



**OHMVR COMMISSION MEETING  
Folsom, CA**

**September 20, 2013**

**STAFF REPORT:** Oceano Dunes/PMRP Update  
**STAFF:** Brent Marshall, District Superintendent  
**SUBJECT:** Update on SLO APCD Rule 1001 and Oceano Dunes SVRA,  
May 2013 to September 2013

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**Summary**

Oceano Dunes SVRA, located within the coastal dunes of south San Luis Obispo (SLO) County consists of approximately 3,600 acres, of which 1,500 acres are open to legal off-highway vehicle (OHV) recreation. The SVRA has been the focus of serious concerns related to fugitive dust impacting local communities. Rule 1001, based on studies conducted by SLO Air Pollution Control District (APCD), identifies the source of elevated particulate matter as OHV recreation and requires California State Parks to follow a rigorous Compliance Schedule in order to mitigate the issue. Failure to meet said schedule could result in fines up to \$1,000 per day.

OHMVR Division and APCD staff have been working cooperatively to address these concerns at Oceano Dunes and ensure compliance of Rule 1001.

**Discussion**

The OHMVR Division, field staff, and consultants continue to successfully meet each task as outlined in the Compliance Schedule despite having deep concerns regarding the aggressive timeline. Specifically, the OHMVR Division is concerned about back-to-back deadlines that do not have reasonable agency review cycles, and deadlines for tasks that require acceptance from other agencies outside State Parks' authority are problematic.

Despite these concerns related to the deadlines of the Compliance Schedule, Rule 1001 was adopted by the SLO APCD Board in November 2011.

A summary of the Compliance Schedule is as follows:

Deadline:	Task:	Task Completed:
February 28, 2012	Submit a draft MSSP for APCO approval.	Yes
May 31, 2012	Submit a draft PMRP for APCO review.	Yes
November 30, 2012 Timeline has been revised	Submit complete applications to appropriate agencies for all PMRP projects that require regulatory approval.	No*
February 28, 2013 Timeline has been revised	Obtain APCO approval for Temporary CDVAA and Control Site Baseline Monitoring Program and begin baseline monitoring. Still waiting for written approval to begin.	No**
May 31, 2013 Timeline has been revised	Complete all environmental review requirements and obtain land use agency approval of all proposed PMRP projects.	TBD
July 31, 2013	1. Obtain APCO approval for PMRP; begin implementation of PMRP Monitoring Program; 2. Apply for Permit to Operate.	Yes
August 31, 2013	Submit revised Coastal Development Permit application to CCC and obtain a completeness finding from CCC	Yes***
September 30, 2013	Submit a Temporary Baseline Monitoring Program to the APCO for review	TBD
December 31, 2013	Obtain APCO approval for the Temporary Baseline Monitoring	TBD
March 1, 2014	Begin 5 month Temporary Baseline Monitoring	TBD
July 31, 2014	Obtain final agency approvals for all PRMP projects and obtain a final APCO approval of the PMRP	TBD
August 31, 2014	Obtain APCO approval for the control site and vehicle activity area monitoring sites and begin monitoring at those sites	TBD
May 31, 2015	Requirements of Section C.3 shall apply.	TBD
December 31, 2015	Obtain all necessary permits, including an APCD Authority to Construct, for a track-out control system	TBD

\*Application submitted by deadline; however, CCC requested more information, so application was not considered "complete."

\*\* CCC did not approve application submitted on 11/30/2012, could not begin monitoring.

\*\*\* Application submitted on August 30, 2013, CCC has not made a determination on application

OHMVR has been working with SLO APCD toward compliance of Rule 1001. A draft of a Particulate Matter Reduction Plan (PMRP) was accepted with additional conditions stipulated by the APCD on July 10, 2013. Additionally, a revised Coastal Development Permit (CDP) application was submitted to Coastal Commission by the revised August 30, 2013 timeline. The Coastal Commission has not made a determination on this application.

From May through September 2013, OHMVR installed a series of short-term monitoring devices under an emergency permit from the Coastal Commission. This short-term monitoring program was designed to map wind patterns and dust producing processes throughout Pismo State Beach and Oceano Dunes SVRA. The data generated from this effort will help identify areas that require dust control; and site the monitoring equipment required to comply with the performance standard in the dust rule.

In March 2013, SLO APCD issued a violation to State Parks because 1) the Coastal Commission found our November 30, 2012 application incomplete, and 2) baseline monitoring equipment had not been installed as required by the February 28, 2013 deadline. SLO APCD did not issue a fine as part of this violation. Instead, the OHMVR Division negotiated a settlement of the violation and agreed on revised timelines for certain tasks outlined in the dust rule. On June 7, 2013 the SLO APCD accepted the signed mutual settlement agreement.

OHMVR applied (under letter of protest) for a Permit to Operate by the July 31, 2013 deadline. On August 19, 2013, the OHMVR Division received a permit to operate.

On Sept 5, 2013, SLO APCD voted in Rule 302, which contains the fee schedule for implementing Rule 1001, the Oceano Dunes SVRA "Dust Rule." The fees (\$49-\$58K/year) support the Permit to Operate required by Rule 1001. DPR continues to oppose the Permit to Operate on the grounds that Oceano Dunes is an SVRA created by the State Legislature for management by the Executive Branch making its intrinsic operations outside the jurisdiction of the SLO APCD. During the same session the SLO APCD also approved an offer from our Deputy Attorney General to do a joint petition to the Court of Appeals, requesting a stay of our pending appeal in order to conduct mediation with CARB regarding our opposition to elements of Rule 1001.

Oceano Dunes and the OHMVR Division continue to offer alternate approaches to comply with Rule 1001, including a Memorandum of Understanding for dust control activities and the implementation of Best Management Practices that are successful in reducing dust in other parts of California.

Recognizing that there are differences of opinion behind the basis of Rule 1001, the state agencies involved in this effort are cooperatively working toward compliance and understand the importance of addressing the concerns of the public. As the involved processes continue and deadlines approach more information will be provided.

### **Commission Action**

For information only