

**RULE 55 FUGITIVE DUST CONTROL**

(Adopted June 24, 2009; Effective December 24, 2009)

**(a) APPLICABILITY**

Except as provided in Section (b), the provisions of this rule shall apply to any commercial construction or demolition activity capable of generating fugitive dust emissions, including active operations, open storage piles, and inactive disturbed areas. Activities subject to this regulation are also subject to the applicable requirements of Rule 50 (Visible Emissions) and Rule 51 (Nuisance).

**(b) EXEMPTIONS**

The provisions of this rule shall not apply to the following:

(1) Noncommercial construction or demolition activities in support of any structure designed for and used exclusively as a dwelling for not more than four families;

(2) Emergency operations conducted during and in response to life-threatening situations, or in conjunction with any officially declared disaster or state of emergency;

(3) Active operations conducted by essential service utilities to provide electricity, natural gas, telephone, water and/or sewer during periods of unplanned service outages and emergency disruptions;

(4) Any active operation, open storage pile, or inactive disturbed area for which the owner/operator can demonstrate that necessary fugitive dust preventive or mitigating actions are in conflict with the California or federal Endangered Species Acts, or a local, state, or federal water quality requirement;

(5) Explosive blasting operations. However, any other activities capable of generating fugitive dust emissions and performed in conjunction with explosive blasting, such as vehicle transport of materials produced by blasting operations, are not exempt from complying with the provisions of this rule or other applicable rules;

(6) Abrasive blasting operations regulated by Rule 71 (Abrasive Blasting);

(7) Activities subject to an Air Pollution Control District permit to operate;

(8) Permanent unpaved roads.

**(c) DEFINITIONS**

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

(1) **“Active Operation”** means any construction or demolition activity capable of generating fugitive dust. This includes but is not limited to, earth-moving activities, and heavy- and light-duty vehicular movement on disturbed surface areas or on unpaved roads.

(2) **“Bulk Materials”** means any material which can emit fugitive dust when stored, disturbed, or handled, and is un-packaged. Bulk material includes, but is not limited to, sand, gravel, soil, aggregate material, and other organic or inorganic particulate matter.

(3) **“Commercial”** means work conducted for financial compensation by other than a tenant or property owner.

(4) **“Construction or Demolition Activity”** means any on-site activity preparatory to or for the purpose of building, altering, rehabilitating, raising, tearing down, breaking into pieces, or improving property, including, but not limited to, the following activities: grading, excavation, loading, transporting, crushing, cutting, planing, shaping or ground breaking.

(5) **“Dust”** means minute solid particles released into the air by natural forces or by mechanical processes including, but not limited to: crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, and sweeping.

(6) **“Earth-moving Activities”** means activities that include, but are not limited to, grading, earth cutting and filling operations, loading or unloading of dirt or bulk materials, adding to or removing bulk materials from open storage piles, or soil mulching.

(7) **“Emergency”** means an immediate threat to human health or property.

(8) **“Erosion”** means the movement and deposition of land surface materials by water or wind primarily as a result of human activities.

(9) **“Inactive Disturbed Area”** means a portion of the earth's surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural soil condition, thereby increasing the potential for emissions of fugitive dust. This definition excludes those areas that have:

(i) Been restored to a natural state, such that the vegetative ground cover and soil characteristics are similar to adjacent or nearby natural conditions;

(ii) Been paved or otherwise covered by a permanent structure; or

(iii) Established a vegetative ground cover equivalent to at least 70% percent of the background coverage for nearby undisturbed areas.

(10) **“Open Storage Pile”** means any accumulation of bulk material with five percent or greater silt content which is not fully enclosed, covered or chemically stabilized, and which attains a height of three feet or more and a total surface area of 150 or more

square feet. Silt content level is assumed to be five percent or greater unless a person can show, by sampling and analysis in accordance with ASTM Method C-136 or other equivalent method approved in writing by the California Air Resources Board, that the silt content is less than five percent.

(11) “**Owner/operator**” means any person who owns, leases, operates, controls, or supervises any activity subject to this rule or any person who owns, leases, operates, controls, or supervises the site at which any activity subject to this rule occurs, or both.

(12) “**Particulate Matter**” means any finely divided material which exists as a solid or liquid at standard conditions, excluding uncombined water.

(13) “**Paved Road**” means an improved street, highway, alley, public way, or easement that is covered by concrete, asphaltic concrete, fresh or recycled asphalt, or rubberized asphalt, excluding access roadways that connect a facility with a public paved roadway and are not open to through traffic.

(14) “**Permanent Unpaved Road**” means any unsealed or dirt roadway that is not covered by concrete, asphaltic concrete, fresh or recycled asphalt, or rubberized asphalt, and which is designed and intended to remain unsealed and uncovered indefinitely. This definition excludes public or private roads undergoing construction or resurfacing.

(15) “**Person**” means any individual, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, user or owner, or any state or local government agency or public district and any officer or employee thereof, or the federal government and any officers or employees thereof to the extent authorized by federal law, or any other entity whatsoever which is recognized by law as the subject of rights and duties.

(16) “**Property Line**” means the boundaries of an area in which either a person causing the fugitive dust emissions or a person allowing such emissions has the legal control or possession. This may include all or portions of a legal parcel or parcels as defined by the San Diego County Assessor.

(17) “**Track-Out/Carry-Out**” means any bulk materials that adhere to and agglomerate on the exterior surfaces of motor vehicles and/or equipment (including tires), or are inadvertently carried out, and that fall onto a paved road, creating visible roadway dust.

(18) “**Visible Dust Emissions**” means any solid particulate matter that is visually detectable in the air without the aid of instruments other than corrective lenses.

(19) “**Visible Roadway Dust**” means any sand, soil, dirt, or other solid particulate matter which is visible upon paved public road surfaces and which can be removed by a vacuum sweeper, or a wet sweeper under normal operating conditions.

(d) **STANDARDS**

(1) **Airborne Dust Beyond the Property Line:** No person shall engage in construction or demolition activity subject to this rule in a manner that discharges visible dust emissions into the atmosphere beyond the property line for a period or periods aggregating more than 3 minutes in any 60 minute period.

(2) **Track-Out/Carry-Out:** Visible roadway dust as a result of active operations, spillage from transport trucks, erosion, or track-out/carry-out shall:

(i) be minimized by the use of any of the following or equally effective track-out/carry-out and erosion control measures that apply to the project or operation: track-out grates or gravel beds at each egress point, wheel-washing at each egress during muddy conditions, soil binders, chemical soil stabilizers, geotextiles, mulching, or seeding; and for outbound transport trucks: using secured tarps or cargo covering, watering, or treating of transported material; and

(ii) be removed at the conclusion of each work day when active operations cease, or every 24 hours for continuous operations. If a street sweeper is used to remove any track-out/carry-out, only PM10-efficient street sweepers certified to meet the most current South Coast Air Quality Management District Rule 1186 requirements shall be used. The use of blowers for removal of track-out/carry-out is prohibited under any circumstances.