



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

MAY 24 2010

Mary D. Nichols, Chairman
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Dear Chairman Nichols:

I am writing to provide EPA's concerns with the "2009 Imperial County State Implementation Plan for Particulate Matter Less Than 10 Microns in Aerodynamic Diameter" (PM₁₀ SIP), which is scheduled for deliberation during your May 27, 2010 Board Meeting in San Diego. I recognize the extensive efforts of the Imperial County Air Pollution Control District (ICAPCD), the California Air Resources Board (CARB), and local stakeholders in Imperial County in developing the PM₁₀ SIP and the associated Regulation VIII rules to address the significant public health issues related to particulate matter in Imperial County. As you are aware, Imperial County was recently found to have the highest rate of childhood asthma hospitalizations in the state, and exposure to inhalable particles including PM₁₀ is among the risk factors for the exacerbation of asthma.^{1,2} It is therefore of the utmost importance that before voting to adopt the PM₁₀ SIP, the Board ensures it is both protective of public health and based on a solid regulatory foundation.

On March 22, 2007, EPA adopted a final rule, "Treatment of Data Influenced by Exceptional Events" (Exceptional Events Rule, or EER) to govern the review and handling of certain air quality monitoring data for which the normal planning and regulatory processes are not appropriate. Under the rule, EPA may exclude data from use in determinations of National Ambient Air Quality Standard violations if a state demonstrates that an "exceptional event" caused the exceedances. On May 21, 2009, CARB submitted a request pursuant to the EER for the exclusion of data pertaining to ten monitored exceedances of the 24-hour PM₁₀ standard in Imperial County in 2006 and 2007. The PM₁₀ SIP that is currently before you assumes EPA concurrence with these requests. In a letter dated August 5, 2009, I recommended that the ICAPCD Board not

¹ California Department of Public Health. (2009). *Border Asthma & Allergies Study Final Report*. Retrieved from the California Department of Public Health, Environmental Health Investigations Branch website at: http://www.ehiv.org/project.jsp?project_key=BAST01.

² Environmental Protection Agency. (2010). *Particulate Matter (PM) Research*. Retrieved from: <http://epa.gov/air/science/quick-finder/particulate-matter.htm>.

adopt the proposed PM₁₀ SIP until EPA had made a final determination on the exceptional events requests. Nonetheless, the ICAPCD Board adopted the PM₁₀ SIP and submitted it to CARB. On December 22, 2009, our Regional Administrator formally non-concurred with the exceptional event requests. A detailed support document provided the technical underpinnings of this non-concurrence. As a result, EPA cannot propose approval of this PM₁₀ SIP.

Second, on February 23, 2010, EPA proposed a limited approval and limited disapproval of Imperial County's Regulation VIII fugitive dust rules. Our proposed action on the Regulation VIII rules was based in part on our non-concurrence with the exceptional events requests and on our preliminary determination that the rules do not fully implement the Clean Air Act requirement for Best Available Control Measures (BACM). We are currently evaluating the comments we received on our proposed limited approval/limited disapproval, including comments on our non-concurrence with the exceptional events. We expect to finalize action on Regulation VIII by June 15, 2010. In that action, we will be responding to all comments we received. The Regulation VIII rules are relied upon in the PM₁₀ SIP and, should we finalize our action as proposed, the rule deficiencies would be another reason that we would not be able to propose approval of the PM₁₀ SIP.

We were pleased to see ICAPCD Board Chairman Fuentes' letter dated April 6, 2010 committing to update the County's fugitive dust rules. While we recognize the commitments as outlined in the attachment to the letter are still conceptual in nature, we are providing some initial reactions to them here. The letter addresses many of the issues raised by our proposed action on Regulation VIII, which is encouraging. However, ICAPCD will need to follow through with further analysis and rule development if our action is finalized as proposed. For example, while our proposal asked for analysis of all potential off-highway vehicle controls, many potential additional controls appear to have been eliminated without a justification. Similarly, the letter appears to address only one of five deficiencies identified in our Notice of Proposed Rulemaking regarding unpaved roads and traffic areas, does not address the deficiency identified in our proposal related to the number of conservation management practices Rule 806 requires for cropland, and seems to only partially address the deficiency identified in our proposal related to agricultural windblown dust emissions. Nonetheless, we believe ICAPCD's commitment to continued work on these source categories is a productive next step in California's ongoing progress towards clean air and Clean Air Act compliance in Imperial County.

Again, we appreciate all the efforts of the ICAPCD and your staff to develop a PM₁₀ SIP. We are committed to working with ICAPCD and CARB and all stakeholders to develop rules and a PM₁₀ SIP protective of public health that meet Clean Air Act

requirements. If you have any questions, please call me at (415) 947-8715 or your staff may call Amy Zimpfer at (415) 947-4146. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Jordan", written in a cursive style.

Deborah Jordan
Director, Air Division

cc: James Goldstene, CARB
Lynn Terry, CARB
Brad Poiriez, Imperial County APCO
Louis Fuentes, Imperial County APCD Board