

Farmer permits questioned Growers would have to reapply for pumps.

By Mark Grossi
The Fresno Bee

(Published Wednesday, September 17, 2003, 5:42 AM)

Activists Tuesday announced a federal lawsuit settlement that would force farmers who use diesel irrigation pumps to again apply for controversial air pollution operating permits.

When farmers applied for the permits in May, federal officials accounted for the pollution from actual use of the engines, instead of adding in all possible pollution if the engines ran continuously. The Clean Air Act requires an accounting of all the possible pollution, activist lawyers said.

Now the U.S. Environmental Protection Agency has agreed to require farmers to reapply for permits by Nov. 13 if the program cannot be shifted to the state by then. Officials said they would take a harder look at potential emissions.

"We're very pleased," said Earthjustice lawyer Anne Harper, representing the Sierra Club, Medical Advocates for Healthy Air and Our Children's Earth Foundation. "This would have set a very bad precedent nationally. Other industries would have wanted the same treatment."

But federal officials believe the November date may not be triggered at all. Jack Broadbent, EPA regional air division director, said that if the governor signs Senate Bill 700, from state Sen. Dean Florez, D-Shafter, by mid-October, the state would take over the permitting program.

SB 700, which has cleared both state legislative houses, would lift a decades-old farm exemption for air-permit programs, allowing the state to run the program for the federal government.

"The farmers would be dealing with the local air districts at that point," Broadbent said. "We would shoot at Jan. 1 to transfer the permit program, and that would mean the application deadline would be Dec. 31 of next year."

Even if the governor doesn't sign SB 700, federal officials said they would still acknowledge that farm engines do not operate continuously all year. They said it is possible the estimates of the potential emissions would be the same as they were in May, when farmers first applied for the program.

The permit program is primarily aimed at large pollution sources such as glass factories and power plants. The permits allow regulators to track the amount of pollution from the largest sources and charge fees for the emissions.

The EPA this year required the farm permits statewide after settling another environmental lawsuit.

One farm official expressed disappointment over Tuesday's settlement. Debbie Jacobsen, president of the Fresno County Farm Bureau, said growers stepped up in May to file applications for the permit, but now might have to account for emissions they don't produce.

"It's disconcerting," she said. "Some of these pumps aren't used for months at a time. Irrigation pumps aren't used 24 hours a day, seven days a week. That's not the way it's done here."

Cynthia Cory of the California Farm Bureau Federation, representing 95,000 members in 53 counties, said she didn't understand the settlement.

"How does the federal government expect the air to get any cleaner by having farmers apply to this program again?" she asked.

[Editorial, Visalia Times-Delta, Sept. 17, 2003:](#)

Compromise proves worth with air bills

Compromise was the winner in the process of passing a series of bills in the Legislature to address the San Joaquin Valley's air quality.

Unfortunately, the conflict shaped up as a battle between agriculture and urban and environmental interests, with state Sen. Dean Florez, D-Shafter, pushing the bills through the Legislature.

In the end, agriculture got some concessions, making the idea of losing its exemption to provisions of the Clean Air Act a little more palatable.

If Florez had been a little more statesmanlike in his approach, the battle over that provision would not have become so bitter.

The bottom line, though, is that the air quality bills, the so-called SB700 series, were a necessary step, not just to bring the Valley in compliance with federal clean air requirements, but to begin the process of healing what has become the dirtiest air in the nation.

The 700 series bills:

i End the exemption to the Clean Air Act the agriculture industry has had for 53 years. Amendments to the bill made SB700 more palatable to both agriculture and urban interests.

i Would require farms to get permits, but the compromise extended the deadline.

i Would phase open-field burning of ag waste, but the compromise gives agriculture several years to do so.

i Would encourage other technological innovations and would also fund programs that would assist farms to make the conversion.

i Increase fines for operating polluting vehicles and strengthens the authority of the San Joaquin Valley Air Pollution Control Board for imposing air quality rules.

Agriculture was right to participate in working out the compromises as well as accepting the new rules, especially the end of the exemption to the Clean Air Act. The agriculture industry is now on better footing to insist that other industries and activities also accept restrictions that would contribute to cleaner air.

Now the agriculture industry must continue to take an active role in agencies such as the air pollution control board that not only protect their economic and political position, but make sure they are not the only industries bearing the burden for cleaner air. Agriculture does bear some responsibility for cleaning the air, but it is still not the major polluter of the in the Valley. Vehicle use of all kinds is.

Florez managed to get the 700 series of bills through the Legislature and to the governor's desk but certainly not through his skill as a negotiator. Eleventh-hour amendments eventually won the votes in the Assembly and the Senate. Meanwhile,

Florez was continuing to castigate ag interests for their opposition. Even after the bills had passed the Senate, Florez was baiting agriculture with the comment, "If agriculture feels singled out, it is because they are the only ones that he the exemption from clean air [rules]."

That is not the approach of a statesman who will need the cooperation of agriculture and related interests to follow up on the air quality bills.

The 700 series of air quality bills break the ice on removing some obstacles that are standing in the way of improving air quality, but they are far from the final solution. Continued negotiation, new technology and changes in how people conduct both their business and their pleasure must take place.

Florez and others will need agriculture for that future effort. His next step ought to be to repair the fences that have been taking a beating the past few weeks.

[Letter to the Editor, Visalia Times-Delta, Sept. 17, 2003:](#)

Quality of life: Bad air and crime

I have something to say to Richard Nunez who wrote a letter expressing his concern that Visalia was turning into a concrete jungle ["Your Views," Sept. 5].

While I understand his trepidation at the growth spurt Visalia is undergoing, I totally disagree that Visalia is turning into a miniature Los Angeles. He mistakenly states that continued growth will contribute to Visalia's becoming similar to cities such as Los Angeles in air quality and in crime.

First of all, the air quality in Visalia is among the top three worst in the state, right alongside Los Angeles.

Second of all, based on the 2002 Federal Bureau of Investigation crime reports, Visalia rates worse than most Southern California cities do, even cities such as Inglewood and Pasadena, which have comparable population sizes. And in seven of the nine categories on the crime report, Visalia rated worse than the national averages for criminal activity. Perhaps it has to do with the high unemployment rate in this county. At 14.9 percent, it is double Los Angeles County's 7.5 percent unemployment rate.

Maybe having more businesses here such as auto malls and retail centers will make our community more safe and productive.

KATIE ROSE, Visalia

The SUV Is Offered an Environmental Makeover

By John O'Dell, Times Staff Writer

Los Angeles Times, Sept. 17, 2003

An environmental group long critical of sport utility vehicles unveiled Tuesday its own design for such a vehicle, saying it could save millions of barrels of oil and thousands of lives at little extra cost to consumers.

The Union of Concerned Scientists said its design for an SUV called Guardian, which is based on a Ford Explorer, incorporated fuel efficiency and safety technologies that already are used in some vehicles.

A lighter, lower, less-thirsty sport utility vehicle with rollover-sensing air bags, high-strength steel roof supports, electronic stability control and a high-output V-6 engine

would cost \$735 to \$2,960 more than the price of a Ford Explorer, said Jason Mark, Berkeley-based director of the group's Clean Vehicles program.

"At today's gasoline prices, the difference would be recovered in just two years," Mark said.

[California, where air-quality regulators have drafted the nation's toughest automotive pollution controls, is seen as a key market in the group's campaign to get consumers clamoring for a safer, more fuel-efficient SUV.](#)

The U.S. version of the Guardian, with acceleration, towing and hill climbing power equal to or slightly better than a V-8 powered Explorer, would get 27.8 miles per gallon, a 31% increase over Ford's best-selling SUV, Mark said.

A bigger potential benefit than fuel efficiency, Mark said, is that the Guardian's safety features could reduce traffic-accident deaths attributed to SUV design by as many as 2,900 a year in the U.S.

"It's just a question of bringing it all together, and that's what the auto industry hasn't done," Mark said.

Ford Motor Co., whose Explorer was used as the basis of comparison for Guardian's performance data, declined to comment Tuesday. A spokesman for the Washington-based Alliance of Automobile Manufacturers said that safer and more fuel-efficient vehicles already are available but aren't always selected by carbuyers.

The Union of Concerned Scientists has issued SUV reports in the past saying that fuel efficiency could be boosted substantially with available technologies. Mark said frustration over the auto industry's insistence that increased fuel efficiency would come at the price of reduced safety pushed the group to design a vehicle.

The group's engineers said that many of the safety devices they advocate were already in use in Ford's Volvo XC90 sport utility and that some of the highlighted engine and transmission technologies were used in Honda and Toyota SUVs.

Lawsuit over farm emissions settled

By MATT WEISER, Californian staff writer

The Bakersfield Californian

Tuesday September 16, 2003, 09:40:18 PM

California farmers will face more paperwork to report pollution from their diesel irrigation pumps in the fallout from a legal settlement between federal officials and health advocates.

The settlement announced Tuesday is the result of a lawsuit filed against the U.S. Environmental Protection Agency in May by four health and environmental groups. They challenged an EPA program requiring farmers to obtain permits under the federal Clean Air Act if their diesel-powered pumps emit more than 25 tons per year of pollution, the threshold that defines a "major source" under the law.

But the groups said the materials developed by the EPA to help farmers determine their pump emissions were misleading and illegal, and may have caused farmers to underestimate. As a result, they say, only 18 farms applied for permits.

"Basically, we think EPA was giving them the invitation to estimate low in order to avoid permitting," said Anne Harper, an Earthjustice attorney representing three of the groups. "Our fear with this guidance was that they weren't regulating enough sources in the Central Valley to make a dent in air pollution."

No one knows how many diesel irrigation pumps exist on farms, but they could easily number in the thousands in the San Joaquin Valley alone. Harper estimated as many as 100 farms could be considered "major" polluters, based on their pump emissions, if the proper guidelines were followed.

The four groups that sued the EPA are the Sierra Club, Association of Irrigated Residents, Our Children's Earth Foundation and Medical Advocates for Healthy Air. They claim the Clean Air Act requires farmers to account for their pumps' full "potential to emit," as it does for all other polluters. This would mean all the pollution from an irrigation pump if it operated all year long for 24 hours a day, Harper said.

But farmers don't run their pumps this much, and the EPA guidance allowed farmers to report their pump emissions based on estimated operating hours. This may have understated actual emissions in some cases, Harper said.

EPA officials acknowledged this shortcoming.

"The settlement came about because the bottom line was, we agreed we did not use clear language with our farmers," said EPA spokeswoman Laura Gentile. "We agreed we need to make that more clear."

The settlement requires the EPA to develop new permit guidelines within 30 days. Farmers will have to fill out this new paperwork to determine their emissions, then apply for a permit by Nov. 13 if they meet the 25-ton threshold.

Loron Hodge, executive director of the Kern County Farm Bureau, said this will be an unwelcome chore for farmers as they work through the busy harvest season.

"If they have to have these in by November, that means there's going to be an added burden," he said. "It's unfortunate that we have to go through this all over again."

But it's possible farmers will get another year to file, and they may end up filing with local air districts instead.

EPA officials launched the permitting program -- despite the state smog exemption for agriculture -- in response to an earlier lawsuit. The state Legislature recently voted to end the farm exemption, and if the governor signs that new law, the California Air Resources Board and local air districts will take over the program. Under the law, they would have an additional year to develop their program and accept permits.

EPA settles with environmental groups over farm emissions

By Kim Baca, Associated Press Writer

In The Bakersfield Californian

Tuesday September 16, 2003, 05:55:10 PM

FRESNO, Calif. (AP) - The U.S. Environmental Protection Agency agreed Tuesday to revise its air quality permitting process for California's farmers in a settlement with environmental groups.

Under the agreement, the EPA will issue new rules to require farmers who use diesel irrigation pumps to calculate a pump's maximum potential to emit pollution instead of its actual emissions.

Farmers affected by the new rules will have to reapply for air pollution permits by Nov. 13. In a lawsuit filed in the 9th U.S. Circuit Court of Appeals in May, the groups accused

the EPA of violating the Clean Air Act when it required farmers to estimate their own pollution emissions instead of calculating the pump's potential to emit as required under the act.

"Asking farmers to guess how many hours they intend to run irrigation pump engines over the next year opened up an enormous opportunity for them to avoid regulation and be rewarded for guessing wrong," said Brent Newell, an attorney for the Center on Race, Poverty and the Environment.

"What EPA did was administratively exempt a large number of sources from the permit application process," said Newell, representing the Association of Irrigated Residents.

Kerry Drake, EPA's air division associate director, said the agreement clarifies the permitting process.

"What the environmental groups wanted was to take back some potentially misleading guidance," he said. "What's really going to happen for farmers is that they will be dealing with local air districts in submitting applications."

The EPA is hoping Gov. Gray Davis will sign a bill repealing the agriculture industry's historic exemption from air permits. The EPA then would like local air pollution control districts to take over the permitting process for farmers.

Davis' office has not indicated whether he will sign Senate Bill 700.

The permitting process is part of EPA's settlement with environmental groups in May 2002 to begin holding farms accountable for pollution from diesel irrigation pumps and animal waste. Farms have had a break from Clean Air Act regulations for more than 25 years.

In the San Joaquin Valley, state officials estimate farms produce as much as 20 percent of smog-producing gases. The farm-rich valley is one of the most polluted air basins in America.

Farmers who have stationary diesel fuel engines, such as those that run irrigation pumps, and are considered to be heavy polluters had until May 14 to apply for an air quality permit. Cranes, bulldozers, harvesters, tractors or mobile generators were not included.

Under the old process, permits were issued after a farmer calculated how much nitrogen oxide pollutant was emitted from the diesel engine. The calculations were based on the year of the engine, horsepower and hours of operation in a year.

Since the May deadline, the EPA received about 20 applications. The EPA estimated only a few hundred of the state's 30,000 farmers would have been required to apply for a permit under the old regulations.

[Editorial, The Bakersfield Californian, Sept. 17, 2003](#)

Sign bills for valley's sake

(Posted Tuesday September 16, 2003, 05:45:14 PM)

Psssst! Let's focus now. Let's not get so consumed by the increasingly chaotic recall election that the governor forgets to govern.

In the frantic closing days of the legislative session, a flurry of bills some frivolous, some earth-shaking passed to the governor for his signature. Almost every bill contains political liabilities for Gov. Davis as he fights off an effort to oust him from office.

Among those bills certainly among the bills requiring political courage are the hard-fought air cleanup measures authored by state Sen. Dean Florez, D-Shafter.

Beyond wanting to avoid angering the powerful agriculture industry, Davis has good reason to be tempted to veto the bills.

Florez has been a royal pain in Davis' derriere. Remember the headline-grabbing Oracle computer-contracting scandal hearings, during which Florez rubbed the governor's and his appointees' noses in the mud?

Boy the temptation for payback must be a good taste in Davis' mouth. Why should he do Florez a favor signing a series of bills that Florez embraced as a personal cause?

Why? Because people who live and work in the Central Valley where the nation's second-most polluted air drifts over some cities deserve Davis' support.

The governor shouldn't do it for Florez. He should do it for people who deserve to breathe clean well, at least cleaner air.

Agriculture should not shoulder the entire blame for the valley's polluted air. But it is estimated that it contributes about 25 percent to the problem. Dust from tilling fields, methane rising from dairies and fumes spewing from diesel pumps are just some examples of how agriculture contributes to the valley's pollution.

Agriculture is the only industry in California exempted from the state's air pollution control laws. It is a privilege agriculture has enjoyed for more than 60 years.

The federal Environmental Protection Agency has ordered California to end the exemption or face penalties. Florez's SB 700 proposes to end the exemption.

Other Florez bills awaiting the governor's signature would phase out open-field burning of agriculture waste, give more authority to the San Joaquin Valley Air Pollution Control District, target grossly polluting vehicles, establish buffers to separate dairies from schools and residences, and provide incentives and assistance to farmers to use pollution-reducing equipment and techniques.

These bills were aggressively opposed by the agriculture industry. They became embroiled in partisan politics and back-door dealings.

After nearly being killed, they rose from the dead with negotiated amendments just as the Legislature was about to turn out its lights for the session.

It's now up to the governor to pick sides. We hope he will side with the people who live and breathe in the valley; with the children who struggle every day for a lungful of air because they are among the many who have asthma.

[Community Voices: John Fallgatter](#)

Smart Growth is the way to grow

The Bakersfield Californian

Tuesday September 16, 2003, 05:45:14 PM

Many of the anti-smart growth arguments advanced by Joel Schwartz and Wendel Cox of the Reason Foundation, in an article that appeared in the Aug. 10 Opinion section of *The Californian* ignore local community viewpoints.

Bakersfield Vision 2020, a collaborative community effort, envisions Bakersfield as "...a community with a clear set of development and land use policies that encourages in-fill

development, while discouraging urban sprawl and leapfrog development into prime agricultural lands ..."

Urban sprawl, poor air quality and declining level of service of major roadways are among the top concerns expressed by Metropolitan Bakersfield residents.

The recent Metropolitan Bakersfield General Plan Update Environmental Impact Report, adopted by both the Bakersfield City Council and the Kern County Board of Supervisors, acknowledges that the consequences of the manner in which we are growing will result in adverse transportation and air quality impacts as well as leading to premature loss of agricultural land.

In a recent study commissioned by the Kern Smart Growth Coalition, most elected and appointed officials interviewed expressed concern that the manner in which land use planning is currently being implemented in Kern County is not promoting the best possible outcomes.

Schwartz and Cox's statement that developers are paying the full cost of sprawling development is not supported by the facts locally. The Kern Smart Growth Coalition commissioned a study in 2001 entitled "Cost of Residential Development: A Case Study of Bakersfield, California."

This study concluded that the cost of serving actual developments that are farther from the central service areas of the city is generally higher than the tax revenues generated by the developments. In effect, the community is subsidizing these developments because impact fees do not fully offset the added cost of maintaining historic levels of local community services.

The Kern Smart Growth Coalition is comprised of pragmatic local business people who are concerned about quality of life issues in Kern County. Our first guiding principle is that "individual property rights are foundational to our policy ..."

We believe that development should pay its proportionate share of infrastructure and ongoing public services. New development to accommodate growth should be encouraged to fully utilize in-fill, redevelopment, exciting innovative projects and expansion in a concentric manner that promotes efficient use infrastructure should be encouraged.

Leapfrog development beyond the existing sewer infrastructure that utilizes septic tank systems can result in the leaking of contaminants into underlying ground water over time from poorly maintained septic systems. We have many such poorly maintained septic tank systems. Our go forward plan ought to eliminate such possibilities.

It is essential to have local control with accountability for approving development plans that implement the community's vision through land use planning methods. This must include consistent and measurable criteria for conversion of agricultural lands. Furthermore, growth without adequate funding for transportation needs sufficient to do the job clearly occurred in metropolitan Bakersfield. We cannot expect a better transportation future unless new development pays its fair share.

John Fallgatter is the president of the Smart Growth Coalition of Kern County.

Community Voices is an expanded commentary that may contain up to 500 words. The Californian reserves the right to reprint commentaries in all formats, including on its Web page.