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Today's editorial: A regulatory bulldozer

New regulations on heavy equipment amount to a tax of billions on construction businesses.

An Orange County Register Editorial

With scant public attention, state bureaucrats have imposed what amounts to a new tax of \$3 billion to \$13 billion on a California industry, depending on whose estimate you believe.

The state Air Resources Board last week mandated 85 percent of the 180,000 bulldozers, dirt-movers and off-road construction equipment in California must be replaced or retrofitted to reduce air pollution.

We liken this to a tax because it has the same effect: the government unilaterally forcing private companies to spend huge amounts of money that reduces their profits. The state Legislature and Gov. Arnold Schwarzenegger boast they haven't raised taxes. But that's more a credit to constitutional limitations on their powers than to personal restraint. Government achieves the same bottom line with businesses by imposing costly regulations. And few regulations are as costly as is this one.

The construction industry didn't object to phasing out equipment to reduce emissions of particulate matter and nitrogen oxides. Industry spokesmen sought merely a five-

year extension of the 2020 deadline for full compliance. The ARB rejected the delay and insisted businesses can afford to comply by that year.

Once again, a government bureaucracy concocts arbitrary rules to meet arbitrary goals by imposing arbitrary costs on the private sector. However, ARB's newly appointed Chairwoman Mary Nichols said the agency showed businesses how they can afford the switch-over.

"When (the ARB) couldn't figure out how to pay for it out of (the companies') revenue, they basically concluded (the companies) could borrow money," said Mike Lewis, spokesman for the Construction Industry Air Quality Coalition. That means the cost of compliance not only will draw down or wipe out companies' profits, but it also will require businesses to assume substantial debt. The mandates will drive many contractors out of business, Lewis said.

Moreover, Lewis told us, the ARB is aware that new engines required to meet 2020 standards won't be available until 2014. Companies must take short-term steps to retrofit or replace equipment, then incur added costs after 2014 when the fully compliant engines reach market.

Onerous costs (\$3 billion by ARB estimates and \$13 billion by industry estimates) and duplicative efforts apparently were unpersuasive for the ARB.

"It hasn't been easy to come up with a proposal that is both cost-effective and fair," ARB's Nichols said. It seems to us the ARB decision is neither cost-effective nor fair. The ARB says construction companies can pass through added costs to customers, in case anyone thought the fallout is limited to bulldozer drivers.

This is just the beginning of many environmental mandates to come. The ARB soon will take up regulations to enforce last year's sweeping, so-called state Global Warming Solutions Act and strict emission limits on big-rig trucks. Of course, those added costs – for companies that don't go broke – can always be passed on to their customers.

What's your opinion?

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