

## **Court rejects air rule appeal**

Farm Bureau loses its case against air pollution permits for agriculture industry.

By Mark Grossi, The Fresno Bee

*(Published Wednesday, July 16, 2003, 4:50 AM)*

A federal court Tuesday rejected the California Farm Bureau's challenge of a rule that requires unprecedented air pollution permits in the \$27 billion agriculture industry.

The decision came from the 9th U.S. Circuit Court of Appeals in San Francisco, where Farm Bureau officials had asked for a review of the federal rule, which authorities began enforcing two months ago.

The rule means regulators, for the first time, are making official estimates of air pollution coming from diesel pumps, equipment and animal waste on large farms. For many years, factories, power plants and other large pollution sources have been getting such permits.

Environmentalists cheered the decision. For two years, they have pushed for more farm regulation in the agriculture-dominated San Joaquin Valley, one of the unhealthiest places in the country to breathe.

"This is a great result for anyone who wants cleaner air in the San Joaquin Valley," said Earthjustice lawyer Anne Harper, who represented the Sierra Club, the Natural Resources Defense Council and the Fresno-based Medical Advocates for Healthy Air.

But Farm Bureau officials were "extremely disappointed."

Lawyer Brenda Jahns Southwick said the U.S. Environmental Protection Agency is not basing the rule on science, yet farmers will have to somehow comply.

"The science is outdated, and they all know it," Southwick said. "Farmers don't know what's expected of them because the federal government doesn't know enough to guide them."

No further legal action is planned, Southwick said.

The Farm Bureau, representing more than 95,000 farm families, filed the case in January after the EPA last year announced the rule requiring agriculture to enter a permit program.

The EPA had wanted to wait until late 2004 so more research could guide enforcement on agriculture. Farm research had not been in the forefront for years, partly because state law had exempted agriculture from permit programs since at least 1976.

But environmentalists sued the EPA over the delay. The agency settled the case last year by promising to enforce farm air permits this year.

At the same time, the EPA told the state to repeal the exemption by Nov. 18 or face federal sanctions, such as penalties for new and expanding businesses or freezing billions in road-building money.

Federal officials want the state to take over enforcement of the permit program for agriculture. The state handles all other such permit programs.

State Sen. Dean Florez, D-Shafter, is moving a repeal measure through the Legislature this summer. The measure, SB 700, is headed to the Assembly Appropriations Committee.

EPA officials Tuesday took the opportunity to again urge repeal of the exemption.

"We're happy the court has agreed with our rule," said Kerry Drake, associate director of the agency's regional air division. "But we really hope California moves ahead in removing the exemption."

The EPA already has taken applications for the permit program based on diesel emissions from farm water pumps. But Drake said the EPA will soon extend the Aug. 1 permit application deadline for farms with other possible pollution sources, such as livestock.

"We moved the deadline back to Nov. 13," he said. "That was done with the hope that California addresses the issue of the exemption and indicates it will take over the permit program at some point."

The reporter can be reached at [mgrossi@fresnobee.com](mailto:mgrossi@fresnobee.com) <<mailto:mgrossi@fresnobee.com>> or 441-6316.

## Fuel rule changes fought

Truckers say the proposals will boost costs and hinder competition.

By Sanford Nax, The Fresno Bee

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Waving signs and honking horns, truck drivers Tuesday protested proposed changes in diesel fuel regulations they say will increase costs and drive many of them out of business.

About 50 protesters and 30 large trucks participated in a rally held at the state building in downtown Fresno. They carried signs proclaiming "Don't Drive Us Out" and "Trucker 4 One Fuel."

They claimed proposed requirements by the California Air Resources Board are stricter than national standards and will make truck companies in California lose ground to out-of-state competitors.

Similar rallies were held Tuesday in Sacramento, Oakland and Long Beach. The Air Resources Board will hold a public hearing on the proposed regulations July 24 in Sacramento.

"We want uniform fuel [regulations] across the country. We want federal standards because they are fair and effective. This bifurcated system is creating economic havoc," said Timothy A. Fortier, president of Commercial Transfer Inc. in Fresno, a century-old company with 40 trucks and 55 employees.

With an agriculture economic base, midstate location and proximity to two major highways, the central San Joaquin Valley is a haven for trucking companies. About 380 trucking-related companies operate in Fresno and Madera counties and employ more than 4,000 workers. The estimated payroll is about \$121 million, said Nannette Potter, labor market analyst for the state Employment Development Department.

The effect of the proposed changes on trucking companies is disputed. Trucking companies say that ramifications of the new fuel regulations, combined with soaring workers' compensation and other insurance-related increases, will force already struggling trucking companies to cut staff, go out of business or move to other states.

Officials at the Air Resources Board say the new regulations will not lead to an increase in fuel costs.

They say California truckers pay 1 to 3 cents more per gallon than competitors in other states, but they don't expect that number to increase if the new policies are adopted, said spokeswoman Gennet Paauwe. The regulations take effect in 2006.

Rick Wiggs, general manager of Quali-T-Truck in Fresno, said the the gap between the price of diesel in California and other states is much greater than a few pennies.

A gallon of diesel in Quartzsite at the junction of Highway 95 and Interstate 10 in Arizona was running \$1.38 compared with \$1.65 that Quali-T-Truck pays in the Valley, he said.

And Quali-T-Truck officials fear the price could increase as much as 40% under the new proposal. Fewer refiners could produce the fuel, and that could increase the company's fuel costs by \$24,000 every two weeks in California. Quali-T-Truck, which employs 75 people and operates 50 heavy trucks and 15 smaller delivery trucks, already pays \$60,000 every two weeks for fuel.

The additional fuel costs would be on top of its workers' compensation insurance premium, which has soared from \$298,000 in 2002 to about \$740,000.

"I don't know how much longer we can support 75 families," said President Dale Mendoza, adding that his company's 3% profit could fall to break-even.

The Air Resources Board says the new requirements are necessary to combat air pollution. Four percent of the vehicles on California's roadways are large trucks, but those trucks produce 60% of the soot in air pollution that comes from moving vehicles, the board estimates. The lower-sulfur diesel fuel also would allow for the use of catalytic converters, which reduce emissions.

"We have a great challenge in California," Paauwe said.

But Fortier said new-generation diesel engines are less economical, getting 6% to 10% fewer miles per gallon. That means that more fuel is used, which spews more pollutants into the air, he said.

In addition, California Trucking Association spokesman Beau Biller said a sampling of truckers who serve the Long Beach port said they would drive an average of 42 miles farther to save money on fuel.

The average heavy truck carries a 300-gallon truck, which can transport it 1,700 miles.

It is not unusual, California truckers say, for out-of-state competitors to fill up at the state line and serve their California customers on a single tank.

As a result, the state loses fuel tax and DMV fees, said Fortier, who oversees the fifth-generation company Commercial Transfer. "I don't know if I can last another 100 years."

## **Time is now to log views on limiting fireplaces**

By MATT WEISER, Bakersfield Californian staff writer, Monday July 14, 2003, 10:10:08 PM

A warm and crackling fire is a wonderful thing on a cold night, but it is also a leading source of winter air pollution. A plan to limit that pollution gets its final public hearing on Thursday.

The San Joaquin Valley Air Pollution Control District proposes to ban the use of fireplaces and wood stoves under certain winter conditions to protect public health. The district's governing board takes up the matter in a public hearing at 9 a.m. Thursday in Fresno. Local residents may participate via live videoconference at the district's southern region office, 2700 M St., Suite 275, in Bakersfield.

Under the proposal, all residential wood heating would be banned when the air quality index in a given county is forecasted to reach 150 or greater, the point at which pollution is considered unhealthy for everyone. This would apply from November through February, and the district estimates burning would be banned, at most, 25 nights a year in Kern County during that period.

"I do think this is a proposal that is beneficial to the valley and will work well as drafted," said Tom Jordan, a senior air quality planner with the district.

Particulate pollution includes dust raised by farm and construction, soot from combustion, and chemical combinations that occur in the atmosphere. Studies show that wood smoke is responsible for up to 20 percent of winter particulate pollution in Bakersfield, Jordan said, and that concentrations are worse in urban areas, indicating the problem is not related to farming.

Wood smoke is a unique concern in the valley because the same winter weather conditions that cause fog also trap pollution near the ground, where it becomes a public health threat.

The smoke from thousands of fireplaces and wood stoves can cause coughing, shortness of breath, asthma, bronchitis and even premature death. A study by the American Heart Association found a close connection between heart attacks and high levels of fine particulates, like those generated by wood burning.

The valley does not meet federal standards for particulates. The region is designated a "serious" nonattainment area for particulates by the U.S. Environmental Protection Agency -- the worst category.

Until now, the air district has used its voluntary "Please Don't Light Tonight" campaign to reduce pollution from wood burning on still winter nights. But the EPA has said the valley must do more, and might impose sanctions unless a tougher program meets its approval by Sept. 11.

The proposed rule also requires older wood stoves -- generally those purchased before 1992 -- to be removed or replaced when existing homes are sold. And in new housing, it allows wood-burning fireplaces and wood stoves only in projects with a density of two homes per acre or less, and then only one per home.

The rule is supported by the Building Industry Association of Kern County, which says gas-burning fireplaces and inserts meet the needs of most home buyers.

Indeed, many critics recognize tougher rules are needed to control pollution in the valley, and most complaints now focus on details. The national Hearth, Patio & Barbecue Association, for instance, wants the air district to adopt a two-tiered enforcement program that would first restrict burning in open fireplaces and older wood stoves, then restrict cleaner-burning wood stoves only when conditions are very bad.

"That's a very common thing around the western U.S., and we're disappointed staff did not see fit to include it," said John Crouch, director of public affairs for the association. "There are lots of good things in the rule, and we generally favor no-burn nights."

Jordan said a two-tiered approach was proposed initially. But air district staff later decided this would be too difficult to enforce across the eight-county, 24,000-square-mile air district, the largest in the nation.

#### **Bakersfield Californian local poll on fireplace restrictions and preliminary results:**

There will be a public hearing Thursday to discuss banning fireplaces on nights when they'll have the most environmental impact. Would you be willing to light your fireplace less in the fall and winter to help improve air quality?

Yes. I'll do anything to help clean up this valley's air. It's disgusting and unhealthy.

Sure. As long as PG&E doesn't threaten us with roaming power outages due to increased heater use.

No. There are other ways to clean up our air.

Officials need to stop going after us little guys and find some serious, feasible solutions.

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Thank you for participating in our survey. Total 121 votes cast.

No. There are other ways to clean up our air. Officials need to stop going after us little guys and find some serious, feasible solutions. 44.63%

Yes. I'll do anything to help clean up this valley's air. It's disgusting and unhealthy. 39.67%

Sure. As long as PG&E doesn't threaten us with roaming power outages due to increased heater use. 15.70%

#### **Bakersfield Community Voices Tony Tanus:**

### **Balanced clean air costs worthwhile**

Monday July 14, 2003, 07:30:11 PM

I read with interest *The Californian's* articles on our air pollution and comments your readers made. Most agreed that we should continue to improve our air quality. Some have emphasized that some emission numbers have improved and that perhaps your articles are biased.

As an allergy and asthma specialist, these articles need to be applauded because they keep our awareness of this same old problem.

We have improved. However, we still have not met federal standards for emissions and ozone. We still live in one of the worst air basins in the country.

For severely compromised patients, they unfortunately have to stay inside on bad air days. I hate to tell them that. Look around us at the beautiful land, trees, and parks. God blesses us with climate that is difficult to match.

Growing up, I played outside. Those were some of my best times and created lasting sweet memories. It would be unfair for children not to know that joy. I seriously doubt that watching television, being sedentary or playing computer games will ever match outdoor fun.

However, on some days I wonder when I send my children outside and I cannot see the hills whether I was causing them harm.

Some people are already afflicted by allergies to various pollens. Although pollens can affect us most of the year here, we have treatment that can alleviate this. Patients with sinus conditions or asthma who are already affected by pollens agree they do not need to compound their problems with more pollutants.

Limited choices of therapeutics is why we all should strive for a better environment now. Many medications and respiratory therapies have not been effective against pollutants.

The solution is not going to be easy. It will affect the pocketbooks of some interests. When the ban on smoking was enacted, several groups were up in arms about how a community could destroy individual freedom. The majority prevailed because we understood that it is a totally different when individual freedom is costing our health.

The same truth will prevail on this environmental issue. Being extreme is not going to solve it. I cannot see forcing everyone to drive a small electric car. But let's talk about what kind of incentives we should give for owning a fuel economy car, or about disincentives for driving a big truck without a work or family related reason.

What about government employees doing their commuting and errands in fuel efficient cars? The same argument goes with our living arrangements. We would not like to be forced to live in small houses or condominiums with no yards. But, again, incentives such as tax breaks and disincentives make sense.

Better roads to speed up travel and spend less time idling at intersections makes sense.

Balance is what we need. We have to have community and political leaders who can organize this effort and make this balance come true. The process starts by having the heightened public awareness, and I again praise *The Californian* for starting the process.

***Dr. Tonny Tanus of Bakersfield practices adult and pediatric allergy, asthma and immunology medicine. Community Voices is an expanded commentary that may contain up to 500 words. The Californian reserves the right to republish contributed commentaries in all formats, including on its Web page.***

[Letter to the Editor, Fresno Bee:](#)

**'A great idea'**

By Joann Schilling  
Fresno

*(Published Wednesday, July 16, 2003, 4:47 AM)*

I agree with Jan Balcom (letter July 9) suggesting manual lawn mowers to curb air pollution. With the small yards so many of us have, it's a great idea.

It reminded me of one of my favorite Mother's Day presents many years ago: an aluminum push mower. My husband said he told the clerk, "I want a nice light one. It's for my wife!" I liked mowing the lawn and washing the car. He liked to cook Sunday dinner.

Unfortunately, that didn't include cleaning up the kitchen afterward.