

EPA Puts California On Notice To Advance Overdue Clean Air Act Fees

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EPA is warning the California Air Resources Board (CARB) and various California air districts that the regulators must adopt overdue Clean Air Act fee rules required under the federal law or face penalties, including cuts to federal transportation funding.

EPA in a letter sent last month to state air officials and Gov. Arnold Schwarzenegger (R) says the agency intends to make a finding that certain air districts are in violation of the state's commitment to meet federal air quality standards if fee rules are not soon adopted and submitted to the agency.

But a CARB spokesman downplayed the letter, saying that districts are advancing the fee rules.

The move follows EPA's proposed rejection of the San Joaquin Valley air district's fee rule because it exempted certain facilities from paying fees. The South Coast air district has also delayed adoption of its required fee, citing concerns that it is unfair and too burdensome on industry. The district says it is waiting for EPA to issue guidance on whether flexibility can be incorporated into the fee rules.

The controversy over how air districts design air act fees has been a key policy debate recently, especially at the South Coast and San Joaquin air districts. The fees are seen by environmentalists as critical to press industries to install the lowest-emitting technologies to meet air quality goals. But air districts and industry officials argue that EPA should allow flexibility in how the fees are established because it is unfair to levy new fees on facilities that have done all they can to reduce emissions.

EPA officials Dec. 11 sent a letter to Schwarzenegger, CARB Chairwoman Mary Nichols, and air district officials notifying the state that EPA intends to make a statutory "finding of failure to submit" the fee rules for the Los Angeles-South Coast, Southeast Desert and portions of the Sacramento Metropolitan 1-hour ozone non-attainment areas. By 2000, states with areas designated as in severe or extreme non-attainment for federal air quality standards were required to submit plans to EPA for implementing the air act fees.

If California does not submit timely fee plans for these areas once the proposed EPA finding becomes effective, funding sanctions will apply as described in the law, the EPA letter states. The letter is available at InsideEPA.com.

The San Joaquin Valley air district has already adopted and submitted its fee to EPA. However, EPA has proposed to partially disapprove the rule, concurring with environmentalists that it illegally exempts "clean emissions units" and sources that begin operating after 2010. The valley district has defended its rule despite environmentalists' objections and EPA's proposal to disapprove the rule.

South Coast has repeatedly delayed adoption of its proposed fee rule. The district requested EPA to issue guidance on whether facility exemptions and other flexibility can be allowed.