

State's air pollution deadline extended

EPA sets 2015 goal for deadly particles

By Alex Breitler, staff writer

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The federal government has approved plans to curb one of the San Joaquin Valley's most dangerous forms of air pollution while also allowing a few more years to get the job done.

The recently approved plans rely on new state rules to clean up trucks, buses and construction equipment. Those diesel-powered vehicles are a primary source of tiny pollution particles, which are responsible for thousands of premature deaths in the Valley and in Southern California.

As part of its approval, the Environmental Protection Agency also granted California until 2015 to meet the 1997 standard for particle pollution.

"We are approving California's air plans for fine particles, but our work is far from done," Jared Blumenfeld, a regional administrator in San Francisco, said in a statement. "EPA will continue to hold the state accountable for bringing air quality up to national standards."

The Valley and Los Angeles remain among the most polluted air basins in the nation, despite improvements over the past decade. Failing to meet federal air pollution standards not only endangers the public but also can lead to federal sanctions, including the withholding of funds to build highways.

Just eight months ago, EPA rejected earlier plans to slash fine particles.

One environmental group called the agency's new approval a "complete 180."

"We were encouraged last fall to finally see EPA pushing the state and local agencies for stronger plans, but with (the recent) decision, EPA is abandoning that leadership," said Paul Cort, an attorney with Oakland-based Earthjustice. "Sadly, it is the region's children, elderly and those with compromised health that will pay for EPA's lack of resolve."

The EPA said it refused to accept the plans last fall because they relied on state regulations that had not yet been finished and reviewed.

The earlier set of plans also overestimated the amount of pollution coming from trucks and construction equipment, the federal agency reported. And the plans did not take into full account the impact of the poor economy on air pollution, since less demand for goods means less pollution from shipping them.

Fine particles are especially dangerous because they can be inhaled deep into the lungs and exacerbate existing medical problems. The state has estimated that 9,200 premature deaths across California each year can be blamed on those particles.

Area activists sue EPA over civil rights

By Eiji Yamashita, staff writer

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Community activist groups have filed a lawsuit against the U.S. Environmental Protection Agency, claiming federal officials have ignored their civil rights complaint for 16 years.

The groups are now seeking a federal court to compel the head of the agency, Lisa Jackson, to take action on what they say is a long overdue administrative complaint.

The lawsuit was filed last week in the Fresno division of the U.S. District Court's Eastern District of California, alleging that EPA's continuous failure to act on their 1994 complaint has resulted in mounting environmental and health concerns for the impoverished minority communities where residents say they face a disproportionate burden of pollution.

Activists say EPA's own regulations require the agency to make findings and propose a remedy within six months after the acceptance of an administrative complaint under Title VI of the Civil Rights Act.

"Lisa Jackson and the Obama administration have failed to deliver on their promise to protect the civil rights of America's low-income communities of color who suffer environmental injustice," said Maricela Mares-Alatorre, a member of El Pueblo para el Aire y Agua Limpio of Kettleman City. "Despite her claims that environmental justice is one of her priorities, her agency's conduct and record on civil rights is pathetic, embarrassing and against the law."

The suit was filed by Center on Race, Poverty & the Environment on behalf of El Pueblo and Padres Hacia una Vida Mejor of Buttonwillow.

In 1994, the two groups filed an administrative complaint with the EPA, alleging civil rights violations by state and local government agencies that approved California's three toxic waste landfills. They claimed all three facilities are located in rural, low-income Latino communities, including Kettleman City and Buttonwillow.

At the time, the state Department of Toxic Substances Control had just allowed the Buttonwillow toxic waste facility to expand. Sixteen years later, the department is poised to issue a permit for Waste Management's Kettleman Hills Facility to expand.

"We demand that Lisa Jackson honor her promises and finally protect us, as EPA should," said Rosa Solorio-Garcia, president of the Buttonwillow group.

The lawsuit asks the federal court to force the EPA to conduct the investigation of the outstanding administrative complaints by the groups and issue a judgment declaring that the EPA has unlawfully withheld legally mandated agency action.

Activists say EPA should have issued a preliminary finding in 1996.

Calif. groups sue EPA over civil rights complaint

The Associated Press

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Sixteen years ago, soon after she gave birth to her first baby, Maricela Mares-Alatorre joined residents of three small California farmworker towns who alleged they were being discriminated against by environmental regulators, because all three of the state's toxic waste dumps were located in or near poor rural Latino communities.

But the U.S. Environmental Protection Agency, which received that civil rights complaint when Bill Clinton was president, hasn't addressed it and all the dumps continue to operate.

Trucks filled with PCBs, benzene, and asbestos continue to pass within three miles of Mares-Alatorre's home in Kettleman City on their way to one of the country's biggest toxic landfills, where they're treated, stored or buried. That dump and another one, in Buttonwillow, are in the state's sprawling Central Valley, while the third is to the south, just outside the hamlet of Westmorland.

A federal suit filed in Fresno, Calif., last week by a community group founded by Mares-Alatorre's parents and another community organization alleges that the EPA has failed to respond to the complaint within the mandated period. Mares-Alatorre's 16-year-old son is part of the group that filed the lawsuit.

Environmental groups claim the case is proof of the long-standing neglect of environmental justice by previous administrations, and they argue it casts doubts on whether the administration of President Barack Obama has made it a priority.

The lawsuit alleges that the agency has engaged in "a pattern and practice" of failing to accept, reject or refer civil rights complaints and failing to issue preliminary findings in a timely manner, thus exposing poor communities of color to a disproportionate share of adverse environmental impacts.

"The thought is that there's a level of complacency in communities like ours. And that's not true," Mares-Alatorre said. "But by siting these kinds of facilities in areas with specific types of

demographics, they're really overburdening people who are least able to come up with the resources to fight them."

The EPA said in a statement that it could not comment on pending litigation.

Title VI of the Civil Rights Act prohibits discrimination by institutions that utilize federal funds. The EPA distributes funds to the California regulatory agencies, including the California Department of Toxic Substances Control, that were named in the original toxic dumps complaint filed in December 1994.

The Department of Toxic Substances said it could not comment on the lawsuit, but its director Deborah O. Raphael said in a statement that her agency is "committed to taking a careful look to improve the permitting process and to give consideration to the concerns raised in the complaint."

The toxic dump complaint is one of several dozen filed across the nation that the EPA hasn't resolved. According to a list prepared by the agency, there are more than 30 pending complaints that have been accepted, but the EPA has not made timely preliminary findings and recommendations for any of these complaints. The majority were accepted for investigation in 2008 or earlier despite the 180-day deadline for issuing preliminary findings. Several, including the toxic waste dump complaint, were accepted in the 1990s.

"The EPA has a long and dismal track record of failing to protect those whom Congress protected with the Civil Rights Act," said Brent Newell, a lawyer with the San Francisco-based Center on Race, Poverty and the Environment who filed the lawsuit on behalf of residents. "It has ignored its duty to resolve these complaints."

Academic studies done in the 1980s and 1990s found that blacks and poor people were far more likely than whites to live near hazardous waste disposal sites, polluting power plants or industrial parks. Then-President Bill Clinton issued an "environmental justice" order in 1993 requiring federal agencies to ensure that minorities and poor people weren't exposed to more pollution and other environmental dangers than other Americans.

The EPA's inspector general reported in 2004 that the agency hadn't implemented Clinton's order.

In 2009, in the first suit regarding the timeliness of the EPA's response to civil rights complaints, an appellate court cited the EPA's "consistent pattern of delay" and ruled that the agency's Civil Rights Office did not meet its regulatory deadlines. That lawsuit was filed by the Rosemere Neighborhood Association in Washington state after the EPA failed to respond to several of its civil rights complaints.

Little has changed since then, Newell said, despite the new administration's promise to tackle environmental justice. Two years into EPA Administrator Lisa Jackson's tenure, none of the pending complaints has been addressed, he said.

A report commissioned by the EPA and issued in March criticized the agency's Office of Civil Rights for "not adequately adjudicating Title VI complaints" and for lacking "the rudiments of organizational infrastructure," such as established procedures, qualified staff or the ability to track cases.

The report found that the handling of complaints has been mired in lengthy delays and a hefty backlog. It showed that only 15 out of 247 civil rights complaints filed since 1993 were compliant with the EPA's targeted 20-day timeframe for acknowledgement. Half of the complaints took one year or more to move to accepted or dismissed status. One case was accepted after nine years and another after 10 years.

In response, administrator Jackson said in a written memorandum that the agency "will move quickly to address the issues raised in the report and continue our effort to make the EPA home to a model civil-rights program."

Meanwhile, Mares-Alatorre hopes the new lawsuit helps the agency reform its complaint process and examine why low-income rural communities get stuck with polluting projects.

"A lot of times they say it's the geography that's perfect for projects like the toxic dump," she said.
"But really, it has more to do with politics."