ENVIRONMENTAL AFFAIRS DEPARTMENT

DETRICH B. ALLEN
GENERAL MANAGER

200 N. SPRING ST.
ROOM 2005 MS 177
LOS ANGELES, CA 90012
(213) 978-0840

CITY OF LOS ANGELES
CALIFORNIA

ENVIRONMENTAL AFFAIRS COMMISSION

MISTY SANFORD
PRESIDENT

ALINA BOKDE
VICE PRESIDENT

MARIA ARMOUDIAN

M. TERESA VILLEGAS

JOYCE PERKINS

ANTONIO R. VILLARAIGOSA
MAYOR

July 20, 2007

Clerk of the Board
Air Resources Board
California Environmental Protection Agency
1001 "I" Street
Sacramento, California 95814

SUBJECT: City of Los Angeles Comments on the California Air Resources Board's Proposed Regulation to Reduce Emissions from In-Use Off-Road Diesel Vehicles

Dear Board Members:

The City of Los Angeles appreciates the opportunity to comment on the California Air Resources Board's (ARB) proposed In-Use Off-Road Diesel Rule. As part of its ongoing commitment to the environment, the City of Los Angeles (City) supports efforts to improve air quality and is committed to reducing diesel emissions from its off-road fleet. The rule will provide needed emission reductions in the South Coast Air Basin and will require substantial investment from the private and public sectors. The rule will impact the City's fleet directly and indirectly, given our ranking as a large fleet under the proposal and our reliance on contractors that own off-road equipment and perform valuable construction services for the City. The City respectfully submits the comments and recommendations below for the ARB's consideration. The intent of these comments and recommendations is to facilitate rule implementation, fully examine the consequences of the currently proposed rule, and ensure that cost impacts are monitored and any necessary rule adjustments are made, if warranted.

COMMENT

The City's Department of Public Works (DPW) is concerned about the potential impact of this regulation on Small, Woman-owned, and Minority-owned Business Enterprises (SBE/WBE/MBE), many of which may fall under the medium or large fleet categories and have to meet their first compliance deadlines in 2013 and 2010, respectively. For fleets categories described, see the shaded cells in the Table below, as excerpted from ARB's Medium/Large Fleet Fact Sheet:

FLEET OWNERSHIP	TOTAL FLEET HORSEPOWER		
	0-1500 HP	1501-5000 HP	5001 HP or more
SMALL BUSINESS	S	M	L
BUSINESS	M	M	L
MUNICIPALITY	S	M	L
STATE GOVERNMENT		L	
FEDERAL GOVERNMENT		L	

These types of businesses work on City public works construction projects, as both prime contractors and as subcontractors. The City performs outreach to these contractors for this purpose. The City's DPW is interested in maintaining a pool of viable contractors after this regulation goes into effect. At this point, we are uncertain as to the economic impact of the proposed rule on SBE/WBE/MBEs and other small- to mid-sized businesses that must comply with the medium/large-fleet compliance targets. As a result of this uncertainty, the potential impact of the proposed rule on the size and composition of the City's bidding pool is uncertain also. For example, our DPW indicates that the proposed rule will reduce the value and/or number of older equipment pieces currently in construction companies' inventories. Equipment inventories are used as one of the key factors by construction bonding companies in determining whether or not a company is bondable and for what amount. The DPW reports that this rule may impact affected companies' ability to bond, the number of and value of pieces in their inventory and thus their ability to bid on public works projects. In addition, the DPW is concerned that the increased costs to the construction industry of implementing this rule will be passed on to the customers, as is standard business practice. As a client of this industry, the City will face increased costs to implement public works projects, possibly affecting the schedule and overall cost-effectiveness of these construction projects. The recommendations described below address several of these concerns.

RECOMMENDATIONS

The City recommends future funding availability and ongoing economic assessments and reporting to address, monitor, and mitigate the potential impacts described. Other recommendations are made to facilitate rule implementation. Recommendations are further described below:

Future Grant Funding Mechanisms: It is recommended that the ARB continue to establish and support future grant funding mechanisms to help public and private fleets offset compliance costs for this proposed rule, much like the very successful and recent "$25 Million for Purchase of Low-Emission Construction Equipment by Public Agencies Program." This program recently closed, but grant awards, when expended, will help the City purchase 3 new larger pieces of cleaner off-road diesel equipment and over 10 smaller pieces. Continued funding support of this type is necessary in that there are limited future opportunities for medium and large fleets and public agencies to access existing funding sources. For example, currently applicants must access some grant programs (such as Moyer) three years in advance of compliance deadlines to be eligible for funds (i.e., access end date of March 2007 and March 2010 for large and medium fleets, respectively). After those end dates, only accelerated purchases, above and beyond that required for compliance, are fundable. Because the future economic impacts are unclear for public agencies and SBE/MBE/WBEs in the medium and large fleet category, accelerated compliance may not be a viable choice for those parties. In addition, current funding programs typically require scrapping of the vehicles to be replaced, eliminating salvage income revenues. Due to a preset cost effectiveness requirement, some current grant programs, such as Moyer, award less than this lost salvage revenue in some instances.

In summary, compliance costs will extend beyond the time that fleets can access some current funding programs. This could result in several transition years when limited grant funding sources are available to help fleets with their compliance costs. From our experience with on-road fleet turnover programs, we know that the cost of introducing new technologies is high, and

includes not only the cost to purchase and install new engines and retrofits, but also to test the equipment to ensure that it meets operational specifications, and to train mechanics to support the maintenance of the equipment. To facilitate the introduction of these new technologies, and continued replacement of older equipment throughout the compliance period, funding is critical, particularly for local government fleets and SBE/MBE/WBEs that must comply with medium or large fleet requirements. The City is willing to discuss grant program options with ARB staff.

Local Government Liaison: Local governments would need to ensure that their own equipment complies with this regulation and would be impacted, again, as a client of the construction industry. Therefore, the City recommends that the ARB assign a local government liaison to be available to municipal governments. This liaison would meet with local government representatives as requested and serve as a technical resource to review on-going implementation issues as they arise (i.e., much like the SCAQMD public fleet rule liaison).

Ongoing Expansion and Refinement of Economic Assessment: It is recommended that the ARB expand and continue to refine their economic assessment with a focus on public agencies and small- to mid-sized businesses that must meet medium/large fleet requirements. Given that some of the measures and equipment needed to comply with this proposed regulation are in limited supply, or not yet commercially available (i.e., limited CARB-verified retrofit diesel emission controls for off-road equipment to reduce particulate matter (PM), and Tier 4 off-road engines to reduce nitrogen oxides (NOx)), the City urges ARB staff to continue to update information on cost and equipment availability and make that information available to all regulated entities. In addition, the City supports ARB staff in reporting to the Board annually on the measures available to comply with the regulation, including updated costs and any recommended changes to the compliance timelines or exemptions. Staff is asked to specifically report on the impacts of the rule on small- and mid-sized businesses and public agencies that must comply with medium/large fleet requirements. This would include assessing any expected change in the value of existing equipment inventories once the regulation is adopted, and how this might affect the firms' bonding ability which is required for City contractors. This assessment would also include assessing the ability of these businesses to respond to City bids, in general. For example, the DPW reports that it is common practice in the construction industry, including the small to mid-sized firms, to sell older or used equipment to other small companies that cannot afford to buy new equipment. Selling this older equipment gives contractors the additional funding needed to purchase new (or newer) equipment. With a potentially de-valued inventory, this may present an economic challenge for those bidders to continue operating in this way and still remain viable. Therefore, the City recommends assessing how replacement of equipment, potentially de-valued by the proposed rule, would impact the described process and these firms' ability to respond to the City's request for bids.

Record-Keeping Costs - This regulation requires constant assessment of a fleet's emissions and status, and contains substantial reporting requirements. The City commends the ARB for planning workshops and training to educate small-fleet operators about compliance requirements; the City recommends that the ARB extend workshops and training to SBE, MBE and WBE medium- and large-fleet operators, and also provide on-line and telephone technical assistance to all equipment owners. In addition, ARB should continue to update its on-line calculator tool, and ensure that regulated entities can use this calculator to prepare and submit fleetwide emissions information. Finally, it is recommended that the ARB account for expected record-keeping costs, in addition to annual reporting costs, in their economic assessments.

Other Recommendations Suggested to Facilitate Implementation

Account for "Learning Period": The proposed rule includes a provision for compliance extensions when 'verified diesel emissions control strategies' (VDECS) equipment is unavailable. The current list of VDECS that may be used for rule compliance is short and use of these types of devices in California has been relatively limited. In our experience with emerging technologies, there is an expected six to nine month 'learning period' for fleet managers and maintenance staff to effectively install and maintain after-market control equipment. The City encourages the ARB to account for this learning period in the time frame of any compliance extensions (i.e., variances) granted in relation to a manufacturer's release of new products. The City hopes to participate in demonstrating new technologies and encourages the ARB staff to play a lead role in facilitating the widespread use of retrofit technologies, for example by providing for exchange of trouble-shooting information and facilitating communication between technology users and manufacturers. While technology testing and demonstration programs require time and resources, they are necessary to minimize the likelihood that unsafe or ineffective control equipment penetrates the market.

Account for Delays due to Replacement Equipment Failure: The City also requests that the ARB allow compliance extensions for manufacturer delays in providing replacement equipment that has been damaged or has failed (both during and outside the warranty period). The current rule's compliance extension for manufacturer delays applies only to new vehicles or new VDECS equipment, and requires that the new equipment be purchased 6 months prior to a compliance deadline. The current provision for VDECS failure or irreparable damage requires that a replacement be obtained within 90 days, without exception. The City proposes that compliance flexibility be granted for manufacturer delays in providing replacement equipment or subsequent failure of replacement equipment as well as new equipment.

Determination of Workplace and Equipment Operator Retrofit Safety: It is important that workplace and operator safety determinations be made by a certified safety professional (i.e., with expertise in construction workplace safety, and without a vested interested in the sale or purchase of the retrofit device). In the interest of workplace safety, it is recommended that the regulation call for a retrofit installation design plan review by an independent and certified safety professional, prior to and as a condition of purchase.

Consistent Emergency Vehicle Definition: The City's off-road diesel fleet includes vehicles operated by departments dedicated to the protection of public health and safety. The proposed rule includes an exemption for vehicles that perform emergency operations; however the rule's current language leaves some doubt as to what vehicles operated by emergency departments are exempt. The City wishes to avoid any confusion about emergency vehicle requirements in order to ensure that its emergency departments' operations are not jeopardized in any way. The City strongly encourages that emergency vehicles exempt under this rule be clarified further in the rule language or made consistent with the definition of "Authorized Emergency Vehicle" in the California Vehicle Code Sec 165[1]. This definition is consistent with the one adopted by the Board for use in the ARB's Fleet Rule for Public Agencies and Utilities. A copy of the Vehicle Code Section is attached.

[1] Accessed at: http://www.arb.ca.gov/bluebook/bb06/veh165/veh_165.htm. Accessed May 17th, 2007.

The City appreciates the dedicated efforts of the State of California in reducing diesel emissions and looks forward to working with the ARB on the path forward to cleaner air.

Sincerely,

Detrich B. Allen
General Manager

DBA:GH:hpf
R:\ARB Off Road Eq Regulation\CityofLAComments-ARBOffroadInUseDieselVehicleRule.doc

Attachment

cc: Honorable Jan Perry, Councilmember
Nancy Sutley, Deputy Mayor
James Gibson, Executive Director, Department of Public Works

Attachment A. State of California Vehicle Code definition of "Authorized Emergency Vehicle"

VEHICLE CODE

Division 1

Words and Phrases Defined

§ 165. "Authorized emergency vehicle"

An authorized emergency vehicle is:

(a) Any publicly owned and operated ambulance, lifeguard, or lifesaving equipment or any privately owned or operated ambulance licensed by the Commissioner of the California Highway Patrol to operate in response to emergency calls.

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency, department, or district employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by those officers in the performance of their duties.

(2) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

(d) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Office of Emergency Services or by any public agency or industrial fire department to which the Office of Emergency Services has assigned the vehicle.

(e) Any vehicle owned or operated by any department or agency of the United States government when the vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work.

(f) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.