

Bill Seeks to Curb Polluting Mexican Trucks

Vehicles would not be allowed to travel in California unless they met U.S. standards.

By Miguel Bustillo and Marla Dickerson, Times Staff Writers
L.A. Times, June 22, 2004

Concerned that a U.S. Supreme Court ruling this month clears the way for thousands of smoke-spewing Mexican trucks to enter the country, a California lawmaker has introduced legislation that would bar them from traveling throughout the state unless they met federal air pollution standards.

Supported by environmentalists and California truckers, the bill, by Assemblywoman Fran Pavley (D-Agoura Hills), is sure to rekindle a decade-long dispute over the North American Free Trade Agreement's contributions to pollution in this country, an issue that has ruffled U.S.-Mexico relations.

The measure would require that Mexican trucks meet the same federal air pollution standards for their model year as their U.S. counterparts in order to come through California. Mexican trucks, like those in the United States, typically run on diesel fuel, but many are older and have less-sophisticated pollution controls.

Pavley said she would not attempt to require the trucks to meet California's tougher state air pollution standards, which could make the legislation vulnerable to legal attacks. But legal experts predicted that a law requiring Mexican trucks to meet federal pollution standards would also face legal challenge.

"We're doing everything we can to reduce air pollution in this state, and these [Mexican trucks] could really set us back," Pavley said. "They represent a huge public health risk. I don't think it was the goal of NAFTA to add an estimated 50 tons of harmful emissions into our airshed each day. We will look very carefully at what we can do in California, but we think we can certainly require them to meet the same standards as U.S. trucks."

The South Coast Air Quality Management District, which is tasked with reducing air pollution for 16 million people in Los Angeles, Orange, Riverside and San Bernardino counties, estimated that Mexican trucks would add 50 tons of pollution a day to the region's air.

That amount is more than the area's 350 largest industrial sites combined. However, some researchers have dismissed such projections as alarmist, arguing that the Mexican trucks likely to go into the long-haul business in the United States are newer, more efficient models.

Gov. Arnold Schwarzenegger has not taken a position on Pavley's measure, but the lawmaker and environmental groups have met with Schwarzenegger administration officials to discuss the issue.

Some Mexican truckers, who have watched the United States throw up one legal barrier after another, expressed little surprise that California might present a new hurdle.

"It's all political," said Guillermo Berriochoa, who owns a trucking company north of Mexico City. "It's another way to keep the Mexicans out."

Leonardo Gomez Vargas, director general of the National Private Transport Assn., a Mexico City-based industry group, said the measure had more to do with U.S. trucking companies wanting to protect their profit margins than with preserving the environment.

"We have a modern fleet and very high quality standards," Gomez said. "There are economic interests that don't want vehicles from Mexico to enter the United States. This is just another barrier to keep us from competing."

After NAFTA was enacted in 1994, President Clinton refused to lift a restriction that prevented Mexican trucks from coming into the country beyond the immediate border area, citing safety and environmental concerns. The decision angered proponents of the trade agreement, who said that it was supposed to bring about the free movement of commercial vehicles across borders.

Three years ago, President Bush announced he would allow Mexican trucks and buses to enter the United States as long as they met federal safety standards. The decision prompted a lawsuit by environmentalists and California truckers and labor unions.

The Supreme Court ruling this month sided with Bush and threw out a lower court order that had blocked the trucks from entering the country on grounds that they would worsen pollution in areas of the Southwest that already suffer from bad air quality.

More than 4 million trucks enter the United States from Mexico every year, but they are now required to stay within 20 miles of the border. The federal government estimates the latest court decision would allow up to 34,000 more Mexican trucks to enter the United States and travel farther into the country.

Some business groups on both sides of the border welcome the increased truck traffic, saying it should lead to lower shipping costs. But smaller trucking firms in both countries are wary of the competition. Meanwhile, environmental groups and some state officials worry Mexican truck emissions would make it more difficult to meet clean air standards in already smoggy cities such as Los Angeles.

"We welcome the opening of the borders for Mexican trucks, but they need to be as clean as our trucks or they will have a devastating impact on our cities," said Gail Ruderman Feuer, an air pollution attorney for the Natural Resources Defense Council, a sponsor of Pavley's bill.

"Mexico did not have emissions standards for these trucks until 1993, and their trucks tend to be older and dirtier. Even if you buy a new Mexican truck today, it would be substantially dirtier than a similar truck bought in the United States."

Stephanie Williams, vice president of the California Trucking Assn., said the legislation would still leave an uneven playing field for the state's truckers, because they must comply with state environmental standards considerably more stringent than federal ones. But given the legal constraints of NAFTA, she said, it may be the best that state officials can do.

"This is a huge threat to the state of California, and I'm for anything that does something about" pollution from Mexican trucks, Williams said. "It's not the best thing to do, but it may be the only legal thing we can do, and I'm sick of losing lawsuits."

Shell denies production slowdown

Bakersfield Californian, Tuesday, June 22, 2004

By ERIN WALDNER, Californian staff writer

Shell Oil said Monday it will not relax production at its Bakersfield refinery this summer. The announcement comes on the heels of a front-page *Los Angeles Times* article on Monday that says the newspaper obtained internal company documents showing Shell planned to reduce the amount of crude it processes by about 6 percent in July and another 6 percent in August.

The article also states Shell intended to curtail production at its Martinez refinery by 10 percent in July so routine maintenance work could be done.

Shell said in a prepared statement it "plans to operate both the Bakersfield and Martinez refineries at normal summertime operations through the full summer driving season that closes around Labor Day."

The company said it did not know what documents the *Times* was referring to but "they seem to represent preliminary and early planning scenarios that have since been reviewed and revised."

Shell spokesman Stan Mays said the company changed its summer plans for the refineries before Monday's article in the *Los Angeles Times*.

Jamie Court, president of the Santa Monica-based Foundation for Taxpayer and Consumer Rights, said the statement was "vague" and that he was still concerned Shell would slow refinery production this summer.

The foundation also announced Monday that company documents dated May 24 "show Shell Oil is slowing down production at its Bakersfield and Martinez refineries for 'routine maintenance' leading up to the busiest driving holiday of the year."

The documents posted on the group's Web site include a "Bay Valley Complex June through August Production Forecast." The Bay Valley Complex includes Shell's Bakersfield and Martinez refineries.

The documents back up the *Times*' report. Court would not say if he had provided the *Times* with information.

The Bakersfield refinery produces 2 percent of California's gasoline and 6 percent of the diesel. Industry experts have said the refinery's closure, scheduled for Oct. 1, will lead to higher fuel prices. Shell has said it will work to soften the closure's impacts on motorists and local farmers.

With gas and diesel already going for more than \$2 a gallon, the state can ill afford any blip in supply this summer, according to Rob Schlichting, a spokesman for the California Energy Commission.

"We're pretty close to the bone here when you look at supply and demand," Schlichting said. Schlichting also said it was not unusual for refineries to slow production down for routine maintenance work, even during the summer driving season.

Shell announced in November that it was closing and dismantling the refinery because continual declines in San Joaquin Valley heavy crude oil make it uneconomical to continue operating the facility for the long-term.

Shell's critics have charged the company with closing the refinery to increase profits at the pump, an allegation the company has denied.

In April, the Foundation for Taxpayer and Consumer Rights said it had obtained Shell documents that showed the refinery turned a profit in 2003.

On Monday, the taxpayer group said additional documents show the refinery's profits total \$24.7 million this year to date. Court's group said it was forwarding the information to the Federal Trade Commission and California Attorney General Bill Lockyer.

"We hope these documents give you the basis to take action against Shell in the next month," the group wrote. "They show that, absent a regulatory response, Californians are likely to pay \$3 per gallon at the pump by Labor Day."

Tom Dresslar, a spokesman for the attorney general, said his office has an ongoing investigation into the refinery closure and that a consultant his office hired to assess the condition of the refinery continues to do his work. If the consultant determines the refinery is commercially and economically viable, he will look for buyers.

"The attorney general continues to be concerned that Shell not take any actions that would undermine our consultant's work," Dresslar said, adding that Shell has expressed a willingness to cooperate.

Shell has said in recent months that it will entertain any credible offers to purchase the refinery.

An FTC spokesman said he could not comment on whether his agency was investigating the refinery's planned closure, nor on the documents from the consumer rights group.

Bus service to add hours

Buses to run until 9:30 p.m. during week

Visalia Times-Delta, Tuesday, June 22, 2004

By Heidi Rowley
Staff writer

Those who use the Visalia buses will be able to ride later into the evening, on Sundays and back and forth from Farmersville, possibly within the next two to three months.

"We've been working on finding ways for that to happen for many years," said Monty Cox, transit manager for the city of Visalia.

Cox said the city found funding for the extended services through a federal air-quality grant.

"The [Visalia City Council] has been directing me to do this for about three years," he said. "Now we've got the money, so we're going to do it as quick as we can."

Monday afternoon, the Tulare County Association of Governments, an agency comprised of representatives for Tulare County and the incorporated cities, approved a resolution including the changes to Visalia's service.

"They have to do it by next year," said Maria Garza, transportation engineer with Tulare County.

When it starts

However, Cox said the transportation department is hoping to implement the changes by mid-August.

"We don't have a definite start date yet, but we are trying to get it done before school starts," he said.

Once it is implemented, the buses will run until 9:30 p.m. Monday through Friday and from 8 a.m. until 4 p.m. Sunday.

Currently the bus only runs until 7 p.m. on the weekdays and doesn't run on Sunday. Saturday service will remain the same.

Times, routes and bus stops for Farmersville have not yet been decided, Cox said, but they will be soon.

"We're going to have it figured out pretty quick," he said.

Before the schedule can be implemented, Cox said the city has to work out a contract with Tulare County, because the county will pay for the service to Farmersville. Cox said the city is working on hiring additional drivers and has already purchased additional buses.

Next, he said, new schedules would need to be printed, distributed and posted on the bus stops. New bus stops would need to be constructed for the new routes.

Besides serving Farmersville, Visalia City Coach also serves Goshen. During Monday's meeting, TCAG did not approve extended hours and Sunday service to Goshen after James Blair from the county objected to the extended service, citing a lack of money. Service to Goshen will be re-addressed at TCAG's July 19 meeting.

Court Upholds Imperial County Clean Air Rules

U.S. justices reject contention by farmers and the EPA that Mexico is source of pollution.

By Henry Weinstein, Times Staff Writer

The Supreme Court on Monday let stand an order requiring stronger clean air protections for Imperial County, a region that has one of the highest childhood asthma rates in the state.

In October, the U.S. 9th Circuit Court of Appeals ruled 3 to 0 that the U.S. Environmental Protection Agency erred in blaming Mexico for unhealthy air quality in the Imperial Valley and ordered the agency to impose more stringent control measures on the U.S. side of the border.

The Imperial County Air Pollution Control District, the defendant, objected and asked the Supreme Court to review the case. The high court, without explanation, declined.

"This is great news for public health," said attorney David S. Baron, who argued the case before the 9th Circuit on behalf of the Sierra Club. "We hope that the state and the county will now move on with the job of adopting the stronger antipollution measures required by the law."

Imperial County, Baron said, has exceeded federal health standards for airborne particulates hundreds of times over the last 10 years, according to EPA estimates, with levels sometimes double the permissible amount.

The goal of the environmental groups is to get farms, mines, factories and developers to take steps that will lower the level of particulate pollutants — including diesel soot, tire fragments, oil droplets and dust — that cause haze and health hazards.

The suit was filed by Earthjustice, an environmental law firm representing the Sierra Club, after the EPA in 2001 allowed Imperial County to skirt stronger Clean Air Act requirements. The county asserted that its violations were caused by pollution from Mexico.

Last year, however, the 9th Circuit ruled that the facts did not support that contention.

"Based on the data and the reports in the record, there simply is no possibility that Mexican transport could have caused" the observed levels of airborne particles, Judge Diarmuid F. O'Scannlain wrote. The court concluded that the EPA relied on faulty data and misinterpretations of pollution and wind measurements.

In his opinion, O'Scannlain, one of the 9th Circuit's most conservative judges, took the unusual step of ordering the EPA to act immediately, rather than performing more research on the issue.

"We fail to see how further administrative proceedings would serve a useful purpose; the record here has been fully developed, and the conclusions that must follow from it are clear," he added. It is not known how much time Imperial County has to comply with national air quality standards, but Pat Gallagher of the Sierra Club said the county needs to act swiftly. "They already are long overdue."

Stephen Birdsall, Imperial County's air pollution control officer, said it already has been redoing an inventory of emissions sources to identify the primary polluters.

Among the candidates, he said, are agriculture, dirt roads that generate dust, and Mexico.

EPA spokeswoman Lisa Fasano said the agency would work with officials from Imperial County and the California Air Resources Board to come up with a plan. She acknowledged that even if pollution from Mexico is part of the problem, Imperial County has to take steps to curb its own sources of particulate pollutants. The goal, she said, is to bring clear air to the area.

Imperial County produces about \$1.2 billion worth of alfalfa, carrots, lettuce and sugar beets annually, and farm owners are worried about the impact of the ruling.

"Imperial County Farm Bureau stands firm in its belief that the majority of airborne pollution in our valley travels across the border from Mexicali," said Nicole M. Rothfleisch, the bureau's executive director. "Agriculture is an insignificant source ... when compared to naturally occurring [dust] and that which is coming from our million-plus neighbors across the border.

"Although I hope that we can come up with a reasonable plan for farmers to stay in compliance with these stringent air quality rules, my concern is that this new ruling will devastate the already struggling agriculture industry here in the Imperial Valley."

Janie Davis, president of the American Lung Assn. of San Diego and Imperial counties, said Monday's action "will be so important to the future health of the county." She said the pollution had contributed to significant asthma problems among children in the area and breathing difficulties for senior citizens. Good help is hard to find

Valley residents make the Valley's air dirty -- we have to clean it up.

[Fresno Bee editorial, June 22, 2004](#)

(Updated Monday, June 21, 2004, 6:19 AM)

The Valley needs different strategies for fighting air pollution than those employed in the nation's major metropolises. That's the message the local air district board heard last week from the director of a Libertarian think tank.

Adrian T. Moore of the Reason Public Policy Institute pointed out to the San Joaquin Valley Air Pollution Control District board Thursday that mechanisms designed to clean up the air in big cities may not work as well in the vast rural stretches of the Valley. He's right. He might have added that Eastern and coastal California cities have dramatically different climates and geography.

Southern California has about 15 million people, who produce much more pollution than the Valley's 3.3 million -- yet the Valley stands atop the list of bad-air regions by at least one measure, the eight-hour standard used by the federal government.

Moore suggested that the Valley air district lead a charge on Sacramento and Washington, D.C., to seek new tools for the fight against air pollution.

Moore also correctly identified the main culprit in our bad air: the cars, trucks and buses that produce fully 60% of the smog-causing chemicals we breathe. The trouble is, the local air district has no control over those sources of pollution. It's the state and the federal government that set fuel economy and emissions standards. And at least at the federal level, there's not much reason to think we'll get a lot of help.

The Bush administration and its Environmental Protection Agency haven't exactly fallen all over themselves to clean up the air.

Tighter fuel economy standards have been stalled. Whole sections of the landmark Clean Air Act have been gutted. The Bush administration has even found a way to give tax incentives to those who purchase gas-guzzling SUVs.

All of which suggests that we have an uphill fight to clean the Valley's air. We'll have to do most of it ourselves.

We don't disagree with Moore that we should seek help at higher levels of government -- though it's more than a little ironic, to hear a Libertarian suggest more government intervention. But we're less sanguine about the chances of success.

The vast majority of our pollution is created right here. By us. In our cars. We haven't really come to grips with that reality, and that's only the first hard step toward really cleaning up our air. This is going to take some time.

LASTGASP

"We can't go on living this way.

And we won't."

We should be seeking help in our battle with air pollution, but most of the effort has to come from right here at home.

Environment solutions jeopardize ag

[Visalia Times-Delta, Tuesday, June 22, 2004, Letter to the Editor](#)

A student in class reads through his Responsible Driving textbook Jan. 13 during driver's education class at Mt. Whitney High school driver's education is a requirement for graduation at Mt. Whitney, and it is required to get a license in the state.

I was recently traveling east on Highway 198 from Interstate 5 when I noticed behemoth-sized water trucks spraying water on dirt roads. These were not just short roads but roads that ran for miles around large tracks of cotton, corn and other products. Did you know these behemoth-sized

water trucks hold at least 1,000 gallons of water and make dozens of trips around these large tracks of land every day? This sight started me thinking.

The EPA is worried about dust. The environmentalists are worried about water. The environmentalists say we are wasting water. But water is the main way to keep dust down for the EPA to have their perfect blue sky utopia.. What are the farmers supposed to do? We have EPA folks and environmentalist folks having farmers pour tens of thousands of gallons on dirt roads so they can have their "blue" sky. Some farmers want to put oil on the roads. But no!. What about the pollution to the little shrimp, frogs, fish and birds?

You have the water-protection folks who want to protect water for the fish, or maybe sell water to Los Angeles for a nifty profit from the land they have purchased using Proposition 40 funds.

I think the anti-dust folks need to realize, dust is part of life living in the San Joaquin Valley.

So, there is just one option that will alleviate this dust problem the EPA and the clean air people say is catastrophic. Pave over everything. Build houses over all of the land. Shut down agriculture. Import products from other countries. This way there will be no dust for the very confused EPA folks in Sacramento to worry about. Catch 22 is another way to spell EPA.

John Keyes

Springville