



January (TBA) – APMC Membership Meeting
May 23rd – Annual APMC Golf Tournament at Morgan Creek

2010 Big Cheese



The 2010 Big Cheese was a success by all accounts.

There was great attendance – great food – and most importantly, time with industry friends.

Mark your 2011 calendars for Friday, December 9th, for the 43rd Annual Big Cheese.

CARB On-Road Regulations Amended

On Friday, December 17th CARB unanimously approved proposed amendments to the Off-Road / On-Road Regulations. Final amended regulation language and CARB Fact Sheets should be issued shortly and posted on the CARB website.

Key Points of the Amended *On-Road Regulations* include:

For Lighter Trucks with a *GVWR* of 26,000 pounds or less:

- No requirements until 2015;
- Must replace when 20 years old from 2015 to 2020; and
- All must have 2010 engines by 2023.

This is significant for contractors, whose job trucks, crew trucks, and utility trucks usually fall within the 8,000 to 26,000 GVWR range. These vehicles are exempt from meeting PM filter requirements, and some may qualify for additional "*specialty low use*" exemptions, which will become available for certain trucks used in construction, such as Ready-Mix Delivery trucks, Concrete Pumps, Single Body Dump and Support trucks, and Water trucks, to name a few. Low-Use thresholds for these vehicles will be increased substantially (to as high as 15,000 miles annually in some cases), and those equipped with Power Take-Off units can report PTO usage separately.

Larger trucks over 26,000 pounds GVWR must meet a filtering (VDEC) schedule starting in 2012.

Information modified from EUCA publication.

Volume V of *TOOLBOX SAFETY TALKS* Available

MCAA's *Toolbox Safety Talks - Volume V* is now available to APMC contractor members free as a benefit of membership. The package contains 52 new talks loaded with information for your project personnel about the importance of following safe work practices on the jobsite, enough *Talks* for a full year of safety briefings. Topics covered include: rigging and signaling safety; tool safety; equipment safety; health hazards; and other general worker safety topics. To download your free copy, visit MCAA's online store at <http://www.mcaa.org/store>.

State Changes Required Employer Posters & Pamphlets

There are changes to the required employer posters for 2011. APMC will provide members with a complimentary copy of the 2011 All-in-One Labor Law Poster.

The following poster has changed:

- the *Safety and Health Protection on the Job* (CalOSHA) poster has updated contact information.

In addition, the following pamphlets have been updated for 2011:

- *State Disability Insurance* pamphlet;
- *Unemployment Insurance* pamphlet.

The state disability insurance pamphlet must be given to all new hires and to all employees who take a leave of absence for pregnancy disability, or any non-occupational illness or injury.

The unemployment insurance pamphlet must be given to employees who are terminated or who quit.

If you would like to purchase additional copies of the All-in-One poster, please call the office at (916) 567-6635.

Courtesy of the California Chamber of Commerce

Mechanic's Lien Changes January 2011

As of January 1, 2011, a mechanic's lien will also be required to include a proof of service affidavit showing that the mechanic's lien has been mailed by certified mail, return receipt requested, to: (1) the owner's residence or place of business, or (2) at the address shown on the building permit on file with the building department, or (3) at any other address allowed under the preliminary notice statute. If the owner cannot be served in that manner, then the notice of lien can be served by certified mail to the construction lender or to the prime contractor. If the lien is not served as required, the lien will be unenforceable as a matter of law.

Another important change is that the lien now also must have a notice of mechanic's lien that reads as follows:

"NOTICE OF MECHANIC'S LIEN" ATTENTION!

Upon the recording of the enclosed MECHANIC'S LIEN with the county recorder's office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on which the lien has been recorded. That legal action must be filed with the court no later than 90 days after the date the mechanic's lien is recorded. The party identified in the mechanic's lien may have provided labor or materials for improvements to your property and may not have been paid for these items. You are receiving this notice because it is a required step in filing a mechanic's lien foreclosure action against your property. The foreclosure action will seek a sale of your property in order to pay for unpaid labor, materials, or improvements provided to your property. This may affect your ability to borrow against, refinance, or sell the property until the mechanic's lien is released.

BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANIC'S LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEB SITE AT www.cslb.ca.gov."

The other significant change occurs after a lawsuit on the mechanic's lien is filed in the Superior Court. After the filing of the lawsuit to foreclose on the lien, the Plaintiff must record a notice of pendency of the proceedings (known as a lis pendens) on or before 20 days after the filing of the mechanic's lien foreclosure action. The statute goes on to provide that only from the time of recording a lis pendens shall a purchaser or encumbrancer of the property (typically the lender) be deemed to have notice of the

lawsuit. While this Amendment is not as harsh as prior versions of the Legislation (which could deem the entire mechanic's lien action to be void), it does appear that a subsequent title insurer, lender, or bona fide purchaser, would not be subject to the mechanic's lien if the notice of lis pendens is not recorded. That means if the owner does anything with their property (borrow against it or transfers it) while the lien is pending, the failure to record the lis pendens could be fatal to your right to collect.

As always, consult with a lawyer if you have any concerns.

Courtesy of: Bruce D. Rudman can be reached at Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458; (818) 760-2000, Facsimile (818) 760-3908; or by E-Mail at bdr@agrlaw.net.

MCA December Bulletin

There have been two recent developments concerning overtime on Public Works jobs in California that you need to be aware of.

1) On a recent Public Works job at U.C. Merced in Merced, California, the contractor worked 4-10's. The District Council 36 contract allows for an alternative work week of 4-10's. The Contractor and the Union mutually agreed to a 4-10's schedule.

The California Department of Industrial Relations audited the job and assessed the Contractor over \$11,000 in overtime wages for the 9th and 10th hours and \$33,000 in fines and penalties. They cited California Wage Order 16, which calls for an 8 hour day.

2) LAX - There is a Project Labor Agreement (PLA) at Los Angeles International Airport which calls for 8 hours work for 8 hours pay.

The building trades member actually worked 8 hours. However, it takes nearly one hour to clear security every morning and an additional twenty minutes in the evening. Even though the PLA calls for 8 hours

of work, the State of California has ruled that the 60 minutes in the morning and 20 minutes in the evening to clear security are subject to overtime.

Regardless of whether your Collective Bargaining Agreement or PLA has different terms, the law in the State of California on Public Works specifies an eight-hour workday.

Greenhouse Gas Emission Requirement for Refrigerants

Certain facilities with stationary, non-residential refrigeration systems will become subject to new requirements on January 1, 2011.

The rules are among "early action measures" approved by the California Air Resources Board (ARB) to implement AB 32, the Global Warming Solutions Act of 2006. AB 32 requires that greenhouse gas (GHG) emissions be reduced to 1990 levels by 2020.

2011 Regulation

The regulations, part of the Refrigerant Management Program (RMP), require that facilities with stationary non-residential refrigeration systems with more than 50 pounds of a high-global warming potential (GWP) refrigerant begin leak detection inspections, repair and recordkeeping. Refrigerant distributors, wholesalers and reclaimers also are required to begin recordkeeping, and are prohibited from selling, purchasing or disposing high-GWP refrigerants.

Servicing technicians will be required to be certified by the U.S. Environmental Protection Agency (EPA) and cylinders will need to be properly evacuated before disposal.

Businesses Affected

The ARB estimates that approximately 64 percent of the facilities potentially affected by the 2011 RMP requirements are small businesses.

These regulations will primarily affect businesses that have refrigeration systems with more than 50 pounds of high-GWP refrigerant. These businesses typically include:

- Supermarkets and large grocery stores
- Food and beverage processors
- Cold-storage warehouses
- Facilities using industrial process cooling

Business that generally do not have these types of refrigeration systems are:

- Bars and restaurants
- Gas stations
- Liquor stores
- Office buildings

Potential Benefits

The ARB predicts the regulations also will lead to cost savings for businesses. According to ARB, the regulations will reduce high-GWP emissions by 8 million metric tons of carbon dioxide equivalent, the equivalent of removing 1.4 million cars and light trucks from the road each year. As a direct result of reduced refrigerant consumption, the ARB estimates a cost savings of \$2 per metric ton of carbon dioxide equivalent in emissions reduced.

Future Deadlines

For the next six years, other businesses will become subject to the refrigerant management program, depending on the largest refrigeration system used at a facility.

Beginning January 1, 2012

- Facilities with large refrigeration systems of 2,000 pounds or greater of high-GWP refrigerant are required to register with the ARB, submit an annual report and pay annual fees;
- Distributors, wholesalers and reclaimers must report annually.

Beginning January 1, 2014

- Facilities with medium refrigeration systems with greater than or equal to 200 pounds, but less than 2,000 pounds, of high-GWP refrigerant must register, submit an annual report, and pay annual fees.

Beginning January 1, 2016

- Facilities with small refrigeration systems with greater than 50 pounds, but less than 200 pounds, of high-GWP refrigerant must register.

Refrigerant Management Program

The RMP establishes regulations for refrigerant leak detection and monitoring, leak repair, system retirement and retrofitting, reporting and recordkeeping, and proper refrigerant cylinder use, sale and disposal. ARB reports the program is designed to complement U.S. EPA and South Coast Air Quality Management District regulations and better control emissions of ozone-depleting substances and substitute refrigerants.

More Information

High-GWP refrigerants include chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) and hydrofluorocarbons (HFC) refrigerants. Ammonia and carbon dioxide refrigerants are not high-GWP. To determine the refrigerant charge of a refrigeration system, businesses should contact the manufacturer of the system or their refrigeration system service provider.

For further information regarding AB 32, visit www.arb.ca.gov



*May 2011 be filled with
Peace & Prosperity.*

Happy New Year!