

CALIFORNIA'S UNIQUE TRUCKING PROBLEMS

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The trucking industry is extremely competitive and trucking companies located in California are finding it increasingly difficult to compete its carriers located outside the state. California-only environmental regulations adopted without consideration for competition from within the national and international freight movement system penalize California-based trucking companies. To sustain California's transportation market share and obtain forecasted emission reductions immediate action must be taken to level the playing field for California truckers. The most threatening air quality issues that separate California from the rest of the nation are: 1) a single-state fuel, 2) implementation of Proposition 65, and 3) proposed labeling of diesel fuel as a toxic air contaminant.

SINGLE-STATE FUEL

Since the introduction of the California-only diesel fuel in 1993, diesel users have been forced to operate with uncertainty, market instability, and severe price spikes seen only in the golden state. California is no longer a free market for diesel fuel. The state has sacrificed competition in oil refining by requiring an exotic fuel that only a handful of companies can produce. All but 11 of the 30 refineries once competing in California were forced out of the market when the California-only regulations for diesel fuel were adopted. The remaining refineries are owned by five companies.

By limiting the number of producers, California has created a fuel island for purchase-but not for use. The State permits use of noncomplying fuel in the State by national and international carriers. A heavy duty truck operates up to 1800 miles without refueling, so that buying fuel outside California and burning it in the State is not only possible but now is the norm:

Diesel sales in California dropped significantly when the cost differential jumped so high. Shippers choose their freight provider primarily by a single factor...cost per mile. The shipper is not concerned with California-only market problems.

It is no coincidence that California has the oldest fleet in the nation and recently the worst new truck sales in history. The California Air Resources Board claimed a 7 percent reduction in oxides of nitrogen from the introduction of CARB fuel. Compared with an x-year-old vehicle, a new truck reduces those pollutants by 70 percent. If the playing field for freight were level, trucking companies would have purchased the newer technology and the benefits to the air would be enormous. Instead, evasion of the state fuel is rampant and California businesses are forced to delay equipment purchases to make up for operating at a competitive disadvantage. The result? Both methods of reducing NO_x are slower and less effective than forecasted.

PROPOSITION 65

Proposition 65, otherwise known as the Safe Drinking and Water Act, is another threat to the California trucking company. The Office of Environmental Health Hazard Assessment, a part of the California Environmental Protection Agency, is responsible for implementation of the Safe Drinking and Water Act. Proposition 65 requires the governor to publish a list of chemicals known to the State of California to cause cancer, birth defects or other reproductive harm. Only the chemicals on the list are regulated under law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with requirements for clear and reasonable warnings and prohibition from

discharging into drinking water.

Diesel exhaust was added to the governor's list in 1991. Federal EPA and other States do not find diesel exhaust cancer-causing and have no requirements for regulating diesel exhaust. In California, though, more than 70 carriers have been sued for emitting diesel exhaust while driving on the state's roads and not giving pedestrians clear and reasonable warning. The same carriers held hostage by California-only fuel are held liable for using it. The California Air Resources Board certifies all on-road engines for use in California and every formulation of diesel fuel used in the State.

The California Air Resources Board certifies more than 20 different formulations (mixtures) of diesel fuel for sale in California. Diesel exhaust cannot be eliminated, but constituent parts of the mixture can be reduced. By inaccurately listing diesel exhaust as a chemical, future technologies with zero emissions would be considered cancer-causing to the State. For example, a fuel truck fueled by diesel and emitting only water and carbon dioxides as constituents in the exhaust would be considered by the State of California to cause cancer because the exhaust, not its specific

chemical components, is what has been listed.

DIESEL AS A TOXIC AIR CONTAMINANT

Beyond Proposition 65, OEHHA has proposed to list diesel exhaust as a toxic air contaminant. No other state considers diesel exhaust a toxic air contaminant. If diesel exhaust is labeled by the State as a toxic air contaminant, the public must be notified that the industrial fuel used for commerce worldwide causes cancer. Then, trucking companies in California would be liable for citizen suits claiming any exposure becomes a threat to the public health. Additional regulations will be required for employees exposed to diesel exhaust and associated California-only costs.

The economic impact of California-only regulations places regulatory burden on businesses in California, causing companies to relocate to more business-friendly bordering States to avoid excess regulation. A method to measure the effectiveness of government regulations is necessary to avoid unnecessarily penalizing those companies attempting to comply with environmental regulations