

Special Advisory

Water-Dependent Dust Control at Construction Sites

June 30, 2015

INTRODUCTION

According to the United States Geologic Survey, California is entering the fourth year of its worst drought in over a century. Recognizing the dire situation faced by the state, the Governor declared a drought emergency for all of California in January 2014. In response to the drought emergency, state and federal water agencies have taken historically unprecedented emergency actions over the past 2 years in an attempt to safeguard remaining water supplies. These actions do not only affect agricultural water users, which have borne much of the brunt of the drought to date, but for the first time in state history, will mandate that cities and towns across California reduce water usage by 25 percent.

San Joaquin Valley Air Pollution Control District's Regulation VIII (*Fugitive PM10 Prohibitions*) requires most construction/earthmoving operations to limit fine particulate matter emissions by implementing practices to limit visible dust emissions and ensure a stabilized surface when not actively working an area. The emission reductions achieved through Regulation VIII were essential in the District's attainment of the federal PM10 standard and also ensure that dust emissions from construction/earthmoving activities, which are often in populated urban areas, are mitigated to prevent the operations becoming a nuisance to neighbors.

Under certain provisions for Regulation VIII, water is specifically required or is the only feasible method to ensure compliance. Examples include the requirement to pre-water an area prior to earthmoving activities or the requirement to limit visible dust emissions to no more than 20 percent opacity while conducting earthmoving activities. With the state mandate that cities and towns across California reduce water usage by 25 percent, it appears inconsistent with the state's water conservation goals if the District is requiring water for dust control for all construction/earthmoving activities.

Recognizing that reasonable actions to accommodate drought relief efforts in the Valley are imperative in averting the public health crisis faced by Valley residents and communities experiencing shortages of drinkable water, the District is issuing this advisory to implement changes to the District's enforcement policies regarding water-dependent dust control requirements of Regulation VIII at construction/earthmoving operations during the drought emergency.

Regulation VIII Emergency Drought Relief Enforcement Approach

Under the modified enforcement approach, construction operations will be allowed to operate without implementing water-dependent dust control mitigation measures and/or an approved Dust Control Plan during the drought emergency where such action will not create a public nuisance or health risk to nearby sensitive individuals, and where atmospheric conditions are taken into account to ensure that the resulting increased particulate matter emissions would not significantly contribute to an exceedance of an ambient air quality standard. To take advantage of the relief offered through this modified approach, construction operations must not create a public nuisance as defined by district Rule 4102 (*Nuisance*), must not be located within 1,000 feet of a school or hospital, and must enter

into an *Emergency Drought Relief Dust Control Settlement Agreement* with the District. The terms of such an agreement, including monetary penalties which will be assessed, will be limited to a portion of the avoided costs of not implementing water-dependent dust control measures.

The relief offered under this advisory will be limited to the Valley's non-peak particulate season, and all Regulation VIII requirements, including the requirements to implement water-dependent control measures and have a District approved Dust Control Plan, will be enforced during the Valley's peak particulate matter season (November through February) being November 1, 2015.

New Construction Sites Requiring a Dust Control Plan

The District will still require companies to complete and submit Dust Control Plans for review as required by District Rule 8021 (*Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*). If water-dependent dust control measures cannot be implemented, the District will accept and file the plan without approval provided the company meets the qualifications and enters into an *Emergency Drought Relief Dust Control Settlement Agreement*. Execution of the agreement will allow operation without an approved Dust Control Plan and without implementing water-dependent dust control requirements in violation of Rule 8021. The agreement will require all other provisions of an approvable Dust Control Plan to be implemented and will require the operation to limit dust emissions to the extent feasible with non-water-dependent control measures, such as limiting vehicle traffic speeds and restricting access to the property.

Existing Construction Sites Requiring a Dust Control Plan

For companies that are operating under an existing, District approved Dust Control Plan, but are in a situation where they could take advantage of the relief offered under an *Emergency Drought Relief Dust Control Settlement Agreement*, they may contact the District and request to enter into an agreement. Execution of the agreement will allow operation without implementing water-dependent dust control requirements in violation of Rule 8021. The agreement will require all other provisions of an approvable Dust Control Plan to be implemented and will require the operation to limit dust emissions to the extent feasible with non-water-dependent control measures, such as limiting vehicle traffic speeds and restricting access to the property.

Construction Sites Not Subject to a Dust Control Plan

For companies that are not subject to the requirement to operate under an approved Dust Control Plan, but are in a situation where they could take advantage of the relief offered under an *Emergency Drought Relief Dust Control Settlement Agreement*, they may contact the District and request to enter into an agreement. Execution of the agreement will allow operation without implementing water-dependent dust control requirements in violation of Rule 8021. The agreement will require all other provisions of Regulation VIII to be implemented and will require the operation to limit dust emissions to the extent feasible with non-water-dependent control measures, such as limiting vehicle traffic speeds and restricting access to the property.

Questions

If you have any questions regarding this advisory, please contact Mr. Daniel Martinez by phone at (559) 230-5959 or by email at daniel.martinez@valleyair.org.

This advisory will remain in effect until formally rescinded by the District.