



Our Children's Earth Foundation | 100 First Street, Suite 100-367, San Francisco, CA 94105

NEWS RELEASE

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Lawsuit Over Farm Emissions Settled

SAN FRANCISCO, CA. -- 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.

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