

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF AIR RESOURCES**

AIR POLLUTION CONTROL REGULATION NO. 5

FUGITIVE DUST



Effective: 2 August 1967

Last Amended: 29 June 2016

AUTHORITY: These regulations are authorized pursuant to R.I. Gen. Laws § 42-17.1-2(19) and Chapter 23-23, as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

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5.1 Definitions

Unless otherwise expressly defined in this section, the terms used in this regulation shall be defined by reference to the Rhode Island Air Pollution Control General Definitions Regulation. As used in this regulation, the following terms shall, where the context permits, be construed as follows:

- 5.1.1 **“Extractive Industry”** means an industry engaged in the extraction of minerals, including solids, including but not limited to coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as part of the extractive industry.
- 5.1.2 **“Manufactured Unwashed Sand”** means product resulting from the mechanical crushing of rock, boulders or large cobblestones which has a gradation of fifty percent (50%) or more coarse fraction passing the No. 4 sieve as referenced in the standard practice for classification of soils for engineering purposes (united soil classification system) and American Society of Testing and Material Designations D-2487-06 which has not been subject to a mechanical process (using water) that is designed to substantially remove fine fractions passing the No. 200 sieve.

5.2 Applicability

This regulation shall apply, but not be limited to, the generation of airborne particulate matter from the following activities:

- (a) The demolition, construction or renovation of buildings, bridges or other structures;
- (b) Material stockpiles, including solid waste management facilities, and earth moving activities, including the clearing of land and other operations which cause airborne particulate matter;

- (c) Stationary sources, as defined in the Air Pollution Control Regulations, whose activities involve the handling of materials which cause airborne particulate matter;
- (d) Exterior surface preparation/resurfacing operations conducted on buildings, bridges, or other structures that are not regulated by the requirements of Air Pollution Control Regulation No. 24 entitled, "Removal of Lead Based Paint from Exterior Surfaces", as well as surface preparation/resurfacing operations conducted on vehicles, vessels, or any other surfaces which cause airborne particulate matter;
- (e) Vehicles transporting materials which cause airborne particulate matter;
- (f) Paved roads onto which earth or other material has been deposited by trucking or earth-moving equipment, by erosion by water, by the sanding and/or salting of roadways, or by other means;
- (g) Commercial mining and/or quarrying operations including the construction, maintenance, and operation of a commercial mining and/or quarrying facility, as well as activities which involve the use of explosive materials which cause airborne particulate matter;
- (h) Manufactured unwashed sand stockpiles that are located within one thousand five hundred (1,500) feet of any occupied dwelling structure; and
- (i) Any other activities or operations which the Director may determine cause airborne particulate matter.

5.3 Requirements

- 5.3.1 No person shall cause or permit any materials, including but not limited to sand, gravel, soil, aggregate and any other organic or inorganic solid matter capable of releasing dust, to be handled, transported, mined, quarried, stored or otherwise utilized in any way so as to cause airborne particulate matter to travel beyond the property line of the emission source without taking adequate precautions to prevent particulate matter from becoming airborne. Such precautions shall be in accordance with good industrial practice as determined by the Director and/or shall be other reasonable fugitive dust prevention measures as determined by the Director.
- 5.3.2 Manufactured unwashed sand shall not be stockpiled except in a manner that prevents fugitive dust from traveling beyond the property line of the extractive industry by use of water sprays or such alternative procedure that has received the prior written approval of the Director. The Director may approve the use of alternatives to water spray if water is not available

or its use is not practical, including, but not limited to, crusting agents or enclosures provided that such alternatives prevent fugitive dust from traveling beyond the property line of the extractive industry. In determining compliance with this provision, the Director may consider the following factors:

- (a) The moisture content of the manufactured unwashed sand stockpiles;
- (b) Atmospheric humidity;
- (c) Wind direction and velocity
- (d) Rainfall;
- (e) Observation of fugitive dust;
- (f) The location of the stone dust piles; and
- (g) Any other factor that may cause fugitive dust to travel beyond the property line of the extractive industry.

5.4 General Provisions

5.4.1 Purpose

The purpose of this regulation is to limit the release of fugitive dust.

5.4.2 Authority

These regulations are authorized pursuant to R.I. Gen. Laws § 42-17.1-2(s) and 23-23, as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35

5.4.3 Application

The terms and provisions of this regulation shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.

5.4.4 Severability

If any provision of this regulation or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulation shall not be affected thereby.

5.4.5 Effective Date

The foregoing regulation, "Fugitive Dust", as amended, after due notice, is hereby adopted and filed with the Secretary of State this 9th day of June 2016 to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 23-23, 42-35, 42-17.1, 42-17.6, of the General Laws of Rhode Island of 1956, as amended.

Janet L. Coit, Director
Department of Environmental Management

Notice Given on: April 22, 2016

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