

## Valley could be paying bad air fines for years

By Steven Mayer, Californian staff writer  
Bakersfield Californian, Friday, Oct. 29, 2010

If you liked the valley air board's decision last week to pay a \$29 million smog penalty by increasing your DMV fees, you're going to love this.

The valley will likely receive another multi-million-dollar fine from the feds next year. And the year after. And the year after that.

That's because the San Joaquin Valley has never carried the ball across the ozone-standard goal line, the elusive goal it must reach to avoid future federal penalties. However, this year we came closer than ever, said officials with the San Joaquin Valley Air Pollution Control District.

Based on the valley's track record, it appears the penalty will become an annual issue for motorists. Air district officials believe it is nearly impossible for the valley to meet the federal standards -- due to our bowl-like geography and stagnant summer air -- without cutting emissions from trucks, cars and other mobile polluters.

And the air district has no regulatory authority over mobile polluters.

"The valley cannot reach attainment with regulations alone," acknowledged Samir Sheikh, the air district's director of strategies and incentives.

But district officials hope that through incentives, education -- and yes, new behaviors motivated by the added financial pressure -- motorists will reduce their driving, especially on sweltering summer days when the valley is at risk of violating the ozone standards.

No easy feat in a region where the number of total miles driven has grown twice as fast as the population.

What does it all mean? It means the eight-county air district, which extends from Bakersfield to Stockton, is subject to the annual federal fine, not because of what we do so much as where we live.

"It's an unfunded mandate, that in our view, does not make sense," said Seyed Sadredin, executive director of the Air District.

Unless we change the way we use our cars and trucks -- or by some miracle, Congress amends the Clean Air Act -- valley motorists could pay the penalty for years.

But is that a realistic possibility?

Taft City Councilman Randy Miller, an air district board member, voted with his fellow members for the \$12 annual surcharge on DMV registration.

But he wasn't happy about it. And he wasn't pleased that "pass-through" traffic on Highway 99 and Interstate 5 is not subject to any surcharge.

"We need to do something about Section 185," he said of the ozone standards in the federal Clean Air Act.

"We intend to heavily lobby Congress to make legislative changes for the valley," Sadredin said. "The air district board ordered that these fees sunset when and if we are successful in repealing this federal mandate."

But Sadredin said it won't be easy. Lawmakers are reluctant to open the Clean Air Act to legislative changes because special interests such as big coal would likely lobby heavily for its own advantageous changes.

Rep. Jim Costa, D-Fresno, said he and Rep. Kevin McCarthy, R-Bakersfield, have worked together in the past, and that the air quality fees are "on his radar screen."

In a statement, McCarthy said he has contacted the EPA and is examining the federal penalty.

Cleaning up the valley's air is important, he said. But many of the issues are beyond our control, such as pollution that blows in from the Bay Area, the unique topography of the valley that prevents air circulation

and traps pollution and the huge volume of pass-through traffic that travel the valley's north-south freeways.

"When Congress gets back into session, I will work with our congressional members of the San Joaquin Valley to reassess the fairness of this penalty imposed on us by the Clean Air Act, and find out whether this penalty will make our air significantly cleaner so we meet compliance or whether this is in fact an outdated fine that will be assessed on us annually regardless of any and all reasonable changes we make to clean the air due to the unique nature of the Central Valley."

#### **Q & A with Seyed Sadredin, executive director of the air district**

#### **Aren't valley businesses ("stationary sources") the major source of air pollution that causes ozone?**

No. In measuring oxides of nitrogen (NOx, a major cause of smog-forming ozone) emissions, 81.4 percent come from mobile sources, 15.2 percent from stationary sources and 3.4 percent from area (miscellaneous) sources.

#### **How do the mobile source emissions break down between various types of vehicles and engines?**

Of the 81.4 percent of the emissions from mobile sources, 56.8 percent come from on-road vehicles (passenger vehicles, trucks, buses) and 24.6 percent comes from off-road mobile sources.

#### **How do emissions from on-road vehicles break down between passenger vehicles and trucks and buses?**

Sixteen percent of the on-road vehicle emissions come from passenger vehicles and 84 percent from trucks and buses.

#### **Where have most of the reductions in emissions come from?**

Most of the reductions have come from stationary sources. Since 1980 there has been a 75 percent reduction in NOx emissions from stationary sources. During the same period, there has been a 14 percent increase in on-road motor vehicle emissions.

#### **How does the pollution responsibility break down between the businesses that would have had to pay the penalty versus mobile sources that are now going to be changed a DMV fee?**

The large businesses that would have been subject to these penalties are responsible for just 5 percent of the NOx emissions in the valley.

#### **How can the emissions from cars and trucks be going up if the new vehicles are getting cleaner all the time?**

The population and the vehicle miles traveled have increased significantly. Since 1980, the valley's population has grown by 100 percent and the vehicle miles traveled have increased by 200 percent.

#### **Which has a greater economic impact on the valley, a \$12-per-year surcharge on motor vehicles or \$29 million per year on valley businesses?**

First of all, I wish we had the option of doing neither. Unfortunately, that is not advisable under federal law. In my opinion, hitting valley businesses with a \$29 million per year penalty would have a more detrimental impact on valley residents, especially given the valley's current dire economic circumstances and high unemployment rates.

#### **Why not just ignore this federal mandate?**

While tempting, the consequences would be devastating to the valley. Under federal law, the federal EPA would collect penalties plus interest from valley businesses. All penalties collected would go to the federal treasury, not returned to the valley. We would face a de-facto ban on new and expanding businesses. We would also lose \$250 million per year in federal highway funds. By not ignoring the penalty, all the dollars collected will be reinvested back in the community to reduce emissions from mobile sources. Projects funded by the air district have included replacement and retrofit of school buses, agricultural irrigation pumps and tractors, trucks, fireplace inserts and heaters, gross-polluting vehicle replacements,

alternative fuel vehicles and infrastructure, electric lawn mowers, bike lanes, park-and-ride lots, traffic signal synchronization and more.

### **Does Congress have the power to pass limited exceptions from the Clean Air Act?**

Yes, only Congress can do this. We believe this is an unreasonable federal mandate that should be repealed or fixed.

### **Fireplace-use rules to go into effect Monday**

Visalia Times-Delta and Tulare Advance-Register, Friday, Oct. 29, 2010

The annual fireplace-use regulation program that aims to reduce air pollution begins its eighth season Monday.

Check Before You Burn, which runs from November through February each winter, determines when residential wood burning will add dangerous levels of particulate matter — tiny pieces of soot, ash, dust and other materials — to the Valley's air, and prohibits the use of residential wood-burning devices. Wood-burning forecasts are issued by county each day.

The regulations are printed each day on page 2A in the Visalia Times-Delta.

### **Air District to begin annual wood-burning regulation program Nov. 1**

Sun-Star Staff

Merced Sun-Star, Friday, Oct. 29, 2010

The Air District said its annual fireplace-use regulation program that reduces harmful airborne particulate pollution begins its eighth season Monday, Nov. 1.

Check Before You Burn, which runs from November through February each winter, determines when residential wood burning will add dangerous levels of particulate matter — tiny pieces of soot, ash, dust and other materials — to the Valley's air, and prohibits the use of residential wood-burning devices. Wood-burning forecasts are issued by county each day, according to a news release.

"This rule has been critical in helping the Valley reduce the presence of particulate pollution during the winters," said Seyed Sadredin, the Air District's executive director and air pollution control officer.

In fact, the previous winter — 2009-10 -- was the cleanest on record for the air basin, and officials credit Check Before You Burn.

High levels of particulate pollution can have serious health effects, including bronchitis, lung disease and increased risk of heart attacks and stroke. Young children, elderly people and people with existing respiratory and coronary disease are especially vulnerable, the news release continued.

There are two forecast levels, depending on air quality: "Wood burning Prohibited" and "Please Burn Cleanly." When a prohibition is declared, burning any solid fuel in a residential fireplace or wood-burning device is not permitted and violations may result in fines. Backyard chimineas and fire pits are also subject to the prohibitions. There are two exemptions:

--If the residence does not have access to natural-gas service, even if propane is available; or

--If burning solid fuel is the sole source of heat for the residence.

When burning is allowed, the Air District recommends using manufactured fire logs such as Duraflame or dry, seasoned wood to minimize emissions.

Daily wood-burning forecasts will be available by county each day at 4:30 p.m., beginning Sunday at <http://www.valleyair.org/aqinfo/WoodBurnpage.htm>, by calling 1-800 SMOG INFO (766-4463) or by subscribing to the Air District's daily air quality forecast at <http://www.valleyair.org/lists/list.htm>.

For more information about the Valley Air District, call a regional office: in Fresno, 559-230-6000; in Bakersfield, 661-392-5500; and in Modesto, 209-557-6400.

### **California air board to unveil cap and trade program for CO2**

By Rick Daysog, staff writer  
Sacramento Bee, Friday, Oct. 29, 2010

With voters headed to the polls Tuesday to decide the fate of California's climate change law, regulators are pressing ahead with a key part of the statute that puts limits on how much the state's companies can pollute.

The California Air Resources Board today will unveil new rules and regulations for a cap-and-trade program. It will set a ceiling on the amount of carbon that refiners, power companies and major manufacturers can emit each year.

While details of the regulations aren't yet available, ARB officials have already indicated that they plan to take a pro-business approach. They will initially give companies pollution allowances for free, rather than selling them at auction.

"Because of the state of the economy, to go to a large auction quickly just isn't realistic," ARB Chairwoman Mary Nichols said in a legislative hearing earlier this month.

The cap-and-trade program essentially places a cap on the amount of carbon emitted by the state's 500 largest polluters. Companies that pollute less than their limit – to be set by the state – can sell their unused allowances to companies that pollute heavily, creating market incentives for the companies to reduce emissions voluntarily.

The cap-and-trade program is set to begin operating in January 2012. But it could be put on hold if Proposition 23 passes Tuesday.

The ballot measure would suspend the state's global warming law, AB 32, until the statewide unemployment rate drops to 5.5 percent for four consecutive quarters. Proposition 23 is trailing with voters, according to polls released in the past two weeks.

While the agency won't charge for allowances in the beginning, Nichols said it will likely put prices on them at some point in the future. Many economists expect the carbon allowances to eventually trade in the \$20-per-metric-ton range.

Michael Hanneman, an economist and public policy professor at the University of California, Berkeley, said the go-slow approach provides flexibility for companies to adjust to the new regulations.

A big company can't make the necessary fixes overnight. Switching to renewable fuel sources or installing energy efficiency retrofits will cost millions of dollars and will take a lot of time to install, he said.

"It's important to have the time to ramp up ... because it affects such a wide swath of California's economy," Hanemann said.

Even with the phased-in approach, oil refiners predict they will take a big financial hit.

San Antonio-based Valero Energy Corp. is the state's eighth-largest polluter, emitting about 3.8 million metric tons of carbon in 2008.

It has spent more than \$5 million to fund the Yes on 23 campaign.

In a conference call with analysts Tuesday, the company said California's cap-and-trade program could cost the firm about \$75 million a year.

"It will all be passed through to the consumer, as the companies aren't going to be able to absorb this," said Valero CEO Bill Klesse.

"Or they are going to go out of business. Or it makes the playing field unlevel with imports."

Thomas Tanton, an economist hired by the Yes on 23 committee, believes that the cap-and-trade system is going to hurt the most productive sectors of California's economy.

The law not only targets refiners and energy companies but also places pollution limits on cement makers, dairies and other industries that produce large amounts of carbon dioxide.

Tanton opined that the program won't make a big dent in the global warming problem. The only other cap-and-trade system in the country is one for power companies in New England, New York and New Jersey. Even combined, the two systems won't reduce enough carbon emissions to slow global warming, Tanton predicted.

"Most of the other states are saying they're not going to do this because it costs so much and the economy is suffering so much," Tanton said.

"I don't know if any of them can ever afford it, not now, not ever."

Daniel Esty, director of Yale University's Center for Business and Environment and a campaign adviser to President Barack Obama on energy and environmental issues, believes that today's announcement will be closely followed not only by energy companies and environmentalists but also by Wall Street and other mainstream businesses.

Given the recent failure by Congress to pass national cap-and-trade legislation, the California plan will likely serve as a model for how other states tackle the problem of global warming.

"There will be widespread interest in the package that emerges because it's such an important pilot project in the nation's attempt to find an appropriate climate change policy," Esty said. "It will be closely watched."