MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT OFFICE
AUDITORIUM
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DIAMOND BAR, CALIFORNIA

THURSDAY, SEPTEMBER 24, 2009
9:01 A.M.

TIFFANY C. KRAFT, CSR, RPR
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APPEARANCES

BOARD MEMBERS
Ms. Barbara Riordan, Acting Chairperson
Dr. John R. Balmes
Ms. Sandra Berg
Ms. Dorene D'Adamo
Ms. Lydia Kennard
Mr. Ronald O. Loveridge
Dr. Daniel Sperling
Dr. John Telles
Mr. Ken Yeager

STAFF
Mr. James Goldstene, Executive Officer
Mr. Tom Cackette, Chief Deputy Executive Officer
Ms. Ellen Peter, Chief Counsel
Mr. Michael Scheible, Deputy Executive Officer
Ms. Lynn Terry, Deputy Executive Officer
Ms. LaRonda Bowen, Ombudsman
Ms. Sarah Carter, Low-Emissions Vehicle Implementation Section, Mobile Source Control Division
Ms. Susan Fischer, Ph.D., Climate Action and Research Planning Section, Research Division
Ms. Trish Johnson, Measures Development Section, Stationary Source Division
Ms. Monica Vejar, Board Clerk

Mr. Erik Winegar, Planning and Technical Support Division

ALSO PRESENT

Mr. Naveen Berry, SCAQMD

Mr. Bryan Bloom

Mr. Lee Brown, California Dump Truck Owners Association

Mr. Steve Bunting, Southern California Fire Prevention Officers

Mr. Luis Cabrales, CCA

Mr. John Cabanis, the Association of International Auto Manufacturers

Ms. Yolanda Chavez, LBACA

Ms. Martha Cota, LBACA

Mr. David Darling, National Paint & Coating Association

Mr. William Davis, Southern California Contractors Association

Mr. James Enstrom, University of California

Mr. Douglas Fratz, Consumer Specialty Products Association

Mr. Gary Gero, Climate Action Reserve

Ms. Addie Jacobson, Ebbetts Pass Forest Watch

Mr. Gregory Johnson, Sherwin-Williams Diversified Brands

Mr. Dave Laucella, Shell Chemical, ACCSIG

Ms. Maria Yolanda Lopez, LBACA
APPEARANCES CONTINUED

ALSO PRESENT

Mr. Ed Murphy, Sierra Pacific Industries
Ms. Sheila Nem, Coalition for Clean Air
Mr. Brian Nowicki, Center for Biological Diversity
Ms. Michelle Passero, The Nature Conservancy
Mr. Doug Raymond, WMBARR
Dr. John Reed
Ms. Susan Robinson, Mountain Alliance
Ms. Elena Rodriguez, LBACA
Mr. Gary Ryneauson, Green Diamond Resource Co.
Mr. Eddie Scher
Mr. Jim Stewart, Sierra Club
Mr. Chet Thompson, American Chemistry Counsel
Ms. Morgan Wyenn, Natural Resources Defense Council
Mr. Steve Weitekamp, CMSA
Dr. Katy Wolt, IRTA
Mr. Joseph Yost, Consumer Specialty Products Association
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1 PROCEEDINGS

2 ACTING CHAIRPERSON RIORDAN: Ladies and
3 gentlemen, if you would take your seats, we're going to
4 start almost on time.
5 And let me say good morning and call the
6 September 24th public meeting of the Air Resources Board
7 to order. My name is Barbara Riordan, and I'm going to be
8 chairing the meeting in the absence of our Chairman, Mary
9 Nichols. She will not be able to be here today. She's
10 with the Governor. And she will be here tomorrow.
So with that, let me invite you all to join me in the pledge to our flag.

(Thereupon the Pledge of Allegiance was Recited in unison.)

ACTING CHAIRPERSON RIORDAN: Madam Clerk, would you please call the roll?

BOARD CLERK VEJAR: Dr. Balmes?

BOARD MEMBER BALMES: Present.

BOARD CLERK VEJAR: Ms. Berg?

BOARD MEMBER BERG: Here.

BOARD CLERK VEJAR: Ms. D'Adamo?

BOARD MEMBER D'ADAMO: Here.

BOARD CLERK VEJAR: Ms. Kennard?

BOARD MEMBER KENNARD: Here.

BOARD CLERK VEJAR: Mayor Loveridge?

Ms. Riordan?

ACTING CHAIRPERSON RIORDAN: Here.

BOARD CLERK VEJAR: Supervisor Roberts?

Professor Sperling?

BOARD MEMBER SPERLING: Here.

BOARD CLERK VEJAR: Dr. Telles?

BOARD MEMBER TELLES: Here.

BOARD CLERK VEJAR: Supervisor Yeager?
BOARD MEMBER YEAGER: Here.

BOARD CLERK VEJAR: Chairman Nichols?

Madam Chair, we have a quorum.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

We're delighted to be here today at the South Coast venue.

And for those who might be in the audience from the staff here at South Coast, thank you for the opportunity to use this meeting room. We're very appreciative.

And just a couple of notes on that very item. I've been asked to indicate to you we have about five emergency exits here, and they are well lit. We would direct your eyesight to one of those exits and so you can be prepared, if necessary.

Also, today, let me indicate to you we have changed the order of our agenda just with one item. That item is 09-8-4. That will be coming at the end of the day instead of where it is located on the published agenda. We will deal with that at the end of the day. And so we'd like you to note that.
EXECUTIVE OFFICER GOLDSTENE: Madam Chair?

ACTING CHAIRPERSON RIORDAN: Yes, Mr. Goldstene.

EXECUTIVE OFFICER GOLDSTENE: I think it's 9-8-9, the update on the workshop for the Enforcement program.

ACTING CHAIRPERSON RIORDAN: Oh, I'm sorry. You're right. It's 9-8-5, correct?

EXECUTIVE OFFICER GOLDSTENE: Nine.

ACTING CHAIRPERSON RIORDAN: Nine, okay. I will change that at first break.

Next, let me indicate to you it's my pleasure to join with the Board to introduce our new Ombudsman. Her name is LaRonda Bowen. And, LaRonda, if you would stand up, I'd like you to come to the microphone, because you might just want to welcome -- we want to welcome you and you might want to give us a bit of your background.

She is a communications professional. She has led a number of stakeholder processes that are committed to resolving issues sometimes controversial. She's been an advisor to the U.S. EPA, and she has helped establish a nationwide model for small business assistance and compliance with the Federal Clean Air Act. And that I think is so important that she's had this wonderful experience.
She's also an authorist. She recently completed a book called, "Power Surge, Winning Against the Odds," about some of the more current issues that a particular power plant faced. And then she's also authored a chapter in the upcoming "Centennial History of the California Writers Club."

Her background is from small business. And that's why it's so important to have her, because she's the one that's going to do a lot of the outreach to our small businesses that are wanting to comply with our regulations but needing the help to comply.

So may I just invite you to, LaRonda, say a few words about yourself that you might like to say?

OMBUDSMAN BOWEN: Well, first, I want to thank you and thank all the members of the Board for welcoming me and for allowing me to have this opportunity to serve, not only you, but also the small business owners and operators and all the residents of the state of California.

I do look forward to working to engage more of our stakeholders in all of our processes, not only to do outreach to them, but also encouraging them to do in-reach
to us and helping to strengthen us as an agency and making
sure that we go forward in a way that's collaborative as
the staff has done in the past, but I would like to
strengthen that. So I'm very interested in making sure
that we can all work together to make the economy move
forward and to protect our environment.

I just want to appreciate you, but especially
want to appreciate James and Mary. They welcomed me so
warmly as a new member of the staff. And everyone has.
And I feel like I'm still at home. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

We welcome you again.

Now to some business that's always important to
the Board. And that is let me introduce Paul Wright,
who's going to explain a little bit about the dais and the
electronics of the dais so that we can function throughout
the day without causing a problem.

Paul, do you want to explain the system to us,
please, with the microphones?

MR. WRIGHT: Once again, Madam Chair and Board
members and staff, welcome back to Diamond Bar. Most of
you are returnees and are familiar with the system. For
those of you that it's your first time here in our
auditorium, when you wish to speak, simply press the
yellow button below the microphone. Speak directly into
the microphone. Those of you at the dais or staff positions, it drives the microphone and the camera as well. When you've concluded speaking, turn your microphone off.

And those of you in the back row, if you happen to have your notebook or something on that switch, it will activate the cameras to you, even though you don't know it. So just kind of watch that. That's an accidental thing that happens at times.

And regarding the timing, we'll coordinate that for the speaker's timers.

If you need anything at the dais, just wave and I'll assist you.

Once again, welcome to Diamond Bar. We look forward to helping you in any way possible. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you, Paul.

It's always good to see you, and we appreciate what you do for us.

Let me indicate a couple of other items for people in the audience.

If you wish to speak, our sign-up table is outside of the door to the auditorium. If you would sign up there, we need you to sign up on our speaker slips.

And those of you who are going to speak, a few words of caution. We do allow three minutes for your
presentation. Because we will take your written comments and file them and make them part of the record, we don't need you to read those written statements. We want you to tell us the main points in your own words.

You will see that there is a clock that is in front of the speaker's podiums there where Paul is, so you can pretty well see the clock. Paul will be timing you. And when your time is complete, we'll ask you to wrap up your comments. And we will keep to those three minutes.

Also, just for your information, I think it's good to continue to listen, because I may ask for several speakers in a row if we have more speakers. Right now, it doesn't seem that's going to be necessary. But sometimes I call three or four in a row, and then if you just would come forward, then you will speak in that order using either of the microphones. So you can come down to the front row, just have a seat and we will accommodate your presentation.

And with that, let me move on to the first item for today. That is Agenda Item 09-8-3. This is a brief item, a report from our Executive Officer regarding recommendations we must provide to U.S. EPA as a result of the new federal air quality standard for lead.

Mr. Goldstene.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam
Chair. Good morning, members.

The U.S. EPA recently revised the federal lead standard, lowering it to one-tenth the level of the previous standard. As a first step in implementing the revised standard, states are required to submit recommendations for area designations by October.

We'll be recommending designations for two areas in California. In addition, ARB and the districts will be deploying new lead monitors over the next several years, conforming to U.S. EPA's new monitoring requirements to collect additional data. We plan to revise the designations once the new information becomes available.

We are recommending that the portion of Los Angeles County in the South Coast Air Basin be designated as non-attainment, because monitoring data shows the standard is exceeding in this area. In addition, there is sufficient data to designate Imperial County as attainment for the new standard.

These recommendations will be forwarded to U.S. EPA along with supporting information provided in the staff report on this item.

No Board action is required today, but we're
Happy to answer any questions you may have about this.

ACTING CHAIRPERSON RIORDAN: Thank you, Mr. Goldstene.

Are there any questions from the Board members? I had one person signed up just for information.

And, Chung Liu, I know that you said you would speak only if there were others that had questions. Are you available for questions from the Board?

Chung is from the South Coast Air Quality Management District.

MR. LIU: Good morning, Ms. Riordan and members of the Board. First, welcome to Diamond Bar.

ACTING CHAIRPERSON RIORDAN: Thank you.

MR. LIU: And just want to come here to represent the South Coast AQMD on this issue. We really support the staff recommendation designation. That's all we want to say on this issue.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

I have no others wishing to speak, so I will simply move on. It's not necessary to officially close this, and there is no motion by the Board that has to be approved.

So moving right along to Agenda Item 09-8-6, this
item addressed the appointment of a replacement member to the AB 32 Economic and Technology Advancement Advisory Committee. This Committee was formed by the Air Resources Board in January of 2007 to advise the Board regarding the implementation of AB 32. The Board is asked today to appoint a replacement for a member who has resigned from the Committee.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam Chair.

The California Global Warming Solutions Act of 2006 directed ARB to form two advisory committees, an Environmental Justice Advisory Committee and an Economic and Technology Advancement Advisory Committee, known as ETACC.

The Board formed these committees and appointed their members originally in January 2007. The members appointed to the ETACC by the Board were chosen to represent academia, finance, manufacturing, energy, transportation, agriculture, forestry, and business.

ETACC is chaired by Alan Lloyd, a former ARB Chairman and former secretary of California EPA, with Vice
Chair Bob Epstein, co-founder of Environmental Entrepreneurs.

Since the formation, ETACC has been very busy. In 2007, it gathered information and wrote a report containing advice to the Board regarding best technologies for controlling greenhouse gas emissions in California and the best ways to promote these technologies. That report was presented to the Board at our February 2008 Board meeting.

In the latter half of 2008, the Committee met an additional three times to develop comments and recommendations regarding the AB 32 draft and proposed Scoping Plan, which were provided in letters to the Board and staff.

This year, the Committee has met several times to prepare further recommendations to the Board regarding technology advancement and integration with anticipated federal law on climate change. The Committee plans to submit reports on these topics to the Board in the near future.

There are currently 21 seats on this Committee. However, the ETACC member from the California Chamber of Commerce has left the Chamber and has consequently
resigned from the Committee. Staff recommends that the empty seat be filled by current Chamber Vice President Marc Burgat. Mr. Burgat is the Chamber's Vice President of Governmental Affairs and has more than 15 years' experience in public policy, government, telecommunications, and advocacy.

ARB staff recommends the Board approve his appointment to ETACC and will be available to answer any questions, if you have any.

ACTING CHAIRPERSON RIORDAN: Thank you, Mr. Goldstene.

Are there any questions from the Board members?

Seems pretty straight forward. There is a resolution before us. I'll accept a motion.

BOARD MEMBER BERG: So moved.

BOARD MEMBER D'ADAMO: Second.

ACTING CHAIRPERSON RIORDAN: Seconded.

BOARD MEMBER KENNARD: Second.

ACTING CHAIRPERSON RIORDAN: Is there any opposition to the motion? Hear or seeing none, so ordered. Thank you.

Next item. This is Agenda Item 09-8-2. It is
the consideration of ARB's planned air pollution research for fiscal year 2009-2010. The report was developed through a collaborative public, academic, and inter-agency effort and is comprised of projects that support the Board's Regulatory and policy decisions.

Mr. Goldstene.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam Chair.

Each year, ARB staff publicly solicits research ideas and develops an annual research plan that supports the Board's mission. The research ideas are evaluated by ARB staff as well as staff from other funding agencies and the Board's Research Screening Committee.

This year's plan supports ARB's regulatory priorities associated with health effects and exposure, the State Implementation Plan, and climate change.

Twenty-two new research projects are being recommended for funding, and an additional 14 projects are offered for consideration, should more resources become available.

If approved by the Board, the projects described in the plan will be developed into full proposals for your approval over the next several months.
Dr. Susan Fischer of the Research Division will now present the proposed 09-10 Research Plan. 
(Thereupon an overhead presentation was presented as follows.)

DR. FISCHER: Good morning, Madam Chair Riordan and members of the Board.

The Air Pollution Research Plan for fiscal year 2009-2010 comprises 21 projects that address gaps to support the Board's decision-making. If approved today, these projects will be developed into full proposals and brought to the Board for approval for the next few months.

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DR. FISCHER: Established by the State Legislature in 1971, ARB's program of research probes causes, effects, and solutions to California's air pollution problems. This research provides a scientific basis for defining air quality standards that are protective of public health, developing plans to meet these standards, and meet climate change goals.

The annual plan focuses on ongoing regulatory and policy priorities, including development of State Implementation Plans and developing measures to support AB 32.
DR. FISCHER: Before presenting proposed projects, I'd like to offer a high level overview of our research planning process.

The process begins with a broad solicitation to researchers and stakeholders. Then ARB conducts three levels of review to ensure that our research portfolio is non-duplicative, connects with co-funding and opportunities for collaboration, and addresses issues critical to the Board's decision-making and long-term planning.

The first level of review involves technical experts from ARB staff as well as State, federal, and private institutions.

DR. FISCHER: Technical review teams identified research gaps that are critical to ARB's mission.

Identification of critical gaps early in the planning process helps ARB target its funds to niche areas that are of particular importance to California and that ARB is especially well-suited to address. Technical review teams scored the full set of 317 submissions for responsiveness to these gaps and for technical merit.
DR. FISCHER: The technical review teams include members from air districts, State agencies, federal agencies, and research funding organizations, such as the Coordinating Research Council and the Health Effects Institute. Their involvement helps ARB avoid duplicative research and identify opportunities to leverage funds.

DR. FISCHER: The highest scoring proposal from the technical review teams went to the second stage of the review process.

Members of the Executive Office selected a sub-set of concepts based on policy priorities and available funding.

DR. FISCHER: Finally, the Research Screening Committee reviewed the full package of concepts and approved the draft plan's portfolio, which includes 21 concepts recommended for funding.
can be taken to the Board. The Committee consists of national experts --

DR. FISCHER: -- among a broad range of academic disciplines.

An additional layer of inter-agency coordination operates through the Climate Action Team. Last year, repeated requests from the Board as well as legislative developments prompted ARB to initiate efforts to foster inter-agency coordination of climate change research and development in California. These efforts culminated in formation of a Climate Action Team research sub-group in June 2008. Headed by Energy Commissioner Jim Boyd, this sub-group is charged with the task of facilitating sustained coordination of the State's research efforts. Its first major product was an overview of the State's climate change research portfolio, which was included in the CAT report that was released in spring 2009.

This summer, the research sub-group resumed activities to support priorities on which agencies reached consensus. This fall, the sub-group envisions the first periodic inter-agency exchange on climate-related projects.
DR. FISCHER: Last year, we secured more than 13 million in co-funding in leverage for planned research. This usually high co-funding reflected the opportunity to collaborate with the National Oceanic and Atmospheric Administration for a set of studies that would otherwise not be possible.

This year, we will continue collaboration with NOAA and have identified prospects for co-funding from several other entities, including the South Coast Air Quality Management District.

ARB has negotiated extremely low overhead rates with California's universities to ensure that our funds are used for actual research rather than administration.

DR. FISCHER: The annual plan supports Board priorities related to health effects and exposure, climate change, and SIP support. Recognizing the air quality challenges posed by a changing climate, several projects investigate issues at the nexus of climate and air quality. These projects will help ARB successfully control conventional air pollutants in a warmer climate, while meeting climate change emission reduction goals. Additionally, several projects in the proposed portfolio address issues related to agriculture and
environmental justice. After presenting a breakdown of funding allocations for each primary research category, I'll describe the objectives and portfolio projects recommended for funding.

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DR. FISCHER: The fiscal year 2009-2010 budget will support $5.3 million of research, an additional 21 projects recommended for funding. The research plan identifies 15 projects to consider if more funding becomes available.

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DR. FISCHER: ARB's proposed research in the area of health effects and exposures compliments extensive federal efforts as well as those at the Health Effects Institute, which probe multi-pollutant exposures and effects and the toxicity of particles from diesel engines. The research proposed by ARB will fill gaps related to mechanisms of particle related health impacts and air pollution exposures from automobile traffic in California.

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DR. FISCHER: The first two studies offered for funding in the area of health effects support ARB's responsibility to set ambient air quality standards that are protective of human health.

A study of health effects of central valley PM
will shed light on mechanisms associated with cardiovascular and pulmonary end points.

The second study, which makes use of a larger research effort involving humans with coronary artery disease, will probe the role of PM in inflammation.

The next study follows up on ARB's regulatory initiative to control indoor ozone emissions from portable air cleaning devices by determining whether a companion regulation is needed to control ozone from devices that are located in ducts.

The last two studies supporting health effects in exposure research are related to diesel emissions, ports, and community exposures. Emission from heavy-duty diesel trucks will be investigated to assess the impacts from ARB's truck and bus rule.

DR. FISCHER: And, finally, as presented in a future health update, significant exposures to air pollution can occur near freeways, especially during early morning hours. Investigation of the pollution gradients near freeways and ports will support assessment of how community exposures are impacted by traffic and port activities and how regulations to control emissions are effecting these exposures.
DR. FISCHER: ARB's proposed research to support the development of State Implementation Plan compliments and leverages work of the National Center for Atmospheric Research, U.S. EPA, and the South Coast Air Quality Management District.

DR. FISCHER: The first two studies fill gaps critical to inventories of biological emissions and cost-effective control of ozone. Determining nitric oxide emissions from California's agricultural soils is needed to help inform efforts in the San Joaquin Valley where ozone concentration exceeds State standards more than 120 days per year. Validating California's biogenic emissions inventory is crucial to understanding how emissions reductions from a variety of sources will effect concentrations of ozone and PM and the state.

The next pair of studies address various types of particulate air pollution and their sources. The first study will help us understand how emissions from motor vehicles contribute to primary particles as well as secondary particle formation.
DR. FISCHER: Next, a study to improve our understanding of primary and secondary particles will help us identify contributors to the carbon-containing fraction of PM2.5 which can account for 20 to 90 percent of PM2.5 in urban and rural areas. Study results will help ARB develop cost-effective controls to protect public health.

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DR. FISCHER: ARB's proposed climate change research portfolio compliments the comprehensive climate change science and technology programs administered by the federal government, as well as the work of approximately 40 national laboratories in California and climate action programs funded by the State. The projects we propose will address California-specific knowledge gaps in the areas of emissions and mitigation, long-range planning to meet our 2050 goal, and behavioral change.

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DR. FISCHER: The first project will narrow uncertainties associated with economic impacts projections and delineate what is needed to improve economic models that support development of cost-effective greenhouse gas emission control strategies.
Since behavioral change strategies will play a crucial control in helping California meet its long-term as well as near-term climate goals, one project will look to low energy consuming households for strategies and concrete examples of how Californians live with much less energy. Findings from the next study could dramatically enhance the State's ability to leverage both environments to achieve greenhouse gas emissions reductions delineated by the Scoping Plan.

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DR. FISCHER: The final six projects support ARB's emissions inventory and mitigation efforts. Collaborative field research in the South Coast air basin will resolve spacial and temporal variations necessary to effectively control greenhouse gases and conventional air pollutants.

The next project will clarify uncertainties regarding black carbon's indirect climate impacts associated with clouds and support such strategies for mitigating climate change through black carbon emissions controls. Work funded by ARB will help and regional governments prioritize actions to reduce vehicle miles traveled, as required by SB 375.
The next project responds to the Scoping Plan which states that further research is needed to quantify greenhouse gas emissions reductions from green buildings. Improving the methane emissions inventory and verifying future methane emissions reductions in California will support important strategies for curbing the speed of climate change.

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DR. FISCHER: Finally, we will carry out research to measure baseline emissions of nitrous oxide from California's dairies. This work fills a long recognized gap in the State's nitrous oxide inventory and will leverage a number of ongoing efforts benefiting from shared protocols, sampling, and analytical equipment.

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DR. FISCHER: Many of the same sources in inter-related atmospheric processes are responsible for greenhouse gas and conventional pollutant inventories in California.

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DR. FISCHER: Recognizing that the nexus of climate change in air quality will become increasingly
important in a warming world, ARB will work with the National Oceanic and Atmospheric Administration to improve the emissions inventory as well as atmospheric science associated with greenhouse gases, particles, and ozone precursors. This multi-faceted field study will facilitate better air quality modeling, control strategies, and planning. With NOAA's costs estimated at more than $12.7 million, ARB's contribution to the study will leverage State funds by more than four to one.

Three projects are proposed to take advantage of the unique CalNEX 2010 field study. These projects will help the State predict and plan for air pollution, clarify the nature and sources of secondary particulate matter that may play a role in climate change and help us identify which particles are responsible for the most long-ranging climate and health effects.

DR. FISCHER: Research sponsored by the Board is crucial to our mission. The projects in this plan strongly support ARB's responsibilities. We recommend that you approve the planned air pollution research for fiscal year 2009-2010.
DR. FISCHER: Thank you for your attention. We would be happy to answer any questions.

ACTING CHAIRPERSON RIORDAN: Thank you very much. Board members, are there any questions for staff?

Yes, Mayor Loveridge.

BOARD MEMBER LOVERIDGE: One, an observation and I guess second a question.

The observation is at least for elected officials, the research on the impact on freeways is really exceptionally important. There is no best practice I can identify. I don't know of any kind of piece of literature that one can have that one can distribute to one's colleagues on different elected bodies. And I just think it is very important, because all kinds of land use decisions are being made and things are being sited near freeways. And we do not have very good guidelines or research guidance. So just an observation.

The question I have, which is I think more one that I'd like, James, if you could respond to is the area called economic planning. I agree with that. But it seems to me that a major part of this current discussion is really an economic discussion about the costs and
benefits. And I did not see that direction in the research. I think for this, for CARB, and for the State and for the political discourse and dialogue, it would be helpful to have some more framing and more systematic analysis of costs and benefits of the efforts of -- particularly of AB 32 and climate change rules and regulations. So I just -- that is an emphasis I didn't see there that it seems to me one should at least consider.

EXECUTIVE OFFICER GOLDSTENE: I think it's true that for the most part the research that we've done is very focused on traditional types of research, but the research that asks the kinds of challenging questions that we grapple with here at the Board usually on a scientific or engineering basis. And we have not focused on general economic studies, per se.
the impacts of AB 32 in addition to the specific economic
impacts of every rule.

But your point is well taken.

BOARD MEMBER LOVERIDGE: Cumulative particularly.

EXECUTIVE OFFICER GOLDSTENE: I understand. I
think that's a very important point.

RESEARCH DIVISION CHIEF CROES: This is Bart
Croes. I'd like to add onto James' remarks.

So there is one project in the plan to evaluate
existing economic tools. And then there are two
economists on the Research Screening Committee, Charles
Colestat from U.C. Santa Barbara and Matt Conn from UCLA.
And they've made the same observations that they'd like to
see more research on developing new economic tools. We're
working with them to put together a seminar conference
with other academics to see what further research could be
done in this area. So we hope to bring some additional
projects to the Board in the near future on this topic.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Bart.

ACTING CHAIRPERSON RIORDAN: Ms. Berg.

BOARD MEMBER BERG: Thank you.

There was one public comment I thought if staff
could comment on the public comment from Nevada County
asking to be included in the SIP portion of the biogenic
emissions or how that particular research will also help
in their issue.

RESEARCH DIVISION CHIEF CROES: I'm sorry, we
haven't seen the comment. But, yes, we would certainly be
willing to work with any other group on collaborative
research in this area.

BOARD MEMBER BERG: Thank you very much.

ACTING CHAIRPERSON RIORDAN: Thank you. Yes,

Dr. Sperling.

BOARD MEMBER SPERLING: I would like to commend
the staff. I think the group of projects and the thrust
of these is excellent, moving in the right direction. I
like the idea of further collaboration/interaction with
other agencies and other funding sources. And I do
support the thought about the economic -- more of a focus
on the economics.

But I have a little idea, and I know staff is
having cutbacks and so on and so forth. But, you know,
you put a researcher on here and they start coming up with

new ideas. But just a simple little idea is a lot of the
reports that are being done now tend to be synthesis
reports and would be very valuable to a lot of people. And I think we might be able to do a better job of disseminating the findings, maybe even creating a publication series for some of the reports that are -- that have a broader application and would have a broader interest.

You know, some of these, when you start talking about time resolve measurements of PM2.5, they're very scientific, but there are others that are not. And I think there might be a lot of value to that, as we move into the AB 32 arena where there's so much question and uncertainty and controversy, that would be a valuable role we could play.

RESEARCH DIVISION CHIEF CROES: This is Bart Croes again.

Professor Sperling, I totally agree with you. We do do these public seminars that we webcast, and we do require the researchers to do peer research publications so it has a longer lasting effect.

But I agree; we could do more to disseminate the final reports, and we'll try to do that.

BOARD MEMBER SPERLING: It was just a simple idea that maybe on the website there be a publication series.
RESEARCH DIVISION CHIEF CROES: We do have that. We do put publications on the website. But we probably could do a better job advertising.

BOARD MEMBER SPERLING: And clustered in terms of synthesized reports, as opposed to all the scientific ones, which most of us wouldn't have a clue what they mean.

EXECUTIVE OFFICER GOLDSTENE: Professor Sperling, by "synthesis," you mean something that pulls it all together and makes policy suggestions or -- just want to make sure I'm clear and I understand what you mean when you're using "synthesis."

BOARD MEMBER SPERLING: Synthesis means that more than a handful of people will understand it.

EXECUTIVE OFFICER GOLDSTENE: Our communications director is an expert at that, so we'll make sure he works with the Research Division. We all think this is a good idea and we should try to do more of this.

BOARD MEMBER SPERLING: There is in a sense two groups of research reports that both have their own audience and value. I'm just focusing on that one group that has a broader audience and value.

ACTING CHAIRPERSON RIORDAN: It seems to me many years ago we used to do that. We used to publish some of the research at the end of a study. It's been a long
EXECUTIVE OFFICER GOLDSTENE: We'll look back to the past.

ACTING CHAIRPERSON RIORDAN: Moving right along, we have a number of speakers who wish to speak -- sorry, Dr. Telles.

BOARD MEMBER TELLES: One other comment on that. In Professor Sperling's suggestion, I notice a lot of these research projects are site-specific, San Joaquin Valley or L.A. basin. And I would suggest also that, once a project is completed, that a report be sent to those prospective air districts just for their own information. Because being on an air district, oftentimes there's something going on in the area and you don't even know about it. So it would just tie in some communication also.

ACTING CHAIRPERSON RIORDAN: Good idea.

EXECUTIVE OFFICER GOLDSTENE: That's a very good idea.

ACTING CHAIRPERSON RIORDAN: Thank you.

For our speakers, Steve Weitekamp, you're our first speaker, if you'd come down to the microphone, followed by Bryan Bloom and Lee Brown.

MR. WEITEKAMP: Good morning, Commissioners. My name is Steve Weitekamp. And I'm the President of
California Moving and Storage Association. And I represent impacted industry.

CSMA has a membership of about 550 California-based businesses. And they are confused, fearful, angry of the impact of the on-road diesel truck rule and regulations and their ability to continue to do business in the state of California.

And my reason for being here this morning is to be a part of a panel that represents diverse business and scientific interests that are concerned with the current CARB research process. The hallmark of CARB has been pushing forward research and rules to clean the air of California with concern for the economic impact on businesses within the state. Historically, CARB has done a professional and credible job in fulfilling this mission.

Currently, we are concerned that things have changed and that there are issues of which the Board may not even be aware of. I ask that the Board revisit the scientific research that is the basis for the on-road diesel truck rule and that they take an active role in this revised study.

I'm going to now defer to the other members of our panel. Thank you.
Bryan Bloom.

If this is kind of a coordinated group, what I'll do is everybody will have their opportunity to speak, and then we will have staff response and some questions by Board, if that would be all right with the Board members. Okay, Bryan.

MR. BLOOM: Madam Chairman, members of the Board, thank you for allowing me to speak. Forgive me if I refer to my notes as I speak.

Like the others, the importance of research as the underpinning of the resulting rules has a direct and economic impact to my and other businesses like mine.

My name is Bryan Bloom. I do own a company called Priority Moving in San Diego, California. I'm a bit unique in that I also hold a degree in economics and chemistry from UCSD and a Masters MBA from Berkeley. So I think I have a little bit of a better understanding of the research science behind the rules and the ability to comprehend them and the impacts of the regulations.

Also, the current on-road diesel rules negatively and severely impact my business and thousands of other
businesses like mine. In a very short time, my trucks won't be legal.

We've looked at some other options. I can't afford to purchase a million dollars of trucks to replace perfectly good trucks. Financing isn't available.

Everyone is aware of the liquidity market, the current state of the California economy. Even if I could afford the trucks, I can't afford the debt service. So we're stuck in a very tenuous terrible situation.

Retrofitting is not an option at this point. We've looked at that. Someone else is going to speak on that. The technology isn't available, the cost is high -- and it only gives us a very short time beyond that.

In addition, no grant money is available for companies like mine. So this leaves me and many thousands of businesses looking at just closing my operation, letting my 50 employees go and the hundreds of thousands of dollars multiplied by the thousands of businesses leaving California.

Two more points, in I may. Please understand, the current regulations and the research that was done to support them lumped the model or the engine year into one bucket. However, the research, we feel, did not look at
the fact that there really are two industries. There's
the high mileage and the low mileage. The high mileage
are the trucks that are on the road daily. The low
mileage are the ones like mine and other industries that
go to the job sites, do the job, and come back.
We feel and ask the Board to do further research

and get involved with the three following things:
We feel that the low-mileage trucks, 30,000 miles
or less, should be exempted from this rule based on the
fact they emit much less amount of diesel particulate.
Secondly, we need these rules delayed so we can
react to the economy.
And last, the implementation of the rules pushed
out.
This is the only way we're going to have a chance
to survive.
The very last thing I want to do -- I apologize,
Madam Chairman. I have 16 seconds, but I want to put
something up that was brought to our attention and has
demoralized us. And I'm not sure if the Board is aware of
it, and I'm not sure if the press is aware of it, but I
don't think the Board members are aware of it. I hate to
bring it up, but the fact is the lead scientist on the study that was --

ACTING CHAIRPERSON RIORDAN: Bryan, excuse me.

You're going to have make this your last sentence.

MR. BLOOM: Okay. I would like this passed around to the Board so they can see that the lead scientist that did this study on the rule you voted on was convicted by CARB of dishonesty and fraud and that further research needs to be done and that study needs to be revisited. That document is right there.

ACTING CHAIRPERSON RIORDAN: Thank you. We'll give that to the Board. Thank you.

Lee Brown, followed by James Enstrom, followed by John Reed.

MR. BROWN: Good morning, Board members.

My name is Lee Brown. I'm the Executive Director of California Dump Truck Owners Association. Been in this position for ten years.

I'm taking off where Bryan left off here basically is that, you know, our members are very confused about these rules and the funding. And why I want to tie this together as far as this research is that I read this on the CARB website. It says, and I'm going to quote this
with emphasis, "The program has and continues to sponsor relevant research of the highest scientific quality that accordingly serves as the foundation for effective regulatory decisions."

You know, the foundation for the on-road and off-road diesel engine rule, that study was done by Mr. Tran who was the project coordinator and lead author and basically lied about his credentials. I think it compromises that entire report. And I think what I'm asking from in this budget is a redo of that report. I think that should be done over because of the fraud that has been discovered here.

So that is very important to our industry and the livelihood of many of our members. I think it's very important as part of this budget that you reconsider that. And I also noticed that there were approximately 36 proposed studies. In those proposed studies, only one dealt with economic issues. I think it's -- in the economy that we face today, that is so important. I think that you need to spend -- and focus more time on looking into the economic impact of these rules to all the businesses in California that they effect. Thank you.
ACTING CHAIRPERSON RIORDAN: Thank you very much.

James Enstrom, followed by John Reed.

MR. ENSTROM: Thank you very much for letting me speak.

My name is James Enstrom, a Professor at UCLA. I have been conducting epidemiologic studies for the last 36 years.

I'd like to raise a couple of epidemiologic points about the planned air pollution research. And quoting a sentence from the first proposal that you have, health effects of central valley particulate matter, it says, "air quality standards for particulate matter are based on epidemiologic studies that cannot demonstrate causality and current understanding of the biological basis for epidemiologic associations is incomplete."

While I find this a very important sentence and it amplifies upon submissions that I've made to the Board along with a dozen other scientists during the past year and a half emphasizing the need for a more complete understanding of the epidemiologic evidence relating particulate matter to premature deaths in the state of California and I think this is an essential aspect of the research program that you have, and there should be more
emphasis on this.

There have been a number of disturbing developments since I made a presentation to a number of Board members personally last December. It's been uncovered now that the scientific review panel on toxic air contaminants has not had a legally appointed epidemiologist since 1994. This includes the time period in 1998 when diesel particulate matter was declared a toxic air contaminant.

Also, I have had great difficulty dealing with the epidemiologists that the Board relies on and the staff relies on, persons like Professor Michael Garret at U.C. Berkeley and Professor Arden Pope at BYU. Myself and a number of other scientists have tried to deal with these professors and determine current evidence on the relationship between fine particulate air pollution and mortality, and we've been basically stonewalled and treated very unprofessionally. And I think it's up to the Board to exert more supervision on some of these issues that deal with such important economic issues, and I hope you'll do so.

If this it not done by the Board, then persons
like myself and others are going to continue to press
this, and we're going to re-educate the 38 million
citizens of this wonderful state, because I firmly believe
in honest science, and I expect it to come from the Air
Resources Board. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you.

Dr. Reed.

DR. REED: Good morning, Board. I'm Dr. John
Reed, a practicing physician in San Diego. Earlier in my
life, I was also an analyst with the Office of Disease
Prevention and Health Promotion under C. Edward Koop where
I worked quite a bit with the Office of Technology
Assessment to look at the health effects of emerging
technologies.

As my practice as an anesthesiologist, I'm sort
of a one-man wrecking ball for the environment. I pump
out nitrous oxide and volatile organics all the time.
It's in my personal interest to try to find other ways to
clean up the environment so that my grandchildren can have
an environment they can inherit.

I'd like to go a littler further on what
Dr. Sperling has to say. You have research that is
subject to scientific standards, and it has to be
publishable. But by the time that stuff gets to you folks, it's been synthesized. And what you get is not up to that sort of standard.

The study these folks are talking about that effects a lot of people in this state was run by a person who told ARB what it wanted to hear in order for that person to get their job. That person was in charge of what actually physically got in front of you. So can you trust that that person really gave you something other than what he thought you wanted to hear?

So my suggestion, to go along with Dr. Sperling's, is that when you get synthesized reports that they are held to the same scientific standard that I was held to when I presented to Congress, when I presented to C. Everett Koop, anybody else who makes powerful decisions that affect people's lives.

On to what Mayor Loveridge said. Economics make a big difference in people's lives. When you look at your own vulnerable population study from 2005, what does it show? It shows one thing over and over again that it can actually point to as there being a strong correlation.
socio-economic status.

Right now, we are making decisions. You're making decisions that have major socio-economic impacts. When we take away jobs, we definitely have negative health effects. I would suggest that we're looking now at doing retrospective. We've passed legislation. We've passed regulations. Let's retrospectively look at what the economic impact was. Let's look at what the wrecking ball was. Let's look at the damage backwards. Let's not do that.

Why don't you put a self-imposed moratorium on any further regulation until we have the economic impacts studies, until we really know how many children are going to fall below the poverty level, how many more incidents of asthma in a life are going to be caused. Not from particulate matter, we don't know. But we know if those folks fall below a certain socioeconomic status, we're going to see higher incidences of asthma.

Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you, Dr. Reed.

William Davis, followed by the last speaker, Michael Lewis.

MR. DAVIS: Good morning, Madam Chairman and members of the Board.
This is the twelfth time in the past three years I've had the honor and privilege of visiting with you. And over that time, I've acquired a really deep respect for your service and your commitment and for your willingness to listen to reason.

We have had conversations on the portable regulation that led to changes. I don't know if any of you remember Amber Parsons in that group, but that was a powerful improvement for our industry.

We had conversations about the impact of the off-road and on-road rules on the crane industry. And you all made changes based on that.

We had conversations just a month or so ago in San Diego about the changes required by the State Legislature. And we appreciated your actions in following that legislative directive.

Today, I'd like to talk about what our industry sees as a serious deficiency in the research package that's before you, and as you may have heard already, a serious dearth of research on economic impacts on the regulations. Until you come up with a research package on this topic, I'd like to commend to you and your staff a study that was released Monday by the California Small Business Administration. This study was commissioned by an act in the Legislature, a bill was signed by the
Governor. And the study was prepared by the leading academics at Cal State Sacramento to determine what the regulatory cost burden is for California. What they discovered was $492 billion a year. That translates into an enormous burden on business and on individuals. The individual cost in California is over $4,000 a year just from regulatory cost. That does not, by the way, include the cost of the off-road, on-road, or greenhouse gas regulations, because this is based on data from 2007.

While your actions as a Board are not the only basis for regulatory costs in the state, we have a super number of regulatory agencies here. We do ask that you become more conscious of these costs, more conscious of the decisions that you make, and their effect on the environment of the economy of California.

Thank you all very much.

ACTING CHAIRPERSON RIORDAN: Thank you.

Michael Lewis.

MR. LEWIS: Good morning, Madam Chairman and members of the Board. My name is Mike Lewis. I'm here on behalf of the Construction Industry Air Quality Coalition. I want to take this opportunity of this planned research item to call to your attention to the growing concern in the regulated community about the objectivity and the transparency of the CARB regulatory and research
activities.

As I'm sure you're all aware, there have been questions raised in the recent months about the thoroughness of your economic analysis of the greenhouse gas efforts, the academic qualifications of at least one of your staff, and concerns raised about some of the modeling used in some of your regulatory actions.

Certainly, for those of us in the construction industry, it has been frustrating to see what appears to be an unstoppable conveyor belt process of orchestrated research, staff analysis, modeling, rule development, and adoption that lacks significant opportunity for input for anyone not on the Agency payroll, appointed by the Agency, or employed by a sister public agency.

It would appear from the report today you're undertaking another $5 million worth of effort that will lead to an inevitable conclusion with little opportunity for dissension or discussion of research that contradicts the conclusions of the agency-funded work. All of this work is part of a continuum that will ultimately lead to actions by your Board that will impact some or every aspect of society in this state.

All of this work should be subject to the same
review, public input, and discussion as the decisions made by your Board. But the current process allows little opportunity for that, except at the Board meeting, which is frankly too late.

Given the wide and costly impacts of the decisions now being made by your Board, it is no longer adequate to simply accept staff-generated research or analysis by itself as a suitable foundation for the decisions being made by your Board. There needs to be more transparency, independent oversight, and some process for consideration of other research that may contradict the conclusions of your own funded work.

For example, we were very frustrated in the off-road rule by how long it took to get access to the staff emissions model and the impacts that we used to generate the model. When we did, we discovered it was written in an extinct computer language, that it took as long as 24 hours to run after modifying the inputs. We simply had to hire our own experts and write our own model. And there wasn't -- we weren't the only ones who did it. But everything was very last minute and there was very little time to really understand how it worked.

Here we are today, two-and-a-half years after the
adoption of the rule, and we're still learning about the
assumptions used in the model and how they worked and how
inaccurate some of them were. Had we known at the time --
and there was no reason not to know, other than this false

urgency about adopting a rule. It could have been a very
different rule if given a little extra time to get it
right.

I think you owe us a more thorough and thoughtful
process that isn't driven by artificial deadlines to get
it done rather than to get it right. You need to start at
the very first step, which is the research. Given the
importance of the decisions that lay ahead and the
credibility of your own agency, you're not going to have
the luxury anymore of having it done in a vacuum without
some outside oversight and review. You need to establish
a process sooner rather than later. It needs to be
rigorous. It needs to be open. It needs to be above
reproach.

ACTING CHAIRPERSON RIORDAN: Mr. Lewis.

MR. LEWIS: And it needs ample opportunity for
dissension and comment. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you.
Before I open it up to the Board, staff, I think I'm going to let staff respond, because I think the speakers are co-related.

EXECUTIVE OFFICER GOLDSTENE: First of all, I'll ask Bart to talk about the research and the effort we put into all the research we do in a general way and specifically talk about the report in question, just about

the peer review and process we went through on that.

RESEARCH DIVISION CHIEF CROES: Good morning.

I'll address two issues.

One is the peer review of the research itself.

So as you know, you have the legislatively required Research Screening Committee, which consists of respected academics from the University of California system, from private colleges, and people from some funding organizations like U.S. EPA, the South Coast AQMD, and the Coordinating Research Council, which is the research arm of the auto and oil industry. And basically this research plan, every proposal has to go through this committee before it can come to the Board. So this is an oversight committee, not an advisory committee. If they reject the research plan or the proposal, we would never be able to take it to you. And they also review the final report.
So we consider that a very strong peer review.

Also, we require all our research to go through a formal peer review process with scientific journals. And generally each project generates one to five research publications.

The speakers also questioned the peer review of this report that we put out in 2008 identifying the relationship between exposure to PM2.5 and premature death. The person that managed some aspects of the project turned out to have falsely claimed that he had a Ph.D. from an accredited college. And we had several levels of peer review for that report. And after it was discovered they falsified his Ph.D., we went back to this peer review committee, gave them that information, and asked if they had any changes in their review of the report. And we had three academic advisors: Arden Pope from Brigham Young University; Jonathan Levy from Harvard; and Bart Ostro from our sister agency, OEHHA. And they oversaw every aspect of Hein Tran's work of the entire report. We relied on 78 peer review publications, and they basically agreed with the -- basically it was their recommendation that we brought to the Board.
Also we went through a formal peer review process managed by the University of California Office of the President. They brought in six peer reviewers from all over the country that agreed with the results of the report.

The diesel industry asked us to include a seventh peer reviewer, Phil Hopkey from Clarks University. He also agreed with the conclusions of the report.

And, again, I went back to these peer reviewers about six months ago, and they're still in agreement with the report.

In addition, Chairman Nichols asked us to reach worldwide to academics and organizations to see if they agreed with the reports. So we went to the World Health Organization, Environment Canada, U.S. EPA, brought them all to California either in person or on a telephone conference, went over the results of the report, and they were in agreement.

Since our report's come out, a group of European researchers has basically come out with the same result.

Before we put our report out, U.S. EPA went through a process with 12 academics that also came to the same conclusions that we did. So we feel this has had a pretty
12 rigorous peer review.

13 ACTING CHAIRPERSON RIORDAN: Thank you for that response. Board members, let me -- Dr. Sperling.

14 BOARD MEMBER SPERLING: You know, I think it's always healthy to be raising questions about quality of research and access to information and review and so on. But I have to say, you know, in the years I've observed ARB, this is the most extraordinary agency I've ever seen anywhere in terms of the transparency, in terms of the technical competence of the staff, in terms of outreach and workshops that are conducted. I'm just inundated in my mailbox with workshops every day on all of these topics -- and the amount of peer review that goes on in all the publications.

So it's great that people are paying attention, are concerned about these issues. And certainly we can always, you know, do it better. But, you know, I have not seen any government agency that does -- that manages the technical parts and the review parts of these agendas better than ARB. So I want to praise the staff for doing such a good job.

ACTING CHAIRPERSON RIORDAN: Okay. Any other
comments?

Dr. Telles and then Dr. Balmes.

BOARD MEMBER TELLES: I also believe that staff
does an excellent job.

But this is the first time I've actually been
apprised that there was fraud in the organization here.
And I feel that as a Board member that's kind of a -- I
should have been aware of this. There should have been a
report sent to Board members.

I find that a little bit incredible. I think
there's nothing that's more discrediting to an
organization than to have a person that has a fraudulent
credential. And it's going to be very difficult to
explain that to the public, as it is to these people here.

And I would like a written report of this. In my
world, if an article was published by somebody who didn't
have a Ph.D. and said he had a Ph.D., the whole thing

would be nixed, despite all the things you're talking
about. I just find it incredible.

ACTING CHAIRPERSON RIORNDAN: Thank you.

Dr. Balmes.

BOARD MEMBER BALMES: Yes. I would also echo
Dr. Sperling's praise for the relative transparency of the
agency. Certainly compared to most other governmental agencies, there's more transparency and more outreach to the public than I've seen in other agencies. And I think that CARB tries to base its decisions on quality research. That said, I also agree that academic fraud is a serious issue and should be brought into the light of day. So I agree with Dr. Telles on that.

But I also want to agree with the speakers with regard to the need for more economic analysis. I don't think -- I think the Board is trying to move in that direction, as Bart Croes indicated, by appointing two economists to the Research Screening Committee, but I think there's no question that we have to do more in terms of economic research with regard to the impacts of our regulations.

ACTING CHAIRPERSON RIORDAN: Ms. Berg.

BOARD MEMBER BERG: I think the scientific basis of a good debate on good science is very important. But I think the overarching issue from these group of people again goes back to the on-road and off-road rule and where we are economically. And I do think that we need to figure out the economic benefits that are a result of this
unfortunate recession and figure out how that should play in so that we really understand and can help industry move forward.

I think the continued misinformation is driving people to be more uncomfortable and much more stressed in this very difficult economic situation that adds to a lack of clarity. And I think it's incumbent on our agency and specifically however that we can help to bring clarity as to expectation and how we're going to move these particular two rules forward because of the magnitude of the rule and how many people it affects. So however I can help on that.

I'm personally involved. I have 17 trucks that are also going through the process. And so the science is one issue, but I think the heart of the issue is really these two particular rules and the overarching how many people are involved and so how we can be even more diligent in implementation I think is really important.

Thank you.

ACTING CHAIRPERSON RIORDAN: Mr. Goldstene.

EXECUTIVE OFFICER GOLDSTENE: Tom is going to respond to Ms. Berg's comment.
since those two rules have been passed, the economic
impacts of the rules and the economy in general have been
a major part of what we've been trying to deal with and
address. And we're coming back to the Board in December,
for example, in the truck rule at your direction. And one
of the main issues there is how does that rule interact
with the economy and impacts on individual firms.

So we are trying to do that. We're trying to
elevate the amount of attention put into the economic
impacts of these rules. And we'll try to keep you
informed in the upcoming meetings on both the on- and
off-road rules.

ACTING CHAIRPERSON RIORDAN: And I very much
appreciate that.

And now that we have a new Ombudsman, and one of
my first comments to her was, this is in my opinion a very
important facet of outreach that we need to do to get and
collect good information about how it is affecting people.

And I agree, Ms. Berg, with your analysis. Yes,
the speakers are certainly concerned about research, but
the underlying issue truly is probably more the economic
effect of rules that we have done research for and come to
some conclusion about the regulation that follows.

There is another research component to this which
I would just -- I heard I think Dr. Enstrom say that we don't have an epidemiologist on this Board. I don't know, having limited background, whether or not that is a significant issue. But maybe what we ought to do is the next time we have an opportunity as an opening on this panel to have an epidemiologist. I don't know. I can't remember if there's one there or not. Dr. Balmes may know. I'm not sure.

RESEARCH DIVISION CHIEF CROES: Yes, we do have an epidemiologist on the Research Screening Committee.

ACTING CHAIRPERSON RIORDAN: All right. I feel comfortable. Thank you very much.

Board members, I think we do need to move forward. We appreciate the comments that have been made by our speakers. But I think it's time to now move to the next part of business, which is there is a resolution before you. You've had an opportunity to read it, I hope, with the Board Item. Is there a motion?

BOARD MEMBER D'ADAMO: So moved.

ACTING CHAIRPERSON RIORDAN: Move to adopt the resolution. This is 09-48. Is there a motion for second?

BOARD MEMBER BALMES: Second.

ACTING CHAIRPERSON RIORDAN: All those in favor please signify by saying aye.

(Ayes)
ACTING CHAIRPERSON RIORDAN: Opposed, no.

Motion carries.

We are going to move to our next item of business. That is Agenda Item 9-8-4. This is adoption of the proposed amendment to the California consumer products regulations. The proposed amendments would reduce volatile organic compound emissions and prevent the use of certain toxic air contaminants in compounds with a high global warming potential in the reformulations.

The volatile organic compound emissions reductions that would be achieved by these amendments are a significant step toward meeting the consumer products commitment in the State Implementation Plan for ozone.

And while the staff is changing seats there, Mr. Goldstene, I'll call on you.

(Thereupon Board Member Berg exited the proceedings.)

EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam Chair.

Staff is proposing amendments that will affect three consumer product categories: Double phase aerosol air fresheners, multi-purpose solvents, and paint thinners. Multi-purpose solvents and paint thinners together are the largest emitting consumer products category. This proposal would achieve more than 95
percent emissions reductions from these products.

We are also proposing to prohibit the use of compounds with a global warming potential value above 150 in all three categories and certain chlorinated toxic air contaminants in multi-purpose solvents and paint thinners.

The staff's proposal, if adopted, will achieve emission reductions of about 14.7 tons of VOCs per day when our limits are in place.

The calculations of emissions reductions for multi-purpose solvents and paint thinners do not include those that would occur in the South Coast Air Quality Management District, because the district has a rule in place for these categories.

In June of 2008, the Board approved amendments to the consumer products regulation. At that time, the Board directed us to evaluate potential emissions reductions from cleaning products, such as general purpose cleaners, degreasers, and glass cleaners. Shortly, you'll receive an update in staff's presentation of our progress in evaluating potential adverse impacts of reducing emissions from these categories and our goal to propose additional VOC limits next year.

Ms. Trish Johnson of our Stationary Source
Division will start the staff presentation. Trish.

(Thereupon an overhead presentation was presented as follows.)

MS. JOHNSON: Thank you, Mr. Goldstene.

Madam Chair Riordan and members of the Board, today we are proposing for your consideration amendments to the California consumer products regulation.

MS. JOHNSON: My presentation will follow this outline. I'll begin with a brief background.

MS. JOHNSON: Consumer products are defined in state law as chemically formulated products used by household and institutional consumers. Examples of consumer products are listed on this slide.

MS. JOHNSON: State law requires ARB to achieve the maximum feasible reductions in volatile organic compounds, or VOCs, from consumer products. The regulations must be technologically and commercially feasible and preserve product forms.

The 2007 statewide strategy, or SIP, contains a
ARBO 9-24-09.txt

21  30 to 40 tons per day VOC reduction target from consumer
products.

24  --o0o--

24  MS. JOHNSON: The table on this slide shows our
25  progress towards meeting the consumer products target in

1  the 2007 SIP.
2  As you can see, the proposal before you today
3  represents an important step towards meeting our 30 to 40
4  tons per day target.
5  We are also evaluating setting lower VOC limits
6  for cleaning product categories, which I will discuss
7  later in the presentation.
8  In 2010, we plan to propose lower VOC limits for
9  several cleaning product categories where we expect to
10  achieve five to eight tons per day reductions.
11  Additionally, in 2011, we will bring to you a
12  proposal to achieve the remaining reductions needed to
13  meet the 2014 goal.
14  This concludes the background discussion. I'll
15  now move on to our proposed amendments.
16  --o0o--

17  MS. JOHNSON: This slide shows the categories
18  proposed for regulation along with a description of the
Page 68
products. It should be noted that although multi-purpose solvents and paint thinners are shown as distinct categories, in practice, they are used interchangeably and are found together on store shelves. VOC emissions would be reduced by approximately 14.7 tons per day when the limits are fully effective. Earlier this year, the South Coast Air Quality Management District adopted VOC limits for consumer paint thinners and multi-purpose solvents. The reductions shown here do not include those that would occur in the South Coast Air District.

The reductions the South Coast AQMD achieved with the adoption of their limits was projected and factored into their air quality management plan. Therefore, our 30 to 40 tons per day target was not effected.

For the rest of this presentation, I will refer to multi-purpose solvents and paint thinners as thinners and solvents.

--o0o--

MS. JOHNSON: The proposed amendments were developed with extensive public participation.

The first step in developing the proposed
amendments was conducting surveys to obtain consumer product sales and formulation data. In 2007, we initially proposed VOC limits for thinners and solvents based on data from ARB's 2003 consumer and commercial products survey. At that time, stakeholders indicated that the market for these products had changed significantly and the 2003 data were no longer representative of current products. Therefore, in 2008, we conducted a survey update and collected updated sales data along with information regarding new technologies. The data we collected showed new technologies had been introduced into these categories. Data from the 2006 consumer and commercial products survey were used for the double phase aerosol air freshener proposal. We also conducted two public workshops and participated in numerous individual meetings and teleconferences.

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MS. JOHNSON: On this slide are the category's proposed COC limits and effective dates subject to today's
rulemaking.

A VOC limit of 25 percent by weight is currently in effect for double phase aerosol air fresheners. We are proposing to lower the VOC limit to 20 percent by weight.

I'd like to talk briefly about the two tiers of new VOC limits we are proposing for thinners and solvents. As shown on the slide, we are proposing the same limits and effective dates. While the first tier limit of 30 percent would become effective next year, the proposed second tier, 2013 effective date, would allow manufacturers the necessary time to develop and market lower-emitting, less flammable, or less costly technologies.

We intend to monitor manufacturer's reformulation progress by requiring detailed written updates in 2012 on research and development efforts to comply with the three percent VOC standard. We intend to use the data to conduct a technical assessment, which I will discuss later in the presentation.

The South Coast AQMD adopted limits similar to those we are proposing today, but with earlier effective dates. Upon adoption of the proposed statewide limits,
manufacturers would be required to meet both ARB's and the South Coast AQMD's requirements for products sold in the South Coast Air District. Products meeting the South Coast limits will meet our proposed statewide limits.

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MS. JOHNSON: Although no use of solvents with high global warming potentials were reported, we are proposing a global warming potential limit of 150 for all three categories. This proposal would ensure there is no increase in greenhouse gas emissions as products are reformulated to meet the proposed VOC limits.

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MS. JOHNSON: The proposal specific to thinners and solvents are shown here.

As shown on this slide, we are proposing to prohibit the use of three toxic air contaminants in 2010. We are also proposing an aromatic VOC limit of one percent by weight. This will minimize the use of highly reactive aromatic compounds, such as toluene and xylenes, in reformulated products. To enforce this provision, upon notification from ARB, manufacturers would be required to supply reformulation data within ten working days to direct our compliance testing.
We have proposed two labeling provisions. The first would require manufacturers to display the VOC content in percent by weight as determined from actual formulation data.

Our second labeling provision would address public safety concerns that have been raised regarding the flammability of some low VOC thinners and solvents. One reformulation option is to use ingredients that will result in flammable or extremely flammable rated products. Consumers may generally not be familiar with thinners and solvents that have these flammability ratings. As proposed, if a product is reformulated to have a flammable or extremely flammable rating, then manufacturers will need to comply with specific labeling requirements to inform consumers of the change.

The proposed special reporting requirements would provide the data necessary to conduct a technical assessment prior to the future technology-forcing three percent VOC limit. In the assessment, we intend to evaluate the impacts of implementing the three percent by weight VOC limit and the one percent by weight aromatic VOC limit. In addition, we will evaluate whether a
reactivity-based approach to regulating these products would be more appropriate than a mass-based approach.

We are proposing to exempt artist's solvents and thinners that are labeled to meet ASTM standard D4236 and packaged in containers equal to or less than 32 fluid ounces.

MS. JOHNSON: Other amendments are shown here.

We are proposing a temporary, small container exemption for paint thinner products packaged in containers less than or equal to eight fluid ounces because of existing air district rules that contain an exemption from the VOC limits for the architectural coatings packaged in containers with a volume of one liter or less. This exemption would sunset on December 31st, 2013, and only apply to products meeting the paint thinner definition. The short-term exemption should give manufacturers sufficient time to develop low VOC thinners that are compatible with solvent borne coatings.

We are also proposing minor changes to a few definitions and provisions. For example, we are proposing to amend the automotive windshield washer fluid definitions to accommodate more sizes of dilatable...
products that are currently available for sale. This change does not impact VOC emissions from this category.

Finally, we are proposing to clarify language in method 310 that explains procedures used to test products with low VOC or high water content.

This concludes the overview of our proposed amendments. In the next two slides, I'll discuss the economic and environmental impacts of our proposal.

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MS. JOHNSON: Because of the large VOC emissions reductions that would be achieved, the cost-effectiveness of this proposal is better than other consumer products' rulemakings. However, manufacturing costs may increase, depending on the pathway chosen, to comply with the second tier VOC limits for thinners and solvents. We believe businesses will pass on, at least some of the compliance costs, to consumers in order to maintain profit margins.

The slide shows the estimated costs per year increase to consumers if manufacturing costs are passed on.

We found the cost per year increase for double phase aerosol air fresheners would be negligible and about
$1.50 for thinner and solvents purchased by consumers.

We also estimated an $8 cost per year increase for licensed contractors who purchase approximately five gallons of these products per year.

Next, I'll discuss environmental impacts.

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MS. JOHNSON: The proposal would have overall positive impacts on the environment by reducing about 14.7 tons of VOC emissions per day when all the limits become effective in 2013. Approximately 14 percent of the reductions would be achieved by the proposed lower VOC limit for double phase aerosol air fresheners, and the remaining 86 percent would be achieved from the limits for thinners and solvents, excluding the South Coast Air District.

Prohibiting the use of chlorinated toxic air contaminants will prevent the public's exposure to certain carcinogens. In addition, the aromatic VOC limit would prevent the use of highly reactive ingredients and would likely result in additional ozone reductions.

Finally, the labeling requirement would educate consumers about a potential change in formulation.

This proposal, along with the proposed mitigation measures, will not result in any significant adverse impacts.
This is the last slide on the staff's proposal you have before you today. I'll now move on to proposed modifications.

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MS. JOHNSON: We are proposing to modify the multi-purpose solvent definition to clarify that this category includes paint cleanup products. We are also proposing to remove the VOC content labeling requirement. We will consider this concept more generally for some or all consumer products categories in a future rulemaking.

To address comments, we are proposing additional options to the labeling provision for flammable or extremely flammable thinners and solvents. We are proposing that manufacturers may also display the proposed language in a contrasting square or rectangle on the product label.

Further, the proposal would require that the statement be in a specific font and in both English and Spanish.

We also recommend that responsible parties or manufacturers have 30 working days, rather than 10, to provide formulation data for products selected for compliance testing with the proposed aromatic VOC limit.

It has come to our attention that certain
compounds useful in reformulated thinners and solvents may meet the definition of aromatic compound. These types of compounds are generally large molecules with low volatility and are essentially nonreactive with respect to ozone formation.

We intend to work with stakeholders to evaluate whether these compounds should be excluded from the definition of aromatic compound. The outcome of this evaluation may also necessitate modifications to the testing procedures in proposed section 93415(h). Further proposed modifications would remove duplicative provisions in the Test Method section. Within the same section, we also intend to clarify what constitutes a violation of the aromatic VOC limit.

Finally, it has been recommended that we align the proposed industrial maintenance coating and Zinc-Rich Primer definitions with district architectural coating rules. We intend to work with stakeholders on this issue, and any appropriate modifications will be included in the 15-day comment period.

We received several comments, which I'll summarize next.
should have an earlier effective date. We believe the proposed effective date of December 31, 2013, is necessary, because it has not been demonstrated that low VOC products available today in commerce adequately thin all types of coatings. The additional time is also needed to develop less flammable and/or less costly product technologies that may also provide greater ozone reductions.

You may also hear that the one percent aromatic VOC limit should be removed. We believe the one percent aromatic limit is necessary to ensure the expected air quality benefits are realized. If products are reformulated using highly reactive aromatic hydrocarbon solvents, such products could negate much of the proposal's benefits. Therefore, as a mitigation measure, we are proposing to limit the amount of aromatic solvents used in the product's final formulation to one percent by weight. While this proposal does remove one potential reformulation option, other technologically feasible options are available.

Some stakeholders may comment that you should adopt reactivity-based standards, rather than the proposed
However, as a first step, we believe our proposal for mass-based VOC limits, coupled with the aromatic compound limit, is the best regulatory approach for these high solvent categories.

As a second step, we will evaluate a reactivity-based approach as part of the 2012 technical assessment mentioned previously.

We also note that South Coast AQMD earlier adopted mass-based limits for these categories. In light of this, we believe it is prudent to adopt mass-based limits as well to provide statewide consistency.

This concludes our summary of comments. Next I'll describe ongoing work for future regulatory action.

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MS. JOHNSON: We are in the process of evaluating VOC and air toxic reduction strategies for cleaning product categories, dry clean only spot removers, and paint removers or strippers.

We are consulting with staff from the Office of Environmental Health Hazard Assessment and the State Water
Resources Control Board regarding potential adverse impacts from the predicted formulation of products that would comply with proposed lower VOC limits. Upon completion of our assessment and public review of our findings, our goal is to propose to the Board further amendments in late 2010.

We are also evaluating other consumer products categories for potential reductions to fully meet the consumer products SIP target by 2014.

Concerns have been raised regarding impacts from the use of several toxic compounds in nail coating products used at nail salons. We are working on an evaluation to determine if the use of these products in nail salons impacts nearby communities.

MS. JOHNSON: In conclusion, we recommend that you adopt the proposed amendments with the modification described today.

We'd be happy to answer any questions you may have.

ACTING CHAIRPERSON RIORSDAN: Board members, are there any questions on this item at this time?
CHIEF COUNSEL PETER: Madam Chair, this is Ellen Peter, Chief Counsel.

I just wanted to, for the record, reflect that Board Member Sandra Berg left at the beginning of Mr. Goldstene's presentation. She's recusing herself from this item, but she didn't want to disrupt the presentation of Mr. Goldstene or staff. And I told her I would put this on the record, that she left immediately.

ACTING CHAIRPERSON RIORDAN: Thank you very much. So she will be gone for this item. And I appreciate that.

Yes, Ms. D'Adamo.

BOARD MEMBER D'ADAMO: I'm assuming it goes without saying, but on the ongoing work that you mentioned on the nail coatings and exposure to the community, I'm assuming there is a focus on the workers in those nail salons.

MR. MALLORY: Actually, the focus is on outdoor exposure to nearby residents. Worker exposure is under the jurisdiction of the Office of Safety -- and OSHA, Cal/OSHA.

BOARD MEMBER D'ADAMO: Are we doing anything to coordinate with OSHA? That's an area that concerns me.

MR. MALLORY: Yes. We have met with them, along
with the communities groups, and discussed the
jurisdictional issues and met with them several times,
yes.

BOARD MEMBER D'ADAMO: And we're focusing for
today on the aerosol air fresheners. But I'm just curious
about all these products that seem to be more and more
popular, the plug-ins and oils, aroma therapy sort of oils
that are also used as air fresheners. Is staff evaluating
the air quality impacts of those other items?

MR. MALLORY: Most of those products already have

VOC content limits that effect those. And we have
recently surveyed those, so we have up-to-date
information, and we are considering further reductions
from some of those categories.

BOARD MEMBER D'ADAMO: Thank you.

ACTING CHAIRPERSON RIORDAN: Any other questions
before we begin? All right.

We have a number of speakers. And so let's see
how organized we can be. A number of you are
professionals. So I know you are aware that both of the
microphones, you're able to use those.

So let me begin by inviting down Joseph Yost and
followed by Doug Fratz, Gregory Johnson, Elena Rodriguez, Sheila Nem, Luis Cabrales. Why don't that group just come down to this front row and be ready to take the microphone in order as I call you.

So Mr. Yost.

MR. YOST: Thank you, Ms. Riordan.

Good morning, Madam Chair, members of the Board, ARB staff.

My name is Joseph Yost. I'm Director of Strategic Issues Advocacy for the Consumer Specialty Products Association.

CSPA is a voluntary nonprofit trade association representing approximately 240 companies that manufacture, formulate, distribute, and sell a broad range of products for household and commercial use.

During the past 20 years, CSPA companies spent many hundreds of millions of dollars to reformulate our products to comply with ARB's strict standards to improve air quality in California while maintaining our industry's ability to sell effective products that consumers can rely upon to contribute positively to the health, safety, and quality of life.

As an initial matter, CSPA commends the ARB
staff's concerted efforts to ensure that all interested parties had an opportunity to participate in an open and transparent public effort to develop this proposed regulation. CSPA appreciates the opportunity to work cooperatively with ARB staff, environmental groups, air districts, and other stakeholders on this important and very challenging rulemaking process.

The proposed limit for air fresheners presents very significant technological challenges for product manufacturers. This will be the third time that ARB has established a regulatory standard for this broad category. The current standard in place was in effect less than five years ago. Completing the necessary manufacturing stage gates of researching, developing, and engineering new product formulations will require approximately three years before new technologies can be introduced as viable products in the marketplace.

Moreover, I'd like to stress this is not a monolithic group of products. A large number of different scents and product sizes adds to the difficulty of reformulating products in this category. Although the proposed VOC limit is an aggressive technology-forcing
standard as evidenced by the ARB's survey, which states that more than 99 percent of the current products will have to be reformulated, CSPA member companies commit to initiate actions necessary to reformulate this broad range of products to meet the new limit by the proposed effective date. We hope that this new limit will prove feasible in the time allowed for compliance. However, CSPA member companies have yet to identify technologies to be able to meet this new standard. Therefore, we request ARB staff to work with us to re-evaluate this limit in the future if it proves to be technologically and commercially infeasible.

Thank you for the opportunity to comment on this important rulemaking. Going forward, CSPA agrees with ARB staff that the serious challenges of improving California's air quality will require new and innovative thinking. Accordingly, CSPA will continue to work cooperatively with ARB staff, air districts, and environmental groups and other stakeholders to develop and identify appropriate new approaches for implementing ARB statutory mandate to protect the health and safety of California residents and the environment.

Thank you very much.
ACTING CHAIRPERSON RIORDAN: Thank you very much.
And I can assure you, as you well know, staff will work
with you.

MR. YOST: Yes, ma'am. Thank you.
ACTING CHAIRPERSON RIORDAN: Yes.
MR. FRATZ: Thank you, Madam Chair, Board
members.

I'm D. Douglas Fratz, Vice President of
Scientific and Technical Affairs at the Consumer Specialty
Products Association. We represent, as Mr. Yost said, the
consumer products industry and a broad representation of
that industry.

We submitted written comments. And what I would
like to do is to emphasize the very high importance for
the solvents and thinner products of moving expeditiously
toward development of reactivity-based standards for these
products to replace the mass-based standards that I expect
you will adopt today and similar standards that have been
adopted earlier by the South Coast District.

Adopting -- it would be very possible and

advantageous for these products -- these standards to be
replaced by equivalent -- ozone equivalent reactivity
Now, many of the problems that you're going to hear about today from the paint and coatings industry in particular have to do with the adverse side effects of these mass-based standards. Certainly the flammability safety, certainly the need to apply an aromatic reduction on top of the VOC reduction and the limit options for product technology that are created by the mass-based standard. All of these problems could be solved by going to a reactivity-based standard, the same ozone impact while giving better flexibility and product technology.

This would also solve a problem that we see involving having two different standards overlay each other in the South Coast District and slightly different standards in the state as compared to this district.

It's not appropriate to wait until 2012 to do this after the standards are already in effect and already causing the problems that need to be avoided. It would be better to go expeditiously and try to resolve this problem next year. Thanks.

ACTING CHAIRPERSON RIORDAN: Thank you very much. I'll make a note of that. Maybe staff would comment on that.
Mr. Johnson.

MR. JOHNSON: Hi. Good morning. My name is Gregory Johnson. I'm here representing the Sherwin-Williams Diversified Brands.

I would like to address one section of the proposed rule, and that is the multi-purpose solvents and paint thinners.

First, the three percent limit being proposed is simply not a viable limit. Lowering the mass percent in a product category is much like lowering the speed limit on a freeway. There may be some safety advantages and some fuel economy benefits, but they will come at a cost in productivity. And at a certain point, it just doesn't make sense any more to keep lowering the speed limit.

Imagine highway 60 out here with a three mile an hour speed limit. Probably be the safest highway on the planet, but I can't believe anybody would use it. And I would bet that you would agree with me that's not an appropriate limit for that highway.

I've spoken to several chemists about this category who have worked with these kind of products, and they've assured me sort of a similar thing. They've said that a three percent limit in this category will cause an extreme loss of functionality, and many of the current uses and applications will no longer be viable.
But even as onerous as the three percent limit is, the real issue here with this category is the proposal to limit aromatics to one percent. On the surface, this doesn't seem like a big thing, but the premise and the precedence that it set will be enormous. The aromatics proposal was put in to limit reactivity in the category. As a regulatory strategy, combining mass-based and reactivity strategies in a single category is devastating to innovation in that category.

The method proposed by the staff of restricting an entire class of chemicals to accomplish this is even more devastating. If it's allowed to go through, the message that will circulate tomorrow morning is that California is now restricting aromatics. This will have a detrimental effect on any development of aromatic technology. And in some cases, it will come to a screeching halt.

The definition for the aromatics that has been proposed is also too broad. It will encompass thousands of chemicals, many of which really shouldn't even be considered, many of which also have low reactivity. It's sort of self-defeating. It's like killing an ant with a sledge hammer.

Also, it would be difficult to enforce, because there's no test for aromatics. And one thing, it will
incorporate extreme complexity onto the development side of the equation. There's no list of aromatics that we can plug into a computer and tell chemists not to use. They'll have to look at every single compound's molecular formula and look for these aromatic rings or similar structures. And so it will be extremely difficult on that side.

Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Elena Rodriguez.

MR. CABRALES: Madam Chair, I'm Luis Cabrales.

I'm going to translate Elena's testimony to English.

ACTING CHAIRPERSON RIORDAN: That would be fine.

MS. RODRIGUEZ: Good morning. My name is Elena Rodriguez. I'm here from Long Beach Alliance for Children with Asthma. Thank you very much for allowing me to express my concerns and offer my suggestion.

I work cleaning homes for three years, and I saw an impact of using toxic chemicals on me -- and continue to affect our community. That is why we're asking CARB to adopt staff's proposal to reduce the percentage of emissions of VOCs in paint thinners and multi-purpose solvents down to three percent.

Many of our community already suffer
And by reducing VOCs from these products, we will at least see safer indoor air quality.

VOCs are dangerous emissions that cause nausea, memory impairment, asthma attacks, eye irritation, irritation of the breathing apparatus, cancer, lung damage, kidney damage, and damage to the nervous system. Unfortunately, children who are the most vulnerable are the ones who also have health problems.

We urge CARB to change the timeline and move it to 2012, closer to rule 1143, shortening the deadline for these emissions.

ACTING CHAIRPERSON RIORDAN: Because we've had the translation, we'll give you another minute. But we need to get to the conclusion.

MS. RODRIGUEZ: These regulations will help ARB achieve its SIP commitments and will save much of the resources that are already in shortage. We want ARB to support this regulation and establish emission limits that won't effect air quality, but specifically public health.

Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much. And Luis, while you're here, let me just take you
Thank you very much, Madam Chairman.

My name is Luis Cabrales. I'm Senior Campaign Associate at Coalition for Clean Air.

Coalition for Clean Air has been working with ARB and South Coast AQMD staff in moving forward these regulations in an effort to reduce VOC emissions from consumer products.

We have introduced comments on behalf of almost 50 statewide local and national organizations. And these organizations represent several hundred thousand California consumers and workers. All of our comments are obviously on support of these regulation. And, in fact, we would like to see it strengthened by moving the deadline for solvents from 2013 to 2012 and make it closer to AQMD's rule 1143.

I would like to address one of the comments that industry just made, and it has to do with their concerns about the potential financial impact or productivity impact of these regulation. The way we see it -- and by
looking at the broad support that these regulations has from both consumers and workers, we completely disagree that these regulations will end this industry as we know it.

In fact, the way we see it, we see it as potentially increasing green jobs in California by encouraging diversity of technology and resources. And so that's why we are very hopeful about this regulation. Not just because of the potential air quality benefits, but also the economic benefits to the State. By changing the formulation of these products and making them safer to both consumers and workers, I'm sure Californians will not stop using air fresheners. We will not stop using solvents or paint thinners. I think we are going to be seeing a standard across the board. So why fear these regulations?

We are very encouraged by the potential benefits and hope that you will support staff and also encourage staff to change the deadline for achieving these VOC reductions.

Thank you very much.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Sheila, please come forward.
And while you're coming forward, let me invite Chet Thompson, Dave Laucella, Doug Raymond, and Eileen Moyer, and Dave Darling to come up to the front row to be ready to speak.

Sheila.

MS. NEM: Good morning, ladies and gentlemen of the Board. My name is Sheila, and I'm an undergraduate student at the University of California Los Angeles and campaign intern at the Coalition for Clean Air.

I'd like to speak to you today on behalf of (inaudible) Sandoval, a janitor from Norwalk, California. I will be reading from a letter addressed to Chairman Nichols from Ms. Sandoval.

Ms. Sandoval would like to thank your agency staff for your efforts to reduce emissions of VOCs, volatile organic compounds, and protecting the health of workers like her.

She's a janitor who has been cleaning supermarkets for more than 15 years, in addition to being a concerned parent and consumer. She would like to encourage the staff to continue working hard to reduce more toxic chemicals from products like multi-purpose
solvents and paint thinners.

She's very committed to her job and would like to continue to work hard to keep these supermarkets clean and open every day. However, on a daily basis, she has to use harsh chemicals to clean the store. These chemicals and cleaning products cause a lot of damage, oftentimes corroding her shoes and clothes. She and her coworkers constantly get headaches, nose bleeds, eye irritation, and burns on their hands. Some janitors have developed asthma and other breathing problems.

She would like to strongly encourage you to support your staff by setting the VOC limit to three percent and asks you to move implementation date for multi-purpose solvents to 2012.

Many products on the market already emit only three percent of VOCs. She believes by moving the date for multi-purpose solvents, ARB will reduce the health impacts associated with the misuse of these products at these workplaces.

Finally, I would like to remind you that janitors like Ms. Sandoval are waiting for a strong regulation of janitorial product and would like to remind your staff they need to include them in the 2010 consumer products
The regulation of janitorial products is very important protection to this line of work.

Again, thank you for your commitment.

We also commend CARB staff. They are true professionals and have been a pleasure to work with.

However, we cannot support this proposal for a number of reasons. And we ask that the Board table this proposal or at least Tier 2 of the proposal.

First, SIG strongly supports the adoption of reactivity-based standards either as the sole or at least an alternative compliance option for paint thinners and multi-purpose solvents. Research and research done by the
state of California shows definitively that reactivity-based standards more effectively reduce ozone-forming potential solvents while providing formulators with needed flexibility. The proposed mass-based approach and stark contrast is outdated, needlessly rigid, and potentially counterproductive. If the Board adopts this proposal, they will be missing a good opportunity.

CARB's proposed aromatics prohibition is arbitrary and capacious. The proposed standard is essentially a reactivity-based provision grafted onto a conventional mass-based approach. If CARB is going to rely on activity concepts, it ought to do it to its entirety. CARB's selective use of reactivity unfairly serves only to make the mass-based approach more onerous and denies formulators needed flexibility.

Importantly, CARB has not met its legal burden of demonstrating that its proposed regulations are commercially and technically feasible and necessary. For example, CARB staff itself states that the three percent Tier 2 standards has "not been demonstrated for paint thinners" and the impacts for which cannot be "fully assessed" until more information is obtained.
CARB simply can't move forward with this regulation until it has been shown to be technically feasible.

We ask that you at least postpone Tier 2 until CARB can complete its assessment that it's committed to do by 2012.

Finally, we're concerned the proposal would likely result in the formulation of products that pose a higher fire risk to consumers. CARB itself in this very room was sufficiently concerned about this issue that it solicited the impact of the Office of the State Fire Marshal on South Coast rule 1143 and submitted comments on the specific issue to CARB in December 2008. Despite its express concerns, CARB has never the less proposed the same rule on a statewide basis.

Although SIG supports the rule's proposed notification and marketing requirements, we do not believe the CARB staff has demonstrated how those provisions would alleviate the undoubted increase in safety risk.

We thank you for this opportunity and look forward to working with CARB staff.

ACTING CHAIRPERSON RIORDAN: Thank you very much.
Next speaker is Mr. Laucella. I'm probably not producing that correctly.

MR. LAUCELLA: Actually, you are. You're one of the few. I'm Dave Laucella from Shell Chemical Company, also representing the ACC Solvents Industry Group.

I wanted to echo what Chet has previously said, that we have worked well with CARB through this whole rulemaking process, and we definitely support the idea of a multi-purpose solvent thinner rule. We just don't support the approach that's currently being taken. And we're asking the Board here in these comments to take a step back in the rulemaking and give staff more time to help work with industry to answer some of these concerns.

I wanted to touch particularly on the aromatics prohibition, which is in our comments. And basically we feel these aromatics provisions are reactivity concepts attached onto a mass-based rule. And we take a little bit of exception and really question that CARB is using reactivity both on a higher reactivity end of the spectrum in this case and also on the lower reactivity end of the spectrum for exempting products, but will not adopt reactivity as an entire concept. And that's what industry has been promoting for quite some time. So we're asking...
that you take the time to include reactivity at this point.

Contrary to what staff's comments were here, we are not proposing that reactivity should replace the mass approach. We've been proposing that it should be an alternate control plan, which is a concept that's very familiar to ARB and also to South Coast that an alternate control plan that would go alongside a mass-based approach. The people in industry could choose which one best suited them to meet the air quality objectives of the rule.

One of the other comments about the aromatics prohibition that we have quite a concern with is why CARB choose aromatics in particular, why they choose one percent. We don't feel that's been adequately demonstrated in the information they've provided to stakeholders. There are numerous compounds that have a higher reactivity to aromatics. That hasn't been adequately discussed openly. So there are a lot of questions as to why aromatics were chosen, one percent was chosen.

We do know aromatics represent a high reactivity, and that's why we propose a reactivity concept in there.
We also just -- to switch to my second point on the commercially and technically feasible aspect, we really -- industry can't make an adequate determination of the commercially and technically feasible, because we haven't been provided detailed information from CARB's consumer products survey update. It was a very high level report that was given, but we need that before we can adequately go forward. So we ask for your consideration. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

MR. RAYMOND: Good morning, members of the Board, Madam Chair, and the ARB staff.

My name is Doug Raymond. I'm here representing WMBARR, a major supplier of multi-purpose solvents and paint thinners.

We've previously submitted comments on this issue. I'd like to start my comments with a thank you to the staff. We met with the staff on several occasions, supplied them with significant data. They were always professional and courteous.

We have several concerns today. Our first concern is the fire risk to the consumer. We have submitted a CD to the Board -- hopefully you got a chance to look at it -- that shows the increase in fire risk,
especially from the future three percent limit. The three percent limit will force us to use acetone. Acetone is an extremely flammable compound. And what will happen when it is added to paint will make the product an extremely flammable product which will increase the flammability risk to consumers.

Second, our concern is the lack of use of reactivity. You've heard from numerous people and even from ARB itself; you are a pioneer in the concept of reactivity. Your aerosol coating rule is now a national regulation. It was copied by EPA and effective this year. Despite significant data that the ARB staff has, they neglected to adopt a reactivity reg. And as you've heard, too, they have kind of mixed the issue of mass and reactivity-based regulations. I don't believe that they can ensure their emission reductions with a mass-based regulation. And that's why they're putting in the reactivity.

What we would push for is an adoption of a reactivity reg, because then there would be no need for an aromatic restriction, which in itself has a host of problems, a couple that you've already heard. One is it's broadly defined. Second is it's going to impede our R&D. And third, it's just not a good precedence.

You've heard from several people today,
Sherwin-Williams, the ACC, NPCA, and CSPA -- well, NPCA will be up -- we support their comments. We have a recommendation that you remove the three percent effective VOC limits, remove the aromatic restrictions, instruct the staff to develop a future reactivity regulation to be effective by 12/31/2013.

We'd like to thank you for the opportunity to comment. And we respectfully request that you instruct the staff to work on our recommendations.

Couple last comments that have come out. The South Coast Air Quality Management District when they did adopt their regulation, they instructed their staff to look at a reactivity regulation.

Thank you very much.

Eileen Moyer, when you're coming forward, let me tell the staff and the Board what I'm thinking. After David Darling's testimony, I'm thinking of taking a break for all of us and our court reporter for about ten minutes, coming back, and finishing the last seven or eight speakers that we have and then coming to a conclusion after that. So that's sort of what I'm thinking. We'll take a bit of a break in the middle of the speakers.
And that will leave Jim Stewart, Naveen Berry,

Morgan Wyenn, Steve Bunting, Yolanda Chavez, Maria Lopez,
Martha Cota, and Dr. Kathy Wolt. If you would come down
to this front row and be ready when we get back from about
a ten minute break, I would appreciate that. And we'll
just get started again.

All right. Thank you, Eileen, for waiting for
me.

MS. MOYER: No problem. Good morning, Madam
Chair and members of the Board. Thank you for giving me
this opportunity to speak to you today.

My name is Eileen Moyer. I'm Director of
Regulatory Relations for Reckit Benckiser. Reckit
Benckiser is a major manufacturer of household care
products, including products like Air Wick air fresheners
and Neutra Air air fresheners.

We have worked cooperatively with ARB staff for
about 20 years now to develop lower VOC standards for
consumer products. Virtually almost all of Reckit
Benckiser's household care products already fall under one
of those standards.

I'm here today specifically to speak about the
air freshener standard and to support the proposal that the ARB staff has put forward. We believe that the limit is feasible. It will take us some time. And our folks in the UK are actively working on reformulating our products at this time.

Thank you for your attention. And that's basically it.

ACTING CHAIRPERSON RIORDAN: Thank you. Straight to the point.

David Darling.

MR. DARLING: Good morning. I'm Dave Darling with the National Paint and Coatings Association.

We are concerned that this rule, the paint and multi-purpose solvents rule, will restrict the availability of effective paint thinners and multi-purpose solvents that are very important to our industry.

While CARB has attempted to mitigate the increased risk of fire hazards that result from the substitution of mineral spirits to acetone, we believe the risk still remains.

We're also concerned that fuel effective products exist today that will meet the three percent limit. And, therefore, we suggest ARB delete that three percent limit.
This problem is exacerbated by the fact the one percent aromatic restriction will further restrict alternatives to acetone. Therefore, we also recommend ARB remove the one percent restriction. As others have mentioned today, we instead suggested ARB proceed forward immediately with a reactivity rule that would provide equivalent ozone reductions and will also provide the industry formulation flexibility. The 2012 technology assessment, which is good. Unfortunately, it probably will take too long -- in 2012, it will take too long to come up with a reactivity rule at that time.

Finally, given the possible overlap with surface coating rules, we request staff work with industry to develop compliance materials to clarify regulatory language after the adoption of the rule.

Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Thank you for your testimony.

All right. Let us take a break. We will return at 25 after 11:00 and we will begin with Jim Stewart is making public presentation. Let's take our break.
(Thereupon a recess was taken from 11:11 a.m. to 11:28 a.m.)

ACTING CHAIRPERSON RIORDAN: Okay. Ladies and gentlemen, let's take our seats.

And Mr. Stewart.

MR. STEWART: Hi. I'm Jim Stewart, and I'm representing Sierra Club California, specifically Bill McGavern, who was very appreciative of the wonderful cooperation that your Board and your staff have provided to him and the other environmental community in this development of this.

We want to say as representing the 200,000 members of Sierra Club in California, this is a great day. I mean to say is that you guys are really doing the right thing. To have a rule that has this four-part advantage of protecting the health of the consumers and the workers, it will improve our ambient air quality. You've ensured that there is no addition to global warming. And it's cost effective; a buck and a half per year, per family, eight dollars. Can you imagine what our painting contractors could think about? Here they are, breathing this awful stuff and getting sick. And for eight bucks a year they could not get sick anymore. Wouldn't that be
You guys are just doing so great. In fact, I also have to compliment the South Coast Air Quality Management District, because they've been blazing the trial for you. They led the way. And, in fact, maybe you want to have -- Chair Riordan, ask the Air Quality Management District, because they've faced the same kind industry opposition that you're hearing today and they dealt with it. And they're the experts. And if they -- I mean, you guys, surely your staff respects the wonderful staff of the South Coast Air Quality Management District. And let's get aware of their knowledge. Let's use that. Let's make sure that we are including that in this.

And then, finally, it seems to me that the South Coast has done the work and that they figured that it's easy to make this deadline by the end of 2012. Why are you delaying this to 2013? Let's move it up.

Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much. Believe it or not, South Coast is going to follow you.

Mr. Berry, if you'd come forward, please.

MR. BERRY: Good morning. My name is Naveen
Berry. I'm a Planning and Rules Manager with the South Coast Air Quality Management District.

The South Coast Air Quality Management District supports the proposal before you today and recognizes upon full implementation this proposed rule will significantly reduce VOC emissions throughout California.

As you heard from the staff, the South Coast Governing Board adopted a similar rule earlier this year, and we've been working actually very closely with CARB staff on this particular proposal. And they've been very helpful to us during our rule development cycle as well.

The South Coast staff also looks forward to working with CARB staff on the future amendments planned for next year, especially having to do with the general purpose cleaners as you heard people testify before you.

Otherwise, I want to thank you for the opportunity to provide these comments. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Morgan Wyenn.

MS. WYENN: Hi. My name is Morgan Wyenn. I am here representing the Natural Resources Defense Council.

Thank you for this opportunity to testify on this matter.
I'm here today to support the adoption of the regulations to combat harmful emissions from consumer products. Reducing harmful VOC emissions is critical to meeting federal and State clean air standards and protecting public health. NRDC applauds CARB's efforts to reduce emissions of volatile organic compounds from consumer products. We urge CARB to adopt these regulations to better protect the health of consumers and workers.

VOCs are dangerous emissions that cause nausea, memory impairment, asthma attacks, eye and respiratory tract irritation, cancer, and damage the lungs, kidneys, and central nervous system.

We urge CARB to adopt a reduction in VOCs for multi-purpose solvents and paint thinners to three percent. However, NRDC is concerned with the timing of the implementation of the second tier of the proposed reduction of multi-purpose solvent and paint thinner VOCs. CARB staff has proposed two stages of VOC limits for multi-purpose solvents and paint thinners. The first limit is a 30 percent limit by December 2010, and the second is a 3 percent limit by December 2013. However,
AQMD's rule 1143 implements a three percent limit by January 2011. CARB should align its VOC three percent limit date closer to the AQMD's rule 1143 by shifting the 2013 implementation date to 2012. This would achieve important VOC emissions reductions one year earlier than the currently proposed amendments.

We are not convinced by the reasons explained in the initial statement of reasons justifying the 2013 implementation date. Many products already in the market comply with the proposed limits. AQMD staff has conducted extensive technology review research of alternative products and found 164 products that would meet the three percent VOC limit. These products are already available, and 102 of them are certified under AQMD's certified clean air solvents program. An implementation date of 2012 is more appropriate for this regulation.

NRDC applauds CARB's efforts looking at the greenhouse gas emissions for global warming potential of consumer products. We encourage CARB to expand these efforts and to reduce the emissions from other kinds of consumer products and ingredients contributing to global warming. We encourage CARB to make California the first state that officially reduces our global warming footprint.
Finally, CARB staff mentioned there will be another regulation process for the consumer products category in 2010. We look forward to the regulation of janitorial products, methalyne chloride, dry clean only, spot removers, and nail coatings in the 2010 rulemaking process.

Thank you for your time. And thank you for your commitment to protect California's air quality.

ACTING CHAIRPERSON RIORDAN: Thank you very much. Steve Bunting.

MR. BUNTING: Good morning, Board members. I'm Steve Bunting. I'm speaking on behalf of the Southern California Fire Prevention Officers.

First of all, I want to say how appreciative I am of your staff, particularly David Mallory and Trish Johnson, how helpful they've been in helping us work through these regulations and our concerns.

Our concern from the beginning has not been with the use of acetone or another solvents to meet this regulation; our concern has been putting one product in a can and calling it something else.
In particular, people have become used to using paint thinners safely as a high flash point. If we were to substitute that with something like acetone which has a very low flash point without telling them so, you can see what kind of problem we might have.

So we believe the modifications that staff has recommended for this regulation will reduce the hazard by letting people know they're not using a product that they've been used to using all along. They're no longer using something called paint thinner. They're using something that has something else in it like acetone, whatever the solvent is they use.

So that's it. Thank you very much.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Yolanda Chavez.

MR. WRIGHT: Excuse me, Madam Chair. Do you want me to go ahead and just add the minute now?

ACTING CHAIRPERSON RIORDAN: Yes. That's a good idea.

You get an extra minute for the translation.

MS. CHAVEZ: Good morning. Thank you very much for listening to me this morning.

My name is Yolanda Chavez. I'm here representing the Long Beach Alliance for Children with Asthma. And I'm
here to request ARB to get the timeline closer to AQMD's to reduce VOCs from these solvents. So we urge you to make the timeline closer to rule 1114 and establish the timeline to 2012.

The reason for our request are as follows:
The vast majority of paint thinners and multi-purpose solvents are used as cleaning products and not as thinners. We are concerned that as a result products marked as paint thinners are used inappropriately. We also ask you to ban the three chemicals suggested by staff.

Thank you very much. As a mother, I ask you to play a game called win-win for all the children that suffer from asthma.

ACTING CHAIRPERSON RIORDAN: Thank you. Thank you for being here.

Maria Yolanda Lopez.

MS. LOPEZ: Thank you very much. My name is Maria Yolanda Lopez. I'm here representing the Long Beach Alliance for Children with Asthma.

And I want to thank you for giving us the opportunity to offer our recommendations regarding these regulations.

We have some suggestions for the consumer products regulations in 2010. Cleaning products, the
cleaning products regulations are very important in our
work and our homes. And these regulations will help CARB
save resources which are already reduced and to also
fulfill its promise or commitments to reduce emissions in

During the 2008 ARB hearing, the Board gave
instructions to staff to regulate this category. We urge
this Board to support your staff. I thank you very much
for your attention.

And I would personally want to share I have a
daughter who has suffered asthma for 28 years. This has
been very exhausting. And I thank you.

ACTING CHAIRPERSON RIORDAN: Thank you. Thank
you for being here.

Martha Cota.

MS. COTA: Good morning. My name is Martha Cota.

I am here representing the Long Beach Alliance for
Children with Asthma. I'm also representing teachers and
students and everyone else who suffers asthma.

I have four children; three of them suffer strong
allergies, headaches, strong eye irritation, and nose
bleedings. My fourth son suffers chronic asthma and as
well as me. And his asthma seems to be triggered
specifically or especially during in classroom.

And just like my family suffers or has been
affected by these VOCs, thousands of families also suffer the same pain of seeing their children with all these health problems. Besides the asthma, the respiratory problems, cancer, and others, our children suffer school days and we suffer as parents work days because we have to take them to the hospital.

And also in the global warming area, which global warming doesn't speak, but we can feel all the impacts already of global warming. That's why we're asking CARB the following:

First, that you adopt regulations that are more strict so that we can feel that we are being protected with your work;

That CARB adopts the proposal to reduce VOC emissions from paint thinners from 100 percent to 3 percent;

Also, we're 100 percent in support of ARB's staff proposal to ban all those toxic chemicals in solvents and paint thinners;

And, lastly, we hope faithfully that you will show your leadership in favor of our communities impacted by air pollution and toxic chemicals in consumer products. Our communities have the power of the economy, and we have
ACTING CHAIRPERSON RIORDAN: Thank you very much.

Dr. Katy Wolt.

DR. WOLT: Madam Chair, Board members, good morning. I think it's still morning. Yes, just barely. My name is Katy Wolt. I'm Director of the Institute for Research and Technical Assistance. It's a small nonprofit organization that does technical work on alternatives to test, identify, develop, and demonstrate alternatives that are safer, primarily in solvent applications. My organization has done extensive work over the last several years on alternative thinners and cleanup materials. And I've become convinced through that work that alternatives that are low VOC and also lower in toxicity are available today.

As other speakers have suggested, I would like to see you move the effective date of the final VOC limit of three percent up earlier to be more consistent with the South Coast standard, which goes into effect in 2011. With that said, however, I really do strongly support this regulation today. And I think the staff has
done just a great job on developing this regulation. Not only will it lead to lower VOC emissions, but it will also lead to lower toxicity and exposure to workers, community members, and consumers.

Among the alternatives that are likely to be used are water-based materials, soy-based materials and acetone. And acetone, as you may know, is much lower in toxicity than virtually all other organic solvents. So it's much preferred over the solvents that are used today in paint thinners and in multi-purpose solvents.

So not only will we lower the VOC emissions, but also protect people in terms of toxicity. The staff's proposal to restrict the aromatic content will also lead to lower toxicity and exposure to people using these materials. The aromatics generally are higher in toxicity than the materials used today.

So just in conclusion then, I would like to strongly support this regulation, but hope you will move the date up, the effective date of the final lower VOC limit. Thank you for your attention.

ACTING CHAIRPERSON RIORDAN: Thank you. Thank you for being here.
Board members, that concludes the public testimony. Let me return back to the staff before your questions and ask the staff perhaps they'd like to comment on any of the issues that were raised by the speakers today. And then we'll open it up for questions from the Board members.

MS. TAKEMOTO: Yes, Madam Chair. We'd be happy to respond to some of the comments you've heard this morning.

I'm Carla Takemoto, for the record. You have heard a number of comments about using the reactivity-based approach rather than a mass-based approach. We, as staff, agree that reactivity is a viable approach for the future of this category, and we intend to look at that before the Tier 2 limit comes into effect.

However, our first avenue when we approach a category is to always try to pursue a mass-based reduction when feasible. And we found it to be feasible for this category. So that is the proposal that we have before you today.

You've also heard that the one percent aromatic compound content limit should be removed and that further information should be provided as to how we arrive at that
First of all, we believe the aromatic limit is necessary to preserve the benefits of the proposal, namely ozone reductions. And we find by putting that restriction in place we are still allowing flexibility to use a variety of other chemicals to meet the limits.

Third, you've heard that the -- oops. Wait. I have more to say to how we arrived at that limit.

The existing market, when we look at the paint thinners and multi-purpose solvents that are currently on the market, the majority of these products are already formulated with fairly low reactive hydrocarbons with very low amounts of aromatic solvent. We look to the future, the new technologies coming on board, and we found the same thing to be true. So we have concluded that aromatic compounds are not necessary for thinning paint.

And so in terms of the one percent limit, we are aware that aromatics may be present as an impurity in other raw materials and wanted to allow for that issue. You've heard that the definition of aromatic compound is too broad. You've heard already we are proposing modifications to evaluate whether we do need to
clarify that or exclude specific compounds.

You heard issues related to test method and our ability to enforce this limit. Our lab routinely analysis for common aromatics, such as the xylene isomers and toluene. We recognize we have to expand our analytical capabilities, and that work is underway. And, in fact, we've pretty much already settled on an ASTM method that will allow us to enforce that limit.

And you've also heard that maybe the technical assessment that we talked about should be moved up. We believe that that technical assessment occurs at the correct time. We need the formulations on the market that are out there meeting the 30 percent limit, and those products and what their formulations are will serve as a baseline for us to be able to evaluate how folks are coming along towards meeting the three percent limit.

MR. MALLORY: I'm David Mallory, and I'd like to address a few other issues.

You've heard that the future effect of three percent VOC limit is not feasible and you've also heard that it is feasible and in fact should be moved up.

We believe it is appropriate. We believe that three percent products are available on the market. The
thinners and solvents are used interchangeably and the
available products will work as cleaners. But the
thinning of paint, there's just a few options right now.
We think the extra time should be afforded to develop less
flammable, less costly, and more effective products that
will thin all types of paint.

You've also heard that we did not furnish enough
data to the industry to evaluate our proposal. We did a
survey with full disclosure in 2003, and then we, at the
suggestion of industry, did an update. And when you put
out data twice, you have to be very concerned about
disclosing confidential information.

That being said, several members of industry came
to us with specific questions about the data. And after
considering whether we would be giving away any
confidential information, we did furnish them with those
specific requests, so they were available.

You also heard concerns about the flammability of
the products that we were dictating flammable products and
there were safety concerns. But as you've heard from the
fire official that testified before you that the labeling
requirements that we've proposed address those concerns.
And the National Paint the Coatings Association suggested that we put together some compliance materials. We would like to do that and post them on our web, and we'd like to work very closely with them to do that.

ACTING CHAIRPERSON RIORDAN: Are there any other comments by staff before we turn it back to the Board for questions? No.

Then let me open it up to the Board members for questions. Are there any questions, Board members, for the staff regarding this item?

I don't see any. You have answered all the questions. Very good.

Let me indicate that this is an item that I should close the record -- correct, Madam Counsel -- on this agenda item. However, the record will be reopened when the 15-day notice of public availability is issued.

Written or oral comments received after this hearing date but before the 15-day notice is issued will not be accepted as part of the official record on this agenda item. When the record is reopened for a 15-day comment period, the public may submit written comments on the proposed changes which will be considered and responded to in the final statement of reason for the
7 regulations.
8 We do have a requirement for ex parte. Let me
9 ask if there are any ex partes that need to be declared on
10 my right side or left side.
11 I have none. So we have no ex parte on this
12 particular item.
13 We do have a resolution that is before us. Board
14 members, what is your pleasure?
15 BOARD MEMBER KENNARD: Madam Chair, I would be
16 happy to move the motion. However, before, I'd like to
17 make a brief comment.
18 I was very interested in what the industry had to
19 say about the technical feasibility and the time frame, et
20 cetera. But I was convinced that staff has done an
21 adequate job in looking at all these issues. I just know
22 they will continue to look at this issue regarding
23 reactivity versus the mass-based approach. And so I'm
24 comfortable. But I did not want to neglect the fact that
25 I heard the industry and I hope that we can work through

And with that, I will move it.
BOARD MEMBER D'ADAMO: Second.
And it's been seconded.

Any further discussion on the motion? Hearing none, then I'll ask all those in favor signify by saying aye.

(Ayes)

Opposed, no.

Motion carries.

Now, let me tell what you we're going to do for the next item. It's going to be a working closed session lunch. We're going to take a break now. It's 12:00 noon. A break until 1:00 p.m.

The Board is going to go into a closed session as indicated in the public notice for today's meeting. The purpose of the closed session is for the Board members to confer with or receive advice from its legal counsel regarding pending litigation listed on today's public agenda.

After the conclusion of our closed session, we'll reconvene in open session to continue today's meeting.

And as I say, we will expect to return at 1:00 p.m. and we will carry on with the next item on our agenda.

So with that, we will adjourn to our closed
session and lunch. And I'd ask Board members to pick up
your lunch and join in the room that's provided for us
here behind the dais. Thank you.
(Thereupon a lunch recess was taken)

ACTING CHAIRPERSON RIORDAN: Ladies and
gentlemen, let me invite you back to your seats and we
will reconvene.

I'd like to ask our legal counsel, Ellen Peter,
to summarize our closed session.

CHIEF COUNSEL PETER: Yes, Madam Chair. We had a
closed session. The Board was given advise on some of the
items listed on the agenda. No action was taken. So
nothing needs to be reported in more detail.

ACTING CHAIRPERSON RIORDAN: Thank you very much.
We're going to move on now to Agenda Item 09-8-7. The
next item on today's agenda is a proposal to amend
California's greenhouse gas regulations for passenger
vehicles.

Sort of as a reminder, in September of 2004, the
Air Resources adopted regulations known as the Pavley
regulations requiring significant reduction in greenhouse
gas emissions from passenger cars, light duty trucks, and
utility vehicles. These requirements which are phased in
from 2009 through 2016 will reduce greenhouse gas
emissions from the new vehicle fleet by approximately 30 percent.

In 2005, we sent U.S. EPA a request for a Clean Air Act waiver to allow California to enforce its adopted standards. Three and a half years later and after considering its initial denial of California's waiver request, the U.S. EPA granted California's waiver this past July. Following Board approval of the Pavley regulations in 2004, motor vehicle manufacturers and their trade associations challenged the Pavley regulations in numerous federal and State court proceedings and opposed California's request for waiver of preemption under the Federal Clean Air Act.

On May 19th, 2009, government and industry made commitments with the goal of resolving current and potential future disputes over the standards through model year 2016.

In summary, the U.S. EPA and the Department of Transportation agreed to establish national greenhouse gas and fuel economy standards for the 2012 through the 2016 model years that are as stringent as the Pavley regulations. The auto makers committed to dropping current and forgo similar legal challenges, including their opposition to California receiving a waiver for Pavley -- for the Pavley regulations. And California
committed to amending the Pavley regulations to ease manufacturers' compliance concerns.

We also agreed to accept compliance with U.S. EPA adopted equivalent greenhouse gas standards for the 2012 through 2016 model years as an option to complying with the Pavley standards for those model years.

Today, we'll hear a proposal to amend the Pavley regulations to implement two of the elements of California's May 2009 commitments.

Mr. Goldstene, would you like to introduce this item, please?

EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam Chair.

Today's proposal amends the Pavley regulations to implement two important elements of California's commitment under the national agreement. The proposed amendments will allow automobile manufacturers to comply with fleet average greenhouse gas requirements by pooling sales in California with sales of vehicles in other states that have adopted ARB's greenhouse gas standards.

The proposed amendments will also allow automobile manufacturers to use corporate average fuel economy data to demonstrate compliance with our program.

Both of these changes will help manufacturers achieve reductions in greenhouse gas emissions from their fleets.
while simplifying the process they must follow to meet their obligations. This item also includes minor amendments to the low emission vehicle test procedures.

In December, staff will propose to the Board the third element of the agreement, allowing compliance with national greenhouse gas standards for model year 2012 through 2014 to serve as compliance with the Pavley regulation. Sarah Carter of the Mobile Source Control Division will now give the staff presentation.

(Thereupon an overhead presentation was presented as follows.)

MS. CARTER: Thank you, James.

Good afternoon, Madam Riordan and members of the Board.

Today I will be presenting staff's proposal to amend the regulations to control greenhouse gas emissions from new passenger vehicles.

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MS. CARTER: In 2004, the Air Resources Board approved landmark regulations, known as the Pavley regulations, to significantly reduce greenhouse gas emissions from new passenger vehicles sold in California.
These regulations, developed in accordance with AB 1493, were designed to achieve the maximum feasible and cost effective reduction of greenhouse gas emissions beginning with the 2009 model year.

U.S. EPA granted a waiver of preemption for the Pavley regulations on July 8th, 2009, which California needed to enforce the regulations.

MS. CARTER: The Pavley regulations are based on the combined value of the four greenhouse gas emissions from motor vehicles: Carbon dioxide, methane, nitrous oxide from the tailpipe, and hydrofluorocarbons from vehicle air conditioning systems. The standards are expressed in CO2 equivalent terms so that each greenhouse gas is weighted according to its global warming potential when determining compliance with the emission standards.

MS. CARTER: Since the adoption of the Pavley regulations in 2004, auto manufacturers have challenged them in numerous federal and State court proceedings. They have opposed granting of a waiver by U.S. EPA.

In March of 2008, U.S. EPA published a notice in
the Federal Register denying our request for a waiver. This past January, ARB sent a letter to U.S. EPA asking them to reconsider our waiver request. In February, U.S. EPA agreed to reexamine the appropriateness of their prior decision.

Again, automobile manufacturers opposed our request, arguing in part that the adoption of the Pavley regulations by other states, in accordance with Section 177 of the Clean Air Act, would create an unmanageable patchwork of standards, due to variation in the fleet mix of each of the different states. They further argued that the Pavley regulations imposed an unreasonable testing burden on them.

MS. CARTER: This slide shows California and the 13 other states, including the District of Colorado, that have adopted the California greenhouse gas regulations. Together, these encompass about 40 percent of new passenger vehicles sold each year in the US.

MS. CARTER: After President Obama took office, an agreement was reached between challenging parties, auto manufacturers, California, and the federal government that
should resolve current and potential future disputes over the standards through model year 2016. This agreement, which was announced by President Obama on May 19th, 2009, encompasses a series of actions that each party has committed to take.  

MS. CARTER: The next two slides briefly describe the commitments made by each party. The U.S. EPA committed to develop national greenhouse gas regulations for passenger vehicles applicable for the 2012 through 2016 model years, which would achieve equivalent emission reductions to the California regulations. This effort is being done in concert with the US Department of Transportation, which is developing new corporate average fuel economy regulations for these same model years that are comparable with the national passenger vehicle greenhouse gas program. A federal notice of intent for joint rulemaking by the U.S. EPA and National Highway Traffic Safety Administration, or NHTSA, issued on May 22nd initiated this part of their commitment. The first step, a notice of proposed rulemaking, was released last week.
MS. CARTER: The automobile manufacturers and their affiliates committed to dropping their current lawsuits against the California regulations and forgo future similar legal challenges to their program through the 2016 model year. Manufacturers also agreed to drop their opposition to California's waiver request.

And, California committed to three things:

First, we committed to allowing manufacturing to demonstrate compliance with the fleet average greenhouse gas requirements by pooling vehicle sales from California, other states that have adopted the Pavley regulations, and the district of Columbia.

Second, we committed to allowing manufacturers to use data from the federal fuel economy program, called CAFE, to show compliance with the California greenhouse gas regulations. The goal was to reduce the amount of testing needed.

And, third, we committed to accept compliance with national greenhouse gas standards for the 2012 through 2016 model years as meeting the California greenhouse gas requirements.

It is important to note that California did not
either give up or accept any limit to our authority to control greenhouse gas emissions from motor vehicles by agreeing to these regulatory flexibilities.

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MS. CARTER: The result of these commitments is that ARB and the Section 177 states will enforce the California standards for the 2009 through 2011 model years, when there is no national standards.

For the 2012 through 2016 model years, a manufacturer that complies with EPA's greenhouse gas standards will be deemed compliant with California requirements.

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MS. CARTER: This graph shows the greenhouse gas emission standards for the Pavley program and those proposed for the national program by the U.S. EPA. For model years 2009 through 2011, the emission reductions from California regulations are preserved. The national standards, as recently proposed, are less stringent on the gram per mile basis than the California standards in this time period. However, the national program would achieve greater overall reductions in

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greenhouse gases, since it will apply to all 50 states, not just California and the 177 states.

In 2016, the national greenhouse gas regulations will be of equal stringency as the California regulations. Staff plans to return to you, the Board, in December, with a proposal to accept compliance with the national standards as compliance with our existing adopted standards for the 2012 through 2016 model years.

MS. CARTER: Today's proposal implements two parts of California's commitment. Because of the short lead time associated with these changes, they are both provided as options to the manufacturers. This allows any manufacturer that has developed a compliance plan based on the current regulations to continue to use that plan.

The first regulatory change being proposed today addresses manufacturers' purported patchwork argument. This change allows a manufacturer to demonstrate compliance with the fleet average greenhouse gas requirement based on the combined sales of vehicles produced and delivered for sale in California, the district of Columbia, and the Section 177 states.
MS. CARTER: The second regulatory change being proposed today addresses the manufacturers' claim that the California regulations impose an economic hardship to them due to the increased vehicle testing required to demonstrate compliance. Staff is proposing to allow manufacturers to use emission data from the federal corporate average fuel economy program to demonstrate compliance with California's regulations. This approach reduces costs to the manufacturers by reducing the numbers of tests that must be conducted solely for the purpose of California regulations.

Staff is also proposing an additional reporting requirement that is needed to successfully implement the changes I just mentioned. Each manufacturer must submit data to us that shows the mix and number of vehicles delivered for sale that are used to calculate a manufacturer's fleet average greenhouse gas values. Those data must be submitted as an aggregation of vehicles delivered for sale in California, the district of Columbia, and the section 177 states. This will allow ARB to verify that the California requirements are being met if a manufacturer chooses to pool its vehicle sales.
The data must also be submitted on a state by state basis. This will allow states such as California that are obligated to reduce greenhouse gases under laws such as AB 32 to identify the reductions in greenhouse gases that may be attributed to its regulations.

Finally, a number of non-substantive changes are being proposed to update the light-duty test procedures to ensure that the sections of the Code of Federal Regulations which are referenced there are current.

Staff has had extensive discussion with industry in developing this proposal as shown on this slide.

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MS. CARTER: Staff is also proposing 15-day changes to the original 45-day notice. These changes will allow compliance with the fleet average greenhouse gas requirements based on number of vehicles produced and delivered for sale in California, rather than actual sales. This change makes the California regulations consistent with the low-emission vehicle and zero emission vehicle program requirements.

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MS. CARTER: To summarize, staff's proposal will implement two commitments made by California as part of
the agreement we signed in May with the federal government and the auto manufacturers. There are no significant environmental or economic impacts of this proposal. Therefore, staff recommends that the Board adopt this proposal, including the proposed 15-day changes.

ACTING CHAIRPERSON RIORDAN: Thank you very much. Board members, are there any questions for staff at this time?

Okay. We have one person wishing to speak, John Cabaniss, the Association of International Auto Manufacturers.

MR. CABANISS: Yes. John Cabaniss.

ACTING CHAIRPERSON RIORDAN: I'm sorry. I apologize. Now that I'm in the light, I do see what I just did.

MR. CABANISS: Quite all right. Thank you. My name is John Cabaniss with the Association of International Automobile Manufacturers. AIM fully supports President Obama's approach announced in May that was described just a moment ago by the staff for a harmonized national program to reduce vehicle greenhouse gas emissions and improve fuel economy.
EPA and DOT, as was noted in this staff report just last week released this proposal, and it appears as again was shown in the slides that the stringency of this new federal greenhouse gas program is comparable to the California program.

We appreciate the commitments that California has made to align with this national program, and we support the changes before you today regarding the pooling of California and Section 177 state data and the use of CAFE data for compliance purposes. These changes will provide more flexibility for manufacturers and we appreciate that.

We submitted some written comments earlier. We noted a few things that we had some concerns about.

First, we do not believe the state-by-state reporting notes required under the pooling option is consistent with the commitment that was made to the national program or is really necessary for tracking. There are better sources of data, including State DMV records, that can be used for the purposes that were described and also for inventory purposes. Of course, fuel tax records are probably the best source for information as is recognized by the staff, I'm sure.

Second, we identified some editorial concerns which, from looking at the recommended changes for the 15-day notice, look like take care of our problems, and we
appreciate those changes.

In closing, I would just like to again thank you. And we look forward to working with California EPA and DOT as they finalize the national program rules and also in developing a national program for 2017 and beyond that will meet everyone's needs. Thank you very much.

ACTING CHAIRPERSON RIORDAN: Thank you. And thank you for being here today.

Staff, on the reporting, the issues that he raised, do we -- have we responded and how?

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: We've talked to many of the other states, and they're in a situation just like us. Many of them have AB 32 like laws, and they have told their governors that they're going to get so much out of adopting the California standard, and they just need an individual accounting.

For example, it's entirely possible we will get more than we have in the AB 32 Scoping Plan or may get less. The overall for the United States would still be the same as California plus the other 177 states. But we need to know it so we can adjust our counting, and I think there are other states that do, too. It doesn't seem to us to be a particularly difficult task to let us know so we can share with the other states how many of these vehicles were sold in their area.
ACTING CHAIRPERSON RIORDAN: Okay. Thank you.

That concludes our public comment. And let me bring it back to see whether or not there are any questions for staff. Otherwise, I'm going to close the record. Are there any other questions for staff at this time? All right.

I will now close the record on this agenda item.

However, the record will be reopened when the 15-day notice of public availability is issued. Written or oral comments received after this hearing date but before the 15-day notice is issued will not be accepted as part of the official record on this agenda item.

When the record is reopened for the 15-day comment period, the public may submit written comments on the proposed changes which will be considered and responded to in the final statement of reasons for the regulation.

There is an ex parte requirement for this particular item. Are there any ex parte communications that need to be reported, Board members? Anyone?

None.

Then the resolution is before us. Do I have a motion?

BOARD MEMBER D'ADAMO: Move adoption of Resolution 09-53.
BOARD MEMBER BALMES: Second.

ACTING CHAIRPERSON RIORDAN: There is a second.

Any further discussion?

Seeing none, all those in favor of the motion please signify by saying aye.

(Ayes)

ACTING CHAIRPERSON RIORDAN: Opposed, no.

Motion carries. Thank you very much.

We're going to move on to the next item, which is 09-8-8. This next item before the Board is to consider the adoption of the Climate Action Reserves updated greenhouse gas accounting protocol for voluntary forest projects.

This update to the forest protocol reflects changes that the Board recommended when we approved the California Climate Action Registry's original protocol in October of 2007.

While the former California Climate Action Registry is now called the Climate Action Reserve, it continues its role of developing rigorous accounting protocols. We appreciate the Reserve's work in this area since it helps encourage voluntary actions to support our
climate programs.

Today's action does not address regulatory questions that must be considered as part of our cap and trade proposal. That's for a future Board action.

Meanwhile, I'm pleased that the Climate Action Reserve continues to play an important supporting role by developing sound project accounting methods.

Let me ask Mr. Goldstene if he would like to introduce this item to us, please.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Madam Chair.

Today staff will present an overview of the improvements made to the Forest Project Protocol approved in 2007. ARB staff worked closely with the Climate Action Reserve through the public process. The accounting issues posed by forest projects are complex, and we believe the Reserve staff in collaboration with other technical experts did an excellent job sorting through the issues.

ARB staff does not recommend any changes to the protocol. However, you will hear discussions of clarifications to the Reserve's language in a few instances. Gary Gero, President of the Reserve, will speak to this point.
The updated protocol addresses the key issues the Board raised in 2007. It expands opportunities for projects on both public and private lands, while maintaining rigorous accounting procedures. It also adds important protections to address any lost benefits due to wildfire or other unforeseen events.

Erik Winegar of the Planning and Technical Support Division will provide the staff presentation. (Thereupon an overhead presentation was presented as follows.)

MR. WINEGAR: Thank you, Mr. Goldstene and members of the Board.

My name is Erik Winegar of the Planning and Technical Support Division.

And I will be presenting the staff's recommendation regarding adoption of the Climate Action Reserve's Forest Project Protocol for greenhouse gas accounting.

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MR. WINEGAR: Staff proposes adoption of the Climate Action Reserve's Forest Project Protocol as a greenhouse gas accounting method for voluntary forest
18 projects.
19 Pursuant to AB 32, the adoption of this methodology is a non-regulatory action which represents Board endorsement for a technically sound approach for carbon accounting in forest projects. It is important to note that the forest protocol does not establish rules for compliance markets, trading, or offsets. Board adoption of the methodologies within the updated protocol will encourage early action greenhouse gas reduction projects while the compliance market in California's cap and trade program is developed.

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MR. WINEGAR: In October 2007, the Board adopted the Reserve's forest project, sector, and certification protocols as a cohesive accounting framework for voluntary forest projects. At that time, the Board directed ARB staff to develop additional approaches to forest carbon accounting, in particular, to reduce barriers and provide greater opportunities for participation of other land owners, such as public lands and industrial working forests.

MR. WINEGAR: ARB staff contacted with the
Reserve to coordinate the protocol update. A working group was formed with representation from nonprofits and conservation organizations, public and private landowners, academia, and government agencies.

ARB actively participated in the work group, which met every three weeks. Four public workshops were held and public comments were solicited on several key issues, as well as on two draft versions of the updated protocol. A final version of the Forest Project Protocol was adopted by the Reserve's Board on September 1st.

MR. WINEGAR: The protocol provides methods for quantifying carbon stocks and net emission reductions in forest projects. The protocol is designed to ensure that quantified reductions are real, meaning they are calculated accurately and conservatively, additional to any reductions that would result from legal or regulatory requirements and additional to what would be expected to occur under business-as-usual practices.

Permanent, meaning that reductions are maintained for a long period of time and that mechanisms are in place to address the risk that stored carbon could be lost, for
example, by fire. And verifiable, meaning that calculated reductions can be independently reviewed and attested to by an accredited third party.

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MR. WINEGAR: The protocol covers three eligible project types.

Reforestation projects involve planting trees on land that has been out of forest cover for a period of time or has recently experienced a significant disturbance. Allowing projects after a recent natural disturbance is an improvement to the updated protocol that will expand project eligibility.

Improved forest management projects involve activities that increase carbon storage in forest lands relative to an appropriate baseline.

Avoided conversion projects involve the preservation of forest lands where there is a significant threat of conversion. The preservation is accomplished through obtaining a conservation easement or transfer from private to public ownership.

It is important to note that all projects, regardless of the type, must maintain or increase live
tree biomass in the forest.

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MR. WINEGAR: Some of the key areas addressed in the protocol update include: Expanded applicability; improved methods for calculating baselines and additionality; improved methods to address permanence and leakage risks; requirements to demonstrate sustainable harvesting practices; a clearer definition of natural forest management; and the inclusion of harvested wood product accounting.

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MR. WINEGAR: In the current protocol, the requirement for all projects to obtain a conservation easement has been a major barrier to participation for public lands as well as many private landowners. To expand the applicability, the update replaced the conservation easement requirement for most projects by addressing permanence through a contractual mechanism known as a project implementation agreement. To improve protocol efficiency, the update includes less burdensome and more flexible forest inventory requirements. The update also expands
geographic applicability with projects throughout the United States now eligible. Because protocol methodologies rely on US-specific data sets, international projects are not eligible at this time. In addition to reduced barriers and expanded geographic applicability, projects on public lands are also now eligible with the approval of appropriate government agencies.

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MR. WINEGAR: An example of a potentially eligible reforestation project on public lands is Cuyamaca State Park. Cuyamaca experienced an exceptionally hot catastrophic fire in 2003 that sterilized soils and has prevented natural regeneration. This project would not have been eligible under the current protocol because of barriers to participation for public lands and because reforestation projects following significant disturbance were not accepted until after ten years had elapsed.

Reforestation of Cuyamaca's conifer forest is now taking place on 2500 acres with the intention of registering the project with the Reserve under the updated Forest Project Protocol.

In addition to climate benefits, restoring the Cuyamaca forest will provide critical habitat for native
and endangered species, reduce erosion risk, and reduce the spread of invasive species.

MR. WINEGAR: In terms of quantification, the protocol update improves methods for determining baselines and additionality for all project types. Baselines are established for each project and are an estimate of forest carbon stocks under a business-as-usual scenario. A baseline is used as a reference point to quantify emission reductions and determine when reductions are additional.

The protocol requires that project activities be in addition to what is required by law or regulation and in addition to what is expected under business as usual. The update includes a more conservative approach for determining forest management baselines by taking into account common practice in each project's region.

MR. WINEGAR: Because of the risk that carbon stored in forests could be released at a later time, it is important to have a mechanism to ensure the permanence of emission reductions. The Reserve requires that all credited reductions be maintained for 100 years.
Previously, a conservation easement was required for all projects.

Now, the updated protocol has flexibility by allowing permanence to be addressed through new mechanisms, forest owners are liable for replacing any carbon lost due to avoidable reversals, such as over-harvesting. To address unavoidable reversals from natural events like fire, the Reserve has created a buffer pool that acts as a type of insurance mechanism. Each project contributes a portion of the credits issued by the Reserve to the buffer pool. And if an unavoidable reversal happens, the Reserve will offset the emissions by retiring credits from the buffer pool.

These obligations are included in a project implementation agreement, which is the Reserve's legal mechanism for addressing reversals. The agreement specifies a forest owner's contractual obligations for undertaking a forest project. If a project is terminated early, it requires forest owners to replace all the credits issued over the life of the project with an additional penalty in some cases.

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MR. WINEGAR: The update has also made
improvements to addressing leakage risks. Leakage refers to the potential for increased emissions outside of the project area as a result of the project.

Leakage risks exist for all project types. For example, projects that reduce timber harvesting may lead to increased harvesting elsewhere.

The current version of the protocol only addresses the shifting of harvesting on lands owned by the same forest owner.

The new method has a broader approach and recognizes that leakage risks are not confined to within a forest owner's lands, but may involve a broader market response. The updated protocol contains a simplified but more comprehensive approach using standardized discount factors.

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MR. WINEGAR: The proposed protocol includes requirements for demonstrating sustainable harvesting and for employing natural forest management. Though natural forest management is required in the current protocol, it has been defined more clearly in this protocol update. Specifically, all projects must maintain or increase life tree biomass in the forest. Projects must also manage for a diversity of native species and age classes and manage to conserve structural elements such as dead wood to
support functioning habitats.

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MR. WINEGAR: During the update process, there was strong stakeholder support to include harvested wood product accounting. While all projects must increase live tree biomass to receive credit, the new protocol includes accounting of carbon in wood products that remain in use after 100 years.

Wood product accounting is measured relative to harvesting in the baseline, so only increases in stored carbon are credited.

It must be emphasized that the highest carbon value is always in live tree biomass in the forest. As soon as wood products leave the forest, discounts are applied for mill efficiencies, processing, and wood product decays.

Under the updated protocol, wood products that do not remain in use and enter landfills are accounted for separately and do not receive credit.

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MR. WINEGAR: The updated Forest Project Protocol has achieved the goals set forth by the Board resolution in October 2007.

ARB staff recommends that the Board adopt the Climate Action Reserve Forest Project Protocol Version 3.0
as a non-regulatory greenhouse gas accounting methodology
to promote voluntary early action projects.

ARB staff recognizes that protocols are dynamic
and that further revisions based on practical experience
and scientific research will likely be needed in the
future. ARB staff will continue to work with the Reserve
to make further refinements to the forest protocol after
adoption.

Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

And let me ask if there are any questions by Board members
at this time for staff.

Seeing none, we'll move on to those who have
signed up to speak on this particular item.

Let me indicate Gary Gero, Paul Mason, Eddie
Scher, you are going to be first.

And Mr. Gero.

MR. GERO: Very good. Thank you, Board Member

Riordan and members of the Board. I appreciate the
opportunity to be here today. It's nice to see you all
again.

I'm Gary Gero, President of the Climate Action
Reserve. We're very pleased to be able to present to you
today our Forest Project Protocol Version 3.0, which is a
significant advancement as you've heard from Erik and his staff that really demonstrates the key role that forests efforts can play in combating climate change.

As you've heard, this has been the result of a long and intensive process, a comprehensive process, and I'll say an open and stakeholder-driven process to develop the protocol that's before you today. You saw the range of organizations that were part of the work group. We included all stakeholder categories, and they did meet in all-day sessions every three weeks for a period of close to 18 months. Really a tremendous dedication of time and resources.

The public process itself was also quite robust. In addition to the four workshops that Erik Winegar mentioned, our Board held two public hearings on this protocol before adopting it. And we held four separate comment periods on different aspects of the protocol, twice on the full document itself and twice on specific issues within the document. All of those comments, more than 300 pages worth of comments, were posted to our website. We responded in writing to each and every comment that was received. We incorporated those comments and believe that the public engagement in this has really
resulted in a protocol that is a tremendous step forward for forest project accounting. We did clearly address the issues I think that this Board set forth for us with regard to expanding the applicability of the protocol to public lands and to working forests. But also we sought to expand its use beyond California's borders, and the work group came up with a very elegant protocol that works across the United States. We're very proud to hear already since our Board's adopted people coming in from states such as Michigan and Pennsylvania and Oregon to use the protocol. So again I think it shows California's leadership in how greenhouse gas accounting and how early voluntary actions can be recognized.

I certainly understand that there are issues still to be resolved. There's always issues to be resolved. And one in particular has arisen, and I wanted to address it here today. And that is the question of even-age management with regard to the forest protocol. And I want to say that the goal of the Reserve and of the work group in crafting this language regarding even-age management was to create various explicit limits
on the use of this practice and to ensure that even-age
management was not a major component of any forest
project.

Further, it was very clear that this protocol
does not absolve land owners of their obligations under
California law or any other law, nor does it reduce their

requirement to maintain forest carbon and increase that
forest carbon.

We are committed to address this issue by moving
this section on even-age management from the national
forest management section of the protocol into its own and
to clarify this intent. So I want to make that clear here
today.

We think it's very important that you adopt this
protocol today. I think it's important that we begin to
encourage early actions to reduce greenhouse gas
emissions. Forests have a serious role and an important
role. And I appreciate your consideration.

We want to thank the staff for their hard work
with us, thank this Board, and of course thank you, the
work group and members of the public, who are so deeply
engaged. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you, Gary. I
gave you a couple of extra seconds there, because your
organization was involved in so much of this. And I want
to just extend to you and to your Board my appreciation
for the many hours that you've spent on this. And it
appears to me to be much improved, and we thank you for
that.

MR. GERO: Thank you.

BOARD MEMBER BALMES: Madam Chair, may I ask a

question?

ACTING CHAIRPERSON RIORDAN: Sure. Dr. Balmes.

BOARD MEMBER BALMES: Point of clarification.

You said that recognizing even-age management is not
consistent with national forest preservation and
management, that you were moving it into a separate
section. So what's the practical impact of that? Moving
it to a separate section?

ACTING CHAIRPERSON RIORDAN: I think it's a
question of implication or connotation with regard to what
is national forest management. Clearly, what we were
trying to do here was make very explicit strong
limitations on this practice. That was the goal of the
work group. I understand that there are those who believe
that there should be no even-age management. And so then it's not consistent potentially with the notion of natural forest management. So by moving it to another section, it doesn't confound the issue of what is natural forest management but still imposes this explicit limitation.

BOARD MEMBER YEAGER: Madam Chair.

ACTING CHAIRPERSON RIORDAN: Yes, Supervisor Yeager.

BOARD MEMBER YEAGER: You'd also mentioned along with the separate section to clarify the intent. I didn't know if you could expound on that a little bit now. I think there is some confusion of what the impact might be. Maybe it's after all of our testimony, but whether there is a misunderstanding or agreement, I'm not exactly sure. But I didn't know what you meant by clarifying the intent.

MR. GERO: Right. The intent of this language was to limit the practice of even-aged management. In particular, as the work group looked at application of this protocol beyond California's borders into 49 other states, we wanted to set a clear marker that even-age management would not be a major component of any forest project.

That said, we also realize that even-age
management is allowed under California law, and this
reflects that fact. It's allowed in greater degree under
other laws. In fact, some places there's no limitations
whatsoever.

The work group really sought to even the playing
field with regard to this forest practice. And so the
intent wasn't to open new opportunities for even-age
management, really to limit those opportunities.

The timing for this change to my mind is a
clarifying technical change to the protocol, so something
that we can do fairly quickly. I'll consult with my Board
when they meet on October 7th.

BOARD MEMBER YEAGER: Thank you.
which under certain circumstances does allow up to 40 acres. Given that, we said, let's set that as the baseline, the bar, to which other states will have to comply.

BOARD MEMBER D'ADAMO: I'm trying to quickly come up to speed on this issue. And we did receive quite a lot of written materials. So maybe if you could help walk me through California law.

There is a restriction on anything above 20 acres unless the director of the Department goes through a set of criteria. And in that situation, it could be increased. And this is where I fade out here. Could be increased up to how many acres?

MR. GERO: Up to 40 acres is my understanding.

BOARD MEMBER D'ADAMO: So was there any consideration of including -- and obviously the director can't go into other states and go through this analysis.

But were there any deliberations to include a similar process?

MR. GERO: I wasn't party to the work group and all of its meetings. But I know that they discussed this issue at length.

One of the things we strive for is standardized...
protocols that are easily applied to make administrative efficiencies so we don't have case by case analyses and scenarios presented to us that we'll have to evaluate as staff. We try to write rules that are very clear up front and not have these kinds of exceptions.

I don't know that the work group considered such an exception process, but it would have been something that is contrary to how we had given direction to the work group as to what we'd like to see.

ACTING CHAIRPERSON RIORDAN: Our staff may have a comment there for clarification.

DEPUTY EXECUTIVE OFFICER TERRY: We're in a different seating spot than we usually are.

Clarifying the intent was something that we asked Gary to consider. And we also put language in our resolution to clarify the fact that State law -- requirements of State law must be met, and nothing in this protocol can relieve parties of that obligation. And so that was why we weren't asking them to reiterate State law and rules within the protocol itself. But that's a given that they have to comply with that in order to have a project.
ACTING CHAIRPERSON RIORDAN: Dr. Sperling.

BOARD MEMBER SPERLING: This might be relevant for the staff also.

But when I read through it, it looks like there's no credit given for biomass material used for energy purposes. Is that true? And if so, why is that?

MR. GERO: That is true. And the reason for that is that that's considered a separate project activity. How the wood is used and where it's used is a separate activity from the storage on the land. That was not considered part of this protocol.

BOARD MEMBER SPERLING: What does that mean? I mean --

ACTING CHAIRPERSON RIORDAN: Well, there would have to be another protocol for that type of activity that you just raised.

BOARD MEMBER SPERLING: But that there will be another protocol --

ACTING CHAIRPERSON RIORDAN: There may be.

MR. GERO: There may be. This is an area where if energy production is subject to a cap, it may not lend itself to offsets or voluntary action on an early basis given that the sector will be capped. So we are
considering a biomass protocol -- project type protocol for biomass, but at this point haven't made any commitments to do so.

ACTING CHAIRPERSON RIORDAN: Any other questions, Board members, of this speaker?
Okay. Thank you. If you would stay available, we may ask you some more questions.

Mr. Mason, Mr. Scher, Mr. Nowicki.

Mr. MASON: Good afternoon, Madam Chairman, members of the Board. I'm Paul Mason, the California Policy Director for Pacific Forest Trust.

Pacific Forest Trust has a long history with protocols. We sponsored SB 812 back in 2001 which created the California Climate Action Registry, which has become the Reserve. We helped develop the first round of the protocols. And we were a participant in the work group for the last couple of revisions, including this one.

We think that Version 3.1 is a solid document that establishes a good logical accounting framework for voluntary forest projects in the United States, and we urge your adoption of that protocol today.

We think it's important to have a solid credible national standard. And I think it's worth noting that
projects that have been done under the Climate Action
Registry or Reserve's process are seen as more credible
out in the open market and are bringing far more revenue
back to landowners that are doing projects under this
protocol than under some of the other protocols. So it's
helping to validate the idea that good accounting
standards and solid -- we can't really call them
regulations, but solid rules can be positively reflected
in the marketplace.

As Gary noted and the staff noted, there are a
handful of technical issues that we remain interested in
working with the ARB and the CARB staff to try to resolve
those. But we do urge you to adopt these protocols today.
Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Eddie Scher.

MR. SCHER: Hi. I'm Eddie Scher. I'm a private
citizen today. And I really want to just reiterate a
concern I guess from a little bit of a different
perspective.

In today's New York Times, there is an article
asking should even-age forest management be part of a
carbon offset protocol. And I think that that question I
would hope would not knock this whole protocol off track,
but it should be asked very clearly of the Board.
I saw there has been a press release already sent out acknowledging that the protocol hasn't been adopted. But I think that the question, which I would probably reword a little bit, to ask clearcut forestry has any place in carbon trading. The answer I think is pretty simple that it does not. This language I believe was added late in the process. I think that in this protocol has no real reason to bring it up.

I think that it's a question for the State of California whether they can -- the State can seriously consider carbon trading and allow the worst possible forestry practices in that protocol. And I think allowing this language to go forward as it is, even with minor administrative tweaks and where it sits in the document, opens up that question. I'd like to see that question remain as part of this until you folks do the right thing and pull that language from the document.

And, again, I just want to say that I acknowledge the great work that's been done on the protocol. I'd love to see a really excellent trading program before the State of California. But clearcut logging has no place in that protocol.

Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Mr. Nowicki.
MR. NOWICKI: Madam Chair and members of the Board, thank you for your time.

My name is Brian Nowicki. I'm with the Center for Biological Diversity, one of 25 conservation organizations who submitted to you a letter expressing our strong opposition to the paragraph in the protocols that appears to explicitly endorse clearcutting as a carbon reduction project or measure.

As you've heard, this problematic paragraph has caused such concern among organizations involved in forest conservation because, first, it specifically names clearcutting as a potential carbon reduction project under the protocols.

Second, it directly contradicts the definition of natural forest management in the same section of the protocols.

Third, regardless of the intent of the provision by appearing to describe some of California's forest practice rules but omitting critical protections that limits clearcutting in California, the paragraph waters down our own forest protections to the point that they are seriously deficient and unrecognizable.

So while I appreciate the fact that the resolution before you today acknowledges the fact that the
new paragraph is inappropriate, the resolution itself

falls short of addressing the specific problems of that paragraph. Specifically, the resolution would merely refer the paragraph back to the Reserve to move it to a new section in the protocols, while the Board today adopts the protocols of the paragraph in place.

The resolution does nothing to address the inadequacies of the paragraph itself or to address the strong implication of the paragraph, wherever it is located, that the protocols and therefore the Air Resources Board encourages forest clearcutting as a carbon reduction measure, something that is outside of this one paragraph greatly contradicted by the rest of the protocols as they read today and in the revisions before you.

There are many reasons, of course, that forest clearcutting is no solution for climate change.

Clearcutting is the most environmentally risky and damaging of forest harvest practices and releases the greatest amount of carbon from the forest.

By adopting the protocols today with even-age management paragraph in place, the Air Resources Board
22 would put into effect a highly controversial provision
23 that unnecessarily casts doubt on the integrity of the
24 program in the whole.
25 In the mean time, the paragraph would

 inadvertently offer the largest timber operators in
2 California something to point to as justification for
3 business-as-usual clearcutting.
4 Therefore, I urge you to instead remove this
5 paragraph today and ask for the Reserve to consider how to
6 more appropriately address the issue as part of the
7 revisions that they have already stated that they'll be
8 undertaking.
9 Thank you for your time.
10 ACTING CHAIRPERSON RIORDAN: Thank you, Mr.
11 Nowicki.
12 Just one quick question. You heard Mr. Gero
13 indicate they were willing to move this. Does that make
14 you more comfortable?
15 MR. NOWICKI: Moving the paragraph does help to
16 get at one of the problems of the provision which is that
17 it was smack dab in the middle of the natural forest
18 management definition before, the definition that directly
19 contradicts. So that does remove some of that direct
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20 contradiction. However, it still stands that without this
21 one paragraph there is no way to construe the rest of the
22 protocols as allowing clearcutting as a provision instead
23 of this very direct reference and referral to the
24 clearcutting.
25
26 ACTING CHAIRPERSON RIORDAN: All right. Thank

1 you.

2 Addie Jacobson, Gary Ryneauson, Susan Robinson.

3 BOARD MEMBER SPERLING: By the way, I did look on
4 the website, and the press release was a draft press
5 release that was released by mistake and has been
6 retracted, the reference to the forestry protocol press
7 release.

8 MS. JACOBSON: Good afternoon, Board. I'm Addie
9 Jacobson here. I'm here today from the town of Murphys in
10 the Sierra Nevada. We've come down to talk to you,
11 because we think this is a very important issue.
12 Today, I'm representing Ebbetts Pass Forest
13 Watch, but also representing my children and my
14 grandchildren and the people of California and the
15 resources of California.

16 I want you to know I have no financial interest
in whether these protocols pass or don't pass. I'm not making any money to be here. I'm not making any money if they pass or don't pass. So my comments come to you from the point of view of looking at public trust resources and the people.

Today, you have before you a very important document, and its projects will be authorized for 100 years. So it's really important that you get it right, because if you set out these projects, they will still be in effect if all goes well for the world in the time of my great, great, great, great grandchildren. So we don't have room for mistakes here. We have to get it right. And so I think to think that we can move something out that isn't completely finished is a great mistake.

The other reason I think it's really important that we get it right is because where I live in the Sierra Nevada, climate change is real. It's happening, and it's happening fast. The effects are already very evident. We're seeing them in decreased snowpack, earlier runoff, more frequent and intense wildfires, and pine beetle infestation.

Because it's real where I live and because it's happening quickly, I was disappointed when I went to the
September 1st CCAR meeting and found out several times they mentioned that this protocol document had been produced through a process of compromise.

Climate change decisions that we make are going to affect our future in the most fundamental way. And this is not the time for political rulemaking in the typical manner. We must get it right, and there is no room for compromise. And it's not a political issue.

And I don't believe it's right to adopt them, knowing there is dissension, that there is lack of clarity, that there's confusion and that we're going to adopt them and then go back and think about them later.

And although there's numerous reasons Ebbetts Pass Forest Watch would like to clean up the protocols, the most central is the section you heard on clearcutting that explicitly allows it. I won't go into that too much, but I just want to mention again that this came in in a late method and that this method of logging effects emissions for decades. It's a net emitter for decades before it becomes a sequester. We don't have time for that. Moving the language to another section is not an answer. And we
can't afford this time as we move forward, because your
credibility and your integrity of that of the state of
California is on the line. Thank you very much.

ACTING CHAIRPERSON RIORDAN: Thank you for being
here.

MR. RYNEAUSON: Madam Chair, members of the
Board, my name is Gary Ryneauson. I am a registered
professional forester and here today representing Green
Diamond Resources. We own lands in Humboldt, Del Norte,
and Trinity County and have managed those lands since
1947.

I was a member of the working group and have
spent the last 18 or 19 months of my life working very
closely with the group that I believe to be one of the
most dedicated, intelligent, committed groups I've ever
worked with.

This group represented a very diverse group of
individuals from various organizations, from various
opinions on the issues that lay before us. It was often
divisive, but we always managed to come back and find a
ground that we could agree on.

Just for clarification, the issue of natural
forest management is not a late issue. It is an issue we
took up within the first three months of the organization
of our Committee. So this is an issue that was one of the
keystone issues that we needed to address.

Under the old protocols, my company could not
participate with those protocols, because it could be
interpreted to include a ban on even-age management.

We are fully supportive of these protocols as
they currently exist. There are certainly some things we
would like to see different. And at this point, we
believe they're the right thing to do and to move forward
for the voluntary program. We also are a cosigner to the
letter that CARB submitted to you yesterday.

Our lands are currently a new sequester of
carbon. We own 440,000 acres of lands. And we operate
those lands under two federally-realized habitat
conservation plans: One for the northern spotted owl and

one all the listed fish species that exist on our
property. We have some of the best rounds of Coho you'll
find on the north coast that are on our lands.

Our lands are managed pretty much through
even-age management. Our average opening is 23 acres. So
the 40 acres that you've discussed today is an anomaly.
It's very rare that openings go to 40 acres. Openings are typically between 20 and 30 acres. The more sensitive the lands, the more steeper the land, the more rainfall, the smaller the opening can be.

Also the management of our lands has been recognized by the Department of Fish and Game for our practices that are consistent with the California Endangered Species Act and the protection of Coho salmon.

Also, these protocols actually under-report the benefits from forest in three ways:

One, by not recognizing the material that is stored in the landfill;

Two, which you discussed, the issue regarding the biomass energy that is produced from forests;

And also substitution, meaning substitution of wood for other more energy-hungry products.

Thank you. I would be happy to try to address any questions you might have regarding any forest practice rules.

ACTING CHAIRPERSON RIORDAN: Thank you.

Are there any questions? Not at this time.

Thank you very much.

Susan Robinson, Eddie Murphy, and Michelle
MS. ROBINSON: Hi. My name is Susan Robinson. I'm representing a group called Mountain Alliance today. I live in Arnold, California, around 3,800 feet elevation in the Sierra forest area.

I grew up in a family that my dad was a forester. He had a Masters in forestry. I grew up in State parks and forest lands on the east coast. But my dad always told me something that stuck with me. You don't need to be a professional forester to understand and look at the forest and to know whether it's good or bad forestry. And that stayed with me throughout my life.

I went on to a career in a major oil company, Chevron, where I spent most of my career managing environmental programs, doing audits, managing environmental staffs, and working with our shareholders and stakeholders about environmental concerns and perceptions. So I think I know a little bit about how perception is reality sometimes.

We are opposed to the provision for even-age management, which must be called clearcutting. That's the technical name, but it is clearcutting most always. And
we are opposed to that being in the protocols. California
needs to set a high bar, and it would be achievable for
large industrial companies to do selection harvesting as
some of them do. So it would be achievable.

I won't go into all of the details about the
extra CO2 emissions from clearcut logging versus other
forms, as others have covered that.

However, I would mention that in terms of
under-reporting CO2 emissions, the soil carbon provisions
in the protocols are not fully reporting soil emissions
which are pretty massive from clearcutting in which the
soil is ripped and tilled like farmland soil.

So, lastly, I'd like to say, going back to my
comments about perception is reality, one of my concerns
would be if the protocols were passed with this provision
for clearcutting, what would a major company, a major
chemical company, energy company, or other company think
about if they were to try to buy some of these carbon
credits using these forest projects? Would they really
want to risk their shareholders, their stockholders, and
the public would be seeing them somehow as trying to trade
off smokestack emissions for clearcutting of forests.

So I think that is something that needs to be
seriously thought about, what will be the perception.
Clearcutting will be seen as a problem within the protocols. Thank you very much.

ACTING CHAIRPERSON RIORDAN: Thank you very much for being here.

Ed Murphy, and then let me say there was somebody who just signed up, Jim Stewart. We'll have Jim Stewart after Ed Murphy and then Michelle Passero.

MR. MURPHY: Good afternoon members of the Board.

I want to clarify something just to put this in some perspective. You guys all work on this Board, and I'm sure your Board is equally respected as the State of California Fish and Game Commission Board or the Board of Forestry's Board, the Regional Water Control Board, the State Water Quality Control Board, the Department of Fish and Game, the Department of Forestry, the Department of Mines and Geology, all of those agencies have direct control over timber harvesting, and none of them has proposed to ban this particular civil culture. So I want to point out before you jump into this morass, there are a lot of other people that are very, very talented.

And part of the reason your Board charged CCAR with the putting together a technically competent stakeholder group, and we did that. We did exactly what you asked. We worked for 21 months. We worked very hard on this process. And that's why we were brought in, to
bring that technical expertise to be able to make the kinds of rational judgments that are necessary to produce appropriate reliable accurate protocols.

As to many of the claims you've heard today, they are typical claims. When you actually dig just a little bit into them, you find out they, indeed, apply to tropical forests, boreal forests, but virtually none of them apply to northern temperate forests of the United States, which is why our stakeholder group, although when first asked we didn't even want to do it, but after that we limited the use of this protocol to the United States.

The forests of the United States are northern temperate forests. They're disturbance adapted forests. Many of them are naturally even-age forests. So when you start taking apart the definition of natural forest management and don't include even-age forests, you're excluding many of the forests of the United States.

Now, much of soil carbon and other issues are boreal forests claims and they're tropical claims. They have nothing to do with northern temperate forests. If this northern temperate forests of the United States weren't on steep grounds as they are or more rolling ground, they would have been converted to agriculture as much of them were in the 1600s, 1700s and now are growing
back into forests in the United States. The northern
temperate forests are very resilient, very well managed
piece of property, and they produce excellent long-term
carbon offsets. So all I could urge you to consider as
you go forward in your deliberation is:

One, this isn't an area that's in your purview.

Two, the issues related to greenhouse gas and AB
32 and viable cost effective offsets, you will have many,
many industries of this state very, very, very difficult
straits in two years if there aren't voluntary protocols
to produce offsets like the ones in this program.

ACTING CHAIRPERSON RIORDAN: Thank you, Mr.
Murphy.

Okay. Jim Stewart.

MR. STEWART: Hi. I'm Jim Stewart representing
the Sierra Club of California, specifically staff member
Michael Endicott. I'm the co-chair of the State of
California Sierra Club's Global Warming Committee, and I
want to say that the Sierra Club is, of course, very much
in favor of everything in this protocol, except for this
so-called even-aged management provision.

And I'm really very disappointed in whatever
process -- Gary Gero is a great guy, and we're really
privileged to have him working on these important projects. But somehow his staff or his committees or

whatever succumbed to this kind of argument that you've been hearing from the timber industry.

And, I mean, this is embarrassing for you guys. Here you are, faced with approving basically something that says here in paragraph 3.9 that a practice that when the recently even-aged product has risen to -- in other words, the clearcut stuff has risen to a height of five feet, then we can just cut down the next one, right. And then the next one after you get to the -- I mean, this is ridiculous.

And they claim that over 100 years this thing is going to even out, even though we clearcut it and we got rid of all that carbon and all that wonderful soil and the water ran off and all that sorts of thing. Over the 100 -- I'm sorry to say I don't think we have 100 years. Our issue now is immediate climate change. If we're still around in 100 years, that would be just great.

But you all know that the Siberian methane is about to go. And when that goes, we're in the run-away feedback situation. We've got to save every single pound of carbon we can in the next 20 years. We can't allow any
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22 clearcutting. And especially you guys having clearcutting
23 as a part of a greenhouse gas emissions protocol; I would
24 say take that paragraph 4 of here and say to clarify the
25 language, delete that section 3.9 and get rid of it right

1 away.

2 Thank you very much.

3 ACTING CHAIRPERSON RIORDAN: Michelle Passero.

4 MS. PASSERO: Michelle Passero with the Nature

5 Conservancy.

6 We would like to thank the State, the Forest

7 Protocol Work Group, the Registry, and the number of

8 stakeholders for their leadership and engagement on this

9 very important issue.

10 Our organization believes its critical to include

11 forests and natural systems to reduce greenhouse gas

12 emissions. They're certainly a very important factor in

13 regulating our climate, and California really has been in

14 the lead on this issue nationally and globally.

15 TNC has been a member of the work group for the

16 past few years in this update process. I personally have

17 been involved in this protocol process since its inception

18 when the legislation was being drafted.
Our organization has been involved in developing and designing forest-based reduction projects for the past 15 years. A significant effort, as you've heard from a lot of people, has been and continues to be invested in these protocols and their ongoing improvements.

We therefore do support adoption of these protocols for voluntary purposes. We also support ARB's resolution and the Registry effort to provide clarification on the harvest restriction language that's been discussed.

We also think it may be helpful to have a check-in maybe a year from now, a progress report, with respect to the update of the protocols and any of technical pieces that have been on the Registry's punch list that I think they're going to present to the Board in October.

This is an evolving area. How do we best address global warming? And I think by nature this means that we have to learn by doing, and we will need to make adjustments along the way. And that has been the case with the forest protocols and certainly be the case with a number of other sectors.

I think it's important to keep moving in this
effort to remain a leader and really set a high bar
nationally, and we have been doing that. We have a
stronger track record, and we believe we should continue
to do that. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Dr. Balmes would like to ask a question of the
speaker.

BOARD MEMBER BALMES: So the Nature Conservancy
is an environmental group. I'm a member. I very much
appreciate the work that the Conservancy has done over the
years to try to conserve our forest. When you heard
testimony about even-age management and clearcutting,
what's -- you're a member of the work group. What's your
reaction to that?

MS. PASSERO: I think and certainly respect our
environmental colleagues that have raised this issue. And
in terms of accounting for greenhouse gas reductions, we
need to look at the baseline that's been proposed in the
protocol and the accounting measures relate to
additionality and permanence. And so irrespective of the
civil cultural techniques that are employed and if those
stocks reported annually increase over time, those will be
certified as reductions. And that is the focus of the protocols.

I think there are a variety of reasons why we may use either even-aged or uneven-aged selection management. And I think our organization looks even outside of greenhouse gas reductions for biodiversity and habitat value. I think that's where some of the debate lies.

But in terms of the integrity of these protocols, I think it does come down to whether or not we did the right drafting and rules relative to baseline and how we measure that over time. I think that's going to be the real indicator of whether we got this right. So that's where I think we have -- if there are progress reports and check-ins in the future, I think we can look back and say did we do this the right way. And I think we've really have put a lot of good work into this.

And I do just believe that those limitations that are in there do set a higher bar outside of California.

ACTING CHAIRPERSON RIORDAN: Any other questions for this speaker?

That concludes those who have signed up to speak under public comment. Let me go back to the staff for a moment. Maybe they would like to make any concluding
 remarks, and then I'll open it up to the Board for
questions.

DEPUTY EXECUTIVE OFFICER TERRY: Just one point
of clarification, and Ms. Michelle Passero just alluded to it. The baseline and additionality requirements that are fundamental to all of the protocols, they rely on the existing regulatory requirements. And so the protocol that the Board adopted two years ago relies on the regulatory requirements that are in place under the California Forest Practices Act. So even if the Board were not to act on this today, that small amount of clearcutting -- I'll use their word -- is allowed under California law and it is allowed under the current protocol. And so this addition really addresses a

limitation on activities outside of the state of
California.

PTSD CHIEF MURCHISON: If I could add one more point to that.

In order to qualify the project, you must have to maintain or increase the carbon for your project. So you can't result in a net decrease and qualify as a project. So it will be a benefit in that regard in that we'll have
more sequestration.

ACTING CHAIRPERSON RIORDAN: Ms. D'Adamo, do you have a question?

BOARD MEMBER D'ADAMO: Well, did you --

ACTING CHAIRPERSON RIORDAN: Mr. Goldstene, I don't know if you wanted to say anything.

EXECUTIVE OFFICER GOLDSTENE: No. Lynn said what I was going to say.

ACTING CHAIRPERSON RIORDAN: Okay. Ms. D'Adamo.

BOARD MEMBER D'ADAMO: Well, first of all, I just don't like clearcutting, and I have to say that. So I'm very uncomfortable with -- just my gut reaction is I'm very uncomfortable with these protocols. But I'm trying to be mindful of what one of the witnesses said. I believe it was the gentleman from Sierra Pacific Industries, that there are a number of regulatory bodies and stakeholder groups that are outside the normal process that we work on here that know this issue very well. And so I do want to be respectful of our sister agencies and the stakeholder process.

Having said that, I'm trying to see if there's some way that we can develop sort of a gold standard here, because the way I view these protocols is eventually
they're going to be used as a mechanism for offsets. And so regardless of what the current practice is out there, I think that if businesses are going to develop a system where they get credits and get paid for what they're doing, what's wrong with asking them to do more? So that's again my gut reaction.

So my question to staff is -- maybe you could help me with this, Ms. Terry. You're saying these protocols are all founded on the establishment or recognition of an existing regulatory framework. And so is this the end of the story for us? Or can we at a later point after we adopt cap and trade or part of our adoption of cap and trade insist on a higher standard for forestry or whatever industry the protocols apply to?

DEPUTY EXECUTIVE OFFICER TERRY: Good question. And we wanted to be very clear that this is protocol for voluntary actions and that the Board's approval today is restricted to that arena and that for purposes of cap and trade, the Board will consider the rules of the game in terms of offsets that may be brought into the system. And so, yes, those kinds of criteria will be developed going forward as part of the cap and trade rule development.
BOARD MEMBER D'ADAMO: Well, I don't know. Maybe we need to hear from other Board members here. But whether we bring this back for further review, I do understand that there is a strong sense out there that we have some certainty and we move forward. I understand and appreciate that. But maybe some sense of the Board to come back, whether it's by way of a report or preferably when we come back and adopt cap and trade, that we direct staff to consider a higher standard for forestry practices before they can participate in an offset program.

ACTING CHAIRPERSON RIORDAN: Yes, Dr. Balmes.

BOARD MEMBER BALMES: Well, I have a technical question/request of staff for the future, unless somebody can give me the answer now.

So I've heard competing claims about how much carbon is released with the soil disturbance of clearcutting as part of even-aged management. And on one hand, Mr. Murphy said that only applied to tropical forests. But written material from the Center for Biological Diversity took issue with that and said quite a bit of carbon was released with the soil disturbance involved in clearcutting. And as a scientist, I'd sort of
like to see the data. So I don't know if that's something
we can get in the future, or maybe somebody knows the
answer now.

DEPUTY EXECUTIVE OFFICER TERRY: Well, with
certainty, we don't know the answer. This topic of
accounting and forestry is so incredibly complicated. The
science is evolving very quickly.

And, in fact, we are having a symposium on
October 19th to look at accounting and bringing academics
and others together. So we will put this on our study
list and see how far we can get and provide you whatever
preliminary information is out there.

ACTING CHAIRPERSON RIORDAN: Dr. Sperling.

BOARD MEMBER SPERLING: So as another ignorant
person trying to understand what's going on here, as I
listened, what we're adopting are protocol for giving
credits for various -- carbon credits for forestry
practices.

Now apart from that, there's a completely
different set of regulatory rules that deal with
environmental protection. And we're not saying anything
about that. Those are binding.

And then there's another issue about getting the
numbers right in terms of how much credit, whether there
is, as Professor Balmes said, obviously when you disturb the soils, we've learned from the low-carbon fuel standard and indirect land use discussion that there is a lot of carbon released from the soil when you perturb it and so on.

So it seems like there's three parts to this. And, you know, you want to get the science right in terms of getting the credits correct. You want to make sure that the land is protected. But we're not -- you know, but here we're just setting up the protocol. So whether you know -- if there's this so-called clearcutting -- I guess I don't completely understand clearcutting. Isn't clearcutting a pretty normal practice? You have pulp plantations and Christmas tree plantations.

But, anyway, I won't digress into that. So I guess I don't understand really why this needs to be controversial if we're just creating a set of protocol for giving carbon credits and taking a first stab at quantifying them, but not saying anything about the environmental impacts or -- I mean, if there's practices that are environmentally bad, they are environmentally bad. And there's lots of water and other environmental rules to protect it.

Am I missing something?

ACTING CHAIRPERSON RIORDAN: He's looking at the
staff. Does the staff wish to --

DEPUTY EXECUTIVE OFFICER TERRY: I think you've grasped the complexity of the situation, both technical and regulatory and voluntary.

BOARD MEMBER BALMES: Pretty good for a transportation engineer.

EXECUTIVE OFFICER GOLDSTENE: To Ms. D'Adamo's point, when we come back to the Board on the cap and trade rulemaking sometime next year, the issue generally of offsets will be an issue we will have to spend time on and work through for purposes of compliance with the rules as opposed to the voluntary.

BOARD MEMBER SPERLING: And following up on it, I understand in the Copenhagen agreement, you know, in December, they're going to be taking further action on internationally and how to deal with forestry. And I presume that will also be relevant to anything that we do in the future. Is that correct also?

DEPUTY EXECUTIVE OFFICER TERRY: That is right.

And I believe there will be some good discussion of this topic at the Governor's summit next week as well.

ACTING CHAIRPERSON RIORDAN: Ms. Berg, and then Supervisor Yeager.

BOARD MEMBER BERG: Thank you.

On the reference to the 100-year projects that
one of the speakers made, my understanding was that the
100 years had to do with providing the carbon offsets
rather than approving a project that might be questionable
and be able to go on for 100 years.

MR. WINEGAR: Under the protocol, all reductions
that are accredited and verified by the Reserve have to be
maintained for 100 years. So the projects can receive
credit for a period of 100 years. But after the final
credits have been issued, those would also have to be
maintained for at least 100 years. That's the obligation
for how long a forest owner has to essentially continue to
monitor and verify those lands. And if reversal happens,
it would be addressed through one of the two mechanisms we
discussed, depending on if it's avoidable or unavoidable.

BOARD MEMBER BERG: So the 100-year time frame is
to guarantee the carbon credit?

MR. WINEGAR: That's correct. And also the
project owner's obligation for how long they're entering
into the agreement. By entering into a project contract,
they're agreeing to maintain those reductions for 100
years.

BOARD MEMBER BERG: Thank you very much.

ACTING CHAIRPERSON RIORDAN: Supervisor Yeager.
BOARD MEMBER YEAGER: Yes, thank you.

My first comment, Mr. Goldstene, is I know that I and other Board members were briefed on this item. I was briefed on Monday, and this whole topic never came up, the controversy that we're facing now. And I don't think -- I think I got my first e-mail on this Tuesday afternoon which generated many of the conversations. And even in the staff report that we heard just moments ago, this issue was never really even discussed or brought up.

And I just would encourage staff, the more lead time we have on these things when there is going to be a controversial item, just to make sure it's brought to our attention so we're not up here trying to figure this all out.

I don't know when you were all apprised of the issue and the push-back on it. But it seemed like maybe you were aware of it and it just wasn't mentioned to some of us. So that would just be very helpful.

And I think all of us -- like all of us -- I'm going to feel a little uncomfortable regardless of how I vote on this. I understand there is a need to take action today, and I appreciate that.
But I didn't know if there was an opportunity to clarify the language or explain it further after our vote in either a public way or in the protocol itself. It does seem again that -- I'm not sure whether it's a misunderstanding or just a whole different view on clearcutting, but it seems that for something we're trying to do for such a benefit, I just worry that with e-mails and communications that this could all be put in a way that is showing very negative on us, where, in essence, that's not what we're trying to do.

DEPUTY EXECUTIVE OFFICER TERRY: We can always add language to the resolution.

And I actually think I was mistaken. The language that reiterates the fact that California forest practices, law, and regulations must be met should be added to the resolution. I don't think it's there.

There also certainly could be clarifications with respect to the fact that the protocol doesn't change anything with respect to clearcutting requirements in the state of California.

BOARD MEMBER YEAGER: I think that would be very helpful.

ACTING CHAIRPERSON RIORDAN: Ms. D'Adamo.
BOARD MEMBER D'ADAMO: Could we go further and -- well, whether it's a resolution or simply a statement from the Board directing staff to consider a higher standard with regard to offsets once we adopt cap and trade. In other words, we wouldn't be making a decision on it at this point, but directing staff to consider.

EXECUTIVE OFFICER GOLDSTENE: We can take that direction now. I don't think you need to add that to the resolution.

ACTING CHAIRPERSON RIORDAN: Let me just say, Ms. D'Adamo, to perhaps facilitate that without a motion, unless I hear otherwise, let me, as Chair representing the Board, that we ask staff at the time that an item in the cap and trade discussion if it's brought back to us on the forestry element that we discuss higher standards versus the standard that we have here. And perhaps there be some incentive to reach a higher standard in a cap and trade system. I think that might take care of that from a legal standpoint.

Let's then look at the -- I think we need to move on -- pardon me. Dr. Telles, I'm so sorry. You've got to raise your hand really high there, because I missed you.
I apologize.

BOARD MEMBER TELLES: I just had a few questions. Is the clearcutting law, does that apply for private and public lands? Is it the same law or the same management practices? Or is that --

MR. WINEGAR: No.

BOARD MEMBER TELLES: Is clearcutting done in the national forests?

MR. WINEGAR: The California Forest Practice Act only governs private forest lands. The national forest and public forests are governed differently. And it's my understanding that clearcutting is not generally a practice on public lands, but I don't know for sure.

BOARD MEMBER TELLES: How many acres of the forests are public lands and how many are private lands?

MR. WINEGAR: I'm not sure on the total acreage. It's roughly 50/50 within the state.

BOARD MEMBER TELLES: One final comment is that we really are a public health agency. And one of the things which has effected air quality almost more than anything over the last two years has been forest fires last year in June and this year here in Los Angeles.

Is there any co-benefit on this or in the future?
Can we devise some kind of plan that would have a co-benefit in helping manage the forests, reducing greenhouse gases, and preventing forest fires that are devastating the quality of the air for months at a time?

MR. WINEGAR: I think it's something we can look at further. Right now, under the protocol, a fire -- if a fire occurs, it's counted as an emission. Right now, it would be considered an avoidable reversal that's handled by the buffer pool.

But the protocol also recognizes forest owners can take action to reduce their risk of these things which decrease the amount they have to contribute to the buffer pool. It's something that could continue to be looked at.

BOARD MEMBER TELLES: I wonder if I could ask a forestry person to answer that question, if there is any potential co-benefits for managing the forest from a health point of view, if the forestry people are still here.

DEPUTY EXECUTIVE OFFICER TERRY: I suggest, Dr. Telles, that we provide you some written answers to that question, because we don't have the forestry experts from the department with us today.
BOARD MEMBER TELLES: We have a few forestry private people that I would like to hear their comments.

BOARD MEMBER BALMES: While they're coming up, if they are coming up, I would just say we're not a public health agency. We're an environmental protection agency that tries to protect the public health. There's a difference.

MR. MASON: Just answer that question very quickly. There is obviously co-benefits to appropriate management of the forest that reduces the risk of wild fire. There are many methods upon which that can be done, and they can be quantified as our Technical Committee did in terms of establishing a risk buffer that is reducible depending on how those treatments are done that reduce the risk of wild fire.

So, yes, there is an obvious tie between management that reduces risk, that produces less wild fire and both net sequestration and less buffer protection in the protocols, all of which are included.

And I might point out the protocol specifically says in the protocol that all legal regulations, no matter where you are, must be followed. So there is absolutely nothing about this discussion that reduces either
California's law or anybody else's law. And, in fact, it raises the law in Oregon, Washington, and the entire rest of the United States. Clearcut sizes are not limited anywhere else but in California.

ACTING CHAIRPERSON RIORDAN: Thank you.

I do think at some point in time, not maybe as a total public discussion, but if there are from our sister agencies information, because I know we know -- we all know this has been discussed in a whole host of forums. But maybe there is some information that could be sent to us as Board members so we could have a little bit more information for our general knowledge. I'm thinking general knowledge about our forests and forest management. I think that would be interesting for us to have.

And so at this time -- I've got to get back to what we're doing here. It is not necessary to close the record, but because it's not a regulatory item. But I do want to bring it back to the Board to look at the resolution to take some action, please, on this resolution. So I would entertain a motion, and then we can have discussion, if need be.

BOARD MEMBER D'ADAMO: So moved.
BOARD MEMBER BALMES: Second.

ACTING CHAIRPERSON RIORDAN: Any further discussion?

BOARD MEMBER BALMES: I'd like to say something.

ACTING CHAIRPERSON RIORDAN: Dr. Balmes.

BOARD MEMBER BALMES: When I met with representatives of the forestry industry -- and I believe it was by phone -- and that would be part of my ex parte -- with Mr. Murphy and Mr. Ryneauson, it was -- I enjoyed the conversation, and I heard about the two-year effort to try to get this right.

But I did also hear that objections to the even-age management and clearcutting issue that we've been talking about so extensively was sort of the environmental fringe, if you will. And so I was surprised when I got a letter from Dan Chia, a copy of a letter to Mary Nichols. Dan Chia is the legislative staff person to the Natural Resources Committee of the Assembly. And six assembly members signed the letter asking us to be very cautious about the even-aged clearcutting section of the protocol,

including my own Assembly member, Nancy Skinner -- actually, Dr. Sperling's Assembly member as well and Jerry Hill, former member of the Board.
So I've appreciated the discussion today about that. I just wanted to say that some elected representatives of our state express concern about that feature of the protocol. So it wasn't just fringe environmental groups, like the Sierra Club.

ACTING CHAIRPERSON RIORDAN: Supervisor Yeager.

BOARD MEMBER YEAGER: Yes. I don't know if part of the motion needs to be the clarifying language so that this is better understood or whether staff will just go ahead and include that --

ACTING CHAIRPERSON RIORDAN: I think it's assumed that's part of it.

EXECUTIVE OFFICER GOLDSTENE: Right. That's assumed in your motion. But we may want to review what it is that you want to make sure that is there, without wordsmithing it, the general intent is on this issue.

ACTING CHAIRPERSON RIORDAN: The removal from the position it's in now to a separate position so it's not misunderstood.

BOARD MEMBER BERG: As well, I'm hearing that the existing or all State and federal rules apply and within California that we're upholding the standards of
California.  

ACTING CHAIRPERSON RIORDAN: And the law of California and the regulations of California. All right. Any further comment? Hearing or seeing none, all those in favor of the motion signify by saying aye.  

(Ayes)  

ACTING CHAIRPERSON RIORDAN: Opposed, no. Motion is carried.  

I want to say just a brief word about the process. The process was long and arduous. I read the list of those who participated. I hope that, Mr. Gero, you'll thank those people on behalf of the Board. I really appreciate it came about the way it did.  

And I do have some confidence for those of you who are a little bit concerned. I think when you have the Nature Conservancy, the National Resources Defense Council participating and they are supporting, I have a pretty high comfort level, because I have the greatest respect for those two organizations.  

So I do thank everybody who has participated, but I know that the process was a long and arduous one, and I think California will be served by this voluntary effort. And I appreciate it very much. Thank you.  

All right. Moving on, we have one final item as I recall and we're going to pick up on the item that we
set aside this morning.

And, Mr. Goldstene, just in the interest of time, why don't I just ask you to move right into it.

EXECUTIVE OFFICER GOLDSTENE: Thank you. This it 09-8-9.

As you recall during the open comment period at the July 23rd Board meeting in San Diego, witness offered testimony about ARB's enforcement program. Following this testimony, you instructed me to develop a plan to respond. So I'm reporting back to the Board as requested.

On September 10th, a notice of the workshop on ARB's enforcement program was distributed via e-mail through the ARB list serves and posted on ARB's web page. Stakeholders were also contacted by phone and e-mail. This workshop will be held in Sacramento on October 12th.

The purpose of the workshop is to discuss our enforcement policy and to get input from as many stakeholders as possible.

We're hoping that the workshop will allow us to explore ways to achieve higher levels of compliance, expedite settlements, prioritize actions, and minimize any economic advantage from people who are violating our rules.

And so I just wanted to make sure that the Board was aware that we were following up on that. And we're,
of course, happy to answer any questions you may have now.

ACTING CHAIRPERSON RIORDAN: Okay. Are there any questions for Mr. Goldstene?

No. Okay. I do have some people who are wanting to speak on this particular item. Are we ready for that?

EXECUTIVE OFFICER GOLDSTENE: Sure. You have a list.

ACTING CHAIRPERSON RIORDAN: I have the list. So here we go. Fred -- you know, from Terra Trucking -- I can't pronounce your last name correctly. I know it. You just come forward, because you're our first speaker.

Fred. He left, is that what happened? Okay.

How about Morgan Wyenn from the National Resources Defense Council?

MS. WYENN: You were close. Thank you for the opportunity to speak at this time.

My name is Morgan Wyenn here representing the Natural Resources Defense Council.

NRDC supports CARB maintaining the status quo penalty policies, and we strongly believe that CARB should not adopt the changes proposed by industry trade groups. CARB should not forgo its authority to regulate based on strict liability by incorporating levels of negligence. Whether a violator took a reasonable or prudent precautions does not mitigate the fact that some
CARB's use of strict liability is essential for full enforcement of the law. The California Legislature granted CARB strict liability enforcement for good reason. Watering down CARB's strict liability authority is not necessary, as CARB can already take mitigating factors into account.

CARB should not be forced to use the administrative process at the exclusion of pursuing judicial enforcement. Admitting CARB's enforcement into the administrative process would weaken CARB's ability to fully enforce the law.

Further, to limit enforcement to the administrative process would draw down CARB's enforcement resources, because CARB would have to pay for the administrative law judges in the administrative hirings. Such administrative hearing would consume more overall judicial resources than would be saved, as violators have the option to appeal to superior court. CARB should have the discretion to enforce the law against the wide range of violators, both big and small.

Limiting discretion is not necessary. CARB
already can take mitigating factors into account. The deterrent power of the law is weakened if CARB systematically only enforces against large polluters.

California is a recognized leader in air quality enforcement and should retain its independence to pursue a leading enforcement program. Adopting the U.S. EPA scheme would weaken CARB's enforcement power.

Finally, the financial amount of the penalty should not be just a replica of the U.S. EPA matrixes. The U.S. EPA matrixes are weaker than California's. NRDC looks forward to further discussing this issue at the October 12th workshop.

Thank you for your time.

ACTING CHAIRPERSON RIORDAN: Thank you very much.

Lee Brown followed by Jim Stewart.

Lee Brown?

Jim Stewart.

MR. STEWART: Hi. Jim Stewart from the Sierra Club, representing Bill McGavern.

And as you well know, Bill and the 200,000 members of the Sierra Club have been so supportive of your strict regulation policy. I mean, you're our only hope.

We're depending upon you to stand the ground and to keep
our air clean and to move us toward climate sanity.

And so we just want to urge you to keep up the good work and don't allow any weaknesses in enforcement. And I think we'll be there on October 12th to keep pushing. We appreciate the good job you've done so far.

ACTING CHAIRPERSON RIORDAN: Thank you.

Clayton Miller.

MR. MILLER: Good afternoon, Madam Chair, members of the Board.

My name is Clayton Miller, and I represent the Construction Industry Air Quality Coalition.

I'm here just to take a moment to acknowledge that CIAQC is encouraged that your staff has scheduled a public workshop to discuss the enforcement program.

CIAQC is a member of the diverse coalition of stakeholders that came before you on July 23rd at the hearing down in San Diego. And since that time, the workshop has been scheduled. Unfortunately, it's on a federal holiday, so I hope that doesn't prevent some people from making it. But we think at least there's a good start.

We look forward to participating in the workshop
and sincerely hope that during this process and in the end it can result in some real and some effective changes that benefit both the regulated community and the agency.

We don't think that the intent is to take away any enforcement tools and hope that in the end the process is one of transparency and consistency and something that the federal policy is instructed on.

So I want to thank you for your interest in this.

And also thank you for the opportunity to speak. Thank you.

ACTING CHAIRPERSON RIORDAN: Thank you.

And, Clayton, could you do something for us?

Obviously it's very important the attendance at the workshop is a good one. And we hope that through your organization you can get the message out. We've tried to reach out to as many people as possible and we cast a very wide net. But sometimes they see a note from their association and they'll open it and, you know, read it.

So if you could get the message out. And I'm assuming you'll be there to participate

MR. MILLER: Yes, I will.

ACTING CHAIRPERSON RIORDAN: Very good. Those are all the speakers I have on this particular item.
Mr. Goldstene, anything further?

EXECUTIVE OFFICER GOLDSTENE: No. That's all we have for today. Tomorrow's meeting starts at 8:30.

ACTING CHAIRPERSON RIORDAN: Okay. And Board members, thank you for your patience and all. And I'm very pleased to say we are finished before 3:00 p.m. and we'll see everybody here at 8:30 tomorrow morning, traffic allowing. So thank you very much.

(Thereupon the California Air Resources Board adjourned at 2:56 p.m.)

CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.
IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of October, 2009.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277