

## FACT SHEET

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### **Imperial County Air Pollution Control District Approval of Fugitive Dust Regulations** *March 28, 2013*

#### Today's Action

- Today, the U.S. Environmental Protection Agency (EPA) is approving improvements to Imperial County Air Pollution Control District's (ICAPCD) rules that regulate emissions of inhalable particulate matter. This action terminates highway sanctions that went into effect in the County on August 9, 2012 and were stayed on January 7, 2013. Today's action is consistent with EPA's commitments made in a Settlement Agreement reached with ICAPCD and California Department of Parks and Recreation (State Parks) on July 27, 2012.

#### Background

- Imperial County is a serious PM<sub>10</sub> nonattainment area that continues to have exceedances of the health-protective national ambient air quality standard. Elevated levels of PM<sub>10</sub> in the air can lead to aggravation of respiratory and cardiovascular disease, asthma, decreased lung function and premature death.
- As a serious PM<sub>10</sub> nonattainment area, ICAPCD must adopt and enforce regulations that require significant sources of PM<sub>10</sub> to use best available control measures (BACM) to control fugitive dust. Imperial County had identified PM<sub>10</sub> from agriculture, recreational off-highway vehicle (OHV) activity, unpaved roads and other local sources as significant sources of dust in their area and included them in their regulations.
- EPA issued a limited approval/limited disapproval of ICAPCD's dust rules (referred to collectively as Regulation VIII) that became effective on August 9, 2010. This action found that Regulation VIII largely implemented BACM and other federal Clean Air Act (CAA) requirements, but requested a few specific rule improvements.
- The CAA requires imposition of federal highway funding restrictions, or sanctions, if the rule deficiencies are not adequately addressed 24 months after rule disapproval. As a result, highway sanctions became effective on August 9, 2012. This did not result in any loss of funds or other real impacts on the County to date, but the California Department of Transportation projected that it could as early as late Spring 2013.
- ICAPCD and California Department of Parks and Recreation (State Parks) disagreed that rule improvements were needed and challenged EPA's disapproval action in the United States Ninth Circuit Court of Appeals. On February 17, 2012, the Ninth Circuit directed the parties to attempt to resolve the dispute through mediation.
- On July 27, 2012 EPA, ICAPCD and State Parks reached an agreement on several rule improvements to fulfill BACM. More information on the settlement agreement is available at: <http://www.epa.gov/region9/air/actions/ca.html#iv>.

- The rule revisions in the settlement agreement and other minor revisions were adopted by ICAPCD on October 16, 2012 after considering public comments, and submitted to EPA by the California Air Resources Board on November 7, 2012.
- Among the more significant rule revisions are increased clarification on the dust control options available to large agricultural operations, and clear requirements on State Parks and BLM to control dust during large OHV events.
- On January 7, 2013, EPA proposed to approve the revisions to Regulation VIII and opened a 30-day public comment period regarding this proposal. Based on this proposal, EPA also temporarily stopped the associated highway sanctions.
- This proposal was in accordance with EPA's commitments made in a Settlement Agreement reached with ICAPCD and State Parks on July 27, 2012.
- In today's action, EPA is finalizing approval of the Regulation VIII revisions and finalizing termination of the sanctions. This approval includes a summary and response to public comments submitted regarding the January 2013 proposal.

#### For More Information

- <http://www.epa.gov/region9/air/actions/ca.html#iv> and [http://www.fhwa.dot.gov/environment/air\\_quality/highway\\_sanctions/index.cfm](http://www.fhwa.dot.gov/environment/air_quality/highway_sanctions/index.cfm)

#### Contacts

- Nancy Levin regarding agriculture ([Levin.Nancy@epa.gov](mailto:Levin.Nancy@epa.gov)) at (415) 972-3848 or Christine Vineyard for other sources ([Vineyard.Christine@epa.gov](mailto:Vineyard.Christine@epa.gov)) at (415) 947-4125.