

**BOARD OF DIRECTORS
AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

Wednesday, November 16, 2011

RESOLUTION NO. 2011-12

**RESOLUTION OF THE AIR POLLUTION CONTROL BOARD
AMENDING THE RULES AND REGULATIONS OF THE
SAN LUIS OBISPO COUNTY AIR POLLUTION CONTROL DISTRICT
TO ADOPT RULE 1001, COASTAL DUNES DUST CONTROL REQUIREMENTS**

The following resolution is hereby offered and read:

WHEREAS, adoption of the Air Pollution Control District's Rule 1001, which establishes requirements for coastal dunes vehicle activity areas, is necessary to achieve the State PM10 air quality standard; and

WHEREAS, a public workshop has been noticed, conducted, and comments incorporated, as appropriate; and

WHEREAS, this Board finds that the Rule has been composed to the extent reasonably practicable and written in plain English wherever feasible in order to assure the Rule can be easily understood by the persons directly affected by said Rule; and

WHEREAS, Section 40001 of the California Health and Safety Code establishes authority for the District to adopt the Rule; and

WHEREAS, the Rule, as written, is consistent with existing statutes, court decisions, and State and Federal Regulations; and

WHEREAS, the Rule, as written and amended, is not a "project" under the California Environmental Quality Act (CEQA). The proposed rule simply requires a CDVAA operator to develop and implement a Temporary Baseline Monitoring Program and Particulate Matter Reduction Plan (PMRP), subject to review and approval by the APCD and further subject to all required land-use and other environmental approvals

for the proposed PMRP; including review as required under CEQA and NEPA, to provide for particulate matter control measures to reduce PM emissions to comply with the rule; and

WHEREAS, after significant staff analysis, there is no substantial evidence that implementation of the proposed rule will itself have a significant adverse effect on the environment, including indirect effects on the environment. Any potential environmental effects, whether direct or indirect, will depend entirely on the air monitoring locations and particular control measures the CDVAA operator chooses to propose as part of the PMRP; and

WHEREAS, the Rule, as written and amended, even assuming it were somehow a "project" under CEQA, is categorically exempt under Public Resource Code sections 21083 and 21084, and CEQA Guidelines Sections 15307 and 15308 (California Code of Regulations, Title 14, Division 6, Chapter 3), as actions by regulatory agencies for the protection of natural resources and the Environment; and

WHEREAS, the requirements of Public Resource Code Section 21159 have been analyzed and addressed; and

WHEREAS, the requirements of Health and Safety Code sections 40703 and 40922 regarding cost effectiveness of control measures have been analyzed and addressed; and

WHEREAS, the Rule, as written, does not result in duplication of existing State or Federal statutes or regulations in that the Rule does not impose the same requirements as an existing State or Federal Regulation, except to the extent the Rule is necessary or proper to execute the powers and duties granted to and imposed upon the District; and

WHEREAS, the Board has on this date held and conducted a duly noticed Public Hearing on said amendments to the Rules and Regulations of the San Luis Obispo County Air Pollution Control District and has determined the necessity for said amendments; and

WHEREAS, the District has complied with H&SC Sections 40725 through 40728 in adopting these regulatory changes.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Air Pollution Control Board of the San Luis Obispo County Air Pollution Control District that amendments to the District Rules and Regulations, specifically Rule 1001 attached hereto, and incorporated by reference herein as Exhibit A, are hereby adopted.

On motion of Director Marx, seconded by Director Hill, and passed and adopted on the following roll call vote:

Ayes: Directors Marx, Hill, Guthrie, Patterson, Smukler, Teixeira, Chairperson Gibson

Noes: Directors Fonzi, Hamon, Mecham, Waage

Absent: None

Abstaining: Director Bright

Bruce Gibson

Chair, Air Pollution Control District Board
San Luis Obispo County

Attest:

JULIE L. RODEWALD

Clerk, Air Pollution Control District Board

By: C. Christensen
Deputy Clerk

Approved as to Form and Legal Effect:

By: /s/ Ray Biering
District Counsel

Date: 11/9/11

I, Julie L. Rodewald, County Clerk and ex-officio Clerk of the Board of the Air Pollution Control District, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of the Air Pollution Control District, as the same appears spread upon their minute book:

WITNESS my hand and seal of said Board, affixed this 30th day of December, 2011.

JULIE RODEWALD
County Clerk and Ex-Officio Clerk of the Board of the
Air Pollution Control District.

By: C. Christensen
Deputy Clerk



Exhibit A

RULE 1001 Coastal Dunes Dust Control Requirements (adopted (date of Adoption))

- A. APPLICABILITY. The provisions of this Rule shall apply to any operator of a coastal dune vehicle activity area, as defined by this Regulation, which is greater than 100 acres in size.
- B. DEFINITIONS. For the purpose of this Rule, the following definitions shall apply:
1. "APCD": The San Luis Obispo County Air Pollution Control District.
 2. "APCO": The San Luis Obispo County Air Pollution Control Officer.
 3. "Coastal Dune": means sand and/or gravel deposits within a marine beach system, including, but not limited to, beach berms, fore dunes, dune ridges, back dunes and other sand and/or gravel areas deposited by wave or wind action. Coastal sand dune systems may extend into coastal wetlands.
 4. "Coastal Dune Vehicle Activity Area (CDVAA)": Any area within 1.5 miles of the mean high tide line where public access to coastal dunes is allowed for vehicle activity.
 5. "CDVAA Monitor": An APCO-approved monitoring site or sites designed to measure the maximum 24-hour average PM₁₀ concentrations directly downwind from the vehicle riding areas at the CDVAA. At a minimum, the monitoring site shall be equipped with an APCO-approved Federal Equivalent Method (FEM) PM₁₀ monitor capable of measuring hourly PM₁₀ concentrations continuously on a daily basis, and an APCO-approved wind speed and wind direction monitoring system.
 6. "CDVAA Operator": Any individual, public or private corporation, partnership, association, firm, trust, estate, municipality, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties, who is responsible for the daily management of a CDVAA.
 7. "Control Site Monitor": An APCO-approved monitoring site or sites designed to measure the maximum 24-hour average PM₁₀ concentrations directly downwind from a coastal dune area comparable to the CDVAA but where vehicle activity has been prohibited. At a minimum, the monitoring site shall be equipped with an APCO-approved Federal Equivalent Method (FEM) PM₁₀ monitor capable of measuring hourly PM₁₀ concentrations continuously on a daily basis, and an APCO-approved wind speed and wind direction monitoring system.
 8. "Designated Representative": The agent for a person, corporation or agency. The designated representative shall be responsible for and have the full authority to implement control measures on behalf of the person, corporation or agency.

9. "Monitoring Site Selection Plan": A document providing a detailed description of the scientific approach, technical methods, criteria and timeline proposed to identify, evaluate and select appropriate locations for siting the temporary and long-term CDVAA and control site monitors.
10. "Paved Roads": An improved street, highway, alley or public way that is covered by concrete, asphaltic concrete, or asphalt.
11. "PM₁₀": Particulate matter with an aerodynamic diameter smaller than or equal to a nominal 10 microns as measured by the applicable State and Federal reference test methods.
12. "PMRP": Particulate Matter Reduction Plan.
13. "PMRP Monitoring Program": The APCO approved monitoring program contained in the PMRP that includes a detailed description of the monitoring locations; sampling methods and equipment; operational and maintenance policies and procedures; data handling, storage and retrieval methods; quality control and quality assurance procedures; and related information needed to define how the CDVAA and Control Site Monitors will be sited, operated and maintained to determine compliance with section C.3.
14. "Temporary Baseline Monitoring Program": A temporary monitoring program designed to determine baseline PM₁₀ concentrations at the APCO-approved CDVAA and Control Site Monitor locations prior to implementation of the PMRP emission reduction strategies and monitoring program. The program shall include a detailed description of the monitoring locations; sampling methods and equipment; operational and maintenance policies and procedures; data handling, storage and retrieval methods; quality control and quality assurance procedures; and related information needed to define how the temporary monitors will be sited, operated and maintained to provide the required baseline data. The temporary monitors shall meet the specifications of the CDVAA and Control Site Monitors unless otherwise specified by the APCO.
15. "Track-Out": Sand or soil that adhere to and/or agglomerate on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in California Vehicle Code Section 23113 and California Water Code 13304.
16. "Track-Out Prevention Device": A gravel pad, grizzly, rumble strip, wheel wash system, or a paved area, located at the point of intersection of an unpaved area and a paved road that is designed to prevent or control track-out.
17. "Vehicle": Any self-propelled conveyance, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motor buggies.
18. "24-Hour Average PM₁₀ Concentration": The value obtained by adding the hourly PM₁₀ concentrations measured during a calendar 24-hour period from midnight to midnight, and dividing by 24.

C. GENERAL REQUIREMENTS

1. The CDVAA operator shall develop and implement an APCO-approved Temporary Baseline Monitoring Program to determine existing PM₁₀ concentrations at the APCO-approved CDVAA and Control Site Monitor locations prior to implementation of the PMRP emission reduction strategies and monitoring program.
2. The operator of a CDVAA shall prepare and implement an APCO-approved Particulate Matter Reduction Plan (PMRP) to minimize PM₁₀ emissions for the area under the control of a CDVAA operator. The PMRP shall contain measures that meet the performance requirements in C.3 and include:
 - a. An APCO-approved PM₁₀ monitoring network containing at least one CDVAA Monitor and at least one Control Site Monitor.
 - b. A description of all PM₁₀ control measures that will be implemented to reduce PM₁₀ emissions to comply with this rule, including the expected emission reduction effectiveness and implementation timeline for each measure.
 - c. A Track-Out Prevention Program that does not allow track-out of sand to extend 25 feet or more in length onto paved public roads and that requires track-out to be removed from pavement according to an APCO-approved method and schedule.
3. The CDVAA operator shall ensure that if the 24-hr average PM₁₀ concentration at the CDVAA Monitor is more than 20% above the 24-hr average PM₁₀ concentration at the Control Site Monitor, the 24-hr average PM₁₀ concentration at the CDVAA Monitor shall not exceed 55 ug/m³.
4. The CDVAA operator shall ensure they obtain all required permits from the appropriate land-use agencies and other affected governmental agencies, and that the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Quality Act (NEPA) are satisfied to the extent any proposed measures identified in the PMRP or Temporary Baseline Monitoring Program require environmental review.
5. All facilities subject to this rule shall obtain a Permit to Operate from the Air Pollution Control District by the time specified in the Compliance Schedule.

D. Exemptions

1. Section C.3 shall not apply during days that have been declared an exceptional event by the APCO and where the United States Environmental Protection Agency has not denied the exceptional event.

E. RECORDKEEPING REQUIREMENTS: The CDVAA operator subject to the requirements of this Rule shall compile and retain records as required in the APCO

approved PMRP. Records shall be maintained and be readily accessible for two years after the date of each entry and shall be provided to the APCD upon request.

F. COMPLIANCE SCHEDULE:

1. The CDVAA operator shall comply with the following compliance schedule:
 - a. By February 28, 2012, submit a draft Monitoring Site Selection Plan for APCO approval.
 - b. By May 31, 2012, submit a draft PMRP for APCO review.
 - c. By November 30, 2012, submit complete applications to the appropriate agencies for all PMRP projects that require regulatory approval.
 - d. By February 28, 2013, obtain APCO approval for a Temporary CDVAA and Control Site Baseline Monitoring Program and begin baseline monitoring.
 - e. By May 31, 2013, complete all environmental review requirements and obtain land use agency approval of all proposed PMRP projects.
 - f. By July 31, 2013, obtain APCO approval of the PMRP, begin implementation of the PMRP Monitoring Program, and apply for a Permit to Operate.
 - g. By May 31, 2015, the requirements of Section C.3 shall apply.
2. With the exception of section F.1.g, the CDVAA operator will not be subject to civil penalties for failure to meet any timeframe set forth in section F.1 caused solely by delays from regulatory or other oversight agencies required to consider and approve the operator's PMRP or any part thereof.