

Judge says SoCal smog agency may enforce rules on public fleets

The Associated Press

in the Fresno Bee, S.F. Chronicle and other papers

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LOS ANGELES (AP) - A federal judge has ruled that a Southern California clean-air agency may impose its anti-smog rules on state and local public fleet vehicles.

Last year, the U.S. Supreme Court ruled that the South Coast Air Quality Management District could not enforce rules requiring private fleets to use engines that burn cleaner fuels. The high court sent the case to a lower court to determine whether the regulations could be applied to public fleets.

"The court has concluded that the fleet rules are constitutional as applied to state and local governments," U.S. District Court Judge Florence-Marie Cooper wrote in a 24-page decision dated May 6.

"This is a major victory for the AQMD," agency spokesman Sam Atwood said Monday. "This will allow us to move forward with the fleet rules to remove pollutants from diesel vehicles."

The AQMD believes that under Cooper's decision the rules apply to private fleets operating under government contract, even though the judge did not address that question, Atwood said. The standards were imposed in 2000 by the AQMD, which regulates air quality in all or major parts of Los Angeles, San Bernardino, Riverside and Orange counties.

Aimed at reducing diesel exhaust, a major source of toxic air pollution and oxides of nitrogen that lead to asthma-inducing smog, the rules required private and public operators to buy cleaner-burning models when they replace or add vehicles to their fleets.

Two industry groups, the Engine Manufacturers Association and the Western States Petroleum Association, sued the AQMD in U.S. District Court. But the clean-air agency won in that court and in the 9th U.S. Circuit Court of Appeals.

Last year, the case reached the U.S. Supreme Court, which sided with the plaintiffs, who claimed that local pollution rules were at odds with national standards under the federal Clean Air Act.

The Justice Department supported the oil companies and diesel engine manufacturers and filed a friend-of-the-court brief arguing that municipalities can't establish their own anti-pollution rules for new vehicles without first getting permission from federal environmental officials.

A spokesman for the Engine Manufacturers Association, Joe Suchecki, said the group disagreed with the latest court ruling and was considering an appeal.

Judge curtails public diesel fleets

By Kerry Cavanaugh, Staff Writer

Los Angeles Daily News

Tuesday, May 10, 2005

Companies that pick up city trash, transport public schoolchildren and shuttle airport passengers would have to buy alternative-fuel vehicles rather than diesel models under a federal court ruling announced Monday.

South Coast Air Quality Management District officials declared victory, saying the decision will help reduce the amount of cancer-causing diesel pollution from industrial fleets.

"We can now continue to implement major portions of our fleet rules, which are essential to our strategy for reducing both smog-forming and toxic emissions in the Southland," said William A. Burke, chairman of the AQMD board.

But the Engine Manufacturers Association, which mounted the court challenge, said it might appeal.

The industry group had challenged regulations adopted by the AQMD in 2000 and 2001 to lessen diesel exhaust, which is responsible for 70 percent of the cancer risk from air pollution in Southern California. The rules required that fleet operators choose alternative-fuel models when they buy new heavy trucks, buses, airport shuttles, street sweepers and garbage trucks. Engine manufacturers and petroleum companies argued that the rules would essentially ban diesel engines and the industry would have to develop new models for the Los Angeles area.

"The rules should be fuel-neutral," said Anita Mangels, spokeswoman for the Western States Petroleum Association. "Any technology that can meet official California standards should be allowed to compete in the marketplace."

The U.S. Supreme Court agreed and struck down fleet rules that affected private companies. However, it also remanded the case to U.S. District Court Judge Florence-Marie Cooper to consider whether the AQMD could make public agencies and their contractors buy alternative-fuel vehicles.

AQMD and Natural Resources Defense Council attorneys said Cooper's decision upholds the majority of the fleet rules.

In addition, officials said, the ruling could allow the AQMD to target private fleets that contract with public agencies -- including the ships, trains and equipment at the ports of Los Angeles and Long Beach, which together are the single largest source of pollution in the region.

Smog Panel's Powers Upheld

U.S. judge backs local agency's authority in requiring fleets of alternative-fuel vehicles.

By Miguel Bustillo, Times Staff Writer

May 10, 2005, LA Times

Southern California's smog-fighting agency has the power to force cities and private contractors to purchase fleets of low-polluting vehicles, a federal judge has ruled.

The decision, hailed Monday by environmental groups and the South Coast Air Quality Management District, at least temporarily reinstates a series of controversial fleet rules for trash trucks, transit buses and other vehicles that had seemingly been invalidated last year by the U.S. Supreme Court.

In a little noticed part of its ruling, the Supreme Court left the possibility that the fleet rules were not preempted by federal law if they could be shown to be part of a state's right to purchase equipment as it sees fit. The Supreme Court sent the case back to U.S. District Court in Los Angeles to decide that and other questions.

Judge Florence-Marie Cooper concluded in a ruling released Friday that the fleet rules fell under the state's purchasing authority and thus were legal because the AQMD is acting as an arm of the state in regulating Southern California's air pollution.

"This decision is a major victory - not for pollution regulators but for air quality and public health," California Atty. Gen. Bill Lockyer, whose office helped defend the rules in court, said in a statement. "The district did not approve the rules in a bureaucratic vacuum, but in response to studies that showed that 70% of the cancer risk in [Southern California] air pollution comes from diesel exhaust."

The Engine Manufacturers Assn., the Chicago-based trade group that challenged the rules, will probably appeal the decision, said spokesman Joe Suchecki. It opposes the rules because they effectively ban public agencies and many contractors that provide services for them from purchasing diesel engines in Southern California.

"The AQMD adopted regulations and has spent years trying to enforce them," said Jed Mandel, the president of the engine manufacturer's group, which consists of 27 companies, including General Motors, Ford, Caterpillar and Briggs & Stratton. "Now they are no longer regulations, they are state purchasing requirements? Obviously we think the judge's conclusions are in error."

The seven fleet rules adopted by the South Coast air district in 2000 and 2001 applied to public agencies as well as private contractors who provided services such as trash removal.

As a result of the rules, public and private agencies in the greater Los Angeles area have bought more than 5,500 trash trucks, transit buses and other large vehicles that run on cleaner alternative fuels, AQMD officials estimate. They projected that the rule was currently reducing about three tons per day of smog-forming nitrogen oxides, or roughly 1,100 tons per year. More than 60% of the region's transit buses are running on cleaner alternative fuels, mainly natural gas.

However, the biggest result of the ruling may be that it upholds the authority of the local regulators to expand their reach as they attempt to reduce air pollution in the Los Angeles region, which still has some of the worst air quality in the country.

The Bush administration had entered the Supreme Court case on behalf of industry, angering some air quality officials, who argued that federal officials should either tighten pollution rules or allow state and local officials to pursue their own solutions.

South Coast officials and environmentalists said Monday that last week's ruling may once again clear the way for the Port of Los Angeles to impose anti-pollution requirements on the businesses that have leases with the port, for example. That is one of the options being studied by a task force appointed by Los Angeles Mayor James K. Hahn that is seeking to reduce pollution at the port to 2001 levels.

"We are closely looking at this case in light of the issues at the Port of Los Angeles," said AQMD's lead counsel Kurt Wiese, adding: "There are things we will do in the future that are based on the authority the court clarified we had."

Funding may help rid Kern of arsenic

By STEVE E. SWENSON, Californian staff writer
Bakersfield Californian, Tuesday, May 10, 2005

Arsenic isn't just for killing lonely old men any more.

The poison made famous for that reason in the 1944 movie "Arsenic and Old Lace" -- starring Cary Grant -- is also a wood preservative for grape stakes.

It keeps them from rotting.

But in the last several years, arsenic-treated grape stakes have been piling up on San Joaquin Valley vineyards as growers pulled out crops because of low prices.

The problem is growers are restricted from burning them or cutting them up to use as ground cover.

So the government, through the Natural Resources Conservation Service, is offering \$450,000 to help growers pay the costs of hauling the grape stakes to two approved landfills.

Growers may apply to the Natural Resources Conservation Service for the money between Saturday and June 17.

The money will pay for up to half of the cost of hauling the grape stakes to landfills in Tranquillity west of Fresno and Manteca, according to Brian Ziegler of the NRCS, an agency of the U.S. Department of Agriculture.

Kern is one of eight counties eligible for the money, according to John Beyer, California air quality coordinator for the NRCS.

More information is available by calling the service in Bakersfield at 336-0967, ext. 3.

The application ranking is competitive and based on environmental benefit and cost-effectiveness, the service said.

The program is further evidence that arsenic is not good for the environment or people.

In the movie, Abby and Martha -- aunts of the Mortimer Brewster character played by Cary Grant -- put a teaspoon of arsenic in a gallon of elderberry wine to make lonely old men "happy and peaceful."

That was not approved by the government either.

Residents demand asbestos answers

Officials criticized at El Dorado Hills meeting

By Chris Bowman and Carrie Peyton Dahlberg

Sacramento Bee, Saturday, May 7, 2005

In an overflow crowd of 1,000 at El Dorado Hills' community gymnasium Friday night, foothills residents hammered federal officials for raising too many questions and providing too few answers on the health risks posed by asbestos found in their soil.

Environmental and public health officials faced a mostly hostile audience, as several from the crowd accused the federal officials of stigmatizing the community, providing too little data and raising too much media attention.

For many in El Dorado Hills, population 31,000, the reports of toxic contamination in their midst have seemed unreal or overblown. They say they believe officials with the U.S. Environmental Protection Agency have exaggerated the health threat from development that has carved into veins of naturally occurring asbestos and released the minerals' cancer-causing fibers into the air.

"It seems a bit overblown ... to come out with such vigor and inconclusive evidence," said Thom Olson, an El Dorado Hills resident.

Some criticized the agencies for not going far enough in their investigations.

"Why stop now?" asked Kara Merino, a local mother of two children who attended Oak Ridge High School, which recently underwent extensive landscaping to try to contain high levels of asbestos on playgrounds and walkways.

"Aren't you the least bit curious to know what my lungs look like in 20 years?" asked Merino, who said she believes she is not likely in danger.

The plea for better information follows the release of two federal asbestos studies finding that students and staff at Oak Ridge High likely breathed the mineral's hazardous fibers for years and that people playing across the street in the community's busiest park continue to be exposed.

The crowd filled the community center's gym and spilled into an adjoining room equipped with speakers, bringing the estimated attendance to nearly 1,000, according to Wayne Lowery, general manager of the El Dorado Hills Community Services District.

About 15 protesters greeted residents as they filled the gym Friday night for the three-hour meeting. They held signs calling the federal studies alarmist.

Bernard Carlson, a former aerospace engineer turned home remodeler from the town of El Dorado, said, "The EPA is causing a lot more damage than the asbestos here."

The federal Agency for Toxic Substances and Disease Registry released a study Friday that said the high school is no longer exposed to "dangerous levels of asbestos" as a result of more than \$2 million in landscaping and paving on campus.

"The current exposures have been minimized," said Jill Dyken, an environment scientist with ATSDR. "Determining past exposures is a more difficult task."

But the agency knows enough from air and soil tests on campus in recent years to conclude that some who attended or worked at the school before last summer's asbestos-containment work face an increased risk of developing asbestos-related disease later in life.

Student athletes, coaches and grounds maintenance staff likely experienced the greatest exposures, according to the findings, which The Bee reported last month. The agency based its

conclusions largely on EPA tests that found high asbestos levels in the soil and air at baseball diamonds, the running track and other areas of campus.

Dyken said the agency is considering tracking residents who were likely exposed to asbestos and plans to assess health risks from asbestos beyond the schools and public playgrounds to the community.

The main public health concern related to such exposures is mesothelioma, an inoperable and almost always fatal cancer of the membranes lining the chest and other body cavities.

State health data show the mesothelioma rates in western El Dorado county to be within the expected range, the ATSDR's Dyken said.

At Friday's meeting, several residents said they didn't appreciate the national media attention that came with the scene of EPA technicians suited in protective clothing and respirators riding bikes and bouncing balls.

"All this national media attention has made us seem like the Love Canal of asbestos," said Joanne Davis, a 28-year El Dorado Hills resident.

County officials said the federal findings have fueled efforts already in the works to broaden and tighten the county's asbestos dust controls, in effect since 2000.

Marcella McTaggart, the county's air pollution enforcement chief, said that within the next two months county supervisors are expect to vote on measures that would extend the rules that have applied mainly to housing subdivisions to smaller construction jobs, such as the installation of backyard swimming pools.

Further, property owners can no longer get waivers from the rules without certification by registered geologists that the site soil is free of asbestos.

Vicki Barber, county school superintendent, said she and other officials are seeking a risk comparison to environmental risks in other regions, such as pollution in industrialized cities, tornadoes in the Midwest and earthquakes.

"We need to take precautions ... but we also need to keep some perspective," Barber said, drawing loud applause.

GE to Double Spending on 'Cleaner' Technologies

Its environmental initiative also includes plans to reduce greenhouse gas emissions at its facilities.

From Bloomberg News
May 10, 2005, LA Times

General Electric Co. announced plans Monday to more than double spending on research and development to \$1.5 billion a year by 2010 for "cleaner" products.

About 35% of its research budget will be spent on more environmentally friendly businesses, up from 25%, Chief Executive Jeffrey Immelt said. GE plans to introduce 30 to 40 products, including more efficient lighting and appliances in the next two years.

GE expects to double sales from businesses that make wind turbines, treat water and reduce greenhouse-emitting gases to at least \$20 billion by 2010. The push is part of a companywide program called "ecomagination" that also includes goals for the reduction of greenhouse gases by GE facilities and increased energy conservation.

"We don't have hobbies inside GE, don't do things for the goodness of doing them," Immelt said. "Green means green. And we think the breadth of our technology lends itself to this."

The program contrasts with some stances on the environment that GE has taken in the past. The company initially opposed federal plans to dredge New York's Hudson River to remove PCBs, or polychlorinated biphenyls, that its plants deposited in the river. The company agreed in 2002 to fund a \$460-million cleanup of the river.

Shares of Fairfield, Conn.-based GE rose 38 cents Monday to \$36.23 on the New York Stock Exchange.

GE Energy, the company's biggest manufacturing unit, is working on more efficient and cost-effective versions of power generation including nuclear, coal and natural gas.

The company is joining with utilities such as Cinergy Corp. to develop technology for a new kind of generator that converts coal into cleaner-burning gas, used to spin turbines that make electricity.

Technologies such as solar power and wind turbines will also play more important roles, the company said.

In addition to working with customers, the company wants to reduce its own emission of greenhouse gases by 1% by 2012 and the intensity of those gases by 30% by 2008. Energy efficiency should improve 30% in seven years.

"GE's specific goal isn't as ambitious as the emissions-reduction requirements of the Kyoto treaty," said Dan Lashof, a senior scientist at the Natural Resources Defense Council in New York. "But it's not really a fair comparison because we are talking about a single company versus a national commitment."

The company has 231 manufacturing plants in 40 states and 239 plants in 36 foreign countries, according to its annual report.

As part of the initiative, GE is developing a hybrid locomotive - it could lower fuel costs by 10% - that could be introduced by 2008, said Charlene Begley, president of GE's rail unit.