

**2006-07 LEGISLATIVE SESSION
REPORT TO THE AUTHORITY
June 20, 2007**

Regular Calendar

**California Air Resources Board Rule Re In-Use Off-Road Diesel Vehicles
APC Recommendation: No Action—Information Only**

At its May meeting, the APC requested that staff report on a proposed CARB rule aimed at reducing diesel emissions (particulate matter and NOx) from in-use off-road construction equipment. The rule would establish substantially reduced emission rates for diesel equipment and require owners to meet specified emission reduction targets by means of accelerated retirement, replacement or retrofit of the equipment. Large fleets would be subject to the new requirements beginning 2010, requirements for medium fleets would phase in through 2013 and for small fleets by 2015. Ultimately, the established targets would have to be reached by 2020. CARB indicates the rule is necessary from a public health standpoint (they estimate 1,100 premature deaths annually are caused by these emissions) and also to bring California into compliance with federal clean air standards.

The construction industry is concerned with the impacts of the proposed rule and is seeking a 5-year delay in the implementation schedule. Small firms are concerned with being priced out of business (or out of California); large firms are concerned about the cost and that new equipment may not be available in time or in sufficient quantities to meet CARB deadlines. Caltrans and other state and local agencies would likewise be subject to the rule with respect to their own off-road fleets, including maintenance equipment, necessitating early replacement of equipment, at costs as yet to be determined.

Although CARB and the construction industry differ vastly in their compliance cost estimates (CARB estimates \$3 billion and the industry estimates \$13 billion), it's likely the rule will have—at least in the short term—a significant effect on contractors' ability to bid on projects, perhaps substantially increase construction costs, and potentially compromise timely delivery. Caltrans has indicated the CMIA projects, with their statutorily-imposed delivery schedules, are particularly at risk.

The challenge arising from this proposed rule is achieving balance between clean air standards and the need for vital infrastructure.

CARB held a hearing on the rule on May 25, during which numerous parties testified on all sides of the issue. CARB is expected to take action at its July 26th meeting.

SB 748 (Corbett)

Subject: Allocation of State-Local Partnership Bond Funds

Staff Recommendation: Watch Support as Amended

Location: Assembly Appropriations

This bill pertains to the allocation of \$1 billion in bond funds (November 2006) designated for a State-Local Partnership Program (SLPP). The bond measure provides for the allocation of funds over a five-year period by the CTC to eligible local transportation agencies, subject to at least a dollar-for-dollar local match. Details regarding eligible local matching funds and eligible projects are to be determined by the legislature.

The bill provides for an allocation of funds by the CTC on a competitive basis to eligible projects costing at least \$1 million, including state highway projects, transit facilities or rolling stock, local streets and roads, bicycle and pedestrian facilities, and environmental mitigation, as specified. All applicant projects must be included in a Regional Transportation Plan (RTP). Eligible applicants include local or regional transportation agencies located in jurisdictions with a voter-approved transportation tax or fee. Matching funds are defined as any revenues derived from voter-approved local or regional transportation fees or taxes (including sales taxes, property or parcel taxes and voter-approved tolls or fees).

This bill was amended to include "uniform" developer fees to address "cumulative" impacts as eligible local matching funds. The bill previously specified tolls, local voter-approved taxes and fees, and countywide transportation sales taxes as eligible for matching. In light of the fact that Contra Costa has five fee programs that would qualify as matching funds per the amended bill, staff is revising its recommendation to "Support."

SB 1210 (2006) Follow-Up (Right-of-Way Acquisition)

This bill made significant changes in the process whereby public agencies can take possession of property for purposes of constructing or improving public infrastructure. Analysis of the bill, as conducted by attorneys and right-of-way professional staff working on behalf of the Authority and other public agencies, indicates that the changes stand to lengthen the amount of time before an agency can take possession, and more importantly, create uncertainty relative to the timing wherein an agency can enter into a construction contract.

Staff has been working for several months to clarify the extent of the problems the bill poses for key projects in Contra Costa, and to develop proposed legislative solutions. Staff will report on the status of these efforts and present a flow-chart representing the potential impacts of the bill on project schedules.