

FACT SHEET

Clean Air Act Settlement between EPA, California State Parks and Imperial County
Regarding Imperial's Fugitive Dust Regulations
July 27, 2012

Overview

- The United States Environmental Protection Agency (EPA), the California Department of Parks and Recreation (State Parks), and the Imperial County Air Pollution Control District (ICAPCD) have reached an agreement regarding Imperial's air pollution rules that regulate emissions of inhalable particulate matter.
- The public will have multiple opportunities in the next few months to review and comment on this agreement and the associated rule revisions.
- This agreement remedies EPA concerns with ICAPCD's rules, describes a path to resolve litigation regarding EPA's partial disapproval of the rules, and minimizes the impact of associated Clean Air Act (CAA) sanctions in Imperial County. If sanctions are removed as anticipated within the next six months, this action will result in no job loss and no impact on transportation projects.
- When finalized, the agreement will lead to technically and economically feasible enhancements to local air quality regulation to address the serious public health impacts of inhalable particulate matter (PM₁₀) in the air.

Background

- Elevated levels of PM₁₀ in the air can lead to premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Monitored levels of PM₁₀ in Imperial County occasionally exceed national health-based air pollution standards. As a result, ICAPCD must adopt and enforce regulations that require significant sources of PM₁₀ to use best available control measures (BACM) to minimize PM₁₀ emissions to the environment.
- In 2005, as required by the CAA, ICAPCD adopted Rules 800 through 806 (known as Regulation VIII) to control fugitive dust, and hence PM₁₀, from agriculture, construction, recreational off-highway vehicle (OHV) activity, unpaved roads and other local sources.
- In July 2010, EPA largely approved Regulation VIII, but partially disapproved the regulation noting several rule improvements to ensure the rules fully complied with the CAA requirement for BACM. EPA's action explained that CAA permitting and highway funding sanctions would be imposed in Imperial County unless the rules were revised.
- ICAPCD and State Parks disagreed that rule improvements were needed and challenged EPA's action in the United States Ninth Circuit Court of Appeals. On February 17, 2012, the Ninth Circuit directed the parties to try resolving the dispute through mediation.

- After several months of mediation, the federal, state and local agencies agreed on rule revisions subject to public review. This agreement is designed to minimize the impact of CAA sanctions in the County.

Highlights of Settlement

- EPA, ICAPCD and State Parks agree on several economically and technically feasible rule revisions to better demonstrate BACM. Rule revisions include more specific definitions of agricultural dust management practices, opacity and stabilization requirements for high traffic agricultural roads, and more detailed requirements for land managers to control dust from OHV areas.
- ICAPCD commits to promptly release these draft rule revisions for public review. If ICAPCD adopts and submits substantially similar revisions, EPA commits to promptly propose federal approval and take action to defer associated permitting and federal highway funding sanctions.

Opportunities for Public Input on the Agreement and/or Rule Revisions

- The settlement agreement will be formally announced in the Federal Register (FR) in about two weeks. The FR notice will summarize the agreement and describe a 30-day opportunity for public review and comment on the agreement. The FR is published at: <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>.
- If this agreement is finalized after consideration of comments, ICAPCD will announce another opportunity for public review and comment before revising the rules locally, possibly in September/October 2012, at: <http://www.imperialcounty.net/AirPollution/>.
- If the revised rules are adopted locally, then EPA will announce in the FR, possibly in November/December 2012, another opportunity for public review and comment when EPA publishes its analysis of the proposed rules.

Contacts for Further Information

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