

PLACER COUNTY AIR POLLUTION CONTROL DISTRICT

110 Maple Street, Auburn, CA 95603 ♦ (530) 745-2330 ♦ Fax: (530) 745-2373

DROUGHT COMPLIANCE AND ENFORCEMENT POLICY

APRIL 4, 2014

The Placer County Air Pollution Control District recognizes that under drought conditions there may be restrictions imposed on bulk water availability for construction site dust suppression, as well as water restrictions that may affect the ability of the District's permitted facilities and the public to comply with air permits and air pollution regulations. Both mandated and voluntary water conservation measures will likely result in less dust control and an increased incidence and severity of air pollution violations.

The District will continue to enforce all air pollution laws, regulations, and permit conditions during a drought. However, it is recognized that businesses and members of the public may be placed in situations where they are required to comply with conflicting requirements of water conservation and air pollution control. Accordingly, in addressing air pollution violations where the reduced use of water may have caused or worsened an air pollution violation, the District will take into consideration water agency restrictions on water availability as well as the effects of both mandated and voluntary water conservation measures.

In this policy, the following activities that may create dust and which are regulated by the District are addressed:

- Construction activities
- Permitted operations
- Miscellaneous activities

CONSTRUCTION ACTIVITIES: For construction activities subject to Rule 228, Fugitive Dust, the District will continue to evaluate compliance with 40% opacity and dust crossing property boundary limitations, as well as other rule and dust control plan requirements. Violations will be recognized with the issuance of a Notice of Violation, and a monetary penalty may be sought as part of the civil settlement. In determining the severity of a violation, the District considers whether "all reasonable measures" have been taken. In a drought situation, the District will include as a consideration as a possible mitigating circumstance whether the violation was caused by, or worsened by, water conservation practices. Note: In the case where construction activities are in an area where naturally-occurring asbestos (NOA) is known to be present, or is likely to be present, adherence to applicable District and state regulations and Asbestos Dust Mitigation Plans (ADMPs), including the application of water to the extent necessary to suppress all dust, is required without exception.

Voluntary Water Conservation: The voluntary reduction of water for dust suppression will be considered as a possible mitigating factor in dust related air pollution violations. However, it is the District's expectation that voluntary water conservation will not take precedence over preventing or mitigating direct dust impacts on the public, or areas where the public may be present.

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Restrictions on Water Availability: A restriction on water for dust control usage, confirmed by the water purveyor, will be considered as a possible mitigating factor in dust related air pollution violations.

All Reasonable Measures: In the absence of adequate water for dust suppression, the District expects other available measures will be taken to minimize dust creation to the extent practicable, and that all necessary measures will be taken to avoid impacting the public, or areas where the public may be present. In the place of the normally prescribed watering practices, all reasonable measures should be taken to reduce dust. A continued ability (e.g. the availability of water trucks) to prevent unacceptable dust impacts, such as dust crossing public roadways or impacting public areas, should be maintained for operational flexibility. The failure to prevent nuisance impacts of dust upon the public by any and all means necessary, including cessation of operations, will result in more severe enforcement consequences. The District will consider mitigating and exacerbating factors in determining the severity of a dust violation and the appropriate monetary penalty. Full compliance is required with District and State regulations concerning the control of dust areas designated as most likely to contain Naturally Occurring Asbestos (NOA), including the application of water to the extent necessary to suppress all dust.

PERMITTED OPERATIONS: For operations in which a District Permit to Operate has been issued, including an Authority to Construct permit serving as a Temporary Permit to Operate, it is the District's expectation that permit conditions requiring water usage will be met on a continuous basis. The District will consider mitigating and exacerbating factors in determining the severity of a dust violation and the appropriate monetary penalty.

Voluntary Water Conservation: A permit holder often may choose to employ water over other alternatives, for dust control as an example, to avoid a violation of nuisance or visible emission rules. Reducing water usage, where such usage is not prescribed by District rules or permit conditions, is solely at the discretion of the permit holder. The District wants the violation to be avoided and, unless specified by rules or permit conditions, the District does not prescribe how compliance is reached. During a drought situation, in the case of an inadvertent violation of District rules (such as Rule 202, Visible Emissions) that is associated with water conservation, the District will take into consideration the causative or exacerbating effects of the water conservation practice(s) when assessing monetary penalties. The District's belief is that the societal benefit of the water conservation should be a mitigating consideration. However, regardless of the desire to employ voluntary water conservation measures, compliance, by any and all means necessary (which may include watering or the curtailment of operations), is required for dust control with regard to preventing nuisance and any direct impacts upon the public.

Restrictions on Water Availability: Permit holders should advise the District of any water purveyor mandated curtailment or restrictions on water availability that is likely to affect continued compliance with District rules and permit conditions. The District's expectation is that the permit holder will implement every reasonable alternative measure to minimize emissions that are caused by or made worse by the curtailment of water supplies. If a violation occurs, the verified curtailment of water supplies by the water purveyor, along with any mitigation efforts, and the severity of the violation, will be among the considerations in assessing monetary penalties.

District Acknowledgement of Violations Resulting from Water Restrictions: If the permit holder wishes to avoid receiving Notices of Violation, for violations that cannot be prevented, or if a permit holder has good reasons to continue operating despite continued violations, a petition for a Variance from the District rule or permit condition should be made. The District's Hearing Board will decide whether a variance petition will be granted or denied. In the event of wide-spread effects from water supply curtailments, the District may choose to issue compliance orders outlining allowable operations in lieu of existing permit conditions that cannot be met. Variances and compliance orders cannot be issued to allow a violation of nuisance regulations. Compliance by any and all means necessary (which may include watering or the curtailment of operations), is required with regard to preventing a nuisance and any direct impacts upon the public.

MISCELLANEOUS ACTIVITIES: For non-construction activities and activities that are not subject to District permits, but which create dust, such as mowing, weed-cutting, leaf-blowing, ATV/Motocross, horse corrals and arenas, and other areas that might generate dust, the District will continue education and enforcement efforts during drought conditions. For violations of Rule 202, Visible Emissions, and Rule 205, Nuisance, violations will be recognized with the issuance of a Notice of Violation and a monetary penalty as part of the civil settlement. In determining the penalty the District will consider the severity of the violation and what measures were taken to mitigate the creation of dust. In the situation of a drought, the District will consider whether the violation was caused by, or worsened by, water conservation practices, and whether the reduction in water usage was voluntary or mandated.

Voluntary Water Conservation: If there is a voluntary reduction in the amount of water used for dust suppression, the conservation effort will be considered as a possible mitigating factor in dust related air pollution violations. However, it is the District's expectation that voluntary water conservation efforts will not take precedence over preventing or mitigating direct dust impacts on the public, or areas where the public may be present, including neighboring properties.

Restrictions on Water Availability: A restriction on water for dust control usage confirmed by the water purveyor will be considered as a possible mitigating factor in dust related air pollution violations.

All Reasonable Measures: The District's expectation is that in the absence of adequate water for dust suppression, other steps will be taken to minimize dust creation to the extent practicable, and that all necessary measures will be taken to avoid impacting the public, or areas where the public may be present. In place of the normally prescribed watering practices, other reasonable and available measures should be taken to reduce dust, including trying to avoid activities that will create dust. The District will consider mitigating and exacerbating factors in determining the severity of a dust violation and the appropriate monetary penalty.