

# CLIENT ALERTS

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## CITY OF DETROIT PASSES FUGITIVE DUST ORDINANCE

11.17.2017

On October 31, 2017, the Detroit City Council passed comprehensive amendments to Chapter 22 of the Detroit City Code, Handling of Solid Waste and Prevention of Illegal Dumping, imposing stringent fugitive dust mitigation requirements on owners and operators of Bulk Solid Material Facilities. "Bulk Solid Material" is broadly defined as "any solid substance or material that can be used as a fuel or as an ingredient or component in a manufacturing or construction process that may create fugitive dust and that is accumulated in an amount of 50 cubic yards or more at any one time, including, but not limited to asphalt millings, ores, iron and steel slag, gravel, sand, and limestone, but shall not include salt, grains, commercial solid waste or garbage."

Owners and operators of Bulk Solid Material Facilities must obtain a certificate of operation from the Buildings Safety Engineering and Environmental Department (BSEED). In order to obtain a certificate of operation, owners and operators will have to evidence and maintain compliance with the ordinance provisions including:

- Manage fugitive dust emissions so that emissions do not exceed 5% opacity on site and 0% off site;
- Submit and follow a fugitive dust plan for BSEED approval in accordance with the ordinance provisions;
- Install, operate, and maintain around the perimeter of the facility, permanent, continuous Federal Equivalent Method (FEM) real-time PM 10 monitors and weather stations to monitor wind;
- Cover or operate conveyors conveying materials with less than 8% moisture with water sprayers or air pollution control equipment;
- Manage track out and ensure trucks and containers holding Bulk Solid Material are covered and do not leak, including regular street sweeping;

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- Maintain piles no greater than 50 feet high and no less than 25 feet from waterways;
- Have and maintain stormwater runoff plans;
- Suspend operations during high wind events;
- Maintain records of inspections, maintenance and monitoring of ordinance requirements.

Owners and operators of Carbonaceous Bulk Solid Material Facilities must also store, operate and load Carbonaceous Bulk Solid Materials in fully enclosed structures. Carbonaceous Material is defined as “solid substance that occurs naturally or exists as a result of a human-made process that is rich in carbon, and includes, but is not limited to, coal and coke in its 20 various forms, including but not limited to, nut coke, coke breeze, petroleum coke, and metallurgical coke, but does not include asphalt millings.”

The ordinance provides less proscriptive alternatives to the above compliance requirements for existing facilities that handle construction materials such as asphalt millings, ores, iron and steel slag, gravel, sand, and limestone as well as scrap metal processors who meet certain requirements.

Butzel Long’s team of environmental and regulatory compliance attorneys have decades of experience helping clients understand and comply with a myriad of complex regulatory requirements. Contact your Butzel attorney to learn how this new ordinance affects your business.

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