

THE ONGOING EVOLUTION OF CALIFORNIA'S DIESEL EMISSION REGULATIONS AND HOW YOU CAN GET INVOLVED

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California has identified diesel engine emissions as “toxic air contaminants” since 1998 (see <http://www.arb.ca.gov/research/diesel/diesel-health.htm> for more information from the State of California on the health effects of diesel emissions). In 2007, out of air quality and global warming concerns, the California Air Resources Board (“ARB”) adopted several regulations aimed at reducing diesel emissions from off-road diesel vehicles (e.g. tractors, harvesters) in California. Previously in 2004, the ARB adopted similar regulations limiting emissions from stationary diesel engines (for non-agricultural and agricultural uses such as well pumps). In 2008, the ARB approved additional regulations covering emissions from on-road heavy duty trucks and buses to take effect January 8, 2010 with a compliance deadline of March 1, 2010. For purposes of this article, we will focus on the regulations adopted for off-road diesel engines only.

One of the goals of these new regulations was for the State’s attainment of national ambient air quality standards and at the time of the adoption, the regulations included measures such as retrofitting in-use diesel engines with equipment that would capture emittants or replacement of older equipment for newer, cleaner-burning engines. For more information on the regulations imposed by ARB, see <http://www.arb.ca.gov/diesel/diesel.html>).

What these regulations meant to those in the farming and construction industries, among others, was a significant increase in the cost of doing business. Industry members using diesel engines were required to replace older engines or retrofit them to be brought into compliance, or face penalties (often up to \$10,000 per day in which the violation occurs). Considering the dismal economic climate that we are in, the enforcement of the regulations adopted by ARB would have forced smaller and mid-sized farming and construction companies out of business.

However, it seems as though the dismal economic climate may have actually helped these smaller agricultural and construction companies with regard to diesel emissions regulations. On February 11, 2010, ARB Executive Officer James N. Goldstene issued a News Release stating that effective immediately and until further notice, “no enforcement action will be taken for noncompliance [of off-road diesel engine regulations].” Mr. Goldstene’s statement came approximately 2 months after ARB staff presented a report concluding that emissions were lower than expected primarily due to the global recession.

The staff’s report that diesel emissions were reduced in an unfavorable economy identified a need for flexibility in diesel engine regulation. The ARB directed staff to present specific proposals to provide flexibility in diesel engine regulation while protecting public health and

meeting clean air guidelines. Staff is in the process of revising the diesel regulations and is requesting public input at workshops currently scheduled in Los Angeles, Sacramento, and Fresno.

For those of you that own or are employed by a small or mid-sized agricultural or construction operation, you now have another opportunity to help shape diesel emission regulations that will protect your business and the public health, and provide the flexibility needed to address fluctuating diesel emissions based on our economic situation. The dates and times of the upcoming workshops are as follows:

- May 6, 2010 – 10AM to 3PM in Sacramento at the Byron Sher Auditorium at 1001 I St., Sacramento, California;
- May 12, 2010 – 10AM to 3PM in El Monte at the ARB Auditorium, Annex 4 at 9530 Telstar Ave, El Monte, California; and
- May 18, 2010 – 1PM to 5PM in Fresno at the San Joaquin Valley Air Pollution Control District office at 1990 East Gettysburg, Fresno, California.

Please see <http://www.arb.ca.gov/msprog/mailouts/msc1023/msc1023.pdf> for more information on the upcoming diesel emission regulation workshops.

If you have any questions about how your business is or may be impacted by diesel emissions regulations, or if you have any questions or need assistance regarding the revision process, please call an attorney that is familiar with these regulations.

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