVE				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	DPEREZ		7TH AVE	DUNLAP AVE				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE			BMUNOZ		5TH AVE	HATCHER				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE			DPEREZ		7TH AVE	DUNLAP AVE				P-26 RESIDENTIAL WOODBURNING RESTRICTION
N	4TH AVE		85021	ALEO							OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		4TH AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE			SMACDONA		7TH ST	HATCHER				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE			BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	VADAMS		7TH AVE	DUNLAP AVE				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	VADAMS		7TH AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE			TGREENE		7TH AVE	DUNLAP AVE				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85021	BMUNOZ		CENTRAL AVE	HATCHER RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85201	AUGBOR		7TH AVE	DUNLAP RD				OPEN OR ILLEGAL OUTSIDE BURNING
N	4TH AVE		85201	AUGBOR		7TH AVE	DUNLAP AVE				OPEN OR ILLEGAL OUTSIDE BURNING