

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT	STATUS: Effective	POLICY NUMBER: Air- 029-NPD	
AGENCY NONRULE POLICY DOCUMENT SUBJECT: Fugitive Dust from Surface Coal Mines	AUTHORIZED: Keith Baugues, Assistant Commissioner		
	SUPERSEDES:	ISSUING OFFICE(S): Office of Air Quality	
	ORIGINALLY EFFECTIVE: April 5, 2002	RENEWED/REVISED:	

Disclaimer: This Nonrule Policy Document (NPD) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under IC 13-14-1-11.5. It is intended solely as guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to IC 13-14-1-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate State Environmental Board, and may be put into effect by IDEM 30 days afterward. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM also will submit the policy to the Indiana Register for publication.

This NPD was reformatted according to agency standards in 2011.

1.0 PURPOSE

The purpose of this nonrule policy document is to make uniform the application of 326 IAC 6-4-6 in regard to surface coal mines. Unless specifically excepted, all mining activities are subject to 326 IAC 6-4 as sources of fugitive dust.

2.0 SCOPE

This NPD explains how 326 IAC 6-4-6 applies to surface coal mining sources when operations produce fugitive dust.

3.0 SUMMARY

326 IAC 6-4-6 sets out exceptions to the fugitive dust rule that do not constitute violations. This NPD puts forth IDEM's interpretation of how terms used in 326 IAC 6-4 (agricultural operations, construction, reasonable precautions, and beyond the property boundaries) apply to surface coal mining fugitive dust emissions and the exceptions found in 326 IAC 6-4-6.

4.0 DEFINITIONS

- 4.1. "Agricultural operations" – Includes tillage, planting, and harvesting of crops, mulching, lime and fertilizer spreading, and mowing.
- 4.2. "Compliance and Enforcement Manager" – Non-supervisory staff persons within the Office of Air Quality (OAQ) whose duties include the inspection of coal mines for fugitive dust violations, the preparation of inspection reports, and notices of violation.
- 4.3. "Construction" – Reclamation activities in a pit or other area of the mine that are not agricultural operations.
- 4.4. "Fugitive dust" – The generation of particulate matter to the extent that some portion of the material escapes beyond the property line or boundaries of the property, right-of-way, or easement on which the surface coal mine is located.
- 4.5. "Public road" – A part of the road system dedicated to the public and economic interests of the county or state and therefore is beyond the property boundaries of coal company property.

- 4.6. "Section Chief or Regional Office Deputy Director" – Professional, supervisory staff within IDEM whose duties include review and approval of inspection reports and notices of violation.
- 4.7. "Severe health hazard" – To cause acute or chronic health effects that damage, irritate, or sensitize the lungs, skin, eyes, or mucous membranes of exposed persons.

5.0 ROLES

- 5.1. Non-IDEM parties' responsibilities:
 - A. Source designated official:
 - 1. Responsible for controlling fugitive dust from surface coal mines in accordance with 326 IAC 6-4.
- 5.2. IDEM parties' responsibilities:
 - A. OAQ Section Chief or Regional Office Deputy Director:
 - 1. Receives reports of inspections and reviews recommendations of field inspectors.
 - B. OAQ Compliance and Enforcement Manager:
 - 1. Inspects surface coal mines for fugitive dust violations of 326 IAC 6-4 and makes recommendations to Section Chief or Deputy Director.

6.0 POLICY

- 6.1. Indiana's fugitive dust rule (326 IAC 6-4) contains certain exceptions to the rule at 326 IAC 6-4-6. IDEM will apply these exceptions to surface coal mines as follows:
 - A. After active mining and preliminary reclamation activities have been completed, coal companies are required by state and federal mining rules to plant agricultural crops on the land for a number of years before the reclamation can be declared complete. Fugitive dust from tillage, planting, mulching, lime and fertilizer spreading, mowing, and the harvesting of these crops will be considered an agricultural operations exception from the rule under 326 IAC 6-4-6(4), provided that every reasonable precaution is taken to minimize emissions.
 - B. After active mining, reclamation activities (other than those considered agricultural operations under paragraph A. above) in a pit or area of the mine will be considered to be construction. Therefore, the construction exception at 326 IAC 6-4-6(3) will apply, provided that every reasonable precaution has been taken to minimize fugitive dust emissions.
 - C. Reasonable precautions include, but are not limited to:
 - 1. Watering or applying other dust control measures to haul roads over which traffic routinely travels.
 - 2. Minimizing or suspending operations if a severe health hazard is generated because of prevailing meteorological conditions.
 - 3. Tarping trucks where haul material is dry or blowing from trucks.
 - 4. For areas other than haul roads, applying dust suppressants or dust control measures where feasible.
- 6.2. Fugitive dust crossing utility easements such as power lines and pipe lines on surface coal mine property will not be considered a violation of 326 IAC 6-4, provided the coal company owns or leases the property on both sides of the easement and the user of the easement is not affected by the fugitive dust.
- 6.3. 326 IAC 6-4 does apply to fugitive dust crossing public roads where the coal company owns the property on both sides of the road.
 - A. A public road that has been permanently closed under IC 8-20-8-1 is no longer a public road for the purposes of this policy.
 - B. A public road that has been temporarily closed under IC 8-20-8-1 is not a public road for the purposes of this policy for the duration of the closure.

7.0 REFERENCES

- 7.1. Indiana Administrative Code, 326 IAC 6-4, Fugitive Dust Emissions
- 7.2. Indiana Code, IC 8-20-8-1, Time Limit; Joint Action; Petition to Relocate or Permanently Close Road