MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM, SECOND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, DECEMBER 9, 2009
9:14 A.M.

Tiffany C. Kraft, CSR, RPR
Certified Shorthand Reporter
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Mr. Michael Scheible, Deputy Executive Officer
Ms. Lynn Terry, Deputy Executive Officer
Ms. Lori Andreoni, Board Clerk
Mr. Tony Andreoni, Chief, Research and Economic Studies, RD
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Mr. Tony Brasil, Manager, In-Use Control Measures Section

Mr. Richard Corey, Assistant Chief, Research Division

Mr. Chuck Seidler, Air Pollution Specialist, Greenhouse Gas Reduction Strategies Section, Research Division

Mr. Erik White, Chief, Heavy Duty Diesel In-Use Strategies Branch

ALSO PRESENT

Mr. Bill Aboudi, AB Trucking

Dr. Janet Abshire, California Medical Association

Mr. Miguel Alejandre, Mandela High School

Ms. Yessica Alejandre, Mandela High School

Mr. Larry Allen, CAPCOA

Mr. Don Anair, Union of Concerned Scientists

Mr. Myles Anderson, Anderson Logging, Inc.

Ms. Jenny Bard, American Lung Association of California

Mr. Albert Batteate, CCA Batteate Livestock Trans.

Ms. Nidia Bautista, Coalition for Clean Air

Mr. Jeffrey Becker, Royal Trucking

Mr. Ron Berkan, Technicians

Mr. Bob Berry, Berry Brothers Towing & Transport

Assemblyman Bill Berryhill, 26th Assembly District
APPEARANCES CONTINUED

ALSO PRESENT

Mr. Scott Blevins, Mountain Valley Express
Mr. David Blohm, Golden State Bridge, Inc.
Mr. Bryan Bloom, Priority Moving, Inc.
Mr. Steve Brink, California Forestry Association
Mr. Doug Britton, Britton Trucking Co.
Mr. Kevin Brown, KFB Engine Control Systems
Mr. Grant Campbell, Target Express, Inc.
Mr. Eric Carleson, Associated California Loggers
Mr. David Chidester, Central Cal Transportation
Mr. Michael Collier, C.D. Matthes, Inc.
Mr. Manual Cuhna Jr., Nisei Farmers League
Mr. Spencer Defty, Diamond D General Engineering
Mr. Ron Dacus, Northern California Port & Rail Truckers Association
Mr. Sean Edgar, Clean Fleets Coalition
Mr. Tim Fortier, CTI
Mr. Randal Friedman, U.S. Navy
Ms. Michelle Garcia, Fresno Madera Medical Society
Mr. Glen Ghilotti, Team Ghilotti
Mr. John Hakel, AGC California
Ms. Fran Hammond, Marty Skoff
Assemblywoman Diane Harkey, 73rd Assembly District
APPEARANCES CONTINUED

ALSO PRESENT

Mr. Dave Harrison, Operating Engineers Local 3

Mr. Robert Hassebrock, Weatherford

Mr. Mike Herron, EUCA

Ms. Bonnie Holmes-Gen, American Lung Association of California

Mr. Roger Isom, California Cotton Ginners and Growers Association

Mr. Jim Jacobs, Operating Engineers Local 3

Mr. Scott Kelleher, Redwood Coast Petroleum

Mr. Brandon Kitigawa, RAMP

Dr. Joseph Kubsh, MECA

Ms. Camille Kustin, Environmental Defense Fund

Mr. Marty Lassen, Johnson Matthey

Mr. Richard Lee

Mr. Michael Lewis, Construction Industry Air Quality Coalition

Ms. Doris Lo, U.S. EPA

Assemblyman Dan Logue, 3rd Assembly District

Ms. Gayle Lopopolo, Ganduglia Trucking

Mr. Bill Magavern, Sierra Club of California

Mr. Adriano Martinez, Natural Resources Defense Council

Dr. Steven Maxwell, American Lung Association of California

Mr. Robert McClernon, Trucking
APPEARANCES CONTINUED

ALSO PRESENT

Mr. Jay McKeeman, CIOMA

Mr. Richard Mello, Northern Refrigerated Transportation, Inc.

Mr. Rodney Michaelson, Bay Cities Paving & Grading, Inc.

Mr. William Miner, Jr. Tow & Salvage, Inc.

Assemblyman Roger Niello, 5th Assembly District

Assemblyman Jim Nielsen,

Mr. Albert Nunes, ACT Trucking, Inc.

Mr. Tim O'Connor, Environmental Defense Fund

Ms. Sofia Parino, CRPE

Mr. Anthony Patchett, National Port Drivers Association

Mr. Nick Pfiefer, Granite Construction, Inc.

Ms. Betty Plowman, CDTOA

Ms. Sofia Quinonez, National Port Drivers Association

Ms. Christina Ramorino, Roadstar Trucking, Inc.

Mr. Robert Ramorino, Roadstar Trucking, Inc.

Mr. Charley Rea, CAL CIMA

Mr. Peggy Reynolds, American Cancer Society

Mr. Ron Riemschneider, Ideal Tractor, Inc.

Mr. Miguel Rocha, Mandela High School

Mr. Joe Rosa, L&M Renner, Inc.
ALSO PRESENT

Ms. Julie Sauls, California Trucking Association

Mr. Matthew Schrap, CTA

Mr. Kevin Shanahan, Cleaire Advanced Emission Control

Ms. Sarah Sharpe, Fresno Metro Ministry

Mr. Chris Shrader, Cemex

Mr. Mike Shuemake, CVTR

Mr. Dan Souza, Mountain Valley Express

Mr. Michael Steel, Associated General Contractors of America

Mr. Grant Stickney, Peterson Tractor Co.

Ms. Pamela Tapia, Mandela High School

Mr. Robert Tennies, Western Truck Center

Mr. James Thomas, Nabors Well Services

Mr. Richard Tognoli, Tognoli Trucking & Grading

Mr. Doug Van Allen, BJ Services Company

Mr. Sean Venables, Duran & Venables, Inc.

Dr. Barry Wallerstein, South Coast AQMD

Mr. Corey Wardlaw, Wardlaw Trucking

Ms. Jane Warner, American Lung Association of California

Mr. John Yandell, Yandell Truckaway, Inc.
INDEX

Consent

Item 09-10-1
  Motion  13
  Vote  14

Item 09-10-2
  Motion  14
  Vote  15

Regular Calendar

Item 09-10-7
  Chairperson Nichols  15
  Executive Officer Goldstene  16
  Staff Presentation  16
  Q&A  31

(Item 09-10-8)
  Assemblyman Jin Nielsen  33
  Assemblyman Dan Logue  36
  Assemblyman Bill Berryhill  40

(Item 09-10-7 cont.)
  Mr. Friedman  46
  Mr. Allen  47
  Mr. Wallerstein  49
  Mr. O’Connor  50
  Mr. Anair  52
  Ms. Holmes-Gen  53
  Mr. Berkan  56
  Mr. Magavern  58
  Board Q&A  59
  Ex Partes  68
  Motion  68
  Vote  70

Item 09-10-8
  Chairperson Nichols  70
  Board Member Telles  79
  Board Member Roberts  81
  Board Member Balmes  84
  Executive Officer Goldstene  85
  Staff Presentation  89
  Assemblyman Niello  105
INDEX CONTINUED

<table>
<thead>
<tr>
<th>Name</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ms. Lo</td>
<td>109</td>
</tr>
<tr>
<td>Ms. Ramorino</td>
<td>111</td>
</tr>
<tr>
<td>Mr. Ramorino</td>
<td>113</td>
</tr>
<tr>
<td>Mr. Miner</td>
<td>115</td>
</tr>
<tr>
<td>Dr. Abshire</td>
<td>117</td>
</tr>
<tr>
<td>Mr. Yandell</td>
<td>119</td>
</tr>
<tr>
<td>Mr. Becker</td>
<td>120</td>
</tr>
<tr>
<td>Mr. Lee</td>
<td>127</td>
</tr>
<tr>
<td>Ms. Warner</td>
<td>129</td>
</tr>
<tr>
<td>Ms. Reynolds</td>
<td>131</td>
</tr>
<tr>
<td>Mr. Tennes</td>
<td>132</td>
</tr>
<tr>
<td>Dr. Wallerstein</td>
<td>134</td>
</tr>
<tr>
<td>Mr. Batteate</td>
<td>138</td>
</tr>
<tr>
<td>Mr. Stickney</td>
<td>138</td>
</tr>
<tr>
<td>Mr. McKeeman</td>
<td>141</td>
</tr>
<tr>
<td>Dr. Maxwell</td>
<td>144</td>
</tr>
<tr>
<td>Mr. Kitigawa</td>
<td>146</td>
</tr>
<tr>
<td>Ms. Tapia</td>
<td>148</td>
</tr>
<tr>
<td>Ms. Alejandre</td>
<td>149</td>
</tr>
<tr>
<td>Mr. Rocha</td>
<td>149</td>
</tr>
<tr>
<td>Mr. Alejandre</td>
<td>150</td>
</tr>
<tr>
<td>Mr. Anair</td>
<td>151</td>
</tr>
<tr>
<td>Ms. Holmes-Gen</td>
<td>153</td>
</tr>
<tr>
<td>Ms. Bard</td>
<td>156</td>
</tr>
<tr>
<td>Dr. Kubsh</td>
<td>158</td>
</tr>
<tr>
<td>Mr. Blohm</td>
<td>161</td>
</tr>
<tr>
<td>Mr. Cuhna</td>
<td>162</td>
</tr>
<tr>
<td>Mr. Campbell</td>
<td>165</td>
</tr>
<tr>
<td>Mr. Shrader</td>
<td>168</td>
</tr>
<tr>
<td>Mr. Defty</td>
<td>169</td>
</tr>
<tr>
<td>Mr. Shanahan</td>
<td>172</td>
</tr>
<tr>
<td>Mr. Michaelson</td>
<td>176</td>
</tr>
<tr>
<td>Mr. Rosa</td>
<td>179</td>
</tr>
<tr>
<td>Mr. Steel</td>
<td>181</td>
</tr>
<tr>
<td>Mr. Edgar</td>
<td>184</td>
</tr>
<tr>
<td>Mr. Harrison</td>
<td>186</td>
</tr>
<tr>
<td>Mr. Jacobs</td>
<td>188</td>
</tr>
<tr>
<td>Mr. Wardlaw</td>
<td>189</td>
</tr>
<tr>
<td>Ms. Lopopolo</td>
<td>194</td>
</tr>
<tr>
<td>Mr. Nunes</td>
<td>196</td>
</tr>
<tr>
<td>Mr. Souza</td>
<td>197</td>
</tr>
<tr>
<td>Mr. Blevins</td>
<td>199</td>
</tr>
<tr>
<td>Mr. Britton</td>
<td>201</td>
</tr>
<tr>
<td>Mr. Collier</td>
<td>203</td>
</tr>
<tr>
<td>Name</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Mr. Riemenscneider</td>
<td>205</td>
</tr>
<tr>
<td>Mr. Bloom</td>
<td>207</td>
</tr>
<tr>
<td>Mr. Pfeifer</td>
<td>210</td>
</tr>
<tr>
<td>Ms. Hammond</td>
<td>214</td>
</tr>
<tr>
<td>Mr. Rea</td>
<td>216</td>
</tr>
<tr>
<td>Mr. Herron</td>
<td>217</td>
</tr>
<tr>
<td>Mr. Hakel</td>
<td>220</td>
</tr>
<tr>
<td>Ms. Sharpe</td>
<td>223</td>
</tr>
<tr>
<td>Mr. Kelleher</td>
<td>226</td>
</tr>
<tr>
<td>Mr. Mello</td>
<td>227</td>
</tr>
<tr>
<td>Mr. Fortier</td>
<td>229</td>
</tr>
<tr>
<td>Assemblywoman Harkey</td>
<td>232</td>
</tr>
<tr>
<td>Mr. Anderson</td>
<td>235</td>
</tr>
<tr>
<td>Mr. Venables</td>
<td>238</td>
</tr>
<tr>
<td>Mr. Ghilotti</td>
<td>240</td>
</tr>
<tr>
<td>Mr. McCleron</td>
<td>242</td>
</tr>
<tr>
<td>Mr. Carleson</td>
<td>244</td>
</tr>
<tr>
<td>Mr. Chidester</td>
<td>246</td>
</tr>
<tr>
<td>Mr. Dacus</td>
<td>250</td>
</tr>
<tr>
<td>Mr. Tognoli</td>
<td>252</td>
</tr>
<tr>
<td>Ms. Parino</td>
<td>253</td>
</tr>
<tr>
<td>Ms. Garcia</td>
<td>255</td>
</tr>
<tr>
<td>Mr. Brink</td>
<td>256</td>
</tr>
<tr>
<td>Mr. Berry</td>
<td>259</td>
</tr>
<tr>
<td>Mr. Shuemake</td>
<td>260</td>
</tr>
<tr>
<td>Mr. Schrap</td>
<td>262</td>
</tr>
<tr>
<td>Ms. Kustin</td>
<td>265</td>
</tr>
<tr>
<td>Mr. Brown</td>
<td>267</td>
</tr>
<tr>
<td>Mr. Martinez</td>
<td>268</td>
</tr>
<tr>
<td>Ms. Plowman</td>
<td>271</td>
</tr>
<tr>
<td>Mr. Lewis</td>
<td>272</td>
</tr>
<tr>
<td>Ms. Quinonez</td>
<td>275</td>
</tr>
<tr>
<td>Mr. Patchett</td>
<td>278</td>
</tr>
<tr>
<td>Mr. Van Allen</td>
<td>281</td>
</tr>
<tr>
<td>Mr. Hassebrock</td>
<td>284</td>
</tr>
<tr>
<td>Mr. Thomas</td>
<td>286</td>
</tr>
<tr>
<td>Mr. Lassen</td>
<td>288</td>
</tr>
<tr>
<td>Mr. Aboudi</td>
<td>290</td>
</tr>
<tr>
<td>Mr. Isom</td>
<td>292</td>
</tr>
<tr>
<td>Ms. Bautista</td>
<td>295</td>
</tr>
<tr>
<td>Ms. Sauls</td>
<td>297</td>
</tr>
<tr>
<td>Board Discussion</td>
<td>298</td>
</tr>
<tr>
<td>Motion</td>
<td>316</td>
</tr>
<tr>
<td>Motion</td>
<td>336</td>
</tr>
<tr>
<td>Vote</td>
<td>337</td>
</tr>
<tr>
<td>Motion</td>
<td>338</td>
</tr>
<tr>
<td>Vote</td>
<td>351</td>
</tr>
<tr>
<td>Index Term</td>
<td>Page</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Adjournment</td>
<td>346</td>
</tr>
<tr>
<td>Reporter's Certificate</td>
<td>347</td>
</tr>
</tbody>
</table>
CHAIRPERSON NICHOLS: Good morning, ladies and gentlemen.

The reason for the delay is we have several Board members who are trapped at airports because of de-icing of planes. And so they had asked us if we could make an adjustment in this schedule, which we're in the process of trying to do.

So before we formally begin the meeting, just so you all can plan accordingly, what we are going to do is to open the meeting, take care of the consent calendar, and move up the item on refrigerants, which is a rulemaking item. And then after that, we hope that we will have at least a couple of the delayed Board members here and we can get started on the truck item, which I assume is what most of you are here for.

The other thing I want to explain is that although we don't generally take testimony out of order -- we take testimony in the order that people signed up -- we make one exception for that, and that's for the people who pay our salaries, and that's the Legislature. So we are expecting a couple of legislators to show up. And when they do, we will take them out of order, regardless of what the item is that we're considering so they can get back to their jobs.
So that's about as much as I can tell you for purposes of planning. Obviously, everyone is welcome to stay. But if you have some other errand that you need to do or some other business that you need to do and you wanted to step out, you would be very safe in coming back no earlier than an hour from now.

And with that, I think we're just getting our chairs settled here, and we'll get started in just a minute.

I want to welcome everyone to the December 9, 2009, public meeting of the Air Resources Board. The Board will come to order.

And we will begin, as we normally do, by saying the Pledge of Allegiance. So would you please rise?

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

CHAIRPERSON NICHOLS: All right. The Clerk will please call the roll.

BOARD CLERK ANDREONI: Dr. Balmes?
BOARD MEMBER BALMES: Here.

BOARD CLERK ANDREONI: Ms. Berg?
BOARD MEMBER BERG: Here.

BOARD CLERK ANDREONI: Ms. D'Adamo?
BOARD MEMBER D'ADAMO: Here.

BOARD CLERK ANDREONI: Ms. Kennard?
Mayor Loveridge?

Ms. Riordan?

Supervisor Roberts?

BOARD MEMBER ROBERTS: Here.

BOARD CLERK ANDREONI: Professor Sperling?

BOARD MEMBER SPERLING: Here.

BOARD CLERK ANDREONI: Dr. Telles?

BOARD MEMBER TELLES: Present.

BOARD CLERK ANDREONI: Supervisor Yeager?

BOARD MEMBER YEAGER: Here.

BOARD CLERK ANDREONI: Chairman Nichols?

CHAIRPERSON NICHOLS: Here.

BOARD CLERK ANDREONI: Madam Chair, we have a quorum.

CHAIRPERSON NICHOLS: Very good. Thank you.

Before we get underway, I want to mention one change which has been recently implemented. I believe it was begun at the last meeting. And that is the use of a consent calendar for items which we believe there is no public comment called for where we haven't heard the public wants to comment on issue. And it's just designed to make our work more efficient by sparing us the lengthy staff presentation that we used to normally get on these items.

So at the beginning of each Board hearing, we
will consider and vote on the consent items as a group.
And so what I would do is just call up the item, and then assuming that we don't hear from anybody who wishes to speak on it, we would close the item, ask members to disclose any ex parte communications, review the resolution, and then take a vote. All the items on the consent calendar would then be considered as a group rather than separately. And there would not be any time for staff presentation or further discussion.

However, this is not intended to preclude the possibility that someone might wish to discuss an item. And so if any Board member wishes to take an item off of the consent calendar, they are welcome to do so.

We've described this process in the public agenda. And so if there is anybody in the audience who's here to testify on either of the two items on today's consent calendar, I would appreciate it if you would please notify the clerk right away, because otherwise, we're going to be voting on the first consent items in about two minutes.

For your information, the first two items on today's consent calendar are eight research proposals and consideration of proposed amendments to the regulation for limiting ozone emissions from indoor air cleaning devices.

So I'm not seeing anybody moving, so I'm assuming
nobody is actually here to testify on either of those two items.

Now are the remainder of my general announcements.

I hope that you will sign up if you intend to testify. There were staff outside the auditorium -- there still are I believe -- with cards. And although you're not required to, we strongly encourage you to include your name on the speaker card.

And just as a little tip or saving time for everybody, if you will put your name on the card, I will have it in front of me. I will call your name when you come up to the podium, and then you don't have to repeat your name because we'll already know your name because we'll have it on the card and in the record.

We are going to be imposing a three-minute limit to begin with. If we have really overwhelming numbers of speakers, we might limit the testimony even more so. But normally we are able to give everybody three minutes.

And we really do appreciate it, if you have written testimony, you not read the written testimony, because we can read it much faster than you can say it. So it's easier if you just speak in your own words and try to summarize your main points rather than to read a lengthy statement. The written testimony will be entered
into the record.

Now, I also am required to tell you that there are emergency exists in the rear of the room. And if there is a fire alarm, we are required to evacuate the room and go downstairs and out of the building where we are supposed to assemble in the park across the street and wait until we get an all-clear signal. This has happened in the past, so please be aware.

Otherwise, I think staff are available to direct you to rest rooms, cafeteria, et cetera, if you're not familiar with our procedures.

Do we have any other staff items that we need before we begin with the consent calendar?

Well, actually, there is one item that we have to do before we get to the consent calendar. And that is a Resolution.

This is an important transition time in the life of the Air Resources Board, because we are in the process of going through a major demographic shift I would say, speaking as one of those who's on the senior end of this shift. A lot of people who came to work for State government back in the 70s are now retiring.

And one of the key people who is retiring from the Air Resources Board is somebody who's been a very key member of our staff for quite some time now, and that's
Mike Scheible, who happens to be sitting at the table right in front of us this morning. So I have a Resolution that I want to read about Mike. And I'm hoping that my fellow Board members will be willing to endorse it.

"Whereas, Michael H. Scheible has officially announced his retirement from public service after a successful 36-year career with the Air Resources Board, faithfully serving six Governors and every Chairman.

"Whereas, Mike began his career as a Peace Corps volunteer in Brazil after graduating from the University of Maryland with a Bachelor's degree in chemical engineering and a Master's degree in air pollution control.

"Whereas, Mike represented a new breed of engineers that brought an awareness of both the environmental and social implications of his work to ARB in 1973 and quickly developed a reputation for finding practical solutions to vexing problems and seemingly impossible mandates, with innovative analyses and tenacity of purpose.

"Whereas, Mike quickly rose through the ranks and, in 1982, was appointed to be Chief of the infamous Office of Program Planning, Evaluation, and Control, ensuring that the agency spent not
one dime more than necessary."

There are people who will testify to that.

"Whereas, in recognition of his keen intellect and outstanding leadership qualities, Mike was appointed as a Deputy Executive Officer in 1987 where he has faithfully served for over 20 years, earning admiration for his devotion to the mission of cleaning up the air and reducing public health risk.

"Whereas, Mike has consistently made sound technical and policy recommendations to this Board on a variety of air pollution control programs, including, but not limited to, State Implementation Plans, transportation fuels, air toxics, identification and control, diesel risk reduction, consumer products, goods movement, energy, public health research, and most recently played a critical role in developing California's Scoping Plan for reducing greenhouse gas emissions and was the co-founder and primary architect of the low-carbon fuel standard.

"Whereas, Mike personified the can-do attitude of the Board, motivating staff to go above and beyond the norm, never accepting no for an answer when staff pleaded there was a lack of
data and insisting they go out and find them;
using elegant calculations to inevitably and
annoyingly prove that his analysis was correct.

"Whereas, Mike was a one-man emissions
inventory machine, routinely finding the one
error in hundreds of pages of numbers or quickly
estimating emissions for any category.

"Whereas, Mike retires with a tremendous
respect of Board members and staff, regulated
industry, environmental advocates, the air
pollution control community, and every
Californian who breathes cleaner air.

"Whereas, Mike always took time to visit his
colleagues, especially those with dark chocolates
on their desk, often parting with a famous, 'bye,
bye, farewell.'

"Whereas, Mike walked the talk in his
personal life, commuting to work by a bicycle,
bus, carpool, or train for his career at ARB,
except for the one year he had access to free
parking because he was on a grand jury.

"Whereas, Mike has prepared well for this
transition in his life, having developed many
personal and professional friendships, a golf
game that includes four holes in one, and a
bright new red MINI Cooper.

"Now, therefore be it resolved, that the Board gives tribute to Michael H. Scheible for his contributions to the people of California and extends a heartfelt thank you for his accomplishments and the significant role he played in shaping ARB into the innovative and effective world leader in air pollution control that it is today.

"Be it further resolved, that the Board directs Mike to enjoy his retirement, traveling the world, sampling culture cuisine, and of course the regional brews of many interesting locales.

"Executed at Sacramento, California, this 30th day of December" -- which is when he actually retires -- "2009."

So I hope that I can get a second for this resolution --

BOARD MEMBER SPERLING: Second.

BOARD MEMBER BERG: Second.

CHAIRPERSON NICHOLS: -- and that you will join me in making this a unanimous resolution of thanks to Mike.

Mike, thank you.
CHAIRPERSON NICHOLS: Yes, you are allowed to
speak for three minutes.

DEPUTY EXECUTIVE OFFICER SCHEIBLE: Need to turn
the timer on.

Thank you very much, Chairman Nichols. It was an
honor to have you as Chair and Board members various times
in my career.

As you mentioned, I had the honor of working for
every Chair of the Air Resources Board that's been
appointed, starting with Dr. Haagen-Smit, when I tried to
cause trouble coming out of college in the late 60s.

I can't think of any better way I could have
spent 36 years as a professional career other than here in
California at the Air Resources Board. I thought I would
come to California, be here for a couple years, explore
the mountains and the coast, and go do other things.

But the job of trying to clean up the air,
especially in southern California, the innovativeness of
the Air Board, and mostly the teamwork of the hundreds and
hundreds and hundreds of staff people that I've worked
with, hopefully inspired -- I heard that many of them
feared me for a while but that lately I've mellowed and
it's been more of a collaborative relationship in terms of
challenging them intellectually. And all of you and all
of them have my utmost respect.

And we were just able over time to have a
tremendous, tremendous accomplishment when you see how
clean the air is now. It's not clean enough; but relative
to what it was when I started.

And little things, like when I walked into my
garage in the 70s, it smelled like gasoline. Hasn't
smelled like gasoline for a long time because of the
efforts of this Board. We've led the nation. I've
traveled around the world, and we've seen many of the
innovations going on there.

And just thank you very much for all the kind
words.

(Applause)

CHAIRPERSON NICHOLS: I want to add for anybody
who thinks they may have seen the last of Mike, he has
agreed to make himself available as a consultant to us on
some matters he has worked on before. So I expect we're
going to actually have a chance to see him around. He may
be getting away from the day-to-day responsibilities of
managing a large organization, but he's still going to be
giving us the benefit of his very large brain, which is
really something that is unique.

So thanks again, Mike.
Okay. We now turn to the consent calendar. The first item on the consent calendar is Agenda Item Number 09-10-1, consideration of eight research proposals.

I'd like to ask the Board Clerk if there are any witnesses who signed up to testify on this item.

BOARD CLERK ANDREONI: No, there are not.

CHAIRPERSON NICHOLS: Are there any Board members who want to remove this item from the consent calendar and have further discussion on it?

Seeing none, then we don't need to close the record, because there's no need to close the record. If all the Board members have had an opportunity to review the proposals, could I please have a motion --

BOARD MEMBER ROBERTS: So moved.

CHAIRPERSON NICHOLS: -- to adopt the Resolutions 57 through 64.

BOARD MEMBER BERG: Second.

CHAIRPERSON NICHOLS: So moved and seconded.

All in favor please say -- oh, comment.

BOARD MEMBER SPERLING: I need to recuse myself, because several of those are from U.C. Davis.

CHAIRPERSON NICHOLS: Okay. Thank you.

Are there any others who have ex parte communication?

BOARD MEMBER BALMES: I think U.C. Berkeley also
1 is involved with one or more.

2 CHAIRPERSON NICHOLS: That leads us then -- we
3 will hear then from everybody other than Dr. Balmes and
4 Dr. Sperling.
5 All in favor, please say aye.
6 (Ayes)
7 CHAIRPERSON NICHOLS: Any opposed?
8 Great. Well, that works pretty well.
9 The next item on the consent calendar is Agenda
10 Item Number 09-10-2, proposed amendments to the regulation
11 for limiting ozone emissions from indoor air cleaning
12 devices.
13 This is a matter that we've reviewed extensively
14 in the past, and these are minor technical amendments.
15 Have any members of the public signed up?
16 BOARD CLERK ANDREONI: No one has signed up.
17 CHAIRPERSON NICHOLS: Any Board members want to
18 be taking this off the calendar?
19 All right. Then I will close the record on this
20 item, but I will indicate that the record will be reopened
21 when the 15-day notice of public availability is issued
22 and that any written or oral comments received after this
23 date, but before the notice, will not be accepted.
24 However, when the record is reopened, the public may
25 submit written comments on the proposed changes, and they
will be considered and responded to in the Final Statement of Reasons for the regulation.

Are there any ex parte communications that any Board members need to disclose?

Seeing none, we have before us Resolution 09-65.

Could I have a motion and a second?

BOARD MEMBER BERG: So moved.

BOARD MEMBER YEAGER: Second.

CHAIRPERSON NICHOLS: All in favor, please say aye.

(Ayes)

CHAIRPERSON NICHOLS: Any opposed?

Very good. And it passes.

All right. We now turn then to Item 09-7, which is a greenhouse gas regulation focusing on reducing refrigerant leaks from commercial stationary refrigeration systems.

The refrigerants that are used in these systems are typically thousands of times more potent than carbon dioxide, with leaks adding up to millions of tons of carbon dioxide equivalent emissions.

Of all of the measures that are in the Scoping Plan, this one stands to achieve the fifth largest reduction in total greenhouse gas emissions. So it is a very important step towards meeting our 2020 target that
is called for in AB 32.

Mr. Goldstene, would you please introduce this item?

EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman Nichols.

The high global warming potential sector is the fastest growing sector on a percentage basis, thus strategies to reduce emissions from existing and new sources were an important feature of the Scoping Plan. The Board has already considered and approved some early actions for this sector.

Today, we will focus on existing commercial and industrial refrigeration systems and how they are serviced. This category represents one of the largest sources of emissions in the high global warming sector. The staff proposal is based on the use of best management practices to reduce leaks and was developed through extensive public process over the past year and a half.

Mr. Chuck Seidler from the Research Division will provide the Board with the details of the proposal.

Chuck.

(Thereupon an overhead presentation was presented as follows.)

AIR POLLUTION SPECIALIST SEIDLER: Thank you, Mr. Goldstene.
Good morning, Madam Chairman and members of the Board.

The regulation we are proposing today is the Refrigerant Management Program, which addresses existing, non-residential, stationary refrigeration systems.

I will begin with a brief overview of what we will cover in this presentation, and a summary of key points of the proposal.

---O0O---

AIR POLLUTION SPECIALIST SEIDLER: The presentation is organized according to the topics listed on the slide. We will present a summary of the proposed regulations, give a brief background of the high global warming potential sector, and discuss the extensive stakeholder process used to develop the proposed regulation.

We will also look at key provisions of the proposed regulation, the environmental and economic impacts, proposed modifications, rule implementation steps, and finish with conclusions and a recommendation.

---O0O---

AIR POLLUTION SPECIALIST SEIDLER: The proposed rule is one of the highest emission reduction strategies from the AB 32 Scoping Plan. The goal of the proposed regulation is to reduce leaks of high-global warming
potential refrigerants by requiring refrigerant leak
inspection and repair of large commercial refrigeration
systems.
The proposed regulation is cost-effective and
results in an overall net savings of about $2 per metric
ton of CO2 equivalent reduced.
And we are developing a comprehensive
implementation plan that includes outreach and training.
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AIR POLLUTION SPECIALIST SEIDLER: Before we
discuss the proposed regulation, I will provide some
background on the high-GWP sector.
--o0o--
AIR POLLUTION SPECIALIST SEIDLER: High-GWP gases
are compounds that are typically thousands of times more
potent as global warming agents than an equivalent weight
of carbon dioxide.
The proposed regulation addresses high-GWP
refrigerants, such as hydrofluorocarbon, or HFC
refrigerants, which are greenhouse gases covered under the
Kyoto protocol and identified under AB 32.
The proposed regulation also addresses
ozone-depleting refrigerants that are also potent
greenhouse gases that have been used for decades but are
being phased out of production in response to the Montreal
Protocol due to concerns of their impact on stratospheric ozone.

There are other high-GWP gases that make up the sector. But as indicated, they are not used for refrigeration and are therefore not addressed under this proposal.

AIR POLLUTION SPECIALIST SEIDLER: Greenhouse gas emission sources in the high-GWP sector include refrigerants, halon fire suppressants, foam expansion agents, and aerosol propellants.

AIR POLLUTION SPECIALIST SEIDLER: Large commercial refrigeration systems, the category that the proposal focuses on and shown in dark red, represents about 34 percent of the emissions from the high-GWP sector based on current business as usual, or BAU, estimates. The other categories shown will be addressed through separate measures that the Board has already adopted or will be considering over the next two years.

AIR POLLUTION SPECIALIST SEIDLER: Under the business as usual scenario, high-GWP greenhouse gases will play an increasingly significant role in the future. This is because we are used as substitutes for ozone-depleting
refrigerants, which are being phased out.

AIR POLLUTION SPECIALIST SEIDLER: Next, we will summarize the extensive stakeholder process used to develop the proposed regulation.

AIR POLLUTION SPECIALIST SEIDLER: For approximately two years, staff has worked with a broad spectrum of stakeholders to develop the proposal, including facility owners and operators, refrigerant manufacturers and distributors, the U.S. EPA, CAPCOA, non-governmental organizations, trade associations, technicians, and contractors. We held five technical work group meetings and seven public workshops throughout the state. Technician and service contractor surveys, numerous site visits, and many independent stakeholder meetings were also conducted to ensure that we receive the input needed to develop an effective regulation.

AIR POLLUTION SPECIALIST SEIDLER: Stakeholder outreach included top-down strategies focusing on contacting trade associations to discuss the proposal throughout its development.

Trade associations and affected sectors contacted
included small business associations, agriculture, state and local governments, as well as supermarkets and retail food, medical facilities, manufacturing facilities, and property management.

Stakeholders helped distribute information about the proposed regulation, including frequently asked questions and a refrigerant best management practices brochure that ARB developed.

Bottom-up strategies were also employed and included technician and contractor surveys, business surveys, and a facility outreach pilot study conducted in the city of Industry and city of Merced.

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AIR POLLUTION SPECIALIST SEIDLER: Four key themes emerged from stakeholder input and are reflected in the proposed regulation, which are:

To focus on obtaining the greatest emission reductions at the least cost;

Limit rules to common-sense best management practices;

Create a level playing field by requiring that all businesses use refrigerant best management practices that have proven to be effective;

And, compliment existing federal rules and the South Coast Air Quality Management District Rule 1415,
which are specific only to ozone-depleting refrigerants.

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AIR POLLUTION SPECIALIST SEIDLER: Now we will look at the specifics of the proposed regulation.

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AIR POLLUTION SPECIALIST SEIDLER: The regulation focuses on refrigeration systems containing more than 50 pounds of a high-GWP refrigerant as they result in the greatest refrigerant leaks.

These are big systems. To put this into perspective, that's as much refrigerant as used in approximately 100 household refrigerator freezers or 23 stand-alone produce coolers. Thus, even the small systems impacted by the regulation are actually quite large.

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AIR POLLUTION SPECIALIST SEIDLER: The types of businesses affected by the proposed regulation are those with refrigeration systems containing more than 50 pounds of a high-GWP refrigerant, which generally include supermarkets and grocery stores, food and beverage processors, cold storage warehouses, and industrial process cooling.

These same businesses are already affected by federal rules and/or the South Coast Air Quality Management District Rule 1415 requirement, including leak
inspection, repair, and fees, although those rules are
specific only to ozone-depleting refrigerants and do not
dress the growing problem of HFC refrigerant emissions.

Other types of businesses use smaller
refrigeration systems that typically use less than 50
pounds of refrigerant, and these businesses would not be
subject to the proposed regulation, other than required
service practices.

These businesses would include bars and
restaurants, gas stations, liquor stores, bakeries, as
well as office buildings.

Additionally, the rule would not apply to any
ammonia or carbon-dioxide-based refrigeration systems.

AIR POLLUTION SPECIALIST SEIDLER: Staff's
regulatory proposal has four main components. Those are:
Refrigerant leak inspection and repair; required service
practices; refrigerant sale, use, and disposable; and
facility, registration, reporting, and fees.

AIR POLLUTION SPECIALIST SEIDLER: The leak
detection and monitoring requirements ensure that leaks
are identified early. The systems with the greatest
potential emissions require more frequent oversight. For
example, automatic leak detection systems are required for
large systems, quarterly inspection for medium systems, and annual inspection for small refrigeration systems.

As illustrated on the slide, requirements of the proposed regulation are based on categories of refrigeration systems defined by the amount of refrigerant they use as small, medium, or large, with the smallest category containing more than 50 pounds of a high-GWP refrigerant.

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AIR POLLUTION SPECIALIST SEIDLER: Refrigerant leak detection is not complicated. It can be done with a portable leak detector known as a sniffer or by visually inspecting for oil leaks under refrigeration system components. Refrigerant leaks may also be indicated by the need to add refrigerant.

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AIR POLLUTION SPECIALIST SEIDLER: Refrigerant leaks must be repaired under the proposed regulation within 14 days of detection by a U.S. EPA certified technician.

However, the proposal does recognize there may be some situations in which a leak repair is not possible within 14 days.

Conditions that allow additional time to complete a leak repair include if a certified technician or parts
are not available, or if it requires the shut down of an industrial process.

Consistent with existing federal regulations covering ozone-depleting refrigerants, after a leak repair is conducted, verification tests are required to ensure the success of the leak repair. And if the system cannot be repaired within the maximum time frame, a retrofit or retirement plan is required.

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AIR POLLUTION SPECIALIST SEIDLER: Consistent with federal regulations, covering ozone-depleting refrigerant required service practices apply to any person installing or servicing any appliance that uses a high-GWP refrigerant.

Requirements specific to leak repair by a certified technician, a prohibition on refrigerant venting, and proper refrigerant recovery are modeled from existing federal rules specific to ozone-depleting refrigerants.

To reduce emissions from refrigerant leaks, no topping off or adding refrigerant is allowed without first repairing the leaks.

Spent cylinders often contain a significant heel, which is leftover refrigerant. Cylinders must be evacuated prior to disposal or recycling.
AIR POLLUTION SPECIALIST SEIDLER: The proposed regulation also extends existing federal rules specific to the sale, use, and disposal of refrigerants to all high-GWP refrigerants, not just ozone-depleting refrigerants. These restrictions include who may purchase refrigerants and the refrigerants that may be sold.

Recordkeeping and reporting of sales, recovery, and disposal are required for distributors, wholesalers, and reclaimers.

AIR POLLUTION SPECIALIST SEIDLER: The chart on this slide provides the annual average emissions in metric tons of CO2 equivalent by facility based on the refrigeration systems used as well as the equivalent emissions in the context of vehicle miles traveled.

As systems increase in size, their potential emissions increase. Facilities with large refrigeration systems on average emit significantly more than facilities with medium or small refrigeration systems.

A facility's potential emissions are reflected in the development of the proposed requirements, including the facility registration, reporting, and annual fee requirements.
requirements have been phased in to allow for outreach and training and development of a web-based system for reporting.

For facilities with large refrigeration systems, registration and reporting is required by March 1, 2012; March 1, 2014, for facilities with medium systems; and registration only is required by March 1, 2016, for facilities with small systems only.

The fee structure was developed in coordination with CAPCOA and ARB enforcement staff and is based on their size of the refrigeration systems used at a facility. Facilities with only small refrigeration systems pay no fee and submit no annual reports.

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AIR POLLUTION SPECIALIST SEIDLER: The success of this program depends on outreach, training, and enforcement and will require revenue to support these activities. The majority of revenue is expected to be passed through to air districts to support enforcement activities.

The proposed fee amounts are based on the frequency of inspections and average time per inspection per refrigeration system required for effective
enforcement, determined through a survey of air districts and ARB enforcement staff.

The proposed fee amounts were compared to other existing fees and determined to be well under the cost of a typical air permit.

High-GWP gases are not subject to the AB 32 administrative fee. However, a small number of very large facilities, such as electrical power plants and petroleum refineries that are subject to the AB 32 administrative fees, may also be subject to the Refrigerant Management Program fee.

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AIR POLLUTION SPECIALIST SEIDLER: Success of the Refrigerant Management Program will be based on extensive outreach, and that will begin immediately upon approval. All leak detection and monitoring and leak repair requirements become effective January 1, 2011. Any person servicing an appliance that uses a high-GWP refrigerant will be required to follow required service practices.

There is a gradual phase in of registration, annual reporting, and fees from 2012 to 2016.

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AIR POLLUTION SPECIALIST SEIDLER: We will now present the environmental and economic impacts of the
proposed regulation.

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AIR POLLUTION SPECIALIST SEIDLER: The Refrigerant Management Program will result in a reduction of emissions of 8.1 million metric tons of CO2 equivalent in 2020, which is the fifth largest greenhouse gas reduction measure.

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AIR POLLUTION SPECIALIST SEIDLER: Understanding it is difficult to visualize eight million metric tons of CO2 equivalent, as a comparison, a reduction of eight million metric tons of CO2 equivalent will be similar to removing 1.4 million vehicles from the road in a year or saving the energy used in 1.5 million average California homes for a year, or saving 18 million barrels of oil.

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AIR POLLUTION SPECIALIST SEIDLER: Leak detection and repair does add cost to businesses, but the added cost to be offset by savings from reduced refrigerant leaks, which means less refrigerant needs to be purchased. The overall economic impact is an average savings of $2 per metric ton of CO2 equivalent reduced. The economic impact for a given facility will vary. Some will see a greater savings, whereas others would see a net cost.
During outreach for the proposed regulation, staff identified several businesses already following best management practices required by the proposed regulation, so the proposed regulation will help create a level playing field for all businesses in regards to refrigerant management.

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AIR POLLUTION SPECIALIST SEIDLER: Based on concerns raised by military agencies, we are proposing to revise the draft regulation to exempt military tactical equipment. And based on comments made during the 45-day public comment period, we are proposing clarifying edits.

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AIR POLLUTION SPECIALIST SEIDLER: The success of the proposed regulation after approval will require effective implementation. Implementation will focus on continued work with trade associations and facilities, the U.S. EPA, CAPCOA, as well as the development of an Implementation Advisory Work Group.

We will continue our efforts to directly reach out to affected businesses. Staff will develop a training program for technicians, enforcement staff, and businesses.

We have already developed some outreach documents and will continue to refine these and create new ones.
And they will be widely distributed.

Lastly, we are currently developing an on-line reporting database to facilitate annual reporting.

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AIR POLLUTION SPECIALIST SEIDLER: Staff has determined that the proposed regulation will reduce greenhouse gas emissions associated with existing, non-residential, stationary refrigeration systems. The proposed regulation is both technologically and commercially feasible and is based on currently used best management practices. It is cost effective. It meets all legal requirements under AB 32. Staff therefore recommends that the Board approve the proposed regulation.

This concludes our presentation. We'll be happy to answer any Board member questions.

CHAIRPERSON NICHOLS: Thank you, Mr. Seidler.

Do Board members have any questions before we proceed with the testimony?

Yes, Dr. Telles.

BOARD MEMBER TELLES: In reading the report, it wasn't clear to me exactly how much it will cost to do the enforcement as far as checking for leaks and things like that. Do you have a figure for that?

AIR POLLUTION SPECIALIST SEIDLER: The total in
annual fees in the report will actually be used for enforcement. And is that amount just over $2 million per year once we have fees completely phased in after 2016.

BOARD MEMBER TELLES: That's the number of costs collected. But is that the cost for the enforcement?

AIR POLLUTION SPECIALIST SEIDLER: The fees are based on the work with CAPCOA and enforcement staff and are balanced with the need for enforcement. So they are set to be approximately equal.

BOARD MEMBER TELLES: And what mechanism do you have to get the fees out to the air districts which will be doing the enforcement?

AIR POLLUTION SPECIALIST SEIDLER: To date, we have been working with them for general agreements, and there will have to be agreements scheduled and prepared prior to the implementation in 2011 to formalize those agreements.

CHAIRPERSON NICHOLS: Other Board members?

Yes, Ms. Berg.

BOARD MEMBER BERG: Good morning. I just have one quick question for the recordkeeping and see that we're also doing recordkeeping for sales, use, and disposal.

And on the recordkeeping for sales, what's our thinking? Why do we need that information specifically
from those that are selling the refrigerants?

    AIR POLLUTION SPECIALIST SEIDLER: The primary purpose is for the requirement for emissions verification. Emissions will be verified based on what facility's report is being produced with a broad comparison to statewide sales. So the primary reason is for emission verification.

    BOARD MEMBER BERG: Thank you.

    CHAIRPERSON NICHOLS: Okay. We do have a list of witnesses who have signed up on this item. But as I indicated earlier, we were expecting to have visits from several members of the Legislature who have taken the trouble to come across the way to speak us on the item we're taking up later on trucks. A couple of them have indicated they're willing to wait until the item is called, but one is not able to stay. And so I would like to call now and interrupt our presentation on the refrigerant rule -- just put that aside for a moment -- and focus your mind on trucks instead.

    And we will hear from Assemblymember Jim Nielsen.

    Mr. Nielsen, good morning.

    ASSEMBLYMAN NIELSEN: Good morning, Chairwoman Nichols. And I thank you very much for the indulgence and the courtesy, honorable members of the Air Board.

    I appear here to intrigue your fastidious
adherence to weighing of economic as well as environmental considerations of regulation.

Little historical perspective. As a new Senator 30 years ago, I worked with then Speaker of the Assembly Leo McCarthy on something that was creating the Office of Administrative Law, a means and a way to make sense of the regulatory process in the state of California to allow input. There is input here, of course, today. But one of the key elements of that way back then was the consideration of economic impacts of regulation.

One of the former leaders of that organization, one of the formative leaders and I, have agreed over the years that economic considerations have been given the short shrift in terms of consideration of all agency's regulations.

This particular one that you are entertaining here a little bit later today has and will have profound impacts. Driving down the Sacramento Valley this morning, I passed some 80 trucks. And I was struck that may be a little sad that maybe there weren't more trucks because the economy is in dire straits.

So what I'm entreating the Board today is as you deliberate and consider advancing your regulations that those regulations be tailored and weighed -- not just consider the economic impact, but actually weigh them and
consider all best economic regulations, that would ensure that whatever we do does not displace businesses, does not disemploy workers in the state of California.

And I don't argue just at this moment of great economic strife in the United States and in California. And I would argue that regulations have been no small measure, a bigger impact on what the state of California's economy is today then the macro economic imperatives that we're dealing with.

And therefore we, as policy makers, must be extraordinarily sensitive to those economic considerations. And I know you've put this thing over for additional economic consideration for nearly a year now. But I would argue that it may well be in order to put it over for even yet more time to consider that impact. Just to consider it, but to also weigh the economic impact.

I do appreciate my opportunity to comment briefly to you here today. I do not want to indulge you very much, but I also would wish you a very Merry Christmas.

Thank you.

CHAIRPERSON NICHOLS: Thank you very much.

Appreciate your input.

(Applause)

CHAIRPERSON NICHOLS: Okay. We will now --

sorry. Did anybody else wish to be taken out of order?
Go ahead. Good morning, Mr. Logue. I just saw you yesterday.

ASSEMBLYMAN LOGUE: Yes, thank you. Good to see you again. Thank you very much.

My name is Assemblyman Dan Logue, and I'm grateful for the opportunity to voice my opinion in this important hearing.

I do not disagree that we should work collectively to improve the state's air quality and provide a healthy environment for our families and all California. However, in this current form, the Board regulation places a significant economic risk on the businesses of today and jeopardizes the future of the viability of the trucking industry, which is already reeling from unprecedented financial turmoil and drastic decline in business which has been brought about by a natural decline in emissions.

There are several claims used to support the implementation of the highly restrictive diesel regulations, one of which is that diesel particulate matter causes 4,000 premature deaths per year in California. There is substantial epidemiological evidence from six independent sources that there is no current relationship between the fine particulate matter and the premature deaths in California. The evidence CARB relies
on is not sufficient to establish the true casual relationship in California.

Also, serious doubts have been raised about the professional qualifications of CARB staff members who prepared the key reports on PM2.5 and premature deaths. Further, the final version of this report and relevant public comments were never shown to outside peer reviewers as required by state law. Diesel toxicity and PM pollution in California are at record low levels. California is the fourth lowest total adjusted death rate among United States and the fewest premature deaths in the county. Modifying diesel emission engines in the way proposed by CARB may be of little value because the particulate matter fallacy and chemical composition on PM in California versus other states. The scientific issues should be fully addressed by CARB before enacting regulations which will cost upwards to $10 billion to implement.

On a legal note, after historical review of CARB's scientific review panel on toxic air contaminants, there was found substantial evidence that the appointments of nine members of the SRP as of 1998 were not made in accordance with relevant provisions in Section 39670 of the California Health and Safety Code with the intent of the original legislative bills created by AB 1807 (Tanner
and Laffeyette). These legal issues should be fully addressed by CARB before implementing costly regulations on the people of California.

In passing the December 12th, 2008, regulations, CARB effectively ignored the economic arguments and placed about 500 written or verbal public comments. One California contractor gave particular telling comments:

"The effect on my company is 100 percent of my portable equipment will be illegal to use or sell in California, 100 percent of my trucks, 90 percent off-highway. These regulations all at once, this is a destruction of my capital. I spent 44 years in business gaining this equity. These regulations have destroyed it all at once, destroys the business middle for the entrepreneur who saves money, invests it, and provides employment for tax basis for our economy."

I'd like to conclude that as an Assemblyperson who's the Vice Chairperson of Jobs and Economic Recovery, this state is in an economic crisis, and that this is not the time to move forward on diesel emissions when the science has not been proven, that there is so much disagreement in the public's view that this is a time to step back from this issue and allow the science to be provided to prove whether or not this is an issue that is damaging the health of Californians.
I will say this. If you look at people's life expectancy being greatly reduced, it will be because they don't have jobs and through the stress of not being able to pay for their bills and support their family.

I know that you have a tough task ahead of you. I respect all the work that you do. But I'm urging you -- and I also have a letter here from 52 legislators in the State Assembly that are asking you to do the same, to please back off on this issue and give these truckers and the businesses of California a break.

Thank you very much.

(Applause)

CHAIRPERSON NICHOLS: Mr. Logue, I want to ask a question.

Many of the points you made we will be discussing later when the item is before us on the agenda. But there were a number of comments that I heard in your oral testimony that I know have been discussed before or were commented on in the record and in letters back and forth.

But there were a couple points that you made that I hadn't heard before, so I'm wondering if you have a written version of the testimony that you just gave us. And if you could leave that with our staff or give it to us, we would appreciate it.

ASSEMBLYMAN LOGUE: I will not only be happy to
leave it with you, but I'd like to have your response on it if you would. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

(Applause)

CHAIRPERSON NICHOLS: We're not dealing with this issue at this time.

BOARD MEMBER TELLES: I wanted to comment on --

CHAIRPERSON NICHOLS: Okay.

BOARD MEMBER TELLES: I wanted to make a comment on the letter that was sent to the Board members dated September 9th, 2009.

This is a letter written by the 52 legislators you've referred to. The Board didn't get that letter until November 17th. And only after a request by Board members did I have a copy of the letter. It was not forwarded by the staff to the Board. I just wanted to make a public announcement of that.

CHAIRPERSON NICHOLS: Thank you.

It was responded to, as is the normal practice of the Board, by the legislative staff.

We've got another member here.

ASSEMBLYMAN BERRYHILL: Thank you, Chairman.

Assemblyman Bill Berryhill. I appreciate the opportunity to come and speak before the Board.

I'm here today to strongly urge this Board to
consider delaying the implementation of the truck and bus regulation and the in-use off-road diesel regulations. The implications of these regulations and the questions surrounding their formation are so great they desperately require more time for review. We're currently, as Assemblymember Logue eluded to, we're in the greatest recession since the Great Depression. And the fact this Board is considering adopting these regulations without fully assessing the economic impact is simply appalling to me.

CARB staff was asked last year to monitor the economy and assess its impact on the trucking industry and the emissions. However, what I believe staff most importantly failed to do is adequately assess how the trucking industry could afford to comply with these new regulations at this time should they be implemented.

My constituents have consistently informed me that the $2 billion in proposed assistance for compliance with these new regs has failed to materialize and will only be accessible for major companies, if at all. In some cases, some companies will be forced to replace entire trucks, rather than replacing or retrofitting an engine at the cost of about 250,000 or more. During these economic times, that is simply unattainable for most of these small businesses.
The recent study completed by Sacramento State University on the economic impact of regulations to the State found that the total cost of regulation in 2007 was nearly half a trillion dollars, or more than five times our annual budget, and costs us nearly 4 million jobs. You all know what our budget is like. You all know what the economy is like.

Folks, I want you to remember those numbers as you consider whether or not to postpone these regulations and especially at a time when we struggle harder than ever to solve our budget crisis.

Let me say this in some uncertain terms. These regulations will further imperil our state budget and economy by causing us jobs and tax revenue.

I also want you to consider another cost that I don't believe your staff has adequately considered. Your staff was charged with assessing the health risk posed by agricultural trucks exempted from the truck and bus regulation. Well, I would like you to ask your staff to review the health risks of not exempting trucks from this regulation. But these health risks are not measured by particulate matter in the air. These health risks are measured by more people on public assistance, because they have been laid off by their employers in order so that businesses can afford to comply with these regulations.
Again, this is costing jobs, and it's putting people in food lines. And we can't afford to do this right now.

I ask you, is this healthy for this state? Is it healthy to have more children whose parents can't provide them adequate health care because we've put them out of business?

I also find it very troubling that this Board would consider implementing regulations based on the work of a staffer who was fraudulent in asserting the very qualifications that they needed to do the work. This is crucial to me.

I also find it extremely disturbing that not all members of this Board were informed of this fraudulent activity when they convened to deliberate the truck rule. In fact, it took nine months for the full Board to learn of this disaster, despite staff and the Chair being aware of it. That's unconscionable to me. It is that kind of closed-door policies and arrogant defiance of a fair process that has led to the public's current loss of faith of government.

Dr. Telles further notes that the study in question was not authored by a single professional statistician, a study that requires valid statistical and scientific research.

I simply ask that these studies conducted that
lead to the development of these regulations be given sufficient time to be thoroughly peer reviewed before the regulations are implemented. I urge you to do so for your own credibility as a governing agency, if for nothing else if you wish to be seen as a body with any sort of scientific credibility and not a political entity with a skewed agenda.

Finally, members, I leave you with a reminder that earlier this year nearly half of the legislators -- as Assemblymember Logue pointed out, legislators sent letters to the Governor and CARB urging them to delay these regulations. This is in addition to the thousands of comments the Board has received from members of the public protesting these regulations.

To implement these regs without further review would send a very sad message to the people of this state and would mark a very low point of an unelected bureaucracy with a reputation of one that is out of touch with reality and unconcerned with the plight of this state, willing to pursue their own personal agenda.

Ladies and gentlemen of this Board, I implore you not to let this happen for your own credibility and your own reputation, if not for the welfare of the state.

And let me just further add that the cloud that is over this Board right now and this agency by the
fraudulent gentleman who did the study is a very bad
cloud, and it sends a bad message for all agencies and all
the scientific community. You're talking about real
lives, real jobs, that you have the power to regulate one
of the few businesses in California that you can actually
lay down $20,000 and have your own business. And you are
on the edge of putting all these folks out of business at
a time when our state and our budget is absolutely in the
tank and getting worse.

I implore you to not implement these regulations
at this time, to do further peer review, and let's get it
right when we get it. Thank you.

(Applause)

CHAIRPERSON NICHOLS: Thank you, Mr. Berryhill.
I want you to know that when we get to the point
where we're actually holding a hearing, I'm not going to
let you interrupt the proceedings with either applause or
boos or anything else.

Mr. Berryhill, we appreciate you coming over.
I'm sorry that you can't stay, but I assure you that we
will take your comments. And I hope you will have
representatives here who will report back to you on the
discussion and the consideration this Board will go
through. It will be extensive, I assure you.

We had one other member of the Legislature who
was here who had indicated he could wait. But since we heard from three of your colleagues, if Mr. Niello is here and would like to speak, we should probably do this all at once.

BOARD CLERK ANDREONI: He's not here.

CHAIRPERSON NICHOLS: He'll come back later.

Very good. Thank you.

Can we get back now to the refrigeration rule then?

We had a list of witnesses. We have ten of them beginning with Randal Friedman representing the United States Navy, followed by Larry Allen on behalf of CAPCOA, and Janet Abshire from the California Medical Association.

Good morning.

MR. FRIEDMAN: Good morning, Chairman Nichols and Board members.

Randal Friedman on behalf of the U.S. Navy.

Very quickly, we have no general issues with this rule as it applies to our installation facilities and stationary equipment used for buildings.

We did have concerns as it applied to our tactical equipment that services weapon systems. We've worked with your staff. We're very appreciative of their open mind in looking at this and looking at some
contractual issues with the rule. I think we have
everything worked out, and I just want to again express
our appreciation for the work your staff did. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Larry.

MR. ALLEN: Good morning, Madam Chair and members
of the Board.

I'm Larry Allen, Air Pollution Control Officer
for San Luis Obispo Air Pollution Control District, and
here today representing CAPCOA.

And I'd like to start by commending your staff on
the very comprehensive evaluation analysis that they've
performed on this regulation for over two years now. They
first came to CAPCOA to talk about the need for this
regulation back in early 2008, and they've worked with us
throughout the process. They kept us apprised every step
of the way. I would say it's a model of collaboration
between ARB and the districts. They've worked with us in
estimating the number of sources that would be affected
and the size range of those sources and in developing a
fee structure that could support the compliance efforts
that the air districts will undertake in implementing this
regulation.

So CAPCOA believes that the regulation is quite
an important piece in implementing AB 32. It will provide
significant emission reductions of very high global warming potential pollutants. It's highly cost effective. And it's going to keep us moving down the path of reducing greenhouse gases and protecting the climate in California and actually our economic future that depends on keeping temperatures at a certain level here.

So we look forward to continuing to work with the Air Resources Board and with your staff in implementing this regulation. We would urge your Board's adoption of it.

And if I could take just a moment more, I'd like to offer my personal congratulations to Mike Scheible on a well-deserved retirement. And on behalf of CAPCOA, thank him for all of the work that he has done for the Air Resources Board and working with the air districts in helping to maintain the partnership that we enjoy with ARB.

He leaves behind a tremendous breadth of knowledge that will be sorely missed in the state of California. And he has an incredibly high level of integrity that we appreciate. You always know where you stand with Mike. And we appreciate that and wish him well in his retirement.

CHAIRPERSON NICHOLS: Thank you very much.

Appreciate that.
Janet Abshire, are you here, California Medical Association?

Barry Wallerstein from the South Coast Air Quality Management District.

DR. WALLERSTEIN: Good morning, Chairman Nichols, member of the Board.

I'm here also to lend our agency's support to the proposed regulation that is before you. As you heard in the staff report, we actually have a similar regulation that we established back in 1991, and we have worked very closely with your staff on the development of the proposal that is in front of you. We intend upon your approval of the staff proposal to conform our local regulation to the State regulation. And we will move forward also as proposed with some sort of memorandum of agreement or something of that nature to work on the compliance side of implementing this program. We think it's a very, very important program and also believe that this has really been a model for the air districts working with the State Air Resources Board on climate change and something we hope to duplicate as we hope to move forward. So we urge your yes vote.

CHAIRPERSON NICHOLS: Thank you, Dr. Wallerstein.

This is one area where the South Coast has moved forward on its own. And you've already accomplished a
lot. So we're building on your good work as well. Thank you.

Okay. Tim O'Connor from the Environmental Defense Fund, and then Don Anair from the Union of Concerned Scientists.

MR. O'CONNOR: Hi. Good morning.

My name is Tim O'Connor, an attorney with the Environmental Defense Fund located here in Sacramento. We've been participating in this rulemaking since -- probably for about a year, year and a half now.

I'd just like to tell the Board the staff has done a great job on putting this together working with both the environmental community -- actually, outreaching to the environmental community to say we'd really like for you guys to take part in this. And we've tried to step up to that challenge and become versed in this issue.

I think the reg before you does achieve some really important things. Not only is it going to reduce costs on businesses through reduced leaks that are leaving their equipment that they're paying every month or every year to be refilling their refrigerant that's leaking, but it's also saving a tremendous amount of emissions. Eight million metric tons by 2020 is obviously nothing to laugh at.

It is important to note that this industry will
still have another eight million metric tons that it's still going to be emitting after full implementation of this rule. We'd like to urge the Board not to check the box this sector is taken care of once we hopefully pass this rule at the end of the day today.

There is one important improvement that the environmental community, EDF, aligned with many other NGOs, which you'll probably be hearing after me, would like to bring to your attention. And I've spoken to a few of you about this important change that we feel is necessary and would achieve both increased emission reductions and cost savings on a statewide basis.

The easiest thing that businesses can do under this regulation is to go online and file a small report with the agency about where they're located, what type of equipment they have, and sort of what business they are.

Right now, it's important to note that the numbers we have for affected business is really an estimate based on an extrapolation of data from South Coast, as we heard both from Barry and from Larry. And that really means that we don't necessarily know where all the businesses that are affected by this particular regulation are going to be located, where we need to focus our outreach efforts, where the enforcement programs need to be developed and implemented. And creating a reporting
tool like the staff is going to be doing is going to be key to doing that.

However, what we're looking at is a delay of that reporting framework for the majority of businesses for four and six years down the road. By creating a reporting tool and requiring businesses to actually take part in it in the early stages of the program, what we do is provide information to enforcement programs and public awareness programs to help create an outreach campaign, which is necessary, as well as we create a dedicated interaction between businesses and the State that's going to improve the non-compliance rate that we've seen by South Coast's program as being possible when we don't have active oversight.

There, after a decade of implementation of the rule, we had a 20 percent compliance rate. We can't have that here. If we have a six-year delay in the registration with businesses with the State, we could be seeing a tremendous amount of non-compliance and would be undermining the ability of the regulation to achieve both reductions as well as emissions as well as costs.

So we implore you to consider that when you're considering final adoption of the regulation. And I appreciate the time here today. Thank you.

CHAIRPERSON NICHOLS: Thank you.
Mr. Anair.

MR. ANAIR: Good morning, Chairman Nichols, members of the Board.

I just wanted to state our support for this regulation that's been proposed on high-GWP gases. Union of Concerned Scientists obviously recognizes that CO2 is not the only greenhouse gas that's important. And, clearly, we support ARB's efforts in looking at all sources of greenhouse gases and would offer our support for this regulation today.

And we did submit comments along with Mr. O'Connor and other groups that state some of our concerns with the rule. And basically we're supportive of it, but we would like you to consider accelerating some of the reporting of the medium and small facilities that Mr. O'Connor mentioned just briefly before.

So I will just close with thank you again for proposing this regulation and urge you to adopt the rule. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Bonnie Holmes-Gen.

MS. HOLMES-GEN: Good morning, Chairman Nichols and Board members.

Bonnie Holmes-Gen with the American Lung Association of California.
And the American Lung Association is also here to join with our colleagues in support of this regulation and the mitigation of high global warming potential refrigerant gases.

And we think this is an important component of the State's efforts to meet AB 32 targets. And we believe this regulation has been well designed and it's a cost effective regulation.

We do also support the recommendations of our colleague from Environmental Defense Fund to strengthen the regulation.

And, of course, the American Lung Association has been very concerned about global warming because of the increased temperatures that pose a significant threat to air quality and public health. We're very concerned about increases in ozone pollution, heat waves, wildfires, harmful smoke exposures. And this measure, along with the other package of measures you're adopting under AB 32, will do a great deal to greatly mitigate those impacts.

So we urge you to move forward, and we thank you for the chance to testify. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Before we go further, staff, do you want to report on your rational for the lengthy delay for the medium and smaller size units?
This is Richard Corey.

And very much appreciate Tim and the other comments. And this is something they've discussed with us. And it's about the moving up the registration reporting. And they've been very helpful throughout the process, constructive.

But with respect to this issue, here's the primary concerns we've had. They relate to the phased-in nature. We looked at the number of businesses impacted, the need to conduct outreach, the need to train those ultimately impacted by the businesses, we arrived at a phased-in approach. We think we need the time to, one, have the initial large facilities; they come in first. All facilities repair leaks -- conduct inspections and repair leaks from the outset.

What is staggered are the registration reporting; large coming first in 2012, and 2014 medium. We think we need, one, that time to conduct the training and outreach necessary. We want to make sure the web-based reporting system is in place and effective, which is really a critical element to make the reporting effective. And, two, we think we can learn from that initial reporting phase and maybe make adjustments if they're necessary before the much larger number of businesses come in.
This is opposed to having them all come in, due
date, on a single day. We think using a phased-in element
will allow for more effective implementation of the
program, which we think is critical to ultimately making
this thing work.

CHAIRPERSON NICHOLS: Thank you.

Ron Berkan representing technicians.

MR. BERKAN: Good morning.

I've been involved with, let's say, the technical
side and explaining how refrigeration systems and so forth
work with the counterparts on this particular project.

And I think they've been doing a pretty good job.

One of the things that I think has been missed is
responsibility of the manufacturers of the refrigerants,
because a lot of these things are blended refrigerants and
they have to be destroyed, because they won't allow people
to reconstitute them into a new product, like the R-22.

And that's one of the big problems is it could cost
two-and-a-half dollars a pound to destroy it. And during
these economic times -- and I handle a lot of
refrigerants. I know that my handling has gone down 90
percent. So people are just dumping it.

So I think the manufacturers should, since they
make it, actually be responsible to take it back at no
charge since they formulated it. And this would increase
the recycling or proper handling of the refrigerants.

There's other things that happen. Like, they're constituting new refrigerants all the time. And these guys make billions of dollars. And, you know, refrigerant probably can sell for $0.89 a pound and make money. It's ten bucks a pound now. And with no justification. Nobody argues about it, like, why does the chemical composition cost this and this? And it costs more to destroy it than what it costs them to make it.

So I think one of the things that should be added to your effort is a responsibility -- like the tire industry, the television industry, they have a cost. Does that --

CHAIRPERSON NICHOLS: Built in for the take back.

MR. BERKAN: Built in. So that was my thought, that -- forget the leak. The guy that's recovering it is probably dumping more gas than grandma's refrigerator is leaking.

CHAIRPERSON NICHOLS: Thanks. This rule won't yet get us to grandma's refrigerator, but still it's some pretty big --

MR. BERKAN: Well, they got a law that the refrigerant that's in your hose is called de minimous and you can destroy that. Most hoses have more refrigerant than grandma's refrigerator and it costs her 100 bucks to
-- anyway, that's my point.

CHAIRPERSON NICHOLS: Thank you, sir.

Jill Why not, did you want to testify on this item?

DR. WALLERSTEIN: She left for another meeting.

CHAIRPERSON NICHOLS: And Bill Magavern.

MR. MAGAVERN: Good morning, Madam Chair and Board members.

Bill Magavern, Director of Sierra Club, California in support.

We don't hear a lot about refrigerants as a source of greenhouse gas emissions. But it's a reminder I think that getting our greenhouse gas emissions reduced is going to take not just the solar panels and electric vehicles that people are justifiably very excited about, but also some more mundane measures like plugging leaks in refrigerants. This, as you know, is a significant source of greenhouse gas.

And also reminder that carbon dioxide is not the only greenhouse gas, and we need to take action across a range of them.

So we appreciate the staff's work on this. We do support the strengthening proposal from Environmental Defense Fund that we speed up the implementation of the reporting, because we can't afford to lose a lot of time.
in bringing people into compliance.

I also really second the proposal by Mr. Berkan that manufacturers be required to take back the refrigerants. Extended producer responsibility is a policy adopted by the Integrated Waste Management Board. It's part of the safer alternatives legislation for toxic in products that's being implemented by the Department of Toxic Substances Control, and I think it really makes a lot of sense that the entities that are producing should be responsible for end-of-life disposition.

So we recommend that you adopt and hope that addressing this problem will also go to the national level, because we've got cost savings here as well as greenhouse gas reductions. And we cannot lose the opportunity to do the kind of common sense good housekeeping that would be called for by this rule.

Thank you.

CHAIRPERSON NICHOLS: Thank you, Mr. Magavern. That concludes the list of witnesses that was presented to me.

Is there anybody else who was here who wanted to comment?

Seeing none, I think we can then close the record.

But, Mr. Goldstene, did you have any further
EXECUTIVE OFFICER GOLDSTENE: Well, Chairman Nichols and Board members, I want to recognize staff's work with stakeholders to arrive at a balanced proposal that delivers very large reductions cost effectively.

I also want to note staff's work with the South Coast AQMD and U.S. EPA to ensure the proposal harmonizes with the existing requirements.

And in addition, I want to acknowledge the very important role that our partnership with CAPCOA has played. I know that was already mentioned by Larry and Barry. But that really was very good work and effort.

CHAIRPERSON NICHOLS: Thank you.

I would be interested in some further staff response on the take back concept. As indicated by Mr. Magavern, this is a policy that's being increasing utilized in other areas of handing chemicals, especially toxic chemicals. And I'm curious about why that wasn't pursued here.

RESEARCH AND ECONOMIC STUDIES CHIEF ANDREONI:

Hi. This is Tony Andreoni. I'll try to go ahead and respond to that.

The comment that Ron Berkan makes is very timely. It's something we would like to consider, and it's something we have kind of started the discussion on.
Two areas that we think are already in existence is the fact that we have a number of California-based reclaimers, recyclers. They're in business to actually take this refrigerant, go through a process of reusing it, and being able to reestablish that refrigerant for specific uses.

We think those businesses are in place to be able to handle that. And as we look forward to working on further efforts on new systems working with the California Energy Commission, that's something we may look very closely at on establishing new refrigerants for those specific purposes and including those as part of maybe a take-back program.

CHAIRPERSON NICHOLS: Okay. Thank you.

BOARD MEMBER D'ADAMO: Madam Chair.

CHAIRPERSON NICHOLS: Sorry. I didn't see your hand.

BOARD MEMBER D'ADAMO: Well, I would encourage staff to do that. That really makes sense. And I'm just wondering why such a lengthy phase-in period. It's a total of six years from today's date to a four-year period. We've adopted entire rules that mandate much more than reporting to be completed in that kind of time frame. So I'm just thinking, you know, maybe a three-year period instead of a four-year period. I'd like your comments on
RESEARCH AND ECONOMIC STUDIES CHIEF ANDREONI:

Thank you for that comment.

What we're trying to do in developing this is balance the fact that we're impacting a large number of businesses. As was mentioned in Chuck's opening report, 26,00 facilities is our estimate. And one of the biggest challenges we've had and what we've learned from doing the initial rule is getting out and outreaching to every single company is very difficult.

So what we initially focused on were the larger leaks. And that's what was presented today is going after those first.

There is a fee associated to help us with enforcement, which is vital. And so what we've been able to do is allow a little bit more time to let the industry know what's coming, what they're going to have to be responsible for, and for paying for the rule itself.

So without us being able to spend time initially doing the outreach, versus going after facilities that may or may not know to report, was kind of the balance that we were walking under in developing the time frame needed.

BOARD MEMBER D'ADAMO: I would think, though, we can use the manufacturers to assist us. How many are there?
There's a number of different manufactures in systems. And systems are normally designed for specific applications. So depending on the size of the refrigeration system, they're normally application specific, and there's not only the manufacturers involved but also the contractors. So we're going to have to work very closely with the manufacturers, but focus on the fact that there are so many entities involved in bringing those folks forward so we can collect the information. It's important.

As we also looked at through the South Coast rule, we found that a number of facilities were not necessarily reporting. So we had a small number of facilities that actually came forward with the report. So we're trying to improve that.

We also see that the largest number of facilities that we're going after initially which are the 2,000 are 90 percent of the emissions and cover 41 percent of the facilities statewide. So we're really focusing our big effort on the biggest portion of it and allowing more time to outreach to smaller facilities that don't have as big of an impact as the large facilities.

CHAIRPERSON NICHOLS: Dr. Telles.

BOARD MEMBER TELLES: I'm still concerned about
the enforcement. It was mentioned by Tim O'Connor from Environmental Defense Fund that the compliance with the South Coast rule was only 20 percent. And I would wonder -- and we're contributing about $200 per facility to do this enforcement. Is that going to be enough to get a higher compliance rate than the 20 percent that South Coast -- or maybe the South Coast Air Pollution Control Officer can comment on that, too.

RESEARCH AND ECONOMIC STUDIES CHIEF ANDREONI:

Those are good questions. If they would like to comment, that's fine.

Right now, they're reporting every other year on facilities. We would be requiring an annual report which is certainly a higher frequency.

One of the things that we did notice in going through the development of the rule again is not everybody recognizes the fact they needed to report. And so our job is going to really be to focus on letting folks know what's required.

The database we're setting up is very different than what South Coast is using. They initially used a paper form. We're going to electronically transfer information. In some cases, some of the businesses have already recorded a lot of their information electronically. So we're going to make it easier for them
to report to us once that's up and running.

CHAIRPERSON NICHOLS: It's kind of interesting that we're dealing with, as has been pointed out here, a very diverse set of businesses here characterized by a larger number of rather small businesses, even though they may have a large refrigerant unit as well as a smaller number of larger businesses.

I gather the smaller ones have not been organized in the trade associations that speak on their behalf either, which is unlike, for example, the truckers who have very well developed networks of getting information out. This may be a group that's going to be a little harder for us to get to.

We have our Small Business Ombudsman here, La Ronda Bowen. Do you want to comment on this issue?

OMBUDSMAN BOWEN: Thank you, Chairman Nichols.

I have been informed and able to work with the staff on this particular rule. And I know that the small business owners and operators are a much more difficult group to reach. And I think the fact that staff is targeting 90 percent of the facilities with this rule and the largest portion of the emissions and that they're setting up a new process -- so the process is one that they'll be able to prove the reporting and the outreach, is it effective with this group? They're the largest
group, and they're the ones that are most able to absorb any errors or mistakes that staff might make in that process.

Then moving out to the larger number of small businesses, I think that the staff has taken a very rational approach. Perhaps they can report back as they implement this to accommodate some of the concerns of other Board members. And if it's possible to move up the deadline, then work on it that way.

CHAIRPERSON NICHOLS: I think this is an interesting case study. When I first learned about this rule being under development, I have to say, you know, I was concerned just that we were taking on a whole new group of businesses and business owners that had never had to deal with the ARB before. And that's not normally a welcome experience when people hear they've got a new set of regulations to deal with, regardless of whether you're in a good economy or not.

And we wanted to try to do something that would really be a model for how ARB can interact with sectors of the economy that we haven't traditionally dealt with before.

I don't know if this is going to be the perfect solution, but it seems like it's a pretty good way to begin to balance the interests that are at stake here. So
I think we ought to at least give it a try to get started and maybe ask for a report back on how it's going, either formally or informally, to see if we could speed up the compliance.

BOARD MEMBER D'ADAMO: Yeah. I think that's a good idea. And also as staff considers the role of manufacturers, maybe considering the label on refrigerants that indicate that in California there is a requirement that they report.

CHAIRPERSON NICHOLS: Okay. I'm going to close the record on this item and remind anybody in the audience who's here to follow this item that the record will be reopened when the 15-day notice of public availability is issued. And that written or oral comments received after this hearing date but before that notice are not accepted as part of the record. But then when the record is reopened, we will except written comments on the proposed changes. And they will be responded to as part of the Final Statement of Reasons.

I'm now going to remind our Board members about our policies concerning ex parte communications with the public. We are encouraged actually to communicate with people outside of the Board meetings, but we're required to report on the record the nature and contents of any information that we've received outside of the public
hearing process after there's been an agenda.

Are there any ex partes?

Yes, Ms. Berg.

BOARD MEMBER BERG: Thank you.

On December 4th, I had a phone call with Tim O'Connor from the Environmental Defense Fund.

CHAIRPERSON NICHOLS: Thank you.

Anybody else?

Dr. Sperling.

BOARD MEMBER SPERLING: On December 7th, similar phone call with Tim O'Connor from EDF which reflected his testimony.

BOARD MEMBER D'ADAMO: Same here. Tim was very busy on December 7th.

CHAIRPERSON NICHOLS: Anybody else?

No.

Then I'm ready to proceed on this item. We have before us Resolution 09-68.

Do I have a motion?

BOARD MEMBER D'ADAMO: So moved.

BOARD MEMBER SPERLING: Second.

CHAIRPERSON NICHOLS: Seconded.

Any further discussion?

BOARD MEMBER ROBERTS: Just one point.

Being with a local Air Board, I'm don't know what
the nature of this agreement is going to be. Will we have
that to look at at some point?

CHAIRPERSON NICHOLS: In terms of how the
enforcement will work? Mr. Goldstene, do you want to
respond to that?

EXECUTIVE OFFICER GOLDSTENE: In agreements, for
example, that we entered into recently with the Bay Area
Air Quality Management District to help us with
enforcement, we did not bring it to you directly. But we
certainly could if you'd like to see it beforehand.

BOARD MEMBER ROBERTS: At the local level,
there's a fear of having agreements with the State that
seems to divert funds that are marked for special things,
State programs, and don't arrive down to the local level.
I'm just wondering what protections are going to be in
there.

DEPUTY EXECUTIVE OFFICER SCHEIBLE: Maybe I can
add.

What's envisioned is it's entered involuntarily
by the district, and we agree that for a set amount of
assistance the district will conduct a defined amount of
enforcement activity.

BOARD MEMBER ROBERTS: So you're really
contracting and they're free to --

DEPUTY EXECUTIVE OFFICER SCHEIBLE: It's like a
contract --

BOARD MEMBER ROBERTS: If you or somebody above you does not pay the bills --

EXECUTIVE OFFICER GOLDSTENE: You don't have to do the work.

BOARD MEMBER ROBERTS: -- the local agency can opt out of the program. Okay. Thank you.

EXECUTIVE OFFICER GOLDSTENE: You're welcome.

BOARD MEMBER ROBERTS: I don't want to sound distrustful of the State, heaven forbid.

CHAIRPERSON NICHOLS: Right. But you'll be presenting the bill in person.

Okay. I think we will do this on a voice vote then. All in favor, please signify by saying aye.

(Ayes)

CHAIRPERSON NICHOLS: Opposed?

All right. The regulation is adopted. I think we need about a five-minute break here to change staff at the front here. And I believe Board members could use a break as well.

(Thereupon a recess was taken.)

CHAIRPERSON NICHOLS: Our next item is a report on the truck rule. This is not a regulatory item. It's a report by staff that was requested by the Board.

And I'm going to make a couple of comments before
we begin the discussion this morning, because obviously
with the interest that we've received in this matter, the
audience that's here today, legislators who have come and
so forth, I think it's important that we set what we're
doing in some kind of context.

So want to make it clear that we're here today to
receive information and give directions to staff regarding
the heavy-duty truck rule, and in particular, the affect
of the economy on that rule.

I know that there are probably some of you who
are here to talk about other diesel regulations such as
the construction equipment rule or the port truck rule,
and since this isn't a formal public hearing, we're going
to let people comment on whatever they want to comment on
that's relevant to this rule. But we would appreciate
it -- and I asked the staff to try to figure out when
people signed up if you're here to talk about some other
rule versus the one that we're actually trying to focus on
today.

But I want to make a couple of comments. First
of all, it's been terrific so far. You've been very
polite and very patient. And I really appreciate that.
We had heard rumors and comments coming out of the
workshop and elsewhere that there were going to be all
kinds of demonstrations, there were going to be people
making all kinds of threats and attacking staff and
attacking others. I will very much appreciate it if you
don't do that. It's not very effective. It doesn't
really make the Board respond very well to whatever it is
you're saying.

We are here because we care. Our job is to
listen and to pay attention and try to reflect. Every
single person here is an appointee of the Governor. We
come from diverse regions of the state. We have different
political affiliations and different backgrounds. But
we're all here because we took an oath to protect and
defend the constitution of the State of California as well
as U.S. We really believe in that. And that means we all
should behave respectfully.

And so if I sound like a kindergarten teacher,
it's because I actually believe in those values that we
all learned in kindergarten.

So one of the things that I've learned along the
way is that if you need to slow down and take a deep
breath, you should do that.

And the other thing is -- one of the other things
that I've learned, having been involved in government off
and on for quite a while, is that if you make a mistake,
you should apologize for it. And so I'm going to be doing
that in just a minute. But I need to give you a little
A year ago this month, the ARB adopted a rule that was designed to cut the health-harming emissions from heavy-duty trucks over a period of 13 years. This rule plays out over a period of 13 years requiring that we retrofit the oldest and dirtiest trucks with particles, particles traps, and requiring turnover of the fleet to cleaner engines.

This rule is a very expensive rule. We knew that at the time, and we tried to draft it in a way that would make sure that the smallest owners and operators would not face any obligations at all in the beginning of this rule for the first three years, and that others would be able to phase into it gradually. Nobody was facing any requirements to do anything to any truck before 2011.

This rule came more than a decade after the United States Environmental Protection Agency adopted its first national ambient air quality standard for fine particles. I know about that, because I was there. I was the Assistant Administrator for Air, and we were immediately sued by the American Trucking Association challenging the science about diesel particulate. That standard was upheld by the United States Supreme Court in 2001 and remanded to a lower court and later went into effect.
In the mean time, the State Air Resources Board, which was also acting under California law that requires us to reduce exposures to toxic air contaminants declared diesel particulate to be a toxic air contaminant in 1998. And in that same year, they adopted a risk factor for diesel particulate.

Two years later, the Board adopted a risk reduction plan also as required by law. That plan required a 75 percent reduction in risk by 2010 and an 85 percent reduction by 2020.

We're going to miss that 2010 deadline no matter what we do as of now. But in fairness, the Air Resources Board was also working under a federal law that required us to reduce both nitrogen oxides and particulate matter in the San Joaquin Valley and the South Coast air basin and was driven by the need to meet the national standards by 2014.

One reason why this has been so hard, of course, is, as I said before, because the rule is costly and cleaner new diesel engines are only beginning to come on line for the 2010 model year.

Of course, if Congress or the Legislature has simply followed Dr. Telles' advise as he recommended last December and imposed a small tax on diesel fuel, we would have been able to fund the fleet turnover. As it is,
we've had to put together grants and loans from various
bond and other sources, and we know that the money is not
sufficient to cover the full cost of compliance with this
rule.

Now, let me bring us back here for a minute to
what we are here to do today.

When we adopted this rule, we asked the staff to
return in a year to report on conditions in the industry
and in the economy and to make recommendations for any
needed changes to the rule. We will be hearing from staff
in a moment. But I believe I can speak for the entire
Board when I say that we're well aware of the fact that
the bad economy has hurt the trucking industry worse than
many others and that we are prepared to direct staff to
make adjustments to reflect those facts, including the
fact that emissions have also declined at the same time
that business activity has declined.

We are particularly sensitive to the impact on
small business, and we've been reminded of that in recent
days again by the Governor.

But what we are not going to do is to back away
or back down from the need to make progress on reducing
the single most serious cause of health-harming air
pollutants in this state. The Governor and I remain
committed to the pledges we've made to improve air
quality, especially in the poorest communities that are often the most impacted by the engine of goods movement.

What we must do, however, is to continually assure that the scientific basis for our rules is up to date and that the process by which it is reviewed is as open and transparent as possible.

For that reason, I have asked staff to organize a special review of the science on the health effects of diesel emissions to be convened in February. This will be done in open session with all Board members encouraged to attend.

I'm also going to invite the members of our Research Screening Committee, and I'm hoping that all Board members, especially those with scientific or technical backgrounds, will be present and participate actively. We will be inviting researchers whose work has been sited in our various staff reports, as well as those who disagree or who feel their work has been ignored to participate. And when it's all over, we will use that information to either support or modify our overall strategy.

In the mean time, the long, weighty, and powerful record of health research that forms the basis for the current truck rule and other rules affecting diesel equipment has been challenged once again, this time
because of the ethical lapse of an ARB employee. This is a serious matter.

A single employee, whose name has been now mentioned in the press many times, Hien Tran, a statistician who has compiled or contributed to portions of several ARB health reports, including the most recent review and analysis of the effects of diesel particulate on mortality, falsely claimed to have a Ph.D. from U.C. Davis.

It was brought to ARB's attention that he did not. And although initially he denied it, he finally admitted that he did have a Ph.D., but it was in a non-recognized institution.

A disciplinary hearing was conducted. He forfeited two months of salary and was demoted. He has been removed from the Health Effects Research Section. And as a practical matter, his professional reputation is ruined.

But the stain he cast over the work he participated in can't be so easily erased. And for that alone, we need to expedite the public review and bring in as many independent experts as we can muster to speak about the state of the science.

The Tran episode has caused ARB to institute some changes in personnel practice, including a formal degree
review, but the harm does not stop there.

The facts of the situation were brought to my
attention during the December Board meeting. And having
concurred with the recommendation that immediate
disciplinary action and review of Mr. Tran's work by an
independent peer review panel was required, I did not
promptly inform my fellow Board members about this issue.

I would note that the independent reviewers who
completed their work in April concluded that Mr. Tran had
used approved EPA statistical models, had done no
independent work of his own, and that there was no way he
could have manipulated the results. Never the less, the
harm was done.

There are excuses: We're in the middle of a
hearing; I believed that the remedial actions I've
described were adequate. And I knew that the tainted
report was only one piece of a very extensive body of
evidence that supports the need for reduction in exposure
to diesel particulates.

But the fact is that this was a mistake on my
part. I should have shared this information with my
fellow Board members as a matter of course. If I were in
their shoes, I would want to have all the relevant
information myself, even if at the end of the day I
decided it did not call for any change in the truck rule
or in the timing of the hearing.

My mistake in judgment, although honestly intended, led the others making some wild and I frankly think unjustified claims that call into question the Board's hard-earned reputation for open and deliberative process. All I can say is I apologize.

Now I understand that there are others who may wish to comment before we begin the staff presentation, and I will call on any Board member who wishes to be recognized for the purpose of making preliminary comments before we go to the staff report today.

Recognize Dr. Telles.

BOARD MEMBER TELLES: Thank you for your words there.

In your comments, you mentioned that the lead author compiled the report, he participated in the report, and he had no work done himself.

But let me just read to you the part of the report that he actually wrote. He wrote the introduction. He wrote the methodology. He wrote the USPA elicitation process. He wrote the applicability of U.S. EPA expert elicitation results California. He did the methodology. He did the peer review process. He did the results. He did the discussion. He did the uncertainties and limitations. He did the conclusion. He did the
If you look the report, the report was written over 50 percent of it by an author which had misrepresented his education. To me, that means the report is not acceptable. And basically this is a report written by a fraudulent person.

I do not think that, despite everything that has been recently said, that this report can be accepted by this Board or by the people of the state of California.

And I, as mentioned in the last meeting, propose that we set aside the rule until this report be redone, not in a process where we invite people to come in and review the science.

I've read many of the scientific papers in regards to the 78 scientific papers supporting this, and I, of all people on the Board, am probably more aware of the health impacts of PM2.5.

But I think the acceptance of a fraudulent report by this Committee kind of trumps that, and it has to be done correctly by someone who has not falsified his credentials.

And I think it needs to be done quickly, and we can probably do this process rather quickly. I don't think having a meeting in February, inviting a bunch of
scientists, is going to satisfy the public's desire for transparency here.

And I think we need to move in a different process and basically redo the report, set aside the rule until the report be completed. And I would anticipate that not take too long. And it be done by someone who has the credentials that are not falsified.

Thank you.

(Applause)

CHAIRPERSON NICHOLS: Additional comments by Board members?

Yes.

BOARD MEMBER ROBERTS: Yeah, first of all, I would compliment you on what you've had to say here that you've recognized that an error was made, that you're scheduling a research review in February.

I'm a little maybe confused by wild and erroneous statements that may have been made by Board members. At the risk of assuming I might be one of them, I'd like to go over the record and some of the things that haven't been said here today.

What this researcher did I think goes well beyond the leniency with which he's been dealt. That's an issue for others to decide and not for me. But I can tell you at the County of San Diego, using a fraudulent credential
for such a ranking official engaged in such an important
analysis would have been grounds for immediate dismissal.

Number two, it wasn't just the Chairman that knew
about this prior to the meeting. What has been
conveniently left out is that a number of staff members
knew without question that these credentials were false
and fraudulent, and that was not mentioned. And also knew
that few Board members had that information, and that was
not brought up at any time until during the hearing or
shared with any of us for months.

This Board has had a history I think of operating
with a great deal of transparency, and I'd like to think
in the almost 15 years I've served here that I have been
faithfully a part of that.

I can't remember an instance in all of that time
where staff and Board members were in possession of what
proved to be such important information that not only was
not shared, but the meetings that led up to that were not
disclosed as part of the public record. I'm not sure what
our disclosure rules are or even mean anymore.

The fact that this happened I think gave us a
major issue to deal with. And I think the events that
transpired since then have given me even greater concern.
At no point did anyone say let's have a full and open
hearing and find out what happened and why it happened.
I've been on this Board for long enough to have been a key part of declaring diesel a toxic contaminant, and I'm not going to have to apologize for my being concerned about the dishonesty that's involved in this issue.

Some of us have struggled with this. We haven't been given a good solution and an acceptable path. This Board is dependent on a public trust, a public trust not only of those people that agree with us when we have a regulation, but a public trust for those people who may be the regulated and disagree with us. And I think that the actions of Mr. Tran, of members of this Board, and members of the staff have done a disservice and have injured that public trust.

I think there should be a hearing, but there should be a full hearing where all the information who knew what is put on the table. And to read editorials, there's no dishonesty, nothing has happened, this is okay, it was only a small part of what was going on I think is an attempt to defuse and to make far less important something that I think is terribly significant and needs to be addressed.

Dr. Telles in his original comments thought maybe the only way is to go back to ground zero, and that seemed to me to be a reasonable solution.
I understand the economic issues that we have yet to consider. And those are important, absolutely important. And as important as those are, there is something far more fundamental here in the way this public process was conducted and the information that was not shared.

In good conscious, I can't just simply set that aside and say nothing happened. At a time when the science on an international level is being questioned, it seems to me we need to do everything possible to make sure whatever our decision is that it's been arrived at openly and with full information flowing to every one of these Board members. Didn't happen. And there seems even to this point be an attitude that we don't have to share everything that's happened and when it happened and why it happened.

With that, I'll be quiet.

(Applause)

CHAIRPERSON NICHOLS: Is there any further comment by any other Board members before we turn to the staff?

Yes, Dr. Balmes.

BOARD MEMBER BALMES: Well, first of all, I do share with Chairman Nichols the need for a public apology about the way this matter was handled.
As has been put forth in the media, I was one of the Board members that knew in advance of the misrepresentation by Mr. Tran of his lack of a Ph.D. I learned about it I think the day before the vote, but I can't be precise about -- it was close to that time.

And I personally didn't feel that the misrepresentation was a problem with regard to the science, because the science I believe stands on its own.

When we do a re-evaluation of the science to create a new report, which I think we should do -- I agree with Dr. Telles we need a new report, a new analysis of the science -- I think we'll come up with pretty much the same thing that Mr. Tran did. There may be a shifting of the number of deaths related to fine particulate matter and diesel exhaust particles in particular, but they'll still be deaths related to this, and there will still be a public health imperative to do something about it.

That said, I think this agency does have a reputation for being science based, and therefore we have to be squeaky clean about our science. So I do support a re-doing of the Tran report.

CHAIRPERSON NICHOLS: Okay. Any other comments?

All right. We will then move to the staff report and then to public comment.

Mr. Goldstene.
EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman Nichols.

The Board directed staff to address a number of items in today's update. At the hearing last December, when the Board approved the regulation, the Board asked staff to come back with an update on the implementation status with the regulation, the localized risk associated with the agricultural truck provisions, the information on changes in school bus transportation, the impact of the economy on emissions, and information on funding assistance for trucks. Clearly, the most significant item is the impact of the economy.

But before I address that, I'll briefly summarize staff's responses to other items the Board raised so we can spend most of the time discussing the economic impact.

The first issue I'll address relates to off-road construction equipment. Earlier this year, you asked staff to provide an update on construction activity of fleets subject to the in-use off-road vehicle regulation and to come back in the summer with an emissions analysis that accounts for changes in activity and the impact on emissions.

Large construction fleets will be reporting their fleet information in March. And staff will use the new information to perform the analysis.
In short, recent indicators of construction activity show that overall activity is down more than 30 percent from the peak.

Now I'll address the items regarding trucks and buses. You asked us to provide an update on implementation and outreach activities. Staff has made significant progress in getting the word out and recognizes that much more needs to be done. Staff has taken steps to improve access to information by coordinating information about multiple regulations in one place. Fleet owners can now call a single toll-free number in English, Spanish, or Punjabi before we head up to 12 separate lines or visit our user-friendly website called the "truck stop" that helps truck owners find information about several ARB regulations and funding opportunities and helps them learn what compliance trajectory they're on. The "truck stop" website is also available in Spanish now.

Staff is working to improve awareness by mailing postcards directly to 150,000 diesel vehicle owners by giving presentations at 86 different events so far and meetings. And we've been holding classes in multiple locations throughout the state. We visited more than 2,000 individual fleets at their businesses and have been distributing outreach material and other locations such as
truck stops.

Also because of the national interest in the rule, we've been working the satellite radio stations and participating in interviews on those stations as often as we can. And we plan to do so next year.

Staff is also working through an informal committee comprised of 70 members representing a diverse group of businesses to further improve outreach efforts and to address implementation issues.

You've also asked us to evaluate the potential localized risk associated with the agricultural truck provisions and to return with any recommendations. Staff has collected information about first processors and has performed roadside counts in three areas in the San Joaquin Valley, but we don't yet have sufficient information to make a recommendation at this time.

Qualifying agricultural vehicles must report by the end of March and must be labeled. Staff is proposing to collect that additional information and to report back later next year.

You also asked us to determine whether school bus services were being curtailed as a result of the regulation. We surveyed 139 school districts, and only three responded they were reducing transportation services because of the regulation. The majority of school
regulations say the decrease in transportation services is
due to budget constraints or decreasing ridership.

Finally, you requested information about funding
assistance for trucks. Although the state does not have
enough money to pay for all compliance costs, our goal is
to achieve the greatest emission reductions possible with
the available funding.

At previous Board hearings, staff has described
financial assistance of over one billion dollars to
support on-road and off-road fleets. In 2009, $570
million has already been provided for early compliance
with the regulations. Over the next two years,
approximately $760 million could be available depending on
State revenue and bond sales.

Now Mr. Erik White will present the analysis on
the impacts of the economy on emissions from fleets
affected by the truck and bus regulation. Erik.

(Thereupon an overhead presentation was
presented as follows.)

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Thank you, Mr. Goldstene.

Good morning, Chairman Nichols and members of the
Board.

Today, I will present staff's assessment of the
current recession on emissions from the trucking sector.
I will provide a discussion of staff's approach, the data sources evaluated, and staff's findings.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Before I begin my discussion of staff's analysis, it is important to highlight the significant benefits the rule provides.

Overall, the rule is expected to avoid 9400 premature deaths, as well as significantly reduce asthma-related symptoms and result in fewer lost work days.

The rule will also significantly reduce the cancer risk from the public's exposure to diesel particulate matter.

These reductions are essential to meeting the Board's goals to reduce exposure to diesel PM, as laid out in the Diesel Risk Reduction Plan.

The emission reductions from the rule are also critical towards meeting the combined PM 2.5 and NOx State Implementation Plan targets in the San Joaquin Valley and the South Coast regions. The SIP is California's federally-mandated plan to meet federal clean air standards, and no other measure in the SIP is able to achieve the same level of reductions. Simply put, these regions cannot attain the federal deadlines without the
rule.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: When the Board approved the rule in December 2008, it directed staff to report back this month on the effects of the economy on emissions.

We all recognize that the economic climate for the trucking industry today is different than what was expected when the rule was approved, and this has had an impact on emissions from the trucking sector. To better understand this impact, over the last 12 months, staff has evaluated changes in a number of key trucking activity indicators in order to evaluate the impact these changes could have on emissions. Staff then developed revised emission estimates, both for the current year and out to 2014, to evaluate the impact of these changes in activity on the SIP. Staff then shared these findings with stakeholders at a workshop last week in order to obtain their input.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: The results of staff's assessment show that both activity and emissions are below the levels previously estimated when the rule was adopted. However, despite the downturn in activity, these resulting emissions are still
higher than the emission levels achieved by the rule.

Simply put, the recession will not provide the emission reductions necessary to meet clean air goals. Because of this, the rule is still necessary towards meeting the state's 2014 SIP obligations in the South Coast and San Joaquin Valley air basins.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: I will now discuss in more detail staff's analysis of the impact of the recession on trucking emissions.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Staff's approach was to begin with the original emission estimates that were developed in 2008 to support the development of the rule.

Staff then evaluated nearly a dozen different trucking economic indicators to estimate the effect of the recession on emissions in 2009.

There are a number of forecasts predicting how and when the California economy will recover. Staff developed two truck activity growth scenarios in an attempt to bound the potential range of 2014 emissions. These scenarios modeled both slower growth in truck activity and faster growth based on current and historical data.
HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Staff first looked at available economic data to evaluate how the recession has reduced California trucking activity. Overall, staff's assessment found that trucking activity in the state is down between 10 and 18 percent since 2007, with some individual fleets experiencing greater reductions.

Nationally, new truck sales are at their lowest level in 25 years and are 64 percent lower than they were in 2005.

This reduction in new truck sales is consistent with data from the California Department of Motor Vehicles which shows that there has been no growth in the number of registered trucks in California since 2007, and that the fleet is getting older due to fewer new truck replacements coming into the fleet. This has resulted in fewer new cleaner trucks in the statewide fleet than originally projected.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Here is a more detailed listing of data sources staff evaluated as part of this assessment. The data sources included the most up to date fuel sales, traffic and container counts, and activity indices that are
available.

In taking a broad view in this assessment, staff utilized data that represents regional, statewide, and national trends. As you can see, while there was quite a bit of variability in the data sets, they all show a decline since 2007.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: As I previously mentioned, one aspect of the recession has been the significant slow down in the purchase and registration of new trucks in California. As you can see on this chart, since peeking at 6.8 percent in 2006, annual new truck registrations have declined 2.7 percent of truck registrations in 2009. A consequence of this has been that the average age of the California fleet has increased from about nine years old in 2005 and in 2006 to nearly ten years old in 2009.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Overall, changes in specific economic activities will have differing effects on emissions. Some factors, such as reduced vehicle miles traveled and fuel consumption, will tend to reduce emissions. Other factors, such as purchasing and operating
fewer new vehicles, will tend to increase emissions because older, higher polluting trucks will be operating in California longer.

The relative magnitude of each factor in affecting emissions is different. But as can be seen on the next graph, the overall impact of each of these changes has been to reduce emissions below what staff expected.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Here, you can see 2009 emissions, based on last year's staff report, compared to staff's updated emission estimate. Staff's original emission estimate is shown in blue, and staff's updated estimate is shown in orange.

On the left, you can see that 2009 NOx emissions are about 170 tons per day less than what was originally expected.

On the right, you can see that PM 2.5 emissions have been reduced, from 32 tons per day to about 25 tons per day.

Overall, staff estimates that 2009 emissions are about 20 percent lower than what was originally estimated.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Looking forward to 2014 and the next key federal
attainment deadline, there is no single metric or forecast
that is a direct indicator for projecting future emissions
from trucks and buses in California.

To perform this work, staff relied on existing
economic and fuel consumption forecasts to develop two
bounding scenarios of truck activity and new truck
purchases. Staff used these scenarios to project future
emissions through 2014 and compared them to the expected
ewmissions originally estimated in last year's staff
report. Staff then compared the results to the SIP
obligations for 2014.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
WHITE: One of the challenges in forecasting truck
emissions is that California-specific forecasts generally
do not project more than a few years into the future and
that these projections differ by source.

In comparison, nationwide forecasts extend
further into the future than California-specific
forecasts, but generally do not provide enough
California-specific information to be used in an emission
analysis.

Because of this, no one forecast was used to
estimate future emissions. Rather, staff's update derives
two potential truck activity growth scenarios that rely on
multiple economic forecasts and historical data to bound
potential emissions projections.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
WHITE: The first scenario staff developed was a slower
growth scenario. This scenario was consistent with
California employment growth forecasts from the California
Legislative Analyst's office, UCLA, and the University of
the Pacific, which show little or no growth in overall
employment through 2010 and then slow growth in the job
sector after that.

Under this scenario, California truck activity
doesn't begin to recover until 2011 and then grows at
pre-recession averages thereafter.

Also under this scenario, truck sales do not
recover until 2012 and then grow modestly through 2014.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
WHITE: The other scenario staff developed was a faster
growth scenario. The activity growth rates in this
scenario are based on growth forecasts from the
Congressional Budget Office, with an associated two-year
lag for California.

This scenario models an eight-year recovery
period, which is consistent with growth rates experienced
as the United States pulled out of the Great Depression. This eight-year period is substantially longer than any recovery period observed in the United States since then. Under this scenario, a recovery in California truck activity slowly begins to 2010, such that by 2017 activity has returned back to estimated pre-recession levels. Also, this scenario models a rebound in truck sales in 2011 and 2012 representing increased demand for newer trucks with an associated slow down in truck sales between 2012 and 2014 as the pent-up demand for new trucks is satisfied.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
WHITE: Using the two bounding scenarios I just described, staff projected emissions without the rule forward to 2014 for both PM2.5 and NOx. This graph shows how PM2.5 emissions would change.

The blue bar represents the emission projections with the faster growth scenario, and the tan bar represents the estimated emissions using a slower growth scenario.

As you can see, emissions are going down between 2011 and 2014 under both scenarios.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF
The black line overlaid on the graph shows the staff report estimate of how PM2.5 emissions were expected to change with implementation of the rule.

Looking at 2011, you can see that the updated emission estimate is below what we expected with the rule. However, in 2012, the rule provides more reductions than without the rule. And by 2014, the rule results in substantially lower emissions than would be achieved under either scenario.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

I will now focus on staff's 2014 emission estimates.

As I discussed earlier, 2014 is the federal attainment deadline for PM2.5. The rule was designed to achieve the emission reductions needed to meet our SIP obligations in that year. The dashed red line represents the SIP obligations for PM2.5 reductions that must be met by 2014.

As can be seen, the economy alone does not meet our PM2.5 SIP targets. Because of this, the next question is what are the revised emission estimates combining the rule and the recession under the two growth scenarios?
WHITE: As can be seen under the faster growth scenario shown in blue, the rule would result in slightly lower remaining PM2.5 emissions compared to the original 2008 staff estimate. And under a slower growth scenario, the resulting emissions are lower.

While under either scenario the rule is still needed to be able to meet SIP obligations in 2014, the economy plus the rule provides greater PM2.5 reductions than expected.

Next I will discuss the results for staff's assessment of NOx emissions.

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WHITE: The story for NOx is similar to that of PM2.5. However, since NOx emission reductions are not required by the rule until 2013, I will focus on 2013 and 2014.

As was done for PM2.5, the faster growth scenario is shown in blue and the slower growth scenario is shown in tan. As you can see, emissions without the rule projected forward through 2014 are expected to decline under either scenario.

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WHITE: And similar to PM2.5, under both growth scenarios,
the rule provides for lower NOx emissions than with either scenario alone.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Similar to the earlier PM 2.5 slide, the dashed red line represents the SIP goal for NOx. Like PM2.5, the rule was designed to achieve the emission reductions needed to meet our SIP obligations in 2014. As can be seen under either scenario, the economy alone does not meet our NOx SIP targets.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: However, as we calculate the benefits of the rule with reduced activity, we see that under the faster shown in blue, the rule would result in similar remaining emissions compared to the original staff report estimate. Under the slower growth scenario, the resulting emissions would be somewhat lower. Because of the range of emissions associated using the two scenarios, it is unclear at this time if there are any excess NOx emission benefits in 2014 associated with the effect of the economy on the rule. However, similar to what we observed for PM2.5, under either scenario, the rule is needed to meet our SIP obligations in 2014.
HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Overall, staff's assessment has shown that the impact of the recession on activity and emissions is significant, and that it may be possible to utilize some lower than expected emissions towards additional near-term flexibility. However, for both PM2.5 and NOx, staff's assessment has also shown that the recession alone cannot be relied upon as an effective emission control strategy and that the rule is still needed to meet our SIP targets.

In addition, the rule is also needed to ensure that each year we continue to reduce the cancer risk from diesel PM in highly impacted communities, consistent with the goals of the Diesel Risk Reduction Plan. Any flexibility options must be balanced against the substantial public health benefits the rule provides.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: As part of staff's assessment, staff presented our preliminary findings with the stakeholders at a workshop held in Sacramento on December 3rd. More than 150 people attended the workshop. At the workshop, industry associations and fleets commented that greater reductions in vehicle miles traveled than have been recognized by staff are occurring. Because of this, revenues have been reduced such that fleets no longer have the economic
ability to comply with the requirements of the rule and that additional time is needed for them to obtain the capital necessary for compliance.

On the other hand, health based and environmental organizations commented that the rule is needed to maintain and preserve the substantial health benefits that provides and that any delay of the rule would be detrimental to the health of all Californians.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Based on staff's assessment and the comments received at the workshop, reduced requirements in the first few years may be possible due to lower than predicted emissions from their recession. However, any deferred actions would need to be made up by 2014 so that we can continue to meet our SIP targets and must be balanced against the public health benefits of the rule. Staff has begun to evaluate several possible options, but more assessment is required, and additional stakeholder input is needed.

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HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Three possible options to reflect the current state of the economy have been identified by staff. The first option would provide a two-year deferral for
mid-sized fleets. Under this option, mid-sized fleets could be fleets in the range of 20 to 50 trucks. The second option would provide a two-year deferral for about ten vehicles in any size fleet. The third option would defer all of the first year cleanup requirements for all vehicles in all fleets. Staff is currently evaluating the emission and economic impacts of these three options. Because of the need to workshop any proposal, implement new rulemaking procedures required under the AB 1085, and provide for a public comment period, the earliest any such flexibility could be considered by the Board is at its April 2010 hearing.

This concludes my presentation. Thank you.

CHAIRPERSON NICHOLS: Are there any questions at this time for staff before we go to the witnesses? If not, then let's proceed. And --

EXECUTIVE OFFICER GOLDSTENE: Chairman Nichols, Ms. D'Adamo has a question.

CHAIRPERSON NICHOLS: Sorry, Ms. D'Adamo.

BOARD MEMBER D'ADAMO: I know we're going to be talking in detail as the day progresses, but the last slide that was up on possible solutions, under any of them, I think it would be useful for us to have identified an emissions budget. It seems there's some type of
cushion as a result of the reduced economic activity. So I know it would be impossible for us to make a decision today on how many trucks and what type of actual deferral. So I would favor an approach where we determine what that budget is so that there might be some room for staff to look at the flexibility, but at the same time preserving the emissions benefit of the rule.

CHAIRPERSON NICHOLS: Do you want to respond, please?

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: I would say that as we looked for how we approach this, that was exactly the approach we were looking to take.

CHAIRPERSON NICHOLS: All right. We have 86 witnesses so far. And my plan is that we will go until 1:00 and then take a lunch break, because I think we're all going to need it, at least a walking around break at that point. So let's begin.

I'm going to first recognize Assemblymember Niello, since he's taken the trouble to come over and speak to us. Why don't you kick this off, please?

And he'll be followed by Doris Lo from the U.S. Environmental Protection Agency.

ASSEMBLYMAN NIELLO: Thanks, Chair Nichols and members of the Board. I very much appreciate the
I'm Roger Niello, a member of the California State Assembly, and I represent District 5 here in Sacramento. I come here this morning to repeat and reinforce the request that I coordinated, signed by over 50 members of the Legislature, to delay implementation of the diesel regulations until the economy recovers. We don't do this without considerable consideration of the intent of the regulations, public health.

While some experts might question the true severity of the public health risks, I'm not here to argue that point. My point today is economic health. Economic health threatened by a terribly weak economy that actually temporarily contributes to a lessening of the threat to public health. At least temporarily, diesel emissions are down significantly as trucking activity has declined with the economy.

I've often actually sort of perversely joked that unfortunately a lot of the ills of growth in modern society with which we struggle could be easily cured if we just destroyed the economy.

Now, I agree that's kind of a sick joke, but it unfortunately is in a way being realized by the sick economy.
I would urge your Board to consider the actual contribution to your emission reduction mission while you consider the fatal damage these regulations can impose under the same circumstances of our collapsed economy, especially -- and I really want to emphasize this -- especially on small and medium-sized trucking companies.

As you consider this, of course, you must also consider the practical impacts of the now all too well known digressions of your Mr. Tran.

And I know Ms. Nichols had said something before that before. I wasn't here. But Twitter is a wonderful thing these days. We find out immediately lots of things we wouldn't otherwise know. At the very least, it would seem to me wise to provide a temporary accommodation for the doubts that his unfortunate involvement have created.

But I respectfully suggest, regardless of the confidence that you otherwise have in the science, economic health, given the very real temporary reduction in emissions due to the same economic weakness that threatens the economic health, should loam dominant in your consideration.

To repeat from our letter, given the multi-billion dollar cost associated with the implementation of this regulation and the current economic environment, I would urge you to delay this regulation and
also allow for a stay of enforcement at least until the economy recovers.

Again, I thank you very much for the opportunity and wish you well in the other 85 items of testimony that you have, which will probably grow. That's how important the issue is. Thanks for your consideration.

(Applause)

CHAIRPERSON NICHOLS: Thank you.

Ms. Lo.

BOARD MEMBER BERG: Excuse me, Chairman. This is Sandy.

If the audience would like to clap, and I understand they would like to do that, maybe we should consider a reduction to two minutes and that way we can accommodate. So we can either make a decision that we want to clap or we want to have three minutes, if possible?

You had an excellent hand waving that works really well and allows people to visually let us know. So if we could decide -- could you try it? And then otherwise we might have to look at a reduction in time.

CHAIRPERSON NICHOLS: We do have to get through today's agenda. We really do want to hear from everybody who wishes to be heard.

So my recommendation for you, if you wish to
1 express enthusiasm for somebody's remarks, instead of
2 clapping, if you'll just raise your hands in the air like
3 that. We get to see you, and we know you're enthusiastic,
4 but it doesn't interrupt the flow. Thank you.
5 If you don't feel like clapping, just don't do
6 anything. Thank you.
7 Ms. Lo.
8 MS. LO: Good morning, Chairman Nichols and
9 Chairman of the Board.
10 I'm Doris Lo. I'm a Senior Air Program Policy
11 Advisor in the EPA Region 9 Office.
12 EPA appreciates the opportunity to come here and
13 provide support to the end-use truck and bus rule and
14 appreciate the efforts the Board has made in addressing
15 all the public concerns.
16 As you all know, meeting the standards of the
17 Clean Air Act is the joint responsibility between EPA and
18 the states. EPA sets the health-based standards that the
19 states must then go out and develop plans to achieve.
20 As you probably also know, California has
21 submitted to EPA an 8-hour ozone and a PM2.5 plan for the
22 South Coast and San Joaquin Valley. These plans show that
23 both areas, which are home to more than 19 million of the
24 state's residents, need significant emissions reductions
25 in NOx and PM2.5 to get to clean air.
The plans also show the reductions from in-use truck and trucks and buses are essential to achieving these needed reductions. We understand that by the year 2014 the rule will achieve approximately 60 tons of NOx reductions and approximately four tons of PM2.5 reductions in the San Joaquin Valley and South Coast. Without these reductions from the rule, the California SIPS that EPA has before it will not be able to demonstrate attainment of the health standards. Thus, we believe it's critically important that any changes made to the rule not impact the needed reductions from these plans.

And finally, just like California Congress gave EPA very limited authority in the Clean Air Act to control emissions from in-use mobile sources, EPA has issued national rules that cut emissions from new on-road and non-road engines. And while EPA's rules help to ensure progress in getting reductions from these new engines, it doesn't get at most of the trucks that are already on the road.

So we believe that the benefits from the in-use truck rule are timely and vital to the State's efforts meeting the Clean Air Act requirements and to improve and protect public health.

Thank you for the opportunity to comment.

CHAIRPERSON NICHOLS: Thank you.
And appreciate your not booing, especially when someone is here in an official capacity. She's delivering a message from the U.S. EPA. Okay.

Christina Ramorino from Roadstar Trucking.

And Robert Ramorino from Roadstar Trucking, you are next, followed by William Miner, Jr.

MS. RAMORINO: Good morning, Chairman Nichols and Board. I'm third generation owner of Roadstar Trucking.

CHAIRPERSON NICHOLS: Your light hasn't come on.

I don't know how we're doing the timing. When someone comes up, start the light. You should be following it. So if it turns from green to yellow, you know it's time to stop and I don't have to cut you off.

MS. RAMORINO: So I'm third generation owner of Roadstar Trucking. We are based in Hayward, California. We provide service throughout the state of northern California. We deliver goods from food stuff, clothing items, military supplies, packaging materials.

We employ 50 Californians with full-time jobs, health benefits of 401(k) package.

Since 2007, we've had to reduce our number of drivers by 19 percent, our administrative staff by 33 percent, which includes two of our highest paid senior staff employees. And this is all due solely to the economy, nothing in regards to what they had done at work.
I'm here today mainly because I'm 26 years old. I'm starting my career. And I'm concerned that these regulations could very well put us out of business, strictly because of the time line that is involved. A year ago, when you passed this regulation, I was in the middle of reading Thomas Friedman's book, "Hot, Flat, and Crowded." I think some of you may be familiar with it.

I understand and agree with the need and value to cleaning up our air and switching to cleaner technologies. However, I strongly disagree with the stringent time line set forth by the staff the Board approved.

His book stresses the need for us to go green, to have clean technologies, but he also stresses the fact that we need to all be on board. We need to consider all parties affected, whether you be environmentally concerned, in a business, having health impacts.

Throughout the two-day Board meeting last year, we were continually told there's plenty of funding available to pay for these mandatory purchases. With everyone hurting for business, it's hard for us to pass the cost along to our customers. They have come to us this year saying we need two and three-year contracts at lower rates.

We were proactive and last year applied for five
trucks to get funded. We were approved. And then it came out we could not get the money.

On behalf of my family business, I'm asking this Board to consider the current state of the economy, the inability to get funding, and the effects this regulation will have on the state.

I urge you to seriously consider all the testimony and help to create a fair balance for everyone involved.

Thank you.

CHAIRPERSON NICHOLS: Thank you for your testimony.

I agree.

Robert Ramorino, followed by William Miner and Janet Abshire, if you're here.

MR. RAMORINO: Good morning, Madam Chairwoman and staff and Board members.

My daughter did a pretty good job of giving a recap of our business.

A few other things. Our vehicle miles traveled is down 20 percent. Revenue is down 20 percent. The equity in our family business, down 41 percent. That doesn't take into account the assets of our trucks, which is primarily most of our assets, have very little resale value because of this regulation.
One of the things that I'm really proud of is out of our 50 employees, we provided medical and dental benefits for 79 lives; 79 men, women, and children. That cost $250,000 a year. Now, if I was able and willing to get rid of medical payments, I could finance ten brand-new trucks. I won't make that trade-off.

A lot of my competitors are converting their fleets to owner-operators and getting rid of employees so they can save their medical expense.

I'm not going make the trade-off on the people that have made our company successful for 50 years.

The problem for us is not the clean air initiative. We 100 percent support that. What we need to do is we need to have a few more years to roll in equipment.

By 2014, we have to replace 100 percent of our 30-truck fleet. About a three-and-a-half million dollar price tag. No bank is going to loan a small business like ours money to replace 100 percent of your assets in a very short period of time, not to grow the business, but to just maintain the business.

We're also at a disadvantage, because out-of-state trucking companies can easily comply with this regulation by moving their newer trucks into California and taking trucks exactly like mine and moving
them across state lines and continuing to utilize those
assets. We don't have that benefit.

Now a couple other quick statistics. We spend
three-and-a-half million dollars in wages and benefits.
We spend another million-and-a-half dollars in services.
When a local company like Roadstar buys a truck, we buy it
in Alameda County or Santa Clara County. Those
out-of-state truckers are going to buy it across state
lines. They're not going to pay any taxes to the State
and they're not going to provide money to all the vendors
that we support.

I urge you, extend it out a couple years. I want
to buy new trucks. I need to buy the new trucks, and I
want to provide more jobs. Thank you very much.

CHAIRPERSON NICHOLS: Thank you. And thank for
following the light.

William Miner, Jr., followed by Janet Abshire and
John Yandell.

MR. MINER: Good morning.

I'm the owner, William Miner, of a small tow
company in Morgan Hill, California. And I represent quite
a few operators in the area. And it changed when I came
in this morning about the Board here. I mean, I don't
know if you're confused or if you had bad information or
you have a misdirection. But I'm confused listening to
you about the information that you received and the laws
you're implementing on these people with trucks
according to the amount of bad pollutants they put in the
air.

Do you have the records to prove these
allegations? I mean, we're hurting people left and right.
We're in a bad economy. But we need good cleaner air. We
understand that.

But, you know, we built these trucks here in the
United States. We bought them under your standards. And
now you're telling us, well, they don't meet your
standards anymore.

So, you know, what are we doing? Shooting
ourselves in the foot here?

I mean, we got -- work with us. I mean, this
thing should be resolved. I agree. There's smoking
trucks that need to be fixed. But the guys that are
running clean operations, clean trucks -- tow companies,
emergency vehicles, we're there to help you. And you guys
are killing us. That's the bottom line. We're going to
die off. And we're emergency. We're here to help.

We bought these in good faith, these vehicles,
with stamps on that pass emissions. And now you're
telling us, well, they don't pass emissions. We need
2010s. Well, that's fine. I wish we all had money trees
that we could go out and purchase these vehicles, but we don't.

And in this economy, it's bad. But we got to live with it. I understand. I appreciate what you're doing. But I hope that you understand where I'm coming from. I'd like to see some really solid data that we're creating the problem that you're going to create with this law.

Thank you for your time.

CHAIRPERSON NICHOLS: Thank you.

Janet Abshire.

MS. ABSHIRE: Hello. Thank you for hearing us today.

I'm Dr. Abshire. I have over 13 years of experience in occupational environmental medicine. I treat injured workers, including toxic exposures. I've seen patients that were healthy young workers go to chronic lung patients that actually totally changed permanently their quality of life, their occupational options, and also painfully their self image.

So I also understand the mechanisms of the irreversible toxic lung injury that happens with diesel exhaust. And I'm concerned -- and admittedly, personally, it's for my five precious grandchildren. So the damage is worse with children, because their lungs are developing.
And it's permanent. It leads to life-long increased incidences of lung problems.

Over half a million children in California in the last year experienced asthma symptoms, and it was strongly correlated with communities that have a high level of air pollution from diesel exhaust. The diesel pollution is highly toxic and it's carcinogenic, and it can cause short-term and long-term effects. It can trigger asthma attacks, heart attacks, and other respiratory problems.

Truckers are one of the high risk groups. A recent Harvard study concluded that truckers exposed to diesel soot on a daily basis have a much higher rate of lung and heart disease than most people. And long haul truckers face up to two times the risk of developing lung cancer.

There's compelling data for CARB to move forward with diesel regulation on trucks, buses, and construction equipment. Any delay means increased disease among children, the elderly, those with existing lungs and heart diseases, and other vulnerable populations, such as truckers and those who simply live or work in close proximity to freeways and other diesel hot spots.

The cost of State rules to clean up the diesel trucks will be far outweighed by savings in public health benefits, over $48 billion from reduced medical and health
costs and reduced premature deaths.

Inaction will really not help the economy, because health costs from exposure to diesel exhaust and the burdens on the California health care system from pollution-related illness will continue to rise.

I urge you to move forward with implementing this life-saving regulation. Thank you.

CHAIRPERSON NICHOLS: Thank you.

John Yandell and then Jeffrey Becker.

Have you posted a list of the order that people are?

If you could be ready. The list is outside.

But it's going to go Yandell, Becker, and then Richard Lee.

MR. YANDELL: Good morning, members of the Board.

My family has been in the transportation business solely in the state of California for 65 years. As we have gone through many issues with the unions and the Public Utilities Commission, I don't think we have seen anything as devastating as what we're seeing right now.

The equipment has been devalued. You hate to as you're going forward looking for financing, you can't get that because of the devaluation.

You know, we're looking ahead to trying to get the grant money you've asked us to get. We can't seem to
get that. And, of course, in our case, and so many in the
room, we've got not only the truck/bus rule to deal with,
but the greenhouse gas emissions with retrofitting the
training equipment where there is no funding.

So we do ask with that -- and of course I think
the industry is very concerned about cleaning up the air.
But I think at the same time we would certainly rather be
in a position -- since our sales, we're probably down 30
percent in our revenue and have laid off 30 people since
September of '08 that I think that you would rather see
the industry be able to be healthy, put these people back
to work. So we would ask that the ARB look very favorably
on suspending/delaying, to again with Assemblyman Niello,
that we can get some financial support to be able to
continue on with this program.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Jeffrey Becker, Richard Lee.

MR. BECKER: Good afternoon.

Thank you for the opportunity to speak here
today.

We're a family owned/managed company in business
since 1965. This year, in 2009, Royal Trucking was
awarded the prestigious Board of Directors grand trophy
for safety by the California Trucking Association, an
award I thought we would never be able to obtain. Very, very pleased that we were able to do that.

In order to qualify for this award, we're required to maintain our fleet's annual miles.

In 2006, our fleet mileage was 11.6 million miles.

In 2009, we're projected to operate 7.1 million miles.

That's a reduction of four-and-a-half million miles out of our one little fleet.

And I appreciate Erik White's slide. I think it was number 25 that showed the input from last week's meeting that he had that there was reduction in the California fleets. I just think it really needs to be considered. Everybody is talking about slowing down and doing something that will allow us to recover. I think it's very, very important.

I just wanted to share that information with you from a family-operated second generation. Don't think we'll make the third generation, like the young lady talked about here earlier, because I don't see this something I want my children to be facing in ten or 15 year from now.

The only other question I had is we talk about a target in 2014 for the SIP. Is anybody talking about
delaying? Can we go -- will the federal government talk -- listen to anybody in the state of California about -- we have a pretty big economy here. And we need some help. And we need to slow down. We're trying to obtain a goal. And I don't know if anybody on staff has gone back to the feds to say California needs a little bit more time. Sure like to get an answer to that question sometime later on today.

CHAIRPERSON NICHOLS: We'll ask staff to address that. Thank you.

BOARD MEMBER ROBERTS: Madam Chairwoman, I wonder if that could be addressed, because it seems so fundamental to everything that was a major part of the staff report.

CHAIRPERSON NICHOLS: I think actually that may be a question for --

EXECUTIVE OFFICER GOLDSTENE: I think Ms. Terry.

BOARD MEMBER ROBERTS: We're having numerous people ask for a delay, and nobody has suggested what the implications of a delay are.

DEPUTY EXECUTIVE OFFICER TERRY: The direct question is: Can we ask for more time?

And, actually, the deadlines are established in the Federal Clean Air Act. And then EPA adopts regulations to implement those deadlines. And so we are
given a 2014 deadline for compliance for PM2.5. And so
while we certainly can inform EPA staff of the difficulty
in achieving the reductions in that time frame, that is
the mandatory time frame.

BOARD MEMBER ROBERTS: So it would be a matter of
going back to the EPA?

CHAIRPERSON NICHOLS: It's Congress.

DEPUTY EXECUTIVE OFFICER TERRY: It would be a
change to the Federal Clean Air Act. It would be a change
to the Federal Clean Air Act, the structure that's set up
in the Act.

And, obviously, California is not the only state
in the country that has problems with PM2.5. We're one of
many. And I suppose Congress will be thinking about this,
but they haven't shown any inclination to take up any
amendments to the Clean Air Act.

BOARD MEMBER ROBERTS: Are you saying any delay
in this would have to be made up in some other sector in
California?

DEPUTY EXECUTIVE OFFICER TERRY: The deadline
could only be changed by Congress essentially. So
therefore, the --

BOARD MEMBER ROBERTS: I understand that Congress
is setting a deadline. I'm wondering what are the options
here.
DEPUTY EXECUTIVE OFFICER TERRY: And when we went through a very extensive process in developing the South Coast particulate SIP, it became very clear because diesel engines dominate the emissions inventory, and same thing goes for the San Joaquin Valley, that there are no other ways to achieve the tons when the emissions are dominated by the diesel sector.

So two major rules were essential to attainment and are by far and away the new emissions reductions to be achieved between now and 2014 are the construction rule and the truck rule. And all of the other measures that we have in place, light-duty vehicles, all the stationary source, regulations on the books by the districts are continuing to reduce emissions and contributing to the downward trend. But when you look at the inventory -- so perhaps we might provide an inventory slide to illustrate the significance of trucking and construction in terms of the attainment demonstration.

CHAIRPERSON NICHOLS: And, again, the staff was trying to look at potential for delay that would still meet the 2014 deadline. They weren't saying there was no opportunity for adjustment in the rule. They were just saying that that 2014 deadline was a hard target that they had to meet.

BOARD MEMBER ROBERTS: I guess that's my
question: Is there an opportunity for adjustment or is there not? It sounds like you're saying the federal government has set a rule that we have to meet and there is no other way of meeting it. Is that what we're saying?

DEPUTY EXECUTIVE OFFICER TERRY: In the year 2014. And so between now and 2014 is really the area where the recommendations of staff to look at the three different concepts for flexibility would have to be made whole by the year 2014. But there is room to look at the interim years between now and then.

CHAIRPERSON NICHOLS: And I'm not hearing -- well, I shouldn't say that. I've heard some people say they think the whole rule should be tossed out.

But I think most of the witnesses we heard have said, including the legislators, say they are not opposed to the rule, per se, but they want delay. The question is: What kind of delay is legitimate?

While we're having this conversation, we can continue on I guess for a while.

BOARD MEMBER TELLES: I'm just trying to understand this. It seems to me that in the past air districts have asked for extensions of their SIP plans, because they haven't been able to meet them. And they've been approved by the federal government without Congress acting on that. I'm a little confused on what exactly
you're saying.

DEPUTY EXECUTIVE OFFICER TERRY: That's a very good question.

We're talking about the SIP for particulate pollution, which is addressed by a different section of the Federal Clean Air Act. You're probably remembering the ozone plan for the San Joaquin Valley. And so what happens is there are a number of -- there's a series of deadlines based on the severity of the problem. The San Joaquin Valley and the South Coast were bumped up to get more time by becoming extreme ozone areas.

Now for particulate pollution, there's a different section of the Clean Air Act that applies. And so once an area is designated, they essentially have five years with another five-year extension. So there is not the same series of extensions possible as there is for ozone. And that's just a matter of the way the law was constructed.

BOARD MEMBER TELLES: Is there still available a five-year extension then?

DEPUTY EXECUTIVE OFFICER TERRY: The 2014 includes the five-year extension.

CHAIRPERSON NICHOLS: We got the five-year extension already to get to 2014 I think is the answer to that one.
Okay. We'll continue on.

Sorry. You're Mr. Lee?

MR. LEE: Yes, I'm Richard Lee. Thank you.

As a fourth generation Californian, I've seen what a great job your agency has done to clear the air in California over the years and how profoundly our lives have been touched by your decisions.

I'm a business consultant working with a family-owned business with 50 employees operating 33 on-road dump trucks and various off-road equipment.

Despite the fact that they've never seen worse economic conditions in the past 42 years, the owner believes he can survive this economic downturn. Personally, I don't think they got a snowball's chance of staying in business if he has to comply with the truck and bus rule.

Over the next four years, compliance with the truck and bus rule will cost this small business over four million dollars. These are dollars they do not have and never planned on spending. These are dollars far and above any profits they can make. And these are dollars well over what they we need just to stay in business in the foreseeable future.

Everybody wants to breathe cleaner air, but truck owners should not have to pay for it. It makes no sense to saddle the trucking industry with a regulation that
absolutely assures the collapse of thousands of tax-paying businesses and the loss of so many jobs. Implementing the truck and bus rule at the current stage in the development of the technology plus the present depressed state of the economy is simply nuts. You'll hear a huge sigh of relief in this room if you will simply vote to put a five-year hold on the implementation of the truck and bus rule.

As an alternative to an arbitrary five-year hold, an economic event based in reality might be employed to trigger the implementation. If there are indications that the economy is actually recovering, implementation might be triggered in less than five years' time.

With my written submission, I suggested a short list of economic recovery indicators that might be useful in creating such a trigger, such as employment returning to normal around five percent or housing prices starting to rise. There is a longer list.

But as you assess the impact of this rule on the California economy, please understand that the diesel engine is to the state's economy much like the fuel pump is to the engine in your car or that heart in your body pumping the life blood of our economy.

CHAIRPERSON NICHOLS: Excuse me, Mr. Lee, your time is up. But if you have submitted written testimony, we will have a chance to look at that.
MR. LEE: Implementing the truck and bus rule will be like stabbing a knife into the heart of the California economy.

CHAIRPERSON NICHOLS: Thank you.

Jane Warner, followed by Peggy Reynolds, and Robert Tennies.

MS. WARNER: Thank you.

My name is Jane Warner. I'm the president of the American Lung Association California.

I want to thank this Board for allowing us to speak today, and I'd also like to thank you for the hard job that you do and that you have been doing for many years.

You have been making tough decisions for many years, unpopular decisions, and in many cases, thankless decisions. But I want to thank you for the good work that you've done and for the many lives that you have saved.

You've remained strong to your mission. Your mission is to promote and protect public health, welfare, and ecological resources. Your major goals are to provide safe, clean air for all Californians, to protect the public from toxic exposure. These are your goals.

The facts about diesel pollution are clear. There is no question. There is comprehensive research that shows the link between diesel pollution, cancer,
heart attacks, stroke, and numerous lung diseases and conditions.

We know that diesel pollution causes 4500 premature deaths every year. And our research also shows that, as been stated before today, that truckers who are exposed to this pollutant are up to twice as likely to develop lung cancer.

I grew up in the south, as you may be able to tell. And I saw many families who had tobacco farm that their families had run tobacco farms for generations. And many of my friends and their families lost their homes, their livelihoods and their farms. Why? Because laws changed. Research showed that tobacco kills.

While none of us in this room -- and I know this goes for those of you on the Board -- none of us want to see anyone lose a job, a home, or a livelihood. But we must protect our health first. If we don't have health, we don't have anything.

I commend you for your job that you are doing. You are protecting our health. You are protecting our children, and for many generations to come, the lives of the people in California. Thank you.

CHAIRPERSON NICHOLS: Thank you, Ms. Warner.

Appreciate that.

Peggy Reynolds from the American Cancer Society,
and then Robert Tennies from the Western Truck Center.

DR. REYNOLDS: Good afternoon.

I'm Dr. Peggy Reynolds. I'm a cancer epidemiologist here representing the American Cancer Society California Division.

The American Cancer Society supports the California Air Resources Board regulation to reduce diesel exhaust emissions from heavy-duty diesel trucks and busses. And we urge these important public health protections not be reversed.

As you know, diesel exhaust is classified as a probable or likely carcinogen by the International Agency for Research on Cancer, the U.S. National Toxicology Program, the U.S. Environmental Protection Agency, and the National Institute of Occupational Safety and Health. It is classified as the substance known to the state of California to cause cancer and as a toxic air contaminant by the California Air Resources Board.

Lung cancer is the main cancer to have been linked to diesel exhaust, but there's also suspicion that other cancers, especially those of the larynx, pancreas, bladder, and kidney, as well as non-Hodgkin lymphoma may be associated with diesel exhaust exposure.

In addition, constituents of diesel exhaust, such as soot and polycyclic aromatic hydrocarbons, have been
shown to cause cancer.

The American Cancer Society's concern also pertains to the communities in California most exposed to diesel exhaust emissions. There's good evidence that exposure is highest near ports, rail yards, and along volume truck traffic, thus preferentially affecting low-income communities and communities of color already disproportionately impacted by the cancer burden.

The American Cancer Society urges the Board to continue leading the country with its health-based strategies to reduce diesel emissions in the state.

Thank you for the opportunity to comment.

CHAIRPERSON NICHOLS: Thank you.

Mr. Tennies.

MR. TENNIES: Good morning.

My current occupation is truck sales.

I thank you for the opportunity to speak today.

We all want clean air and healthy environments.

But we are really screwed today. These new regulations will affect every single person in the state.

I come before you today as a 54-year-old resident and concerned citizen. My wife and I have raised three boys. And I have four grandchildren. I've been in the world of trucks for 36 years. As a middle-class resident of this state, I'm tired of trying to keep up with the
government. The economy has swallowed retirement savings and dreams of even living my entire life in this state.

My customers, trucking companies, are going out of business every day. They're all locally owned and supported companies. This has a domino effect on this evidence in the 12 percent unemployment we're seeing today.

I work for a dealership. We have no trucks sales. As you saw earlier in the staff report, truck sales are down 64 percent. Could you take a cut in pay of 64 percent to your wages?

No part sales. Trucks aren't moving in this economy. Half the truck fleets are parked. We are destined for a $400,000 loss at our dealership this year.

In addition to that, you've offered funding, funding of $50,000 per truck. But people can't get financed for the balance. The banks are offering interest rates of 11, 16. As of yesterday, I saw one for 36 percent.

As long as the State continues to dump more regulation on this industry and business in general, the economy will suffer. Fifty-four percent of all state's goods are transported by owner-operators and small business. They have all lost the equity on their equipment.
Our dealership itself has made a commitment this year that we're going to take a million-dollar loss in used equipment that we have offered for sale due to the impact all based around those regulations.

Chairman Nichols, you and I met 14 months ago. We talked about this specific issue. I shared my concern for the economy and what effects these regulations would have on the trucking industry. We are getting closer to a meltdown than ever before. Are you and the Board prepared for the results if, indeed, this regulation goes forth?

Speaking of life, liberty, pursuit of happiness, the Declaration of Independence second paragraph says that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it.

Thank you. I don't have the answers, but I wish we could find them.

CHAIRPERSON NICHOLS: Thank you for mostly following the rules there.

We will now hear from Dr. Wallerstein, then Albert Batteate, and Grant Stickney.

(Thereupon an overhead presentation was presented as follows.)

DR. WALLERSTEIN: Good afternoon, Chairman Nichols, members of the Board.
What I'd like to do is supplement some of the information provided by your staff relative to air quality, goods movement, and then an update on some of our joint efforts to provide incentives.

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DR. WALLERSTEIN: This is the data for the close of the smog season. As shown under the column "days exceeding the 8-hour ozone standard," it shows in South Coast for about a third of the days we exceeded the federal 8-hour ozone standard in South Coast.

The next slide, however ---

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DR. WALLERSTEIN: -- really tries to relate our ozone levels to goods movement.

The black line is the number of containers moved through the twin ports of Los Angeles and Long Beach and shows the effect of the recession in terms of container thru-put.

The yellow line is the peak ozone concentration.

The red bars are numbers of days of violation.

As you can see from that slide, there isn't a real strong correlation between a decrease in goods movement and our ozone values.

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DR. WALLERSTEIN: Now when we turn to PM2.5,
which has been most of the discussion here today, we do see some effects of the downturn in the economy in terms of PM2.5 level. But if we look at the next --

DR. WALLERSTEIN: -- slide, what we see is the most dramatic impact if we're looking at the actual elemental carbon portion of the PM2.5. And what I think is most frankly impressive about this slide in terms of direct correlation is that it occurs throughout the southern California region. It isn't just in Long Beach, but it's also in the Inland Empire. So clearly there has been an impact on the recession on our current air quality levels, at least with respect to directly emitted particulate, which is the surrogate for toxic emissions. And then also there has been a correlation of sorts relative to our overall particulate levels.

DR. WALLERSTEIN: The next slide, however, I think may be one of the more important slides I'm going to share with you this morning. This is from the port of Los Angeles's most recent presentation to its Board last summer regarding a revision to the forecast. And that red circle indicates they expect in around 2014, that year that's so critical for us for attaining the annual average
standard in 2015, that the cargo thru-put will in their
estimation achieve levels that matches their previous high
of 2007.

--o0o--

DR. WALLERSTEIN: Now I'd like to quickly turn to
just a brief update on some of the joint work we've done
on funding clean trucks. This shows that most recently
we've accepted 1,600 applications. About 42 percent of
the trucks being funded will be to single owner-operators.
And it's also important to note that CARB has shown some
flexibility here in terms of four-month leeway to allow
those trucks to come into the fleet.

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DR. WALLERSTEIN: The next slide is an update on
the SOON Program. Bottom line is we had a $120 million
goal, and we have in essence funded about a third of that
goal.

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DR. WALLERSTEIN: Lastly, I would just say that
we will clearly work with your staff over the next few
months to identify flexibilities for this Board as you
work on this issue relative to attainment in 2015, but
let's not lose site. There is a 24-hour particulate
standard in 2019 we have to obtain, and we have to be on
the right glide path.
Thank you.

CHAIRPERSON NICHOLS: Thank you.

Our next witness is Albert Batteate and then Grant Stickney and Jay McKeeman.

MR. BATTEATE: Good morning.

I'm Albert Batteate. I own Batteate Livestock and Batteate Livestock Transportation.

And with the new CARB laws for the cab-over truck and trailers, which I need to buy new equipment, that equipment is not available and won't be available. So that's one of my problems I have with that.

And the reason that cab-over is such a big deal is truck and trailer combination, you need those to get in and out of the mountain allotments for service allotments and things like that. So the only truck that can get in there to get the cattle in and out, fall and spring, and they're not going to be any of those left if this law goes through. And we're working with the staff and will continue to work with the staff to try to come up with some sort of deal that works for everybody.

CHAIRPERSON NICHOLS: Thank you.

MR. BATTEATE: Thank you.

CHAIRPERSON NICHOLS: Grant Stickney and then Jay McKeeman.

MR. STICKNEY: Greetings, Chairman Nichols,
My name is Grant Stickney, and I'm the emissions specialist for Peterson Tractor. Peterson Tractor is a Caterpillar machine dealership providing machine sales, machine rentals, product support, and service here in northern California. We work with customers every day who are challenged with complying with the new California diesel emissions regulations. We, too, are trying to meet these challenges.

For example, Peterson Tractor has 865 machines with a total of 105,000 horsepower registered in the off-road fleet. This fleet is made up of all types of Tier 2 and Tier 3 construction equipment with an average vehicle age of two-and-a-half to 2.7 years. This fleet is compliant through 2013 for particulate matter.

As you can tell by the vehicle age, we normally turn these machines over in sales to customers mainly in California. This has been a good option for our customers to purchase newer cleaner machines. With the new off-road regulation coming into play, the sale of these machines will bring a lower value in the California market because of the current demand of machines with engines certified to the highest tier level.

This is a current problem with dealer inventories
of new and newer equipment. California equipment dealers
are struggling with this. How can we sell Tier 2 machines
when Tier 3 machines are available? What is new enough?

Shifting gears over to on-highway truck
regulation, Peterson Tractor also has a fleet of 142
on-highway medium-duty trucks servicing customers in
California. Most of these trucks are specialized utility
service trucks with a PTO operated and compressor.
Average model year in this fleet is 2000. These trucks
are costly to own, operate, and maintain, and are
essential for providing customer support. You just don't
send a tow truck out to haul a piece of equipment into the
shop. These trucks provide emergency repairs and
maintenance on the spot from all our ten service locations
in California.

The new on-highway regulation will require
replacement of these trucks sooner than anticipated due to
the fact they cannot be retrofit because of the
specialized operations they perform. The engines in these
trucks run at PTO speeds for most of a daily shift and
more in times of emergency.

We have been struggling with how to meet the new
on-highway truck regulation and turn over the required
amount will cost Peterson Tractor much more than ever in a
time when we cannot afford.
Peterson Tractor and its employees have been supporting customers in California since 1936 and have endured tough times in the past years. Our goal is to continue to provide the level of support needed by retaining our dealer excellence at a level that meets the demands of our customers.

CHAIRPERSON NICHOLS: I'm sorry. Excuse me. I'm sorry to interrupt, but I didn't see the light go off, but you are well over your time. So just finish your sentence.

MR. STICKNEY: Well, I used a couple of seconds. I apologize. And thank you for allowing us to speak today.

CHAIRPERSON NICHOLS: Of course. We appreciate it. It's your right and our pleasure. But we do have trouble with the time limits.

Jay McKeeman and then Dr. Steven Maxwell and Brandon Kitigawa.

MR. MC KEEMAN: Good morning.

I'm Jay McKeeman with the California Independent Oil Marketers Association. We represent fuel distributors in the state. Basically, our members are small family-owned business having fleets of -- several up to 50 vehicles.

A problem that our members are having in terms of
the financial assistance is that for many reasons,
including the number of trucks, the mileage, their
location, they're not eligible for the financial
assistance. And I think we need to take a real good look
at the financial assistance package and determine whether
it's providing the assistance that's necessary for small
to medium-size fleets.

Really, what you have today is an issue before
you of affordability. I think I can speak for many
trucking associations and truckers in this state. We've
never had an argument against the regulation. We've had
an argument with the timing of the regulation. That's the
issue.

And I understand that the SIP commitment drives
this whole conversation, but it may be that the State has
to look at the federal government in the eye and say we
cannot do this. The people that are obligated to do this
cannot afford this regulation. And if that's the case, I
hope the State is the one that's looking the federal
government in the eye. If it's not the State, the
truckers will look the federal government in the eye and
there will be civil disobedience. I guarantee that.

So I think it's really important that we look at
the affordability of the regulation. I would task staff
with taking a look at how various sectors in the economy
are going to be able to afford this, develop some good
cost information about problems people are having in
affording this regulation, and take a look at the
affordability of the regulation as well as the commitment.

A year ago, Driving Towards a Cleaner California
put a proposal in front of this Board that basically got
you the emissions reductions at the end of the period.
There was flexibility in the middle of the regulation.
But at the end of the day, everybody was on the same page.
And I think that's kind of where we have to look at as a
template for going forward with this.

Thank you very much.

CHAIRPERSON NICHOLS: Thank you for your
testimony.

BOARD MEMBER D'ADAMO: Madam Chair?

CHAIRPERSON NICHOLS: Yes.

BOARD MEMBER D'ADAMO: I'd like to thank the
witness for his testimony. And it reminds me as we move
forward we need to be mindful of Carl Moyer and incentive
funds. Because if we change compliance dates, it might
result in some unintended consequences. So just staff
could add this to the laundry list of things that we look
at.

CHAIRPERSON NICHOLS: The whole financing issue
is a big part of any discussion about changes to the rule.
Steven Maxwell and then Brian Kitigawa.

DR. MAXWELL: Thank you, Chairman Nichols and distinguished Board members.

My name is Steven Maxwell. I'm a thoracic surgeon and lung cancer specialist here in Sacramento. I also serve on the Leadership Board of the Sacramento Region of the American Lung Association of California.

Every day, I see the impacts of lung disease and lung cancer up close. I know suffering caused by toxic air pollution and strongly support these life-saving regulations to remove cancer-causing diesel soot from our air.

Diesel exhaust is well known to be the largest single source of airborne toxins in California and is recognized by the United States Environmental Protection Agency, the World Health Organization, and International Agency for Research on Cancer as a threat to human health.

We've waited too long to address this issue. CARB's truck and bus rule will cut 80 percent of the carcinogenic diesel soot from all big rig trucks on California roads and highways over the next decade. I know we can't afford further delay. The construction equipment regulation will also result in large reductions in diesel soot.

I'm also here representing the Health Network for
Clean Air, a statewide group of medical and health organizations deeply concerned about the health impacts of air pollution. The Health Network for Clean Air has submitted a letter signed by 22 state and local public health and medical associations, including the American Heart Association, the American Cancer Society, the California Medical Association, and the American Academy of Pediatrics. We strongly urge moving forward particularly with the implementation, because any delay will cause significant harm to public health.

The science demonstrating the toxicity of diesel particles is not in question. And the actions of a single researcher are reprehensible and inexcusable. But please don't throw out the science in spite of the scientist. Disregarding this one study has no bearing on the conclusion of scores of previous reports. A large body of perspective independently peer reviewed studies developed over the last 20 years has clearly established that diesel soot increases cancer risks and contributes to thousands of premature deaths each year, as well as asthma attacks and other respiratory symptoms, acute bronchitis, and hospitalizations for respiratory and cardiac illnesses.

We know that making this decision is a difficult one in light of the economy. The sensible rules proposed by this Board to reduce toxics over time will protect
lives and save California far more in the long run than it
will cost.

The bottom line is that California must move
forward to reduce debilitating illnesses through
transitioning to cleaner trucks, buses, and construction
equipment, and implementing the statewide diesel
regulations.

Thank you for your time and consideration.

CHAIRPERSON NICHOLS: Thank you.

Brandon Kitigawa, followed by Pamela Tapia. And
Pamela is actually part of a group I see listed here of
high school students from Mandela High School. So perhaps
if they could get ready the come as a group, that would
help. Okay. Thank you.

MR. KITIGAWA: Good afternoon, Chair and Board
members.

My name is Brandon Kitigawa. I'm a policy
associate with Regional Asthma Management and Prevention.
We coordinate a statewide network of asthma coalitions
called Community Action to Fight Asthma, or CAFA.
This network allows local coalitions to
collectively advocate for regional and state policies that
reduce the burden of asthma in their communities.
First, we want to thank you for making the
difficult decision last year to adopt this rule, knowing
that we're in the middle of an ailing economy.

And second, recognizing that many are still struggling economically, we want to remind you that what was true last year is still true today. The diesel regulations represent the best opportunity for California to improve some of the dirtiest air in the nation and reverse the trend that has seen the rate of asthma prevalence in the state rise by 25 percent between 1995 and 2005.

We know that diesel trucks and buses are the single largest source of diesel pollution in the state, accounting for some 40 percent of diesel soot. Curbing these emissions is vital to meeting federal air quality standards and removing the health and economic burdens of dirty air.

CAFA members deal with the effects of diesel pollution every day. We see kids forced indoors for recess. We see kids missing school and parents missing work due to asthma attacks. And we see families spending money on preventable health care costs.

One of our members, the Long Beach Alliance for Children with Asthma, collected 122 signatures from members in their community urging you to continue to support this rule and protect our health.

Thank you.
CHAIRPERSON NICHOLS: Thank you.

Okay. So I called on Pamela Tapia. I don't know how you folks want to organize your presentation.

UNIDENTIFIED SPEAKER: I think there are three students who are going to speak and other students -- why don't we all come and stand up together? And then we don't have to feel so lonely up here.

MS. TAPIA: Good morning, Board members.

My name is Pamela Tapia. I attend Excel High School in west Oakland.

Thank you for letting me speak to you again.

I live in west Oakland. I was born with asthma, and I've been in and out of hospitals my whole life.

I'm not the only one whose health has been affected by pollution. These people have watched their kids go through the pain of an asthma attack. They have watched their friends and neighbors die from cancer and other diseases that have been caused by the killer impact of pollution from different sources, including diesel particulate pollution from the trucks on the freeways and other trucks routes that go through to west Oakland.

Please use your authority to enforce the truck rule as scheduled to protect the health of all residents of all areas disproportionately impacted by diesel pollution.
CHAIRPERSON NICHOLS: Okay. Next.

MS. ALEJANDRE: My name is Yessica Alejandre. I'm a student Mandela High School.

Having a diesel reduction is important because it will reduce the pollution that is in the air and prevent deceases in our community.

In my community, we live close to truck roads. We are located near the freeways and the port of Oakland. This means there is a lot of pollution in the air. Asthma is one of the problems caused by diesel because of the small particulate matters that is in the air which causes people to have a hard time breathing.

My mom and sister both have asthma, and they have to take medication every day to control it. Every time they go outside for a walk, they have a hard time breathing because the air is so polluted.

Also, the people that live close to the truck route is being affected, because the youth from ages zero to 14 have a large rate of asthma hospitalizations in the Alameda County.

We need a truck rule that protects the community health, because that way we can reduce the asthma hospitalization rate in the community.

MR. ROCHA: Hello. My name is Miguel Rocha, and I'm a student at Mandela High School in Oakland.
I believe the diesel reduction program is important because, first of all, I live in Oakland, which has a lot of trucks that pass by our schools and homes, which these truck cause air pollution that results in citizens in those areas to have high risk of having asthma and other health problems. Asthma is a really big problem here in California.

In order to stop the pollution caused by diesel trucks, we need to put filters in trucks to stop the particles from coming out into the air that we breathe in. Therefore, we can try to make every city in California a cleaner environment to live and breathe in.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

And did we have one more speaker?

MR. ALEJANDRE: My name is Miguel Alejandro. I'm a student at Mandela High School in west Oakland. I think the diesel engine trucks have a big impact on my city of Oakland. I live near a truck route area in which the asthma rate is very high and is 49.6 percent of the neighbors that are Latino.

I think trucks should not be let near busy areas, because it only cause asthma problems. The biggest problem is with the trucks. The owners wouldn't want to change the diesel engines with new one, because it is
expensive and some people cannot afford that.

Cleaner engines would improve truck drivers' health, too. The best way would be to put filters on truck engines to capture the pollution that make us sick. Filters are cheaper.

I suggest that the government should help, because it will also be hard to spend money for every truck to have a filter when the economy is bad. Our health cannot wait.

Thank you.

CHAIRPERSON NICHOLS: Okay. Well, thank you for coming all of you. I feel like we're participants in a civics project. And I'm happy to have played a role in that and appreciate the fact that you have worked on this issue. Thank you.

Our next witness is Don Anair and then Bonnie Holmes-Gen.

MR. ANAIR: Hi, again. Don Anair, senior analyst with the Union of Concerned Scientists.

Good afternoon. Thank you for visiting this rule and looking at the economic impacts on truck emissions. I think this is an important step forward.

I just want to offer some comments today in support of the Board's long history in addressing diesel emissions which have started over a decade ago. And the
body of evidence that prompted this Board to do so has not, in fact, gotten weaker but gotten stronger over the past decade with additional research, science, studies showing stronger links between health endpoints such as premature death, asthma, heart and lung disease, et cetera. So I encourage you to continue with your efforts to reduce diesel emissions.

In addition, as Chairman Nichols mentioned, ARB adopted a goal to reduce diesel pollution 85 percent based on the need for public health protection in all of California's communities. We know this level of protection will not be achieved without steady investment in cleaner technologies, cleaner trucks, and other diesel sources.

And, in addition, the economic benefits of controlling diesel pollution are real. Time and again, efforts to clean up diesel pollution show that through reduced asthma attacks, hospitalizations, premature deaths, the societal savings outweigh those costs. That doesn't negate the issue of actually having to invest in these technologies. And I understand that. And I think that today the Board is being presented with a potential to give some relief to the trucking industry based on the emission reductions that have occurred due to the slow economy.
And I just want to offer my support for Board Member D'Adamo's comments earlier about looking at a potential emissions budget that has basically been created by the slowing economy and to design any options going forward that essentially would use that budget as guidance in terms of how those options are designed. I would hate to see any option to really increase the burden on communities that are already suffering from the severe health impacts of diesel pollution and in addition to the economic impacts that they are suffering. There are job losses and economic uncertainty in all of these communities across the state, and they shouldn't be the ones who have to carry the burden of the changes.

So again, thank you for your support and your continued efforts to reduce this public health threat.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Bonnie Holmes-Gens, and then Jenny Bard and Dr. Joseph Kubsh.

MS. HOLMES-GEN: Chairman Nichols and Board members, Bonnie Holmes-Gens, Senior Policy Director, American Lung Association. Thank you for the opportunity to make a few comments.

I wanted to say clearly that the Board's regulations on diesel trucks and buses and the regulations
on construction equipment are two of the most important regulations you have adopted over this decade, because they will save thousands of lives every year and protect vulnerable populations. And we are extremely concerned about those with asthma, emphysema, and chronic bronchitis.

Your Board has demonstrated tremendous leadership and courage in adopting these regulations, and now we need you to continue that leadership in moving forward to implement them and ensuring that the public does receive the public health protection they're expecting.

You adopted these rules to address the public health crisis created by diesel pollution and to ensure that we meet our Federal Clean Air Act requirements for reducing particulate pollution. While the public health crisis has not changed since you adopted these regulations, they will not be solved by the economy. And, clearly, those deadlines are still loaming under the Federal Clean Air Act.

We're very aware of the economic problems that you're hearing about today and faced by businesses and the hardships of these difficult times have caused. But we're also very concerned about the hardships experienced by those who are suffering daily from lung health problems, like asthma and chronic bronchitis and other lung
illnesses. We believe their voices need to be heard.

And I like to remember the woman I talked to with long-time asthma who said there are retrofits available for these trucks, but there are no retrofit device available for my lungs. People are experiencing very, very severe problems, and they want to be heard.

We appreciate that the Board has put tremendous efforts toward helping truckers to comply with this regulation, and we strongly support your efforts to ensure that the one billion dollars in State moneys and State incentive funds gets out the door. We think this would help ease the implementation. And we certainly urge you to do everything possible to make sure these funds are distributed as quickly as possible.

And I did want to comment. You were presented some options this morning by staff, and we wanted to comment.

As you are reviewing these options, we urge you to carefully investigate the public health impacts of each of these options. How will these options effect the reductions in premature death and illness? How will they effect the reductions in asthma attacks and illnesses and hospitalizations expected from these regulations? Because we don't believe we can afford to give up any of those public health benefits, and we would encourage you to not
make any specific recommendations until you get a very
clear understanding of those public health impacts.

CHAIRPERSON NICHOLS: Thank you. Your time is up.

Jenny Bard, Joseph Kubsh, David Blohm, and then we're going to break for lunch.

MS. BARD: Good afternoon, Chairman Nichols and members of the Board.

I'm reading a statement for Andrea Rico. She's Associate Professor of Preventative Medicine at the Keck School of Medicine of the University of Southern California.

She'll be focusing the brief comments on the peer review of the ARB document concerning mortality related to particulate matter, on the known research findings showing diesel particulate is a cancer-causing material, and on USC's southern California research. These are all relevant to any discussion of the ARB diesel truck rule.

"At USC, we have a team of scientists who conduct research on the effects of air pollution on children's respiratory health. From that study, we know that children who grow up in communities with higher PM2.5 levels are more likely to have reduced lung function than if they grew up in less polluted communities. We know that children who live close to busy roads and traffic are
more likely to have reduced lung function and a higher prevalence of asthma."

Now turning to the studies about PM and mortality and diesel and cancer, first, the PM mortality document prepared by ARB had several independent scientific advisors and was also peer reviewed by a team of scientists with impeccable credentials who are widely recognized as experts on the topic of mortality from PM. Each of them has published independent research on the health effects of particulate matter.

I'll cite just a few recent papers. A January 2009 published paper of which ARB scientific advisor Dr. C. Arden Pope was lead author concluded, "A reduction in exposure to ambient fine particulate air pollution contributed to significant and measurable improvements in life expectancy in the United States."

Second, peer reviewer Dr. Jill Schwartz concluded in a June 2009 paper, "Our analysis showed that a reduction in exposure to ambient fine particulate air pollution contributed to significant and measurable improvements in life expectancy in the United States."

Turning to the U.S. EPA and recent statements about diesel exhaust, the EPA reviewed effects of diesel in its rule on locomotive and marine engine issues in 2008 and concluded "These pollutants, PM, contribute to serious
public health problems that include premature mortality,
aggravation of respiratory and cardiovascular disease, and
aggravation of existing asthma, acute respiratory systems,
and chronic bronchitis. Exposure to diesel exhaust has
been classified by EPA as being likely carcinogenic to
humans.

Finally, I would ask that we remember the groups
that U.S. EPA says are most at risk: Our children, people
with heart and lung diseases, and the elderly.

Thank you.

CHAIRPERSON NICHOLS: Okay. Thank you.

Dr. Joseph Kubsh and David Blohm.

DR. KUBSH: Good morning, Madam Chair, members of
the Board.

Joe Kubsh with the Manufacturers of Emissions
Controls Association.

My member companies have worked with your staff
to verify most of the retrofit filter technologies that
are available for both highway and off-road equipment here
in the state of California as well as applications outside
of California and in other marketplaces around the world.
Many of these companies have been involved with the
development of retrofit technologies for more than 10
years. And in some cases, some of these companies have
worked on these technologies for more than 20 years.
More than 100,000 filters have been installed on trucks, buses, and off-road equipment around the world and with more than 10,000 filters installed here in the state of California already. And the experience with those filters have been largely good. There certainly have been some isolated instances of problems, but more often than not those problems are associated with the way the actual engine has been operating and not the design of the way the filter has been put on those vehicles.

Retrofit filters are very similar to the particulate filters that have been installed on new heavy-duty vehicles here in the United States since 2007. There are about a million of these filter-equipped trucks now running on the highways of the United States. And again the experience with these filters has been very good.

Diesel particulate technologies that have been installed either as retrofits or on new heavy-duty trucks have been very successful in reducing diesel particulate emissions by at least 85 percent. And they also reduce black carbon emissions by more than 99 percent. And as we know, black carbon is also an important climate change agent. So these filters have impacts not only with respect to the emissions and health benefits associated with diesel particulate emissions, but also impact climate
Today's economic environment has put a significant strain on businesses of all sizes, including some of my members. But despite these severe economic downturn, MECA members continue to make investments in verifying retrofit technologies. A survey of our members indicated that 65,000 green jobs in the United States are associated with our industry and more than a thousand of those jobs are here in California. And that doesn't even include the growing number of jobs associated with the installation and maintenance of retrofit technologies here in California.

Our industry completed an independent economic analysis recently that indicates that the compliance cost of the truck rule provides significant green job opportunities here in California. The truck and bus rule alone, the annual compliance costs will create approximately 20,000 jobs, and many of those jobs would be here in California. And our industry strongly supports your continued efforts in this regard.

Thank you.

CHAIRPERSON NICHOLS: Thank you. Appreciate the fact that you speak for the people who have the business and actually helping people comply.

Okay. David Blohm, and you will be the last
MR. BLOHM: Thank you, ladies and gentlemen of the Board.

I'm David Blohm with Golden State Bridge. We're an engineering and contractor firm here in California. We build bridges, and our science is very important.

I stand before the Board, in front of my colleagues, with an engineering marvel: A rat trap. I ask anybody on the Board to put their finger in the rat trap, because my colleagues and myself feel these on-road and off-road regulations are a rat trap. They will make us bleed. They will break our bones. And they will kill in the state of California.

Our fleet is a large fleet. It will cost us one million dollars per year for the next ten years to comply with these regulations. Our fleet average age is 6.5 years, and our engine age is 5.3 years. It's sad that we do not comply with these regulations with such a new fleet.

So I just want to thank you for your time and letting me speak in front of the Board.

CHAIRPERSON NICHOLS: Excuse me. I had a question for you, since you've still got time.

BOARD MEMBER LOVERIDGE: How many trucks in your fleet?
MR. BLOHM: In our on-road fleet, we have 17. In our off-road fleet, there's 39 pieces of equipment.

CHAIRPERSON NICHOLS: Okay. Thank you.

All right. I think we can try to be back here promptly in our seats and ready to go again at 2:00.

(Thereupon a recess was taken.)

CHAIRPERSON NICHOLS: I'm making an announcement right now both for those in the room and those who are watching us on the web that we are going to cut off the ability for people to sign up. We are up to number 91. We've gotten through number 30. Anybody who hasn't signed up can just give their comments to somebody else. I don't believe there's anything that we would hear if we left this list open that we're not going to hear by listening to 91 witnesses.

So if you happen to be a person who's here because you want to show your support for other people from your group, whatever your group is, and you just want to let them speak for you, that would be great. You can, of course, speak and we will stay here as long as we have witnesses to listen to.

We're going to call next on Manuel Cunha from the Nisei Farmers League, followed by Grant Campbell and Chris Shrader.

MR. CUNHA: Good afternoon. Thank you very much
Madam Chair, Board members; members of the San Joaquin Valley Board, DeeDee D'Adamo, Dr. Telles. Thank you very much for representing our valley in probably the most important times that are going on in the country right now. I thank you for all your help on the Board.

Again, Manuel Cunha, President, Nisei Farmers League. I've been up for the last 48 hours trying to keep my citrus grove alive in Fresno County. If I make it through tonight, I think with enough coffee, I will be able to make it tomorrow to a court hearing for one of my growers. It's been a long 48 hours for those of us that have to keep our groves alive and even our nursery stock. It's been really cold. Thank you again.

I'm here today to emphasize the importance of economics. I do see a role of how much of our businesses across this country -- as I play a roll in the Federal Reserve Board of the economics across the country. But this state is a key pivotal part of this entire economy and this country. The economics are important.

You've heard all the comments from the truck dealers and several people who will speak even beyond today. We need to figure out a way to move this out because of the economics. It's great to say go ahead and enforce the rule. But if you don't have businesses, people are going to lose their jobs, and then they're
going to have health problems that are not going to be
heard about because people won't talk about a person going
into the clinic or to the hospital with a heart attack and
a heart attack was because of not having a job and
figuring out how to pay their house payment. So I'm
hoping that we do or the Board does somehow in the very
short term move this rule out.

Number two -- and I hope for the part on the ag,
I think that's important as well. Many of our farmers
don't know what's going down as far as the paperwork in
their hands of knowing how to register their trucks,
knowing that mileage has to be recorded on January 1 of
this coming year, 2010. That information is not out there
yet.

And I just think I'm having enough calls already
about what's going on with the Air Resources Board. And I
think we need to get over this thing and move forward,
because I think it's important to deal with the issues at
hand.

But I hope that we can move something of the ag
part of it for the registration part of it. I understand
the importance of it, and I know staff has worked hard
with us to try to figure out that information.

But right now there's enough pressure out there
in my industry. The water crisis is enough of a problem,
but now this freeze is even causing more problems.
Adrenaline is rising. There isn't enough coffee to make
that stop.
I just will say this in my last 13 seconds.
Responsibility, credibility, honesty, integrity are the
most important fabrics of this agency. And I've worked
with your agency for 20 years, and we have got to keep
that on track. If we lose that, we will have lost
everything.
So I would hope that we try to learn from things
in the future to go forward with honesty and work together
to achieve what we have to.
And thank you again for listening to me.
Dr. Telles, thank you for all the work you do on
our Board and the San Joaquin Valley.
DeeDee as well for coming and taking care and
addressing our issues in agriculture across the state.
Thank you so much, Madam Chair.
CHAIRPERSON NICHOLS: Thank you.
We'll hear next from Grant Campbell, Chris
Shrader, and Spencer Defty.
MR. CAMPBELL: Good afternoon, Chairman Nichols,
estimated Board members, and the men and women that have
taken time away from their businesses to be here today.
My name is Grant Campbell. I represent Lee
Jennings Target Express and its 130 employees. We are a California-based trucking company. Have been in business for four decades and operate four terminals in California. Our company is struggling with ever increasing fee schedules from State oversight agencies and is limping through the worst economy in our business history.

Although we are a small voice in the transportation industry, our troubles are indicative of the industry as a whole, and I thought you might like to hear from us before this regulation forces us out of business.

While CARB's goal to meet particulate matter and nitrous oxide emission targets is notable, your environmental policies are having the unfortunate side effects of decimating the California trucking industry, and the methods employed to accomplish it will put thousands of people out of work.

Reduced to its lowest denominator, the truck and bus rule calls for the wholesale replacement of existing truck fleets at an unbearable cost to business and also makes current equipment worthless on the used truck market. This regulation alone will cost our company almost $8 million and create a debt retirement ratio of 24 percent over the first three years. As anyone with any business experience will recognize, a 24 percent debt
retirement ratio is unsustainable.

Ironically, as we lay awake at night trying to formulate a plan to save 130 jobs, CARB's website is actively recruiting 22.

It is becoming increasingly difficult to do business in California, and many companies we work with are pursuing relocation strategies to business-friendly states.

While out-of-state carriers will fill the void and continue moving freight from ports and manufacturers of our state, these same carriers will take payroll, registration, payment for services, and other California dollars from our weakened economy, extending the economic meltdown and forcing thousands of middle income wage earners onto unemployment rolls.

The inconvenient truth is simply this: The creation of revenue from services and merchandise is what pays for everything. And as this revenue dries up, so will the state.

From the viewpoint of an organization that does not have to make a profit, $5.4 billion may not seem a burdensome amount. However, the totality of taxes, fees, and onerous regulation has become unbearable for many companies.

We respectfully request consideration of an
extension of two years from the proposed implementation
date of the truck and bus rule to assist our industry in
helping you to meet emission reduction goals while helping
to ensure the continued existence of a California
domiciled trucking infrastructure. This minor delay will
allow trucking companies to re-capitalized their fleets at
a realistic debt retirement ratio and will save thousands
of jobs.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Chris Shrader.

MR. SHRADER: Good afternoon. Thank you for
letting me speak today.

I work for a company that's a global based
company and has a green policy in effect worldwide. We
were awarded an Energy Star award for our completeness
this year in California for burning biosolids and
alternative fuels to run our plants.

We have over 700 pieces of equipment that operate
in California.

I've been in this trucking business since I was
15 years old, and I'm 53 now. I started out as a young
man washing gasoline tankers in high cool and have been
able to reach the position I'm in today.

This economic impact that you're about to put on
the trucking industry is unfathomable. It's going to
damage -- as one gentleman has spoken, it's going to put a
knife through the heart of the trucking industry.

There's one last thing I would like to address --
it was Supervisor Roberts -- that the integrity of my past
in the business that I'm in, had I ever sent in a resume
that had been falsified by me, I would have been
terminated from my job. It would not be a furlough.
There would not be a demotion. It would be a total
termination. And I totally agree with your thoughts on
Dr. Tran.

Thank you very much.

CHAIRPERSON NICHOLS: Okay. Spencer Defty and
then Joe Crummett and then Kevin Shanahan.

And I'd appreciate it if you would be ready to
speak when your name is called, because it takes times to
get here. Thanks.

MR. DEFTY: I'll be taking Joe Crummett's three
minutes as well.

Good afternoon, members of the Board. Thank you
for allowing all of us to come and speak.

I'm Spencer Defty with Diamond D General
Engineering.

I was in this building just over a week ago to
receive the California Cool Green Award of the year for
small businesses. And upon receiving that award, I was asked to speak as part of the receiving that award. And I'm sure Chairman Nichols remembers.

CHAIRPERSON NICHOLS: I remember it well.

MR. DEFTY: And I'd like to thank you for that award.

The thesis of my speech was that we as small business are out there trying to do the right thing. That was acknowledged by the award that we did receive from the Air Resources Board and the Cal/EPA. But that we cannot continue to do the right thing unless we are profitable. As well as with all the noble intentions that this regulatory agency has, it is my belief after viewing what the policies that are being implemented and are due to be implemented are going to be flawed in their implementation. And they're actually going to create higher greenhouse gas emissions than we could actually achieve if this Board would direct staff to engage small business, business and industry at large, as well as allow us to have a voice on your Board.

There is only one Board member to my knowledge that is in the business industry. And that's Ms. Berg; correct? Two. Okay. So there's two.

Are any of you -- do any of you have anything to do with the diesel industry at all? Just you. You have
Some trucks on the road. So it's imperative in my opinion that we as industry have a place on the Board. A little example is last week I was here after receiving the award for staff's presentation. Quite frankly, I was quite set back by staff's presentation and quite infuriated by it. And I say this without malice or disrespect to staff. I felt it was very arrogant in their presentation of telling us in industry how it was and how there is no dissent, that this science is conclusive. And it isn't.

I keep hearing from industry insiders here today how the trucking industry has a higher propensity for lung cancer. Well, yeah, they do. Most truckers smoke when they're driving down the road. So of course they would. But nobody is talking about that. We're putting it into the diesel regulation category. So we need to inject a little common sense into this equation.

And we want to collaboratively have a voice at the table with all of you so that we can lower greenhouse gas emissions, we can continue to have a sustainable economy. Because as the guy before me spoke of, if we don't have these revenues, if we're not generating the revenues, we can't afford to buy the clean technology and we also cannot afford to pay the revenues to the government so that all of this can exist. So --
CHAIRPERSON NICHOLS: Excuse me, I'm sorry. You know, I know you're here to engage in a conversation with us, and we're not talking back. But if you could just finish up your testimony, I would appreciate it. We don't let people double their time and switch --

MR. DEFTY: Fine. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Kevin Shanahan.

Same goes for everybody else here.

MR. SHANAHAN: Good afternoon, Chair Nichols, Board, and staff.

My name is Kevin Shanahan. I'm the principle owner of Cleaire Advanced Emission Controls. Cleaire is headquartered in San Leandro, California. And Cleaire manufacturers all six of our retrofit designs in San Diego, California.

Our company was formed almost ten years ago under response to CARB's diesel reduction rules. Cleair's designs, manufactures, verifies, and sells advanced emission control systems for diesel engines. More commonly referred to as diesel retrofit systems. The value of the diesel retrofit system is clear. It offers an economic advantage over truck replacement, because it reduces ultra fine PM emissions to the levels of a brand-new truck for a fraction of the price.
Cleaire has sold more than 8,000 diesel retrofit systems over the past eight years. These systems have been installed in any number of challenging applications, yet continue to meet and exceed CARB's very stringent reliability standards.

Unfortunately, I find myself here today with the future of my business at risk. My business is at risk, because it appears the on-highway fleet rule may be deleted. If this delay occurs, this will be the third time a rule has been delayed. Past delays have had devastating effects on our California-based business.

A third delay could well put the entire diesel retrofit industry at risk of going out of business. Should Cleaire and possibly the entire retrofit industry fail to survive as a result of this third delay in the rules, an unintended consequence is there will not be diesel retrofit systems available to cost effectively bring diesel engines into compliance in any on- or off-road applications, whether they are currently under rule or not. This will leave truck and equipment replacement as the only option available for rule compliance.

Another delay will mean our industry will be ill prepared to provide diesel retrofit systems when they will be needed the most. We will be unable to respond to the
compressed time lines created by continued delays. Truck and equipment owners will have few, if any, options to cost effectively comply with the rules. However, having said all this, I'm well aware of the effects of the economic downturn our state and nation are experiencing. I'd like to just acknowledge we're in a complex situation that's going to take a lot of creative thinking and collaborative effort. And should you be forced to delay the rule, I think there is a number of things that I would really encourage you to consider. First would be to provide triple credit for diesel retrofit systems installed during calendar year 2010.

The second one would be to provide double credit for diesel retrofit systems installed during calendar year 2011.

Third would be to provide either extended life or lifetime exemptions for a number of trucks or buses retrofitted in either 2010 or 2011. Similar to Mr. Batteate's cab-over livestock hauling trucks, those are unique trucks, possibly he would be able to get a lifetime exemption if he retrofitted the truck.

Also, number four, direct the State's current incentive funds, Prop. 1B and Carl Moyer, to reduce the
costs of these retrofit systems installed in 2010 and 2011.

And, finally, we've talked about it earlier today. I think we have really been put in a complex situation because of what's happened with the economy. And I think we really need to go to Congress to request a delay in the federal ozone standard. I think we can then take all of the State's incentive money and direct it to retrofitting the State's fleet. That takes the economic burden off of everyone that's been sharing their situation today. It will eliminate the financial impact of the entire on-road fleet and restores the equity in the existing fleets, while reducing toxic PM by over 85 percent, sooner than projected.

CHAIRPERSON NICHOLS: I'm sorry. Your time is up. We appreciate your suggestions and --

MR. SHANAHAN: And the added benefit is black carbon reduction that would come along with that as it contributes to climate change.

Thank you.

CHAIRPERSON NICHOLS: Very valuable. Thank you very much. And please give us your written testimony if you haven't already.

We've got Rodney Michaelson, Joe Rosa, David McDawell.
MR. MICHAELSON: Afternoon, Board.

I'll just get right into it, because I have five minutes worth to say in three minutes.

First page I'll just put off to the side and get right to the meat.

I'm a member of the Off-Road Advisory Committee representing one of three large fleets. There were four, but one went bankrupt. There's three of us left in the state.

Come here quarterly to advise Erik and his crew, and I've advised for many months to CARB against the idea of equipment retrofits. The current off-road emission program is unmanageable, unenforceable, unworkable in its current configuration. That, along with the on-road and portable equipment regulations, creates the perfect storm for the destruction of California-based construction firms.

I predict in the near future the only one standing will be national and multi-national civil engineering firms that can move equipment in and out of the state as they need to comply with the regulations.

Our company, at my guidance, has invested a quarter million dollars of its own money with no government assistance to retrofit nine horsepower machines at a cost of $105 per horsepower. We only did this,
because we were limited to -- by having it done at the end of this year to get double horsepower credit.

Our fleet average is a relatively young 6.1 years. From my estimations working with the most accurate data available to me, we can take all and any profits for the next six years and invest it all in equipment and still not reach CARB's emissions targets.

SCR technology is coming along on-line now and will develop strongly over the next couple years actually. SCR was actually discounted by the U.S. EPA as being questionable technology just two years ago. And it is now the leading technology to meet the 2010 on-highway emission standards.

I don't know how many of you knew that, but actually International was suing EPA because they said, "Well, you told us it wasn't going to work, so we didn't go that way." But it is now the leading technology that they're going forward with.

If the Board still insists on retrofits, let me advise the following:

There are currently only 711 retrofits in the state of California on construction equipment, total. At the last count, there was 132,000 machines registered in the state. Many of these would require retrofits in the near future to be compliant with the
current regulation. Of the 711 installed up to this point, many have
had and continue to have maintenance problems and unsolved
safety issues. Large fleets were estimated 85 percent of
the total fleet horsepower in 2005. Now, after the
off-road diesel registration has been completed, the
number is down to 70 percent and still shrinking.

There could be fewer than 400 non-governmental or
PUC large fleets in the state. By the end of next year,
the number may be down to 300.

I could go on, but I'm out of time.

MR. MICHAELSON: Thank you very much. And I
hope -- according to Erik White, you all got a copy of
this from AGC, a fresh look.

CHAIRPERSON NICHOLS: I think we have one
question for you before you depart.

BOARD MEMBER LOVERIDGE: In 20 seconds, what's
your recommendation?

MR. MICHAELSON: What is my recommendation? Let
SCR technology take its course. It is a great technology.
It's new. But it actually takes care of NOx, PM, allows
the engines to run well. And it will work. But we don't
have the infrastructure to do it. It takes that special
ingredient that we all have to get used to. We can do it.

We have to have time.

But retrofits do not work. They work in long
distance trucking. That's it.

CHAIRPERSON NICHOLS: Thank you.

Joe Rosa -- lots of waves. Duly noted.

Joe Rosa, David McDowell, Michael Steel, come on
down.

MR. ROSA: Good morning, Board.

I represent a family-owned business, 63 years of
business in northern California. We're an independent oil
marketer.

I'd just like to tell you a little bit about our
situation in the rural counties of northern California.
Sometimes this gets overlooked, the impact that these
kinds of things have on rural counties.

In our fleet of 16 power units, at any given time
now, you can drive by our yard and 25 percent of our fleet
is stationary and parked in our yard.

We have reduced our miles due just to the
economic impact on our business. The average local trucks
from around 50,000 miles a year to down well into the 30s.
Just that alone in our area has caused some decreases in
the emissions.

We service all of our customers out of a terminal
in Eureka, California. It is the only terminal up in that area. The closest terminal to us is Chico, California and the Bay Area.

So I would suggest to you that virtually all of diesel fuels that go out to our customers in those five rural counties that we service and some others come out of that terminal.

We went back and got some numbers, the thru-put for diesel in that terminal, and those numbers were provided to Mr. Brasil earlier here. And we went through to August I believe of this year. From 2007 through 2009, that terminal has reduced in volume in diesel sales by 52 percent. I know on your slide it says 15 percent. But in rural counties, we're getting hit very hard by the economy.

The retrofit devices and the money for those devices do not make it to our neck of the woods. There is no Prop. 1B money available to us in northern California. The Moyer fund is approximately $300,000 for that area, which is just a drop in the bucket if you start retrofitting trucks with that amount of money. And the DERA money that was part of the federal stimulus program never did come by. We were awarded five retrofits on that, and we were turned down because the money was not there.
The other issue that I have is I notice in your slides there the analysts that came up with the numbers for your recession and economic impact of that were obviously mostly overestimated by those guys and staff's admission -- those are still the same analysts that gave us the number we're looking at for recovery of the economy. And I'm not so sure they're able to look into any glass crystal ball and tell us exactly when our economy is going to actually come back and give us the opportunity to start generating the revenues that we need to comply with this bill.

I strongly urge the Board to delay and rescind this legislation for a period of one year and put a stay on the enforcement of it for an additional year. Thank you.

CHAIRPERSON NICHOLS: Thank you.

David McDawell, is that who's next?

Michael Steel, and then Bill Applebee and Sean Edgar.

MR. STEEL: Good afternoon, ladies and gentlemen of the Board.

I'm Michael Steel. I'm here on behalf of the Associated General Contractors of America and their 33,000 members.

I was last here before you in January of 2009.
when we reported to you on the very dramatic effects of
the recession on the construction industry. And at that
hearing, you directed staff to work with us to further
evaluate the economic impact. And we have done that over
the last year at AGC. I don't believe staff has actually
accomplished the review, but we met with them last week
and presented the results of modeling.

What we did was took the same exact model that
ARB staff used when it developed the off-road rule and we
used all the same assumptions, assumptions of growth and
so on. All we did was plugged in the current inventory
data that comes from the staff's rule, the data that was
reported in April through August of this year. By
plugging that real life data in place of the projections,
the predictions that were made back when the rule was
adopted, we came up with the two slides that I have handed
around to you, which compare the results of the analysis.

If we can start with the previous one, NOx --
it's kind of hard to see, but the red line is the
projection staff came up with in 2005 for NOx emissions
over time without the rule.

The white line is the benefits that the rule was
to achieve.

And the green line at the bottom is the actual
2009 inventory without the rule.
So what you can see if you use Commissioner D'Adamo reference to a budget, and do we have a budget for something that we can work with in order to provide relief under this rule, you can see that for NOx and PM there is a budget available. NOx in particular, even without the rule, you never really need the NOx rule. You can see that that green line on the NOx page stays below the rule line, the white line, throughout the life of the rule.

For PM, the lines actually cross in a couple years. And so the PM rule would yield additional benefits beyond the current recession beginning in a couple of years. But you don't need as draconian measures in order to achieve the goals that you had. You can scale back the requirements of the PM rule and still achieve everything that the original rule was designed to achieve.

When we were here back in January, we said we're not opposed to the concept of achieving these goals that you need to achieve for the SIP. What we want to determine is, is there a buffer available? Is there room to work? And this analysis clearly shows that there is using your own data and your own models.

I think I'm out of time.

CHAIRPERSON NICHOLS: I think you are. Thank you for that chart. Okay.

Bill Applebee, Sean Edgar, and Dave Harrison.
Bill Applebee?

Sean Edgar.

MR. EDGAR: Chair Nichols and Board members, Sean Edgar. I'm the Executive Director of the Clean Fleets Coalition. Thanks for the opportunity to speak with you.

We'll miss Mr. Scheible. This is only my tenth year testifying in front of your Board. So hopefully I'll be able to keep a few hairs on top as I proceed forward.

But actively over the last six years I've spent implementing the fleet rules that you've handed the members of our Coalition. I serve on the Truck Regulations Advisory Committee, TRAC. And so a few of the comments that I'll offer in my limited time will be geared really toward how we can make some of the principles that staff has laid out and in the light of day with transparency do the fine tuning that is going to be needed to determine -- or rather to make sure that what staff is laying out will actually get some relief to those folks who are requesting relief.

And in particular, Ms. D'Adamo's budget concept was very advisable. And in light of what Mr. Steel just spoke to you about, there may be a bank in there. So it's going to take the next several months, and in January/February, we'll redouble our efforts. I'm sure the other vocational truck associations, including my
group, will also do that.

Just to touch very quickly on the two-year deferral, staff had mentioned 20 to 50 trucks. I'm not sure how that would apply as an example. Devil is always in the details on some of these things. What does that mean for fleets four to 19 trucks? I'm not sure.

If you look in particular at the construction sector -- and we just heard a little bit from Mr. Steel about their membership's concerns on the cumulative impacts and, as an example, construction trucking which is part of our segment is subject to the same really tremendous downturn that AGC has noted. In the context of understanding who's mid-size, I'll use the analogy whenever I happen to get into a rental as I fly around the state of California talking to fleet owners about your rules, I ask for a mid size car and oftentimes it doesn't seem to fit me very well. So I'd love to work with you on the issue of what the deferral needs of who's a mid size fleet.

Secondly, the provision about ten trucks in any fleet could be deferred. I guess the goal would be to give some partial relief. However, how does that interplay with the existing compliance options that you gave out there. So working with staff, we'll need to work through several of those items.
And on the last item, I would just ask your indulgence on deferring the first year requirements. I would ask that we've had a recent experience with the off-road fleets with the DOORS aspect. You have reporting that's due next year. In the case of DOORS, that's actually allowed you and industry to make some conclusions off the information that's submitted in there.

So I would encourage you if at all possible to keep some reporting in 2010, even if that means deferring by a short amount of time. I would encourage you to consider keeping that, because I think it can be valuable as we participate in track and the workshops that will come during 2010 on rolling out this rule.

So thank you for your time.

CHAIRPERSON NICHOLS: Thank you. Good timing.

Dave Harrison and Jim Jacobs and then Corey Wardlaw.

MR. HARRISON: Members of the Board, staff, my name is Dave Harrison. I'm the director of safety for the Operating Engineers Local 3, the largest construction union in the state and the country.

I'm here today to speak about the current regulation and how they're affecting our members and the companies that employ them.

Mr. Goldstene reported earlier that construction
equipment off-road usage has decreased by 30 percent.
First, I'd like to say that from 2006 until now our hours are down 40 percent, considerably more than what Mr. Goldstene reported. Way above the state's unemployment rate as well. We've been hit very hard in the construction industry through this economy. Those hours are in direct relations to the emissions created by the equipment we run.

Local 3 has been intimately involved in the off-road Implementation Advisory Firm Group from its inception, for obvious reasons. The off-road rule is and will continue to directly affect our members.

The most current issue with the off-road group is safety. I heard a lady from the California Lung Association earlier today that without our health, we have nothing.

The retrofits that CARB is requiring to be installed on the off-road equipment is creating some huge safety hazards, burn and fire hazards, as well as the obstruction of vision of the people running this equipment.

Now, less than three months from our March 1st deadline for our large fleets, in an economy that we haven't seen since the Great Depression and after our fleets have spent millions of dollars to comply on time,
CARB is attempting to mitigate the blockage of vision hazard with an immeasurable safety exemption. They proposed just two days ago to issue a safety exemption based on methodology that not even Cal/OSHA has approved. I'd like to add that Cal/OSHA and the division of the president had a meeting on Monday and had no comment on the methodology that was proposed.

When I asked who's going to pay for all this, the initial install, the re-install based on the new methodology, and then the possible re-re-install after Cal/OSHA has their way with this methodology, nobody had an answer. Less than three months.

So I would ask that before we rush our fleets into compliance and out of business, the same thing we asked two years ago, to add three years to all compliance dates for the off-road.

Thank you

CHAIRPERSON NICHOLS: Okay. Thank you.

Mr. Jacobs, are you here?

Corey Wardlaw.

MR. JACOBS: Madam Chair, members of the Board, my name is Jim Jacobs. I'm a business representative for the Operating Engineers. More specifically, I work directly with the crane industry and the operators that run them.
Like to take a minute to thank you and your staff for working with the crane industry, listening to our specific problems, and creating language for us that would help us and our unique and specialized industry meet the regs and still get reductions of emissions. And we really appreciate that.

That being said, I'd like to take this opportunity to also ask you to please do the same with the construction industry and the trucking industry, especially with the current economic times that we're facing. It's one of those deals if you bought it at a store, it got there by a truck. If you're in a building, it got built by construction workers. And we don't want to shut these people down. Keep that in mind.

And thanks for your time.

CHAIRPERSON NICHOLS: Thank you.

Corey Wardlaw -- how come when somebody says something nice about ARB -- okay, we got a wave. Thank you. We never get a wave when someone says anything good.

Corey Wardlaw.

MR. WARDLAW: Like most other people here, I just have one truck. My wife and I own one truck.

Because of the economy, I have not worked that much this year. And I'm not going to be putting any money into savings, and it's going to be a very hard winter. So
going through and figuring by 2014 I'll need to do
something with my truck, I might not have the money for a
down payment and also moving my boxes around and such. So
I would say I'd like to see this held off.

But also the other thing that has been brought up
by the Assembly people that have been here and Supervisor
Roberts and I'm wondering about, is there any room for you
to delay or not? It sounded like there is not, that the
federal government is holding it over your head or the
State's head that this has to be done by 2014. If that's
the case, then you guys have no room to delay. So we
wouldn't be -- there's no room for discussion on that.
You have to do it or you don't.

CHAIRPERSON NICHOLS: I think what the staff was
trying to say is they did have room in 2010 and 2011.
What they didn't have room for was to reach the goal by
2014, unless the law was changed.

But what I want to ask you, since you're up here,
is given your situation, that you're one guy with one
truck, why would you ever have -- I mean, what is the year
that would somehow make this okay? Assuming you were in
favor of it. You see what I'm saying?

MR. WARDLAW: What would make me in favor of
doing this --

CHAIRPERSON NICHOLS: Are you saying you don't
want to ever comply? Or are you saying you want to comply
some day? How do we ever find a day when you could
comply?

MR. WARDLAW: I think that falls back to the
economics that we're going through. You know, a couple
years ago, I was making enough money. I was actually
putting into savings or retirement or something like that.
But especially with the economics right now -- I just got
done making my last payment in July for my new dump box
back from 2004. I don't want to take on another payment
now. I just -- things are that tight, personal budget and
all.

CHAIRPERSON NICHOLS: Sure. No. I get what
you're saying. I'm just trying to figure out how we
factor that into a bigger rule.

MR. WARDLAW: I think one of the Assemblypersons
said something about delaying it until the economy picks
up -- unemployment goes back to 5.5 percent and is that
way for four quarters.

CHAIRPERSON NICHOLS: That's what's in their
initiative to relates to AB 32. And interestingly, we've
looked back and tried to see when employment has ever been
below 5.5 for consecutive quarters. I think in 30 years,
that's happened a handful of times. That basically never
happens. California routinely runs unemployment above
five-and-a-half percent. It's more like seven,
seven-and-a-half all the time, even in boom times.

MR. WARDLAW: Maybe that's a number that needs to be looked at. I mean, something needs to be done. But some kind of trigger.

CHAIRPERSON NICHOLS: Okay.

MR. WARDLAW: Or you can call me in a couple years when the economy picks up and go I can afford it now, I can do it.

But I still think it comes back to like Supervisor Roberts is if the 2014 is an absolute deadline by the federal government that you have to meet that standard regardless --

CHAIRPERSON NICHOLS: Well, we have to get the tons out of the air is the law, somehow. But we're trying to figure out how to do it. Okay. Thanks.

IN-USE CONTROL MEASURES SECTION MANAGER BRASIL: To clarify, the regulation as approved for a one truck owner with a 2004 engine would need to install a particulate filter by January of 2014 and could continue to operate that until January of 2019 before needing to upgrade.

CHAIRPERSON NICHOLS: So they put the filter on, and then they got another five years before they actually have to change trucks.
IN-USE CONTROL MEASURES SECTION MANAGER BRASIL:

That's correct.

MR. WARDLAW: Can I make a comment?

CHAIRPERSON NICHOLS: Yeah.

MR. WARDLAW: It's a 1993 model year Kenworth. I put a 2000 model year engine in in 2008. When -- yes, by 2014, I would have to put another engine in, 2004 or newer, plus the particulate filter. And then would give me until 2019. Then I have to do NOx reduction. And your staff's reports, if I remember right, they said nobody will be able to afford a NOx reduction device or retrofit.

That's what I remember.

IN-USE CONTROL MEASURES SECTION MANAGER BRASIL:

To clarify, when we did our cost analysis, we used truck replacement costs and stated in the staff report that if NOx controls were available and a lower cost option, we would obviously expect people to use them. We did not include them because of the uncertainty of their availability.

CHAIRPERSON NICHOLS: Kind of sounds like there's some individual discussion that needs to take place here.

MR. WARDLAW: But as he said, that no NOx reduction retrofits are available yet.

CHAIRPERSON NICHOLS: Right.

MR. WARDLAW: And I also remember saying it's
going to be very prohibitively expensive. So that number is not thrown out. So when 2014 comes along, I'll be looking to see if NOx retrofit is available to see if I would do a PM filter retrofit and an engine. But if it's not available, then I'll be buying a new truck.

CHAIRPERSON NICHOLS: You're a good speaker and we've spent a lot of time with you. Thank you.

Gale Lopopolo, and then Albert Nunes and Dan Souza.

MS. LOPOPOLO: Good afternoon.

Jim Ganduglia and I are owners of Ganduglia Trucking, a 70-year-old trucking company. Our revenue over the last two years is down 53 percent, because we are primary a construction and ag-related carrier. However, staff's slide seven reports only a 10 to 18 percent downturn for the same time.

Our mileage is down 39 percent. Two of our major customers have cut our rates. We have laid off seven drivers. That's 39 percent of our driver pool. We have laid off one shop employee, one office employee. That's a 25 percent reduction. And all remaining employees have reduced hours.

Jim Ganduglia is our new dispatcher, which explains for his absence today. Not one of our customers foresee an upturn in 2010, let alone rate increases.
Per the Bureau of Economic Analysis of the U.S. Department of Commerce, California's GDP growth slowed to four-tenths of a percent in 2008, a virtual standstill. I do not believe the staff's report adequately reflects the impact the economy has had on the trucking industry.

The staff's faster growth scenario of economic recovery on slide 15 is doubtful at best. On the emissions side, due to less mileage, our PM contribution has decreased 34 percent, a reduction of two-tenths of a ton. NOx has decreased 45 percent, a reduction of 11 tons.

As for the funds to help us purchase equipment, we have been accepted for $100,000 of Prop. 1B funds. These purchases will increase our debt load by $172,000. Our lenders will not allow it. And we were recently offered $1500 for power units that prior to the truck rule were worth between five and $8,000 in trade.

Lastly, I was going to address the Tran issue, but I think enough has been said about that. My only comment to you as a Board is that your personal integrities are at stake if you except Mr. Tran's work without review.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Albert Nunes, Dan Souza, and Scott Blevins.
MR. NUNES: Al Nunes, AC Trucking, operator of a 38-year-old trucking company. Our business model has been down 23 percent just since I was last here a year ago meeting before this Board. Our mileage is down 23 percent. We have done everything we can possibly do at this point to bring our fleet into compliance. Five of our trucks have retrofit exhaust systems on them for PM. We have five '07 or newer trucks that meet your standards. I'm waiting for awards from the San Joaquin Valley Air District. Have received contracts, but no money whatsoever. The problem comes in 2014 when the retrofits are no longer acceptable and I cannot in my business model put together enough capital to buy the trucks and make those monthly payments that I would have to do. It is not a situation that I want to have happen. I want to make clean air. We feel very strongly that this rule can be accomplished. But it needs to be done over a longer period of time. You've up-fronted this thing so to the front of it that none of us can comply. We all want to. We want clean air.

Thank you.

CHAIRPERSON NICHOLS: Thank you, sir.

Dan Souza, then Scott Blevins, and Doug Britton.
MR. SOUZA: Madam Chair, Board members, thank you for having us today, staff.

I've worked with many of your staff members in the last couple of years at the workshops.

I do want to put out a thank you to one of the Board members, Sandra Berg, for your interest and support with stakeholders trying to get information from us and attending the TRAC meetings. It's very encouraging and I'd like to thank you for that.

I represent Mountain Valley Express. We're a California carrier. We've been in business over 30 years. We run a fleet of 150-plus trucks and employ a little over 300 employees in the state of California.

We believe cleaner air in California is very important, and we strive to do our part with early upgrades with our trucks and auto fleets since 2007. We've improved the average age of our fleets about five years in that time frame. We've been very proactive when it comes to the environment, but we still have a major concern with the time line schedule of staff's proposal.

The aggressive time frame places a very heavy economical burden on our company through 2014 as many of the people here today have mentioned. The cost will exceed over $8 million through the next five years for us to comply with the regulation and still have to incur more
costs through that time frame, which I won't get into today.

The most aggressive date will be 2013, and that will require an over three million dollar investment if we elect to average our fleet using the fleet calculator that staff has given industry to use.

Incentive funds are out there, and I just don't feel there is going to be enough out there for all of us to comply with this regulation obviously.

Staff has recommended that we raise our rates and pass them onto our customers to help offset the costs.

There's no hope for this offset. We're finding in the current economic climate that we are hauling more for less. The rates are so depressed that we are finding it hard to make a profit on a simple shipment. Do you truly believe the shippers will be so willing to give carriers an increase to offset these types of costs? I don't think so.

After working the numbers, we found that on average we would have to ask for an eight to 12 percent increase to our customers to help us offset these costs.

Mountain Valley Express is asking that the Board consider a one-year delay and a one-year stay of enforcement as proposed in the Niello letter to the Board and to the Chair.
And we definitely support Dr. Telles and Supervisor Roberts and your comments to looking into the health impact study of Dr. Tran.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Scott Blevins, Doug Britton, and then Michael Collier.

MR. BLEVINS: Scott Blevins, president and owner, Mountain Valley Express, California's overnight freight service, your go green trucking company. Now you can do the wave.

We just participated in a state distribution program of surgical masks with General Services Administration this past couple weeks. These were masks that were purchased by the State. And by the way, we do quite a bit of business with the State, and we do certainly appreciate that. We were summoned to GSA with regards to helping to distribute the masks where there was no money budgeted. And we were asked to do this free of charge, and we obliged.

We were recognized in a press conference down in southern California last Friday and one this morning in San Francisco.

So I say that because again good stuff trucks bring it. And we all need trucks in our state. And with
diesel fuel, that's our only option to power those trucks. Until somebody comes up with a better solution, we're certainly all for that.

We employ 385 families in our company statewide as well as Nevada and Arizona. We provide health care coverage for those families, up to 200 insured lives, to the tune of $2.1 million in annual premium costs. That's a huge cost for us. Health care is a major issue for our company, as it is for anybody that provides for their employees.

I beg to differ in some of the testimony today in regards to if we are not viable and profitable, we can no longer provide those benefits. And now where do we go with health care and sickness and illness and so on? That's a huge issue for us going forward. Maybe Mr. Obama has the answer in national health care.

Our general commodity business -- because we have two operations: LTL, that's less than truckload. That's general commodities. A lot of stuff we all buy and see in this room, we haul. That, year over year, is down 24 percent in our total volume.

And in light of that reduction, we've reduced our fleet size by eleven trucks since we were standing here last December in 2008. Hard to believe it's been a year already. But that netted out to a reduction in mileage of
1.2 million annual miles, resulting in 28.9 tons of NOx reduced and 1.06 tons of PM not being produced.

One major hit that's coming into California March 31st of 2010, which I'm sure most of you I hope are aware of, is the closure of the only west coast auto manufacturing company in the state, New United Motors, Toyota. It is our largest account. When it closes March 31st, 5,000 jobs from that factory alone go away and another 15,000 jobs statewide that support that factory go away, that will result in another 25 percent of our volume going away, with that business piece of business, equating to 24 drivers of diesel-powered trucks, all stopped, reducing 20,205 gallons of fuel unburned in a month, 142,000 miles not driven in a month, equating to 3.42 metrics ton reduced of NOx and .13 tons reduction of particulate matter.

I would simply ask staff to consider the impact of NUMMI's closure on the regulation. We're not the only trucker that goes in and out of there.

I thank you.

CHAIRPERSON NICHOLS: Okay. Thank you.

Doug Britton, Michael Collier, Ron Riemenschneider.

MR. BRITTON: Doug Britton, Britton Trucking. I have ten trucks in Farwell, California.
Last spring, I received early grant money for four trucks. I had to sell three trailers, 15 percent of my trailer fleet, to make my down payment. I now have an extra 35,000 in truck payments per year. I now have an extra 15,000 in collision insurance cost per year.

I just laid off my dispatcher, my only non-driving employee for the winter.

Anybody who thinks these numbers are insignificant, anybody who wants to move forward with this rule, I invite you to dig into your own wallet and help us out. It's easy to tell somebody else to dig into their wallet, but it happens to be my wallet. I'm tired of it.

I'll have to buy three more trucks before these are paid for. This is not just front loaded. This is all loaded up front, 80, 90, 100 percent in the next five years.

I tell you this so you realize that just because someone gets grant money, there are other expenses that go along with it. I feel sorry for the people who do not qualify for grant money.

On the cost estimate to industry, $125,000 times 40,000 trucks is five million. I think there's more than 40,000 trucks affected by this rule, like hundreds of thousands.

Enforcement, since I'm spending the money to
comply with this rule that will go into effect some day, I hope you will come up with a good program to enforce it, like tying it to the bid program or DMV renewal. After hearing the exemptions that were handed out like Christmastime to questionable reasons for the truck drayage rule, my faith in your ability to enforce this rule is shaken, to say the least. I know some of my competitors will literally run for years while I compete against them. They will run until they are caught. Then they'll file bankruptcy. In the mean time, they run two or three years against me.

And comment on the retrofits. The retrofits are only for the newer trucks. Trucks that are 1993 or older, no retrofits to apply to them.

Thank you. Have a nice day.

CHAIRPERSON NICHOLS: Thank you.

Michael Collier, Ron Riemenschneider, Bryan Bloom.

MR. COLLIER: My name is Michael Collier, and I represent C.D. Matthes Trucking in Fresno. We're a small company with 28 power units and 45/57-foot trailers. We're the only exclusive 50-foot trailer outfit in California.

Your rule puts us out of business in four years. Our trucks are irreplaceable. No one builds them anymore.
Retrofit devices will not fit and allow us to operate.
And new engines will not fit existing trucks.

Over the last year, we've lost 30 percent of our business. I've been fortunate enough not to have to lay off any drivers, but each of them is working 30 percent less than what they were this time last year.

This business has been around for 26 years. Jan has worked very hard to build it. She's 73 years old. She doesn't know what she's going to do.

We have bought four brand-new trucks to try to expand to other areas of business. Those four trucks we took delivery of on December 1st. They will not survive the length of your rule, because they will not meet NOx requirements. And they are brand-new and have never even been hooked to a trailer.

We've got to do something. We agree that clean air is absolutely necessary. What we don't agree on is the process of getting there. I don't think the trucking industry in this state can survive this rule, and I definitely do not believe this is the best way of going about it. There has to be some sort of a compromise to get there.

Your rule will create one company that will be a monopoly for 57-foot trailers. And under the fleet averaging rule, they won't retrofit any piece of equipment
for at least five years.

That all I have to say.

BOARD MEMBER LOVERIDGE: Your recommendation?

MR. COLLIER: As far as our trucks go, Cleaire builds the system, the Cleaire Longview that will work under both PM and NOx. It will not clean up NOx well enough to accomplish the rule. But it will fit on our trucks. It will do something, but it won't do enough. Maybe that is an option.

I believe I submitted a written comment to that effect in September.

CHAIRPERSON NICHOLS: Thank you.

Ron Riemenschneider and then Bryan Bloom and Nick Pfeifer.

MR. RIEMENSCHNEIDER: Ladies and gentlemen, thank you.

I own a small business in west Sacramento. We sell and rent out used construction equipment. I know most people here today are in the construction industry. Some of the numbers on our rental fleet.

'08, we were down from our high of '06 over 50 percent.

'09 year to date, we're down over 30 percent from '08.

Rental rates are down across the board about 20
percent from what they were. It has us back to almost
20-year-old rental rates, and our costs are sure a lot
more than what they were there.

My sales in-state are down to about ten percent
of our total volume. And in years past, they were over 60
percent.

Most of my local customers that I rented and sell
equipment to in years past, I'm selling their fleet for
them. It's going out of state. They're trying to stay in
compliance with CARB regulations and to keep payments made
on their other equipment, some they've just bought to
upgrade their fleets.

If I understand Mr. Goldstene correctly, you said
your numbers show the construction fleet usage is down
around 30 percent. I think when your findings come out in
March you said you're probably going to see it's probably
close to double that. At least most people in the
business I know are closer to that.

My personal business, we've got six employees.
I've had to lay off one. Everybody else is on furlough
days. I've taken a big cut in my own salary.

We do offer -- to get good help, we offer
benefits package. The cost for that stays almost
unchanged, even though I have people working less days.

Most of our fixed costs/overhead stay the same, even
though there's less income to keep our bills paid.

Also, banks are very cautious in loaning money to anyone in the construction industry. But even if you can borrow the funds to buy newer equipment, we currently don't have the market to do it. We have several pieces of equipment that haven't been out of our yard the entire season. And we don't have income to make the payments on the newer equipment.

My personal opinion is I feel we need at least a two-year stay from the implementation of the AB 32 regulations.

But one thing, whatever you guys do, I would hope that you keep it simple. Most businesses impacted by your regulations are small businesses. They don't have the resources to hire the staff or consultants to help keep them so they understand the regulations and keep their fleets in compliance. So again, whatever you do, just please keep it simple.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

We have next Bryan Bloom, Nick Pfeifer, Fran Hammond.

MR. BLOOM: Madam Chairman and members of the Board, my name is Brian Bloom. I'm the owner of Priority Moving in San Diego. My academic credentials include a
degree in economics and chemistry from UCSD and an MBA from Berkeley. And I have a little bit of different -- or ability to understand the both science aspects and economic impacts of the diesel rules.

I'm also today speaking on behalf of the California Moving and Storage Association. In our association, there are over 1100 permitted movers in the state employing in excess of 10,000 employees with an estimated economic impact of right around $1.4 billion to the state's economy.

My company is similar to other moving companies in the state. A compliance cost to the diesel rules done for me by Sean Edgar, who spoke earlier, indicates a cost over three years of one million dollars to comply. This leaves me looking at losing my business and leaving my 50 employees without jobs. Multiply that upon thousands and thousands of moving and similar businesses, and you're looking at the economic impacts of these rules.

Also I'd like to make a note that there is a difference in trucking between high mileage and low mileage users. The low mileage users are the ones that essentially go to the job site, do the work, and then just drive home. Local moving, lots of construction as opposed to the high mileage users who are out on the road every day driving, driving, et cetera.
There is an economic model that exists today that works very well that whereby the high mileage users are consistently replacing their fleets for obvious reasons. And they're selling them to the low mileage users like us where we use them for a couple of years and then ultimately replace those. We'd like to see that economic model stay in existence, because we feel that speaks to the rule in that the entire fleet is being renewed and made younger.

What we're asking -- what the California Moving and Storage Association and myself am asking is:

One. We would like staff to look at some kind of exemption or special rule for trucks that drive less than 30,000 miles a year. Obviously, those are producing less PM2.5.

Based on the state's economy, we need the rules delayed two years plus. And we need the implementation stretched out over a longer period. It's the only way our industry and our members will be able to comply with the rule and stay in business at the same time.

Last, our organization would like to join the growing course of academia, legislators, media, and businesses in supporting the statements by Supervisor Roberts and Board Member Telles in the ongoing investigation of Tran and that issue.
And also lastly, I would like to thank Board Member Berg for being heavily involved in trying to find a way for us to -- am I going to blow up -- for us to survive economically and come up with economic ways so that we can survive this rule.

Thank you, Chairman.

CHAIRPERSON NICHOLS: Thank you.

Nick Pfeifer, and then Fran Hammond and Charlie Rea.

MR. PFEIFER: I'm Nick Pfeifer with Granite Construction Corporate Equipment Department. I'm also a member of the Truck Rule Advisory Committee and the Off-Road Implementation Advisory Group.

Granite owns and operates a diverse fleet of equipment in California. The two biggest portions of that fleet are off-road equipment and our diesel trucks. We currently own and operate 962 pieces of off-road equipment and 866 diesel trucks to support our California operations.

We also own and operate equipment that falls under the portable stationary and large spark ignition rules.

I want to share three points with you today: Granite's reduced activity in California; our concerns about the retrofitability of our truck fleet; and the
importance of strict and equitable enforcement.

I looked back to our records through 2006 to
determine what our activity level was this year. Looking
back to last year, our equipment activity for our combined
fleets -- so this reflects both our off-road and on-road
activity -- is off by 30.7 percent.

Going back to 2007, we're off by 38.7 percent.
And going back three years to 2006, our activity
is off by 46 percent.

Couple this with the fact that we park our oldest
equipment first and are running our newest equipment, and
our reduction in emissions is well over 50 percent by
2006.

To attach these numbers to people, Granite had
3,545 employees in California in 2006. Our peak
employment this year was 2,077. That's 1,468 employees
out of work, or 41.4 percent of our workforce.

Next I want to talk about retrofits. We've
successfully completed 40 retrofits of our off-road
equipment. I like to think that we kind of know what
we're doing and we've been fairly proactive in putting
these devices on. So we're not just dodging the
technology. But the majority of our truck fleet is
vocational in nature, runs at a very low load and is
fairly specified equipment. It's boom trucks, utility
trucks, fuel lube trucks. And the nature of their
operation just simply will not work with retrofits. We've
even had issues with our 2007 and newer trucks that come
with OEM filters and those filters plugging.
And so the realistic option that we're looking at
is turning these trucks over to new. So the 2014 deadline
for retrofits for us essentially means we have to have all
new trucks by 2014. This will take our average truck age
in California from 11 years to three years. I'm asking
you to consider rolling back the rule to allow enough time
to replace our trucks.
Thank you.

CHAIRPERSON NICHOLS: Thank you very much.
BOARD MEMBER YEAGER: Madam Chair, if I could ask
staff a question.
Erik, in your presentation in your slides, you
mentioned the economy alone does not achieve the expected
reductions in a number of areas.
Do you agree with some of the statistics that
we're getting from the speakers, particularly the
gentleman from Granite as far as what you've seen and what
you're comparing your analysis to? Is everybody talking
about the same downturn in the economy? And even with
those numbers we're still not going to be able to meet our
goals?
HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Yes. I think we need to keep in mind there's two
sets of numbers out there. Mr. Goldstone identified the
downturn in the construction industry. We're not pegging
the number at 30. The data shows it's at least 30 percent
down, if not higher. So I think the numbers we're hearing
from the construction companies are very consistent with
the data we've seen regarding construction activity.

On the truck side, the 10 to 18 percent that I
sited was a statewide average. And certainly that
includes a number of different sectors, the trucking
industry, the construction trucking, ground support
equipment, retail, and those kinds of things.

So certainly we heard the same thing last week at
the workshop that individual fleets are experiencing more
significant downturns than that. So the numbers we have
are an average assessment of the industry. We're going to
have some that are seeing less of an impact and some
clearly we're hearing that today are experiencing more of
an impact.

BOARD MEMBER YEAGER: Thank you.

CHAIRPERSON NICHOLS: So there is anecdotal
information that is valid for the people who give it to
us, and there is a few sources of statistics like fuel
sales that you can look at that. But there is no
independent third-party industry or association that just
tracks trucking activity, per se, which just makes it more
challenging.

You're Fran Hammond, I bet.

MS. HAMMOND: Yes, I'm Fran Hammond. I represent
a small California dump truck company. We've been in
business for over 40 years.

Like many of the people that have spoken today,
our business is off by at least 50 percent. We've laid
off half our employees. The employees we have left were
making between 40 and 50,000 a year and now are only
making about 20 to 25.

We pay the health insurance, which we can barely
afford. And with the economic downturn, we're pushed
between a rock and a hard place.

But aside from that, I have 20 vehicles. They
are all older vehicles. I've spent about two hours this
morning outside talking to the grant people. I have been
turned down for Carl Moyer. I have been -- when it was
available to larger fleets. I have been turned down for
DERA. Why? Because I don't go enough miles.

So for companies like ours that only work
approximately 100 to 120 days a year and keep the state
running by making sure you have viable roads to drive on
and drive your bicycles on, we just don't know where we're
going with this.

We can't get funding. We can't borrow money.

Our profit margin is down to nothing. And we also feel that the options that the government and the country has provided for new technology is very poor.

The tow truck company we work with said that 80 percent of their tows this year for large trucks have been brand-new trucks going back to the dealership with problems with the particulate filters that are installed. We have mechanics who say they install these particulate filters on used vehicles and it blows the engines up. They don't work in all applications. Trucking is extremely varied.

So we feel that -- we know that you're trying.

We want to comply. But we don't want to buy a truck that five years after we buy it or two years after we buy it somebody says this truck is producing more carcinogens than the diesel truck was. And we made a mistake. Now you got to buy all new something else.

We don't feel the technology has reached the level of the regulation. And I'd like to see some more of that. How about no diesel trucks? If diesel is so bad, give us something else we can use in my application where I'm traveling short distances, putting on low miles, that will work where I can run my trucks double shift so I can
stay in business long enough to pay my taxes to pay for
the roads.

Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Charlie Rea, Mike Herron, John Hakel.

MR. REA: Hello. Charlie Rea with California
Construction Industrial Materials Association. We’re a
trade association for aggregate and ready-mix concrete
producers throughout California.

Our member fleets are typified by low mileage
vehicles that travel short distances. For instance, like
a ready-mix concrete delivery truck usually delivers
material within 15 miles of the plant site.

They also tend to be somewhat complex vehicles,
and they have a longer turnover life, which causes some
difficulties in deploying the filter technology,
particularly in that they have the low mileage and low use
that makes it difficult to get the efficiencies.

We're really here today to just ask that you try
to make some changes or flexibility in the rule to make it
easier for everyone to comply, given the economic times
and the lower emissions that have resulted. So we're
really glad to see you're considering some proposals and
primarily want to encourage that -- hopefully that can
come together and we can get some things that work for
everyone.

I know in our own comments we suggested several ideas that we hope get considered possibly to stretch out some of the compliance dates for low-use vehicles, maybe more analysis or demonstration of some of the retrofit technologies before they're applied.

And I think finally, too, I just add that we know the SIP date is just a real tough one for everyone and maybe that is something that needs more thought or more priority put on to try to make a run at that. It seems given the size of our state and everything there may be a reasonable chance.

That's it.

CHAIRPERSON NICHOLS: Thank you.

Mike Herron, John Hakel, and Sophia Parino.

MR. HERRON: Chair Nichols, members of the Board, and CARB staff, thank you for giving us this opportunity to speak today.

My name is Mike Herron. I'm with the Engineering and Utility Contractors Association. We represent over 250 general engineering and heavy civil contractors in the state of California who work primarily in public works. Our contractors employ over 10,000 union craftsmen and women.

Our members are subject to both the on-road,
off-road, portable equipment, and various other rules promulgated by this Board.

I want to first start by thanking Board Members Telles and Roberts for having the courage to do what you're doing, to stand up and call a fowl when you see a fowl. And in the order of the day, I'm going to throw out one of these and hope the guys behind me are joining in.

This ties into my main point is that there is a public perception issue with the Air Resources Board. The public's perception earned or otherwise is that you have an agenda and that you're going to drive it through and force it on industry, regardless of the cost, regardless of the process, and regardless of the economic impacts on our state, on our workers, and on the businesses that are represented behind me.

This perception is what causes us to question the honesty and the integrity of the rulemaking process and what we are left with once you provide us with the rule.

What my members want to know is has the State of California really gotten to the point where we have to come out and ask for transparency and honesty in the rulemaking process?

You know, the construction industry has been hit harder than any other industry in the state in this economic downturn. As a result, the pie has shrunk. The
private market is gone. Everybody is going to public works. That means there's less work for every contractor, less money, less revenue. And the work that's out there, there's no profit in it. And the profits they make are what pay for compliance with off-road, with on-road, with portable equipment rules.

So as a result of this shrinking of the pie, our members have experienced not the 30 percent reduction that we're hearing from staff, but more on the order of 40 to 60 percent reduction in volume, in revenue, and in work.

I have members who throughout the last year to two years have spent hundreds of thousands of dollars in compliance costs trying to meet both the on- and off-road compliance hurdles. At that same time, they've reduced their staffs by half to two-thirds in some instances. And those are all -- every one of those staff is represented by a spouse, by other dependants. It's not just that one person. And I think that it's a shame that those people don't appear to have been taken into account when we talk about the economics of this, when we talk about the health effects, the health effects of unemployment. What about all those people what have gone off of their benefits?

CHAIRPERSON NICHOLS: Your time is up.

MR. HERRON: Thank you.

CHAIRPERSON NICHOLS: John Hakel, Sofia Parino,
MR. HAKEL: Good afternoon, Chairman, Board.

I'm John Hakel, Vice President, Government Relations for the AGC of California. I'm really here just to speak for a few moments on the off-road diesel regulation.

Our association, our national association, AGC of America, put together a study that you all have. We made sure each and every one of you have it. We've shared this with Erik and his staff. I think what you ought to do is take some time. It's about 63 pages. But it's striking what we were able to do given the DOORS data that Erik gave us. We ran our own modeling using the same matrix that Erik was using. And I think you ought to look at that. There is tremendous downturn in where I think Erik and the staff thought we were going to be, but because of the economy and because of the proactive contractors who have cleaned up their fleets, a lot of the target dates not only have been met, they've been blown by. I ask that you look at this and take a really seriously hard look at this data.

What we're also asking if it's possible to in the January meeting to have an ongoing, open, transparent meeting with this data, walk through it for you so you can see what we're able to find using the CARB's DOORS data.
I think it's an eye opener. And I believe that the
opportunity to sit down with the staff again to go back
and look at these numbers will greatly show that we need
to get the foot off of the throat.

The numbers have already been met and will be met
for tens of years. And we want to sit down with the staff
again, reopen, and see where we can go with the data.

CHAIRPERSON NICHOLS: Okay. I think you can do
that. The door is open. I don't think you have to do it
as a Board meeting that's noticed and agendized where you
sit around with the entire Board sitting there. I think
you need to present your report and go through it with
staff.

But as far as I know, they've never refused to
look at a study. And if you want to have it open to the
world, have it open to the world.

BOARD MEMBER RIORDAN: Madam Chair, if I might.

In talking to the staff during the time that they
were briefing me, I think we have an opportunity later
when we come back to talk about some of these construction
numbers. And it might not be January that we do it. But
it seems to me that -- and I know this is a long way away
for John to think about.

But clearly, in July, we are scheduled for some
sort of review. Prior to that time, we need to have those
Meetings that really flush out the information. Now, it may be that staff can come back earlier than July. But we've got that target date of July to work on this. And so --

CHAIRPERSON NICHOLS: That's all I was trying to say. We have time between now and July.

BOARD MEMBER RIORDAN: And if there is something that can be done prior to, we can aim for that. But at least we have the target and the interaction can take place during that time.

MR. HAKEL: Great. Thank you.

CHAIRPERSON NICHOLS: Just a second.

BOARD MEMBER LOVERIDGE: I do think in addition to that exchange with staff would be helpful for the Board members to get some kind of memo or some kind of analysis of what the data represents.

CHAIRPERSON NICHOLS: Yeah. You can send us reports, and we can read them. But that doesn't mean we have a context to put them into.

MR. HAKEL: We'd be open to do whatever we need to make this process work.

CHAIRPERSON NICHOLS: Okay. I think we are definitely open to receiving information and taking a look at it. So we will ask for review and have that be part of the ongoing review that leads up to potential
MR. HAKEL: Thank you.

CHAIRPERSON NICHOLS: Thank you. Thanks for your work on this.

Sofia Parino.

MS. SHARPE: Good afternoon. Actually, Sofia was gracious to let me go instead. My name is Sarah Sharpe. We're going to trade spots, because I was supposed to be on a call at 3:30.

Again, my name is Sarah Sharpe. I'm the Environmental Health Director with Fresno Metro Ministry, and we're also a proud member of the Central Valley Air Quality Coalition.

Once again, we've made a long trip up here to come and remind you of the public health crisis that we have in the San Joaquin Valley. We are very sensitive, and my heart goes out to the trucking industry and people that have lost their jobs. We know it's hitting all of us in many different ways. And I think we can almost guarantee that the economy is not improving our public health crisis that we have in the San Joaquin Valley.

Last I heard, almost one in three children in Fresno County have asthma.

Last December, we came with a group of over 20 residents of Fresno to support a strong truck regulation
because we cannot achieve clean air in the San Joaquin Valley without it. If you remember the 2007 SIP, which was a long, arduous process that many of us participated in, we realize that heavy-duty diesel trucks are by far the largest source of NOx in our region, and we really can't reach our ozone standards, much less our PM2.5, without cleaning up our trucks.

So even then, we probably won't even reach clean air until 2015. We still have this huge black box that we don't know where it's going to come from. If we stop getting what we need from trucks, my toddler son will be at least 16 by the time we have federally defined clean air, which in our opinion is not quite healthy in itself.

So we understand that the economy has affected us all negatively. And, in fact, I can share a personal story. As I heard many mention that, you know, our health benefits have been cut because of the economy. That's happened to us at my organization. And my maintenance inhaler that I normally use to keep my asthma controlled has gone up in price with the new insurance plan, probably quadrupled. So I've decided I can no longer afford to pay it, because I have a lot of other bills and I'm the sole provider for my family. So I just rely on my emergency inhale or whatever else I can do. I haven't had luckily any asthma attacks that I need to go to the hospital.
But I'm still fortunate enough to still have a job. Imagine those who are not fortunate to have a job. They're on unemployment or they have no health insurance and they are working hard.

So we honestly cannot afford delays in cleaning our air. Unfortunately, that includes our diesel trucks. We all know it. Despite the state of our economy, children in the San Joaquin Valley continue to get sick, miss school, and ends up in the ER with asthma attacks. And despite the state of our economy, my son's lungs may develop with below-average lung capacity. My family members may develop heart disease or cancer, and other people in our valley may have shortened lives due to life-long exposure to unhealthy levels of air pollution. These are all the reality we're living with.

As I mentioned before, the residents of San Joaquin Valley cannot afford any delay. We urge you to maintain the level of diesel emissions reductions that you committed to last year. And we look forward to working with you until April to figure out what kind of options we're going to have.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Scott Kelleher, are you here? Yes, you are.

Richard Mello, Tim Fortier.
MR. KELLEHER: Good afternoon.

My name is Scott Kelleher. I'm here with Redwood Coast Petroleum, a petroleum distributor out of Santa Rosa, California. We have plants in Hayward and Benecia, California as well and we employ 100 people.

Currently, we operate a fleet of 43 units. A little less than half will have to be replaced. A little more than half will be able to be retrofitted.

Between here and 2014, it's estimated that we're going to have to spend about three million dollars in order to accomplish this. Currently, the company's capital structure is not capable of financing a three million dollar investment. That doesn't appear to be changing any time between here and 2014.

What that essentially means is there is potential that myself and the other 90-plus employees of Redwood Coast Petroleum will be unemployed.

I believe that there is some middle ground that can be obtained here such as the regulation can be written where it is attainable. As a business manager, I've certainly been guilty of setting goals that were perhaps a little bit beyond what was reality. This goal here I believe is beyond reality for not only my company, but many of the people you see here. If I miss one of my business goals, perhaps I'm disappointed. It's just kind
of a shame we didn't get to where we wanted to go. In the
event your goal is held to, it's going to be the demise of
my company, as well as many of the other people that are
here today.

So I do believe that by involving businesses and
coming up with a reasonable solution, both goals can be
met. Thank you very much.

BOARD MEMBER LOVERIDGE: What is your reasonable
solution?

MR. KELLEHER: Unfortunately, it's time. I think
that the goal is attainable, but it's just impossible to
do from a financing basis. That's what we're talking
about here is financing the improvements that are
necessary to reach the goal. And in today's economy,
capital as tight as it is, the money just simply is not
available to the trucking industry to make the goal by
2014.

CHAIRPERSON NICHOLS: Thank you.

Richard Mello and then Tim Fortier.

MR. MELLO: Thank you. Thank you, Madam Chair
and Board members.

I've had the pleasure of meeting several of you
before with our TRU Committee that we had with CTA.

Again, I thank you for time today and thank you for the
time in the past.
As I've stated in the past, and I had in my packet also that has been provided for you, is that our companies both require -- want to have clean air in California, and that we have actually done some things on our own to increase I guess the air quality on our own.

But like with our company as many other companies, times are tough right now in California. And it has been a bit of a struggle as far as in our particular business.

Some of the things that I got there on that packet for you is just sort of a little personal data on our two companies that we have to support some of what you've heard already.

Our overall revenue if you take away fuel is down about 12 percent in this last year. Our tonnage is down about 9 percent. Our miles are down 24 percent. Our gallons of fuel used are down 16 percent. And employees are down approximately 20 percent.

As you can see, that's kind of an effect as far as our particular company. Again, there is a lot of information in that packet that we presented and there certainly isn't time to talk about all that.

So I suppose that one thing, too, that we had heard in the past is that perhaps what carriers might be able to do is pass on some of this cost to our shippers
and let the general public pay for it, because it was
going to be a small amount of money. Unfortunately,
that's not the case, especially in today's environment.
We have seen rates just get destroyed based on just the
shear competition right now.

My controller reported to me the other day he had
a report showing that in the last six months the carriers
have given away over nine years worth of increase. I,
myself, have seen that our particular rate structure has
dropped dramatically.

So in closing, I simply would ask that the Board
reconsider the time line, but not only on this particular
rule, but also on the upcoming TRU rule and some of the
other rules that are coming into effect.

Thank you.

CHAIRPERSON NICHOLS: Okay. Thank you.

Tim Fortier, Miles Anderson, Sean Venables.

MR. FORTIER: I'm with Commercial Transfer,
president of the company. We've had five generations work
in our trucking business in Fresno. We were established
in 1891. I would have brought our original team of horses
and buck board here, but I don't think we can get it into
the audience here. So it seems that you want to go back
to those days where I guess there was just a little bit of
the methane gas that was exerted in those days.
We've had a 35 percent reduction in straight across fuel usage, employees, overhead the last few years.

What I really want to address though is the policy level and subjects that came up through the various discussions here earlier. The policy with regards to the staff is that you seem to have ignored the industry, what we have to offer in practical advice. We're not your enemy as you have insinuated in your opening remarks with regards to the demonstrations. It's a negative comment. There is a lot of good people here that make an honest living for years. And I think to be addressed like some hoodlum, like we're some gangbangers out here, I find it insulting. And some of my other friends here were insulted.

CHAIRPERSON NICHOLS: Excuse me. I --

MR. FORTIER: I'll take your apology.

CHAIRPERSON NICHOLS: No. No. No. You can take whatever you like, but I just want to clarify here. I said --

MR. FORTIER: You're wasting my time now.

CHAIRPERSON NICHOLS: No. It will be deducted from your time, sir. Stop the clock right this second.

All right.

I was not addressing the people in the audience as being gangbangers or demonstrators. I was saying we
had heard that there were going to be such people --

MR. FORTIER: That's a negative remark.

CHAIRPERSON NICHOLS: -- and I was appreciative of the fact that that was not what was going on.

MR. FORTIER: But that's how you perceive us.

CHAIRPERSON NICHOLS: No, that's not how I perceive you.

MR. FORTIER: You said it. I didn't. You didn't have to bring it up. You should have been relieved there wasn't any demonstration out here.

CHAIRPERSON NICHOLS: I was. That was what I was trying to say.

MR. FORTIER: I found it insulting as well as several of my friends here.

CHAIRPERSON NICHOLS: You're really --

MR. FORTIER: Your statistics with regards to your --

CHAIRPERSON NICHOLS: You're anxious to be insulted, sir.

MR. FORTIER: May I finish?

CHAIRPERSON NICHOLS: You may finish right now.

MR. FORTIER: Thank you.

Your statistics have a stated agenda. It seems that you go through the process of the end justifying the means. Your credibility has just been destroyed with this
episode with this Tran. That's deplorable.

But what's more deplorable is that your own staff
and several members of the Board hid it from the other
members. That's shameful. Something as important to this
economy and this state you have omitted.

I have served on five different boards. If that
happened to one of my staff or to the staff that directed
that to me, I'd have fired them all. Your credibility is
absolutely destroyed in the eyes of the public. You live
with that.

(Applause)

CHAIRPERSON NICHOLS: I'm going to take a
five-minute break right now. We'll come back in five
minutes.

(Thereupon a recess was taken.)

CHAIRPERSON NICHOLS: We're ready to start now.

They do have access to the sound.

ASSEMBLYWOMAN HARKEY: My comments are not going
to be that profound.

I'm Assemblywoman Diane Harkey. I serve the 73rd
Assembly District, which includes north San Diego County
and south Orange County.

I've been listening to some of the testimony
that's gone on here today. And without getting very
technical, I appreciate your goals. Your goals are very
laudable. What we're having in the state right now is a real meltdown in the financial system as you all know. We are fundamentally bankrupt in the state of California. So what many of us are trying to do is to find out how it is that we encourage business to stay here, number one, to remain profitable so that we may reap some taxes. And so anything that we can do to that end is going to be very helpful.

Our revenues are down. Personal income tax is down by over a billion this last quarter. Corporate income tax is down by over a half a billion. Sales tax revenues are down so low that we had to restructure our emergency revenue bonds that we placed as debt the last time we were in the tailspin during the dot-com bust. That's how bad the state is.

We have billions of dollars coming due in 2011 and no method in which to pay for it. We are dependent totally on the outside capital markets to help fund our shortfall. We have eight billion dollars in a deficit now that we know about that could be up to 21 to 25 billion by the time we get it corrected.

So that being said, on the Biotech Committee, on Jobs Committee and other things I've working on, we're trying very hard to figure out what it is that we can do help alleviate some of the strain right now that
businesses are feeling.

We need to keep our people employed. It's an absolute must. We've got over -- what -- 10, 12 percent unemployment, 20 percent in the central valley. I know there's 9.-something percent in Orange County, San Diego. It's devastating out there. And these are some of the better districts.

So what we're finding is that regulation is really, really difficult right now. Compliance would not be a problem over time, but right now, there's just no money to do so. They're barely keeping the doors open, barely keeping people employed. So whatever you can do to accommodate this will be in the general welfare of the state of California and general welfare of continuing the EPA's good work.

And all of our efforts in the Assembly to try to cobble together something that will keep education going, basic fundamental services, public safety, and those other things that we so much need, because we are going to see roughly 15 percent of our budget go for debt and maybe pension over the next couple of years. That cuts into the general fund tremendously. We have to increase our revenues. Our revenues are just immensely down. And we can't even afford to collect more taxes. There's nothing left. We've hit a tax ceiling.
So whatever you can do to help in that. If you can extend, however, you can cooperate and work with us, I would truly appreciate it. I appreciate your work. Your services are greatly appreciated. This is a fabulous state. And we need to keep it rolling. Thank you so much.

CHAIRPERSON NICHOLS: Thank you for those comments.

(Applause)

CHAIRPERSON NICHOLS: Very thoughtful and helpful remarks, especially in contrast to what we just heard a little earlier I have to say.

Back to the agenda. Are you Miles Anderson?

MR. ANDERSON: Yes, I am. Thank you.

Rural California, attainment areas, logging trucks - three very hot topics last year in this room. I haven't heard it at all today from anyone. I thought in the economic analysis I would hear at least one of them; not a word.

Sitting in the room this year, I would be led to believe the entire state has exactly the same air problem. That's not the case. In fact, our Air Quality Control Officer in Mendocino County stated in a letter, "We do not need reductions from vehicles to meet our attainment goals." Yet, we have to comply with the regulation as
1 with everyone else.

2 One little difference, there is no funding. CARB
3 sent some people to Mendocino County this year with some
4 information on a voucher program, Carl Moyer voucher
5 program. We filled a room. About a thousand trucks in
6 our county. They figured there was enough money for three
7 trucks, until our Air Quality Management District said
8 they don't have the matching funds. And that was it.
9 Zero funds in 2009 in Mendocino County.
10 I'm sorry that South Coast and San Joaquin have
11 bad air. But we don't. And this regulation, putting this
12 burden on us to replace all these trucks isn't going to
13 help the air down there.
14 I read some of the reports from OAL the answer to
15 some of our public comment that was prepared by staff, and
16 it says emissions from attainment areas could drift into
17 non-attainment areas and that's the reason that we need to
18 have all these controls on trucks in attainment areas. If
19 that's true, I hope that next is adjoining states and
20 countries will also be putting on some of this that could
21 drift into places that have bad air.
22 I'm representing the hundred people that we
23 employed previous to this year. In Fort Bragg,
24 California, a town of 6,000 people, next closest town is
25 40 miles away, and it's smaller. There isn't a lot of
employment opportunities. In fact, we were the third
largest employer behind the government and the hospital.
Not anymore. We're down 48 percent from last year.
That's truck mileage. And I would hope that anybody in
this room that's only down 10 to 18 percent would say
that, because I haven't heard it yet.
If we were to comply with the PM portion with our
equipment, it's going to cost us $500,000 a year to
meet that deadline. Our gross revenue in 2009 was
$850,000.
Thank you.
CHAIRPERSON NICHOLS: Thank you.
We've heard from -- I'd like to actually
reference communication that I had, even though this is
not ex parte, per se, with Wes Chesbro who represents that
area and who has been an effective spokesperson for the
idea that the rural counties need to be given special
consideration as we look at some changes to this rule.
So just want to note that that input has been
received. And I told him that we would think long and
hard about what we could do to address that issue.
It is a complex set of rules that we're dealing
with here. We are one state and don't have any fences at
the boundaries of our counties or our attainment areas.
And so what seems fair to one person may not look so fair
to another person. But I agree the economies of these
areas are different and that we do need to find ways to
try to address that. So I just wanted to comment on that
right now.

Next hear from Sean Venables, Glen Ghilotti, and
Robert McClernon.

MR. VENABLES: Madam Chair, esteemed Board,
staff, thank you for letting us talk today.

I'm the president of Duran and Venables, a
general engineering contractor in Milpitas, Sacramento,
and Stockton. We've been in business for 30 years.

Eighteen months ago, we had a workforce of 150
people working for us and a fleet of 8600 horsepower of
off-road.

Today, our reduced workforce is only 60 people.
That's a 60 percent reduction. In addition, we have
reduced our fleet 35 percent to 5600 horsepower, which
still leaves us as a large fleet.

We have less employees, because of a 53 percent
drop in construction revenues over the last two years.
There is no profit margin in this environment that we can
figure out. The fleet reduction was an attempt in which
to comply with the impending regulations for off-road.

The 90 former employees who are not working for
me -- and I might put a little spin on this. About half
the people in this room represent about 90 people. And other than our recent retiree, if you got a pink slip today, it would impact you greatly. I hear from them. They're running out of banked hours, union benefits, and health insurance. Many are completely without health insurance. Some have lost their homes. Some are losing their homes.

We currently have spent over 500,000 trying to comply with the regulations. And we see in the future to comply with CARB regulations approximately $300,000 per year in retrofits and $800,000 in repowering per year. And that's not even addressing the on-road.

We're faced with further reductions in business. In the coming years, it's forecasted by the Construction Industry Research Board in their November 23rd, 2009, report for California heavy construction, they forecasted a drop in heavy construction. And they have reported a 60 percent drop in construction revenues since 2006 to 2009. With future prospects of new work dimming and profit margin non-existent, there's no source of money to fund the kinds of costs for retrofits and repowers.

It's come to my conclusion that the only solution for me is to sell my fleet in order to comply with the regulations. Not exactly the best long-term business strategy.
I want to comply because, like you, I live in California and I care about our environment. I also want my business to succeed. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Glen Ghilotti.

MR. GHILOTTI: Thank you for a chance to speak.

I'm a third generation contractor. My grandfather came to America 97 years ago. And he sought fortuna. His sought his fortune. He became a United States citizen, and he had the American dream.

And I, too, have that American dream. I quit my partner two-and-a-half years ago, and I started my own company. No better time than a little downturn in the economy to start a company. But I had 25 percent growth my second year, and I'll have five percent growth this year.

I have about 135 pieces of rolling stock between off-road and on-road and broke 75 employees couple weeks ago, $150,000 a week. That's something to lose sleep about.

And I thought, what am I going to talk about today? But I wanted to take a little bit of time and my time to talk about the one driver that has that American dream. I want to talk about the little guy out there. And the reality is that I have multiple contracts with
Caltrans, and what's a fair rate for a truck on the road.
Caltrans tells me. I don't tell them. They have a book of rates out there.
And so the current on-highway rate for a five-axle dump truck is $81.13 an hour. That was with markup on it. And the driver clocks out at $71.34 an hour. I get $152.47 an hour working for Caltrans. I use that was a base rate.
I looked for a truck to fill one of my projects I have in Vacaville yesterday, and I got a price of $80 an hour, because that's what the competition is like out there. So supply and demand.
These poor drivers are getting 80 bucks an hour. If you take the commission of five percent off of it, it's $76 an hour. If you take $30 away for fuel, they're down to $46 left.
Now you start talking about yearly cost quoted this morning from 101 international and my local area of $525 for oil changes, for filters, fuel filters, air filters, oil changes, service, you do six of those years, $3,150.
Costs $2700 to register that truck a year; 6,000 a year in tires; 4,000 a year in small repairs; $6,000 for insurance. That's $22,000 a year.
These guys working half time, a thousand hours a
year, that's all they're banging out there. That's 22
bucks an hour to take care of the hard costs that you're
dealt with owning a truck.

You take that away from the $46 left, and we have
just forced the average American dream into poverty level
of $24,000 a year income.

There is no replacement cost. That replacement
cost if he was forced at one thousand hours a year would
be 42 to $48 an hour to replace the truck. It's not
there, folks.

CHAIRPERSON NICHOLS: Thank you.

Is Roger Isom here? Roger, are you here? He was
before. I just looked down on my list. If you saw me
smile, it's because I was looking ahead.

You know, we've just finished hearing from 66
witnesses on this item, and we've got another page and a
half or so to go.

But Roger, who's appeared before us a number of
times, had his identification transposed to be Cotton
Genius. I just thought that was great. So sorry. Small
inside joke. I apologize. Okay.

We will now hear from Robert McClernon.

MR. MC CLERNON: Good afternoon.

I own a business here in Sacramento. And I have
gone from nine trucks down to three trucks. Out of those,
three trucks I'm barely able to keep one truck working.
And this economy is sour. Everybody here knows that.

This regulation you have, guys like me and everybody else don't have the money to reinvest in all these tricks of the trade that you guys are coming up with.

The Bank of America I do business with won't even entertain any idea of refinance anything.

I have employees I've had for 15 years. I've been in business since 1977. And my old employees that I've had, you know, they're going through bankruptcies, everything under the sun. They never could put away, even in the good years to weather this two years we've had so far.

We're not going to invest in new stuff. To stay this thing for a couple of years, there's fine. We'll keep going at it. But you know what it really needs to be is we need the money to put the equipment back on the road. You guys are asking us for a big ticket item and with no way to pay for it.

If you took the money that you guys put into all the scientific studies and everything else you've done and took that money away from UCLA and all these people and gave it to us, we'd have trucks to run. It's real simple math. You guys spend so much money on overhead, it's no
wonder you don't run a business.

We run a business. We're in survival mode for
the last couple years. It hurts. You guys need to
understand that. You guys need to learn how to do it,
too, like the Assemblyman that was just here. The state
of California is in survival mode. Figure it out. It
hurts everybody.

You need to make decisions. And one of them is
that somebody that's working at the Lung Association
telling me about how me, that's grown my whole life
driving trucks and being around heavy equipment -- you
know, if I've got some problem with my lungs, you know,
it's just what's out there. I don't want it for anybody
else. But, you know, my mom smoked the day she had me in
the hospital. You know, things are a little different
nowadays, and health is getting better and the skies are
getting better. But you can't legislate this stuff and
kill us in the mean time. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Eric Carleson, David Chidester, and Ron Dacus.

MR. CARLESON: This will be on point to the
Chair's remarks a short time ago.

I'm Eric Carleson, Associated California Loggers.

I'm reading from the transcript of the Board

hearing January 22nd, 2009, hearing of this Board.
Chairperson Nichols directing staff with regard to logging-related issues.

"CHAIRPERSON NICHOLS: We would like to ask the staff in conjunction with the economic review that they will be working on anyway to put a special focus on the issue of the logging trucks and this industry and to come back with recommendations that would deal specifically with their situation."

So that was stated at the Air Board hearing back in January.

Now, we did ask staff this week as to the status of the Chair's request on the logging trucks, given the December 2009 economic report deadline is here. Their response, they were unable to complete work on our issue by the Chair's deadline. They had nothing to offer us.

We are sympathetic to the staff. It's hard to meet a deadline with a short time line, limited resources, and a horrible economy. Staff missed their deadline, and we feel that's all the better reason to extend our deadlines.

However, we believe Chair's request on logging trucks and rural counties remain strong and operative, and backed, we believe, by quite a significant number of other Board members. And we look forward to the staff's
completion of the plan for relief as requested by the
Chair.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

David Chidester.

MR. CHIDESTER: I don't normally speak, so I'm
going to read. I'm a terrible speaker. I don't get out
much.

My name is Dave Chidester. I'm the president of
Central Cal Transportation based in Fresno. Central Cal
Transportation is a drayage company founded 15 years ago.
We currently operate 139 trucks. Our fleet's comprised of
100 owner-operators and 39 company-owned trucks. Out of
our company fleet of 39 trucks, 26 of them are 2009 and
2010 models that we purchased this year to comply with
your 2010 date at an average cost of $120,000 per truck.

We're also taking delivery this week of an
additional 40 2010 trucks at an average cost of $125,000
per truck. This represents a total investment of $8.1
million.

We had applied for 1B funding replacement almost
two years ago for our eight non-compliant trucks and were
approved for five. This was later cut back to three due
to funding issues, and we have not received any funding as
of today, all though supposedly it's still pending.
I researched retrofitting our fleet of non-compliant trucks, and with the additional NOx retrofit loaming a few years out, the option does not pencil out. To put $25,000 into a $5,000 truck for a couple years and then have to retrofit it again at an unknown cost does not make sense, either using government or private funds. It's proving difficult to even get insurance on the retrofit devices as our insurance company does not view them as adding any dollars to the value of the truck.

I'm going to stop reading.

Our fleet of 100 owner-operators is not just owner-operators. It's Able Lopez. It's Ishmeal Valenzuela. It's Israel Flores. It's Abraham Garcia. It's Sargi Sang, Harbuta Ticar (phonetic).

Out of these 40 trucks that we just got financing for and we've taken delivery, we're going to release these two, the owner-operators, to try to keep 40 of them in business. I don't know how we got the financing. I wouldn't have lent me money. We've lost money this year.

I'm a snapshot of where everybody else in this room is going to be in two years. I'm up against a deadline of two-and-a-half weeks trying to comply.

I'm torn. As a member of the trucking community, I would like it put off to give people time in this economic situation to react. As president of Central Cal,
I don't want it put off. I've stepped up. Somehow, I've been able to come up with the $8 million financed privately to do it, and I don't want to compete on an unlevel playing field after the first of the year.

This would have been a very easy fix. Madam Chairman, you asked what is the way to get it fixed. The truck manufacturers have already stepped up. They made the changes. With this economic downturn, we're down 40 percent. The new trucks that are coming up -- we're disrupting the total flow of the industry. The normal flow of the industry, it goes to cross-country truckers for four years. They filter down to people like us, and then they filter down to owner-operators. All we had to do was let nature take it course and ban the rebuilding of the older horrible trucks. It would have been taken care of. No meetings. No staff conferences. No boards. No all of this other staff. Nature would have taken its course, and we would have saved billions of dollars.

Thank you.

BOARD MEMBER D'ADAMO: I have a question. What percentage of your trucks will be in compliance? And you probably already said this, but how many in your fleet?

MR. CHIDESTER: We will be in 50 percent compliance, which means hopefully the rates are going to go up, because the drayage industry as a whole is only
going to be 50 percent compliance in two-and-a-half weeks.

There was just a change that came out on your site yesterday afternoon to where they're granting a four-month extension to people that have ordered trucks and the trucks have not come in. That was the third phase. Up until before yesterday, there was two phases. There was the people that were 1B money, which we are still waiting for. And the retrofits devices which to me don't pencil out. It's not a good use of money. Now all of a sudden, we've come up with a new way yesterday to where we're going to allow people to order trucks.

What's going to prevent some of our less than honorable people from buying a truck from their neighbor and not taking delivery until the end of April at the end of this period and then having the sale fall through? I've got to compete with them for another four months. Just looking for a little level playing field and accountability.

BOARD MEMBER D'ADAMO: You make a good point.

How many trucks in your fleet?

MR. CHIDESTER: There's 139. But we're down from 250 a year and a half ago.

BOARD MEMBER D'ADAMO: Thank you.

CHAIRPERSON NICHOLS: Okay. Thank you, sir.

Richard Dacus.
MR. DACUS: Ron Dacus. Good afternoon.

I'm here on behalf of the Northern California Port and Rail Truckers Association. We have recently established our association to speak for the issues of the port drivers down in the port of Oakland. We've also joined together with the National Port Drivers Association down in Long Beach.

And I think to bring a little perspective from the port drivers, we have about 500 members that we just enrolled in the last three weeks, three-and-a-half weeks. This morning, a caravan of about 300 trucks came from the bay area -- we were all in here, so we didn't see it. But you'll probably see it on TV. They came here to Sacramento and to voice our opposition to the rule.

We've heard ad nauseam a lot of statements from a lot of different companies, a lot of truckers about the financial impact. You guys have no concept of exactly what's going to happen if you start taking trucks out of circulation in the port area.

I remember at a port of Oakland meeting, there was a statement made that the 800 trucks that received the grant money and the retrofits could service the whole port. That's laughable. That would be a neat trick. Now you have the port of Long Beach and the drivers down south facing the same problem.
Now let's not talk about the truckers who transport the stuff on the road. A lot of their stuff comes from the port. And so if you congest that to where these goods can't move, of course those drivers are going to be out of work, too. It's just not feasible. And I think it was a rush to implement something to quiet the people who were making noise about the environment.

I want to remind everybody in this room about one stellar success that the California government put into play. Four letters: MTBE. They imposed this regulation. Made people dig up their storage tanks to put in this MTBE, and the tanks leaked into the groundwater. I go on. But on another personal note, I'm sick of hearing about the statistics of asthma and this, that, and the other. I care about the environment just like everybody else. I'm an advocate.

I'm 39 years old. I've had asthma for 39 years. When I came to visit my grandmother who lived in west Oakland, she was afraid to keep me because my asthma attacks were so bad. It had nothing to do with the outside. We lived underneath the Cypress freeway. Trucks were going by all the time. She had roaches in her apartment, lots of them. When I was older, I moved to an apartment in Richmond. It had roaches and a mildew
problem that kept me sick.

I've been a driver at the port of Oakland since
2004. Have not had one asthma attack since then.

Something to think about.

CHAIRPERSON NICHOLS: Okay. Thank you.

Richard Tognoli.

MR. TOGNOLI: It's Tognoli.

I'm an independent owner-operator. I had seven
trucks. I'm down to two. So that puts my compliance way
out.

But the one thing that I haven't really heard
about today, which is kind of interesting because you guys
have covered basically all the topics, where's the new
guys going to get their trucks?

I was able to start a company, because I could
buy a truck for $14,000. I don't know anybody that can go
out and buy a $125,000 truck to start a company. Are we
just going to stop starting new companies in California?

On the second note, I bought a trailer from Idaho
last year. Took me four days to get it delivered. I
shouldn't say that. After fours days, I couldn't get it
delivered. I had to go get it. Nobody would bring it
into California. They didn't want to deal with
California. They didn't want to deal with the
higher
fuel costs. They didn't want to bring me my trailer. I
had to go get it.

You guys are wrecking the economy. Run
everything back a couple years. Slow it down a little
bit. The new technology is coming around. You didn't do
this to the car industry. You didn't force them to
retrofit. You phased stuff out. You brought new stuff
in. You guys are singling us out unfairly. Slow down.

Thank you.

CHAIRPERSON NICHOLS: Sofia Parino, are you here
now? Yes.

And Michelle Garcia and Steve Brink.

MS. PARINO: Good afternoon.

My name is Sofia Parino. I'm with the Center on
Race, Poverty, and the Environment.

I'm actually going to comment on the localized
risk assessment of ag exemption.

Our organization works with communities in the
San Joaquin Valley. And last year, we were here with
those communities asking that the ag industry and the
diesel trucks in that industry were not exempted or not
provisions for those trucks in this rule and that they
would also have to do their fair share of cleaning up
their trucks.

This Board allowed that provision to go through,
but also promised there would be a localized risk assessment done of that provision for those communities to make sure that that was the proper thing for this Board to do and to come back and to take a look at that rule and that provision. We're here a year later when that assessment was supposed to be done and we don't have anything. And we're told that may be next year. This is unacceptable. This is a promise that this Board made to come back a year for these communities and to take a look at this provision, because they were very concerned about their health. And every day that passes, these communities are exposed. And they are very vulnerable communities. And there is no study that was promised of what this exemption, this provision is doing for these communities, is doing to their health. And so I'm asking this Board to direct staff to come back and to come back as soon as possible with an assessment, the assessment that was supposed to be done in this year along with this economic assessment. And then I just also would like to support the other health and environmental advocates that have spoken in support of this rule and understanding that while the economy is a big problem for lots of people, there is an obligation of this Board to protect the health of the people of California. And there is a federal obligation.
And your staff has told you that this rule is required to meet that obligation. And so I'm in support of the rule and the process that it is now.

So thank you very much.

CHAIRPERSON NICHOLS: Okay. Thank you.

Michelle Garcia, Steve Brinks, Bob Berry.

MS. GARCIA: Good afternoon.

My name is Michelle Garcia, and I'm the Air Quality Director the Fresno Madera Medical Society. And I'm here today representing a group of physicians that I work with who are very passionate about air quality but could not be here today because they're seeing some of the sickest people who are being affected by diesel pollution in the valley.

First, our thanks to Dr. Telles for his work on CARB and on the Board. We know there is no glory and lots of time away from a physician's first priority, our patients. We understand his concerns regarding a CARB staff member's misrepresentation of credentials and the delayed involvement of the entire Board. But we do not feel that these issues warrant a suspension of the proposed rule. Delaying needlessly undermines the years of hard work on all sides that have gone into the rule development.

Secondly, we want to address whether during a
down economy it is wise to enact a rule which will further
challenge some businesses. While we can't predict the
future, we know there will be ups and downs. We cannot
predict when the best economic time would be for such a
rule.

We can, however, make firm scientific estimates
of the adverse health consequences of diesel pollution.
And there's always the right time from a health
perspective to choose healthier behaviors, to choose rules
that lead to cleaner air, fewer cases of cancer, fewer ER
visits and hospitalizations for asthma.

So, today, we are urge the Board to continue
setting precedents in favor of improved health by moving
forward with the rule as originally planned.

Thank you.

CHAIRPERSON NICHOLS: Okay. Steve Brink, Bob
Berry, Michael Shuemake.

MR. BRINK: Thank you, Chair Nichols, Board
members, and staff.

I'm Steve Brink, California Forestry Association.
Our members are the wood products industry of the state,
many of the biomass power plants, forest landowners and
many forestry trucking fleets. Twelve quick points.

Number one, you've heard testimony previously the
Board directed staff to look specifically at the forestry
fleet, which they haven't been able to do yet. I would remind the Board as we've previously commented in writing about 98 percent of our VMT from forest to first point of processing is outside of the San Joaquin and South Coast air sheds.

Point two, our business is down 35 to 50 percent, similar to what you've heard earlier in the northern rural counties. And that parallels what you heard earlier about fuel purchases in the northern counties being down over 50 percent.

Third, what I think that may be an indicator of is staff's statewide analysis perhaps is masking to some extent what's going on in the rural northern California counties.

Fourth, filter technology. There is no improvement for high horsepower older mechanical fuel injection engines. The Hughes filter is the only verified filter that will work on most of the older mechanical fuel-injected engines. Since they're high horsepower in our fleet, that means you have to have two filters. It's a $40,000 retrofit for a $10,000 truck. You can imagine what the banks have to say. Forget it. That part of the rule is simply not implementable.

Fifth, that leaves our forestry fleet owners with the old trucks the only option is to use the limited
mileage exemption, which means they'll run their trucks one or two months a year and then park them.

Six, as you heard all day, the recession is such that replacing the trucks is simply not financially possible in the current economic climate.

Seventh -- and you heard this from us before, too -- we think a PM2.5 analysis similar to the NOx analysis that lead to the 17 NOx-exempt counties in the rule would be a fruitful exercise. And we think there should be some use of the monitoring meters that are out there actually measuring air pollution to supplement the modeling being used. Right now, as I understand it, everything you receive from staff is based on modeling only. We believe you'll find there may be some more emissions flexibility with these additional analyses I've outlined.

Point eight, we know staff and Board probably don't want to regionalize the rule. However, we think if you look at the rural counties, particularly in northern California, there may be ways to provide substantial relief without missing any of the emission reduction deadlines in San Joaquin and South Coast Air Districts.

Number nine, we think a two-year deferral is probably appropriate given the economic recession.

CHAIRPERSON NICHOLS: Thank you.
Bob Berry.

MR. BERRY: Madam Chair and Board, I appreciate the time to come and speak in front of you.

I've been in business in west Oakland for 37 years -- or just shy of 37 years. I don't want to misrepresent that.

I closed last year when I talked to you with a quote from Mark Twain. There are three kind of lies. There are white lies. There are damn lies. And there's statistics. And I think now I think I'd add number four, Mr. Tran, to that list.

The unfortunate thing is that this kind of has put appall over everything that you're trying to do. We all understand that air needs to be cleaner, as clean as possible. We on this side are trying to pay for it. And it's a very expensive proposition in my business.

I own 16 tow trucks. I have replaced six of my light-duty tow trucks with 2008 or newer. I've taken delivery this week of a 2010 with SCR a Detroit diesel to replace one of my heavy duties.

The problem is we've hit the wall economically. We can't do any more. And we have to have time to pay this stuff off before we can buy more stuff.

And the problem is we're replacing equipment that doesn't need to be replaced. It's not worn out. It's not
in bad mechanical condition. We do our smoke tests each year. We do very good maintenance on our trucks.

And we want to do the right thing. We don't want to hurt our neighbors in any way, shape, or form. Our city is our life.

And we would ask that you delay the total implementation on this at least two years so that we can finish our fleet off and not completely devalue what we own.

And I thank you very much for your time.

CHAIRPERSON NICHOLS: Thank you.

Mike Shuemake.

MR. SHUEMAKE: Madam Chair, members of the Board, I came here today -- I wrote a speech that was going to last three minutes yesterday, and then I re-wrote it and made it down to two, because I didn't know where we were going to be. And all those things have been said. So I re-wrote it, and I think it's been said again.

But the economy is horrible. This rule needs to be looked at.

But the other thing I want to talk about today is the fact that we're forgetting about the two rules that go into effect this January that are also going to affect a number of people in this building, and that's the greenhouse gas rule that was voted on last year and the
TRU rule that was delayed in July of this year for six months for reasons that have not changed. The economy is still bad. The technology is still lacking. And so nothing has really changed that's made that better, except now we are at a hard deadline once again, and there's still a lot of people that are not complying.

The greenhouse gas rule is going to affect a number of these people in -- it starts 2010. They will be retrofitting as far down the road as 2012. But we have the opportunity I hope to at least look at the rule one more time.

And the other thing I've got to do is ask this side of the group to help this side of the group meet that 2014 SIP deadline. We're calling it a goal. If I give my employee a goal, I'm going to sit down with him at the end of the year and see if that goal can be adjusted. Did we meet it? Or if we didn't, how come?

This doesn't appear to be a goal. We're looking at the feds and letting them draw the line in the sand and we're not going to cross it. We need to figure out what it's going to take to sit down and tell them, look, we can't kill our economy in order to meet your number. We've got to look at that. Things change. And every one of us can address that, that it's all changed in our business in the last couple of years, I'm sure, except for
the gentleman that has a five percent increase. I applaud that.

Anyway, thank you very much for the time. And hopefully we can get a decision today.

CHAIRPERSON NICHOLS: Thank you for spending the day with us.


MR. SCHRAP: Thank you, Madam Chair, Board members.

My name is Matthew Schrap. I'm the Director for the California Trucking Association, also the co-chair of the TRAC Outreach Subcommittee.

Before me today, you have heard me from dozens of my friends and colleagues in our industry. These stories are not scripted, nor are they cherry-picked anecdotes. For every testimony you have heard today from our industry, I can give you ten other companies in the same fiscal crisis, resulting in thousands of lost jobs across the state.

We are here today, as you have acknowledged, in the midst of the worst economy since the 1930s. Unemployment is at least 12 percent. And in our industry, overall activity in VMT is down significantly. Our equipment is worth pennies on the dollar. And
complicating the matter, our rates are being cut down faster than a Christmas tree farm after Thanksgiving. People are reeling in this economy. And while job loss is a byproduct of any recession, the compounding effects of this and several other ARB regulations are forcing companies to make hard decisions, not related to equipment purchases, but to staffing levels and total overall employment. Losing your job, as Dr. Telles pointed out almost one year ago, is the worst thing that can happen to your health. This fact has been ignored by staff.

Furthermore, despite their hard work, staff's rosy estimates for our economic recovery are, for lack of a better term, balderdash. Although emissions are lower than previously estimated, the likelihood that the recessionary impacts is recessionary emissions reductions assumed in this report are even greater. No one disputes emissions are down because of this economy. The question is how much.

At issue here also is the potential emissions and the methodology calculations that will never see the light of day simply due to the fact that stakeholders have had no access to the methods used to determine the inventory impacts. Despite staff claims that this info would be available to us prior to the Board hearing, it is not.
Outside of these data sharing issues, it is imperative that all findings associated with this regulation are reviewed and re-workshopped before initial requirements are slated to go into effect. This includes the economic impact analysis contained in the ISOR, which by staff's own admission was done in a different economy, as well as an additional economic impact study for all facets of the regulation, including exemptions and other provisions, of a study of any technological limitations for any retrofit, additional incentives for early compliance, and last but not least, addressing the potential emissions reductions associated with the economic downturn.

To truly understand how the emissions reductions are impacting our ability to meet the SIP requirements for 2014, a serious peer-reviewed study should be embarked upon to ensure that this is a sustainable and legitimate rulemaking that achieves its intended outcome without crippling an integral part of a California economy.

Today, staff is presenting a complicated overview of their findings. However, nowhere do we see a staff acknowledgement how this economy is impacting our ability to manage assets for compliance.

Incentive funding is few and far between and full of unintended consequences, as you heard. Companies are
struggling to survive. Thousands of jobs have disappeared in our industry over the last year alone. If these rulemakings are truly about protecting public health, staff needs to be directed to include health impacts related to job loss and any other standards related to this rule.

CHAIRPERSON NICHOLS: Thank you.

MR. SCHRAP: Our industry and our families deserve it. Delay these requirements per Assemblyman Niello's request. You owe it to us. You owe it to the state of California.


Thank you.

Camille Kustin, Kevin Brown.

MS. KUSTIN: Good afternoon. I'm Camille Kustin with the Environmental Defense Fund.

Even though today was supposed to be simply a report to the Board on economic conditions of the truck rule, CARB has also presented three options that may undermine the health benefits of the regulation. I'm not surprised these three options have been proposed, given the bleak economy and financial hardships many are facing and the resulting decreased vehicle use and emissions.

I am surprised, however, that staff choose to present such specific options with specific bounds and numbers behind the dates that have essentially come out of
thin air without any emissions or data behind them.

As the staff presentation has shown, there is a
great deal of speculation and uncertainty to what will
happen in the coming years.

So I urge CARB to complete a thorough analysis of
each of the three options keeping the bounds open and
first report to the Board in April on the results of the
findings and not present a proposal to be adopted. In the
mean time, stay the course with the rule.

After April, staff should then undergo a formal
rulemaking process and present the recommended option at a
later Board hearing. Such analysis should include health
and emissions impact, SIP compliance progress, health
costs, and the effects on jobs as more than just trucking
jobs would be impacted by any of these three changes that
have been proposed. The uncertainty in the projections
and what the future will hold, the importance this rule
has on health and lives, and the recent questioning of
CARB's research and integrity provide even more reason for
CARB to be especially methodical and thorough in their
approach and not act hastily when it comes to making
dramatic changes to such a critical rule.

Thank you.

CHAIRPERSON NICHOLS: Kevin Brown and then Adrian
Martinez.
MR. BROWN: Good afternoon, members of the Board.

I represent Engine Control Systems, a device manufacturer. We have numerous verified products in the state of California.

We have always done our best to support the Air Resources Board emissions reductions initiatives and at several different times even to our own detriment have done this.

Our company is owned by Catalytic Solutions headquartered in Ventura, California. We have gone through, as everyone else in the room, the economic decline, the crash in the automotive market.

We're also going through another economic unrest, which is we are heavily invested in supplying the regulations that you have developed. And I would ask you to consider those companies that have put themselves in that position. It is very important not just to halt momentum, but to at least maintain a positive rate of implementation.

Our supply chains are extensive. They involve many suppliers. They stretch from California across the United States and over to Europe for certain key components and things like precious metals. When we suddenly have a big hiccup -- and we've had several delays in this program -- everything comes screeching to a halt.
And it takes a long time and a lot of investment to get it back up and running. We have invested in technology development, product development, verification, and to put the mechanisms in place to supply these products and the training. And we indirectly have a lot of people employed in the state of California installing these devices and selling these devices. And, again, a big delay -- many of these places are truck dealerships that are supplementing the loss of the economic benefit of selling new trucks by providing the retrofits and installing them.

So again I would ask you to keep that in mind and remember these companies that have invested to support and to do your best to maintain a positive rate of implementation so we don't have sudden abrupt changes in this market.

Thank you.

Chairperson Nichols: Thank you.

Adrian Martinez.

Mr. Martinez: Good afternoon, Chair Nichols and members of the Board.

My name is Adrian Martinez. I'm here on behalf of the Natural Resources Defense Council.

As your Board is intimately aware, based on the testimony from many of my colleagues in the environmental community and the EPA and the South Coast Air Quality
Management District and your own staff, that this rule is critical to the attainment of a federal health-based clean air standards.

But since everybody has the economy on the mind today, I will address two issues that I think haven't really been touched upon today. And I think they're two important issues moving forward.

And before I start that, I just want to note that NRDC supports keeping the rule intact and specifically the commitments made to achieve pollution reductions to meet clean air standards.

The first issue I want to address are the non-attainment fees that are assessed in regions when there is a failure to attain clean air standards. Several regions in California are going to face these fees, including the San Joaquin Valley and the South Coast Air Quality Management District. These fees are charged on stationary sources of pollution.

I was at a recent meeting of the working group in the South Coast that assesses the fee. And it was a person who runs a fiberglass manufacturer and he was complaining and he said, "Why are they charging these fees on me? It's really the mobile sources." He said, "Quit busting my chops on this issue of attainment. Go reduce pollution from mobile sources." I assured them we were
working on all levels. But I think any analysis that
assesses delaying reductions from the truck rule needs to
look at how it impacts these stationary sources that will
be paying this fee until San Joaquin Valley and South
Coast attains clean air standards.

And the second issue related to the economy is
the conformity issue, and specifically transportation.
The 1990 amendments to the Clean Air Act tied
transportation funding to air quality improvement. The
truck rule is, quite simply stated, the most important
rule to achieving conformity in the region. And any
analysis needs to look at missing any of the interim
deadlines and the attainment deadlines, because there is a
lot at stake here. There's billions upon billions of
dollars in federal transportation dollars that could be
foregone if we can't show that we attain federal clean air
standards. And that would have a really large impact on
the economy.

Accordingly, we encourage that any changes that
are proposed to the rule be looked at the public health
impacts, and even more specifically, the emission impacts
and related to the commitments made by CARB in the most
recent state implementation plan. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Next hear from Betty Plowman and then Mike Lewis
and then Sofia Quinonez.

MS. PLOWMAN: Thank you, Chairman Nichols.

Dr. Telles, Supervisor Roberts, my deepest thanks for the courage that you have had to come forward.

To Cindy Berg, thank you so much for helping get the economic impact workshop going last week. I hope we were able to enlighten staff.

Chairman Nichols, I wanted to address a statement that an owner-operator here made today and you asked him when he might be ready.

In our organization, the California Dump Truck Owners Association, we had 1,600 members just three years ago. We are now just above 800.

The reason I say this, there's been a lot of talk here today on incentive funding that wasn't available. I would like to tell you that we have had some of our members who have received grants up to the -- in fact, here, in Sacramento, $64,000 to a young gentleman who salvaged his older truck. That truck has now been repossessed, because even with incentive funding, he was unable to make the payments. In fact, one of the people here in the audience is with College Oak Towing, he's towed many of these trucks back to the dealerships.

Unfortunately, a lot of them end up at the auction now. And while we thought there were great hopes
for out-of-state buyers buying our equipment, that has not materialized. In fact, the end of September, an auction held at Ritchie Brothers, a 2009 complete unit transfer sold for $83,000. This was a unit that had been purchased for $210,000 just one year before. No work.

You also heard today we're back to operating at about 1985 rates. So it is a blood bath out there.

On another note, I would just like to bring up the effects of PM2.5 once again. And I took great joy I guess at the gentleman with the ports who said he had lived under the Cypress freeway and it ended up being the roaches.

The fact is that I have learned, as I'm sure many of you are aware, are the effects of losing your job and the fact that your health is more highly impacted by the loss of your job than it is from 2.5. That is documented. And I have copies of that. Part of it was from your own gentleman, Arden Pope. So the loss of the job is devastating on one's health.

And I thank you.

CHAIRPERSON NICHOLS: Thank you.

I think we can all stipulate to that one.

Michael Lewis and then Sofia Quinonez.

MR. LEWIS: Thank you.

The construction industry vehicles represent
about 80 percent of the off-road rule and about 20 percent
of the on-road rule. Not only has the economy
significantly effected the industry, but new and accurate
data is clearly demonstrating significantly reduced
emissions from our fleets.

Construction employment has dropped from 950,000
to 614,000 since July of '06. That's the lowest it's been
since 1998. Thirty-five percent of the workforce is out
of work.

It took eight years to recover from the last
recession. It's not going to happen overnight. It's not
going to happen in two years. We have the time to get
this right, and we should take advantage of that.

Total construction value was originally projected
by your staff to be $70 billion this year. It's 38
billion, down from 96 billion in '06.

The size of the off-road fleet was projected to
be 190,000 this year. There are 135,000 vehicles
registered in the DOORS program. We believe that is 95
percent or more of the fleet. We believe that it will
shrink further as the retirement credits have kicked in
and contractors will be selling that equipment in order to
comply with the rule. When you have no money, shrinking
your fleet is the only way to comply with these rules.

Lastly, the real measure of emissions is fuel
consumption for off-road and vehicles miles traveled for
on-road. Red die diesel used by the off-road equipment is
down better than 30 percent, probably more when you factor
out marine, ag, and railroads who actually had an increase
in diesel consumption. Unemployment amongst the operators
of this equipment is down greater than 40 percent.

When you adopted the on-road rule, you relied
heavily on vehicles miles traveled to set emission
estimates. Yet, your staff made no efforts to update VMT
for today's report. I believe VMT numbers would show
greater reductions than the 20 percent your staff seems
willing to accept. You need to direct them to look at
that figure as the best indicator of emissions from the
on-road fleet.

Finally, AGC has spent considerable dollars with
Sierra Research to document the current state of the
construction industry and emissions. That analysis
revealed some very interesting information.

First, there's no need for a NOx rule. We will
get to your goal without it.

Second, the PM rule can take effect in 2015 and
still meet the 2025 goal with only half the effort.

Given the cost of these rules, you need to
evaluate them as soon as possible. If they're being
written today with the information that we have today,
they would look completely different.

For the off-road rule, we want the opportunity to show your whole Board the presentation of this new data. And you should direct the staff to begin updating the relevant on-road data before you consider the de minimis options that your staff has proposed today.

We can't wait until July for a decision. Your rule requires compliance on March 1st. We need to know before then if this is going to happen or not. The relief granted by the Legislature brought time for many contractors, but not for all of them. Your staff has made many hours of presentations to you about the health effects of diesel. Why can't we get equal time to talk about the well-documented economic impacts and what they've done to get us to the goal that you originally set?

Thank you.

CHAIRPERSON NICHOLS: Thank you, Mike.

We will now hear from Sofia Quinonez and then Anthony Patchett.

MS. QUINONEZ: The reason I got involved in this campaign was I was asked to go down to the port and serve as a translator at a meeting with a bunch of truck drivers.

And at that meeting I heard these words (in
Spanish). A man hung himself. Another man was murdered.

That voice within me said, listen, blood has been shed.

That's why I am here today.

As I sat through this meeting, I heard story after story of the injustices that were taking place at the port. I couldn't believe what I was hearing. I was moved.

Then as an environmentalist, I started hearing about this green truck program. I'm a member of the Sierra Club. I am no way here speaking on their behalf. But I said I have to see what's going on here.

So I met with Tony, and we started doing some research. Started as an activist. I said, we have to follow the money. Because if you follow the money, you know how things roll in the system. Pulled up all the grants and realized that most of the money went to millionaires and a billionaire. We have a private eye. We need to look into more of who these trucking companies are.

I started reading the concession agreement, and I thought, this can't be real. This is unconstitutional. To me, it was only about truckers. It was about the American dream. It was about all the laws I saw being violated and how you have sanctioned this, that you are part of a larger conspiracy taking place.
There are violations of the Federal Aviation Administration Act, the Commerce Clause, the Sherman Act, the Clayton Antitrust Act, the Consumer Protection Act, the Civil Rights Act.

If there was going to be a ban, why didn't they ban the sale of these trucks? Why didn't they ban the registration the trucks? Why didn't they ban the finance of these trucks? Why haven't you held the manufacturer who makes these trucks, held them accountable? More importantly, why haven't you held the big oil accountable?

I start receiving phone calls from across the United States and across the country and outside of the country. When I found out that truckers had contacted me from Mexico saying they were using a new product, I said you've got to talk to our scientists, because I've heard of this hot fuel that we burn at 100 percent emissions, but we have a 60 percent capacity. And here they put something in their trucks right now that cost $45 that will give them 100 percent capacity. We can reduce emissions. I said I want this product. So when I started looking into the green truck program, it was nothing but a Ponzi scheme.

CHAIRPERSON NICHOLS: Your time is up.

MS. QUINONEZ: A Ponzi scheme.

CHAIRPERSON NICHOLS: I hear you.
MS. QUINONEZ: I just want to say we are asking for a federal investigation because of all the corruption that has been taking place.

Although you guys are up here -- I ask you -- you have all these reports. We want you to listen to what's happening on the docks and how these truckers have been singled out, how they can go to their chassis ten times --

CHAIRPERSON NICHOLS: Your time is up, ma'am.

MS. QUINONEZ: Yes. And one more thing.

Dr. Tran, as a member of the public, this is my country. This is my constitution. You're fired. And I will fire you, too, Ms. Mary Nichols. The public trust has been lost.

CHAIRPERSON NICHOLS: Thank you.

Anthony Patchett.

MR. PATCHETT: I want to first read a letter to you.

"Dear Board members, I'm writing this letter in regards to the ARB's drayage truck regulation from the perspective of my experience as the ARB's Chief of Enforcement Division for over 20 years.

"The primary principle of ARB's regulation has always been to allow a reasonable transition period for new regulations so the regulated
community can come into compliance without undue economic harm. In addition, there has always been a provision to allow the extension of the compliance data for individuals or a class of impacted sources based on changing technical or economic circumstances.

"My review of the drayage truck regulations shows it violates the above principles. In addition, it appears that the net effect of the regulation thus far is to give preference to a select group of trucking companies for entry to the ports and rail yards of California or locking out all other competition. In today's economic climate, it is important that the ARB re-visit this regulation to be sure it does not violate the above principles.

"Sincerely, James Morgister."

I'm requesting that you declare under Section 22(c) of the regulation an emergency event will occur if the drayage truck regulatory activities go into effect on December 31st barring thousands of trucks from our ports and harbors.

I'm requesting that you issue an emergency decree under Section 23 for determination by the Executive Officer that an emergency event will occur that requires
immediate temporary operation of drayage trucks at ports
and intermodal rail yard facilities.

Who am I? I am your former special prosecutor in
1997. I used to speak at your seminars on conspiracy.
And you have joined the biggest conspiracy with the city
and the ports of L.A. and Long Beach. You might not
realize it, but you're exposing the ARB to huge potential
civil violations.

I have put together an exhibit book. I have
taken this to three major law firms. One of them is going
to come and is going to sue you.

I have also written to Eric Holder and asked him
to start a civil rights investigation.

The only thing green about the green truck
program is the millions of dollars that have gone to the
major licensed motor carriers. Twenty-four companies have
over 4,000 trucks. The port of L.A. gave $21.5 million to
ten companies for 117 trucks.

If you follow the money and you look at what
you've done, this is going to be worse than any
earthquake, tsunami, or flood in California. Unemployment
is going to continue through 2015. Right now, it's 12
percent. In the central valley, it's 25 percent.

I ask you, grant your own injunction.

CHAIRPERSON NICHOLS: If you haven't submitted a
copy of that letter, I would request that you do so,
please.

MR. PATCHETT: I'll be glad to give you that,
too, with my letter, too.

CHAIRPERSON NICHOLS: Good. Thank you.

Doug Van Allen. Are you here, Doug Van Allen?
And then Robert Hassebrock and James Thomas.
While you're coming up, I want to let people know
in case you don't have these lists in front of you, we're
now at number 84, and we have ten more witnesses to hear
from before we conclude the witnesses and then have an
opportunity to have any kind of Board discussion.
I think that we may need after this witness to
take a brief break just so people can stretch and then see
where we are. Thank you.

MR. VAN ALLEN: Ladies and gentlemen of the
Board, thank you for the opportunity to speak, along with
the staff.
My name is Doug Van Allen. I'm employed by BJ
Services Company. BJ Services is a high-pressure pumping
service company for the oil field industry. Our company
was founded by Byron Jackson in Woodland, California, over
130 years ago. It started off as a small business.
Worked its way up to medium size business, and now we're a
large business. BJ is considered a large fleet in all
CARB rules the way they've got the rules written.

I want to thank you for allowing me to speak to you about the diesel particulate rules affecting California business.

Last December, I testified before your Board that the diesel rules were having a negative effect on businesses, and I would like to explain what that effect has had on BJ Services, the company I worked for.

In January of '09, we laid off 30 percent of our employees here in the state of California. That was because of a turn down in business. That was the first layoff that we've had since the 1986 oil recession that we had back in '86.

The very sad part about the layoff that we've had this year is that over 20 percent of those employees we laid off last January are still looking for jobs. They haven't been able to find employment. That really bothers us.

Since December '08, we've reduced our on-highway truck fleet by 15 percent. Those trucks are no longer in the state of California. They've left.

Since '08, we've reduced our diesel engine powered pumps, which are under the PERP program, by 31 percent. Those engines are no longer in the state of California.
Since December '08, we've reduced our customer demand. Our services has been reduced by 30 percent as well.

Last December, I testified that BJ Services would be affected by the on-highway and off-road rules, but we're also paying for replacement of portable equipment that we've been working on for the last 13 years to change out.

BJ Services believes in doing the right thing and cleaning up the air. In the last eight years, we've spent over $20 million replacing engines on portable equipment here in California. With all these very expensive rules in an industry that is faltering, maybe this isn't the right thing to do. We need to consider what's going on.

We'd like to have the Board please consider pushing all the regulations, not just the truck fleet, but the PERP rule, everything that has to do with diesel, if we can slide it two years, it gives businesses a chance to recover. And we'd also like consideration that large businesses, small businesses, and medium fleets are all having the same problems.

Merry Christmas. And thank you.

CHAIRPERSON NICHOLS: Thank you. Pretty much the way we all feel right now.

I think I am going to call the break right now.
I'm sorry, but we haven't really had a break, except for a five-minute stretch since 2:00. This is a long time to sit. And it's a long time to absorb and to actually try to think. So I'm going to ask you to come back at 5:15 and we'll see where we are at that point. Thank you.

(Thereupon a recess was taken.)

CHAIRPERSON NICHOLS: We're going to be losing Board members. I know everybody is extremely anxious and we are too. So all right.

Robert.

MR. HASSEBROCK: Thank you, Chair Nichols and the Board and the staff, too.

It's been a long day. Thank you for the chance to present some testimony.

My name is Robert Hassebrock. I'm with a company called Weatherford Oil and Service, geothermal company. And we, too, like the others you've seen, we've had about a 30 percent reduction, about four-tiered layoff system. The remaining employees have had about a seven-and-a-half percent exactly furlough. We've had layoffs, furloughs, and we're struggling through.

My first point that I would like to bring up is in regards to the experts involved I've heard so far in the promulgation of the rule and the revision of the rule that as we are considering the potential, there appears to
be somewhat of a lack of sound economics in that we've heard 30, 40, 50 percent in some cases and we have from staff 15, 18. I'm not sure how we arrived at various things.

I would like to suggest that the economic experts are the ones sitting in the crowd telling you the reality of what's happened and what the impacts are and what the impact of the rule will be going forward.

And then to address the aspect of health, because we've heard various aspects of health. And finally towards the end of afternoon, we've heard various people take the issues that I have, and that is that there is another impact that comes from air. And that is when we cannot afford good dietary choices, medical attention, we live with roaches or various conditions, it has another impact upon health that we have to live with and should be considered by the Board.

So I'll go from that to my second point. My second point is that under rules of evidence and procedure and witnesses, there is a means for impeaching a witness. And I think they apply here. And that is that with the author of the report being impeached from lack of character and a bias that the report itself is certainly in question. And I think the Board now has no science supporting the rule currently and that the Board needs to
slide and slide implementation of this for at least
two years or in consideration of the economy, in
consideration of the science that there is a lack of
science to support going forward with this.

And three minutes goes fast.

CHAIRPERSON NICHOLS: I know.

MR. HASSEBROCK: But, you know, the importance of
the credibility for transparency, there needs to be --
take action.

And the last thing is anybody else in the private
sector, when you lie on an application and you get caught,
you're gone. You need to fire that guy. This is
ridiculous.

Thank you for your time.

CHAIRPERSON NICHOLS: Okay. Thank you.

James Thomas.

MR. THOMAS: Hello. My name is James Thomas with
Nabors Well Services.

Our company provides work-over rigs throughout
the state of California. And we are a large fleet.

I'd like to thank the Board and staff for taking
the time to review the impact of the downturn in the
economy.

And our company operates throughout all the
different states in the union. But what I'd like to do
today is share with you some information about my company. And it's going to be on our California operations. And I'm talking about from December of '08 to December of '09. Working rigs have declined by 37 percent, which is 68 rigs. All of the support equipment, trucks, and the portable equipment that work at these rigs are not working as well. And it has declined by the same percentage. The utilization of these rigs has been reduced by 44 percent, and at the same time, our rates to our customers have declined by 24 percent to remain competitive in the marketplace. And so we're talking about all the good news. Now I'd like to talk about the sad side of the economy or what the economy has done. We have laid off 287 employees. That's 32 percent of our workforce. If you're fortunate to be one of the ones that got to remain, you get a salary reduction of seven-and-a-half percent. We have a training program in our company that we take a high school graduate and we would train those people on how to work in the oil industry. And we constantly kept 120 employees at all times in that program. That program has been suspended due to the economy. Our capital budget has been reduced by 78
Our company is proactive in repowering equipment. We have done it for years. This repowering activity was funded by our company with our money.

And the PM reduction we have seen is 80 percent in PM and 75 percent in NOx. We are committed to cleaning up the air. And we put our money where our mouth is. But this program of repowering has been placed on hold due to capital. I just want you to realize that large fleets are experiencing the same problems that small companies are experiencing. The downturn is killing us.

We all need help. So extend help to everyone. Don't carve out for medium fleets or small fleets. Do it for all fleets. We need it.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Marty Lassen, and then Bill Aboudi and Gordon Downs.

MR. LASSEN: Good afternoon, Chairman Nichols, Board members, and staff.

My name is Marty Lassen. I'm representing Johnson Matthey today. We're here in support of the rules.

Johnson Matthey was founded in 1817, some 30-some-odd years before the Gold Rush and California's
statehood. We're a catalyst manufacturer, and we do
supply VDEC systems that are verified here for retrofit.
We supply diesel OE first fit systems, filters, and
catalysts.

We're very large in the gasoline automotive
market. Our experience centers around about 150,000
retrofits since the mid-90s, including about 10,000
off-road pieces of equipment.

For the 2007 to 2009 model year on-road engines,
we've provided over a million filters and catalysts, and
we're approaching 500 million catalysts for gasoline
automobiles since 1975.

The results from all of these products are very
positive on the retrofit side. I guess our warrantee
claim rate is less than a half a percent. So as long as
the filters are put in the right application, they work
very well.

2007 to 2009 filters, the active systems, there
was some initial hiccups. But overall impression of the
industry is that the filters work very well. And even the
American Trucking Association's transport topic magazine
sites very positive results for the 2007 systems.
We've already started supply for 2010 on-road,
and we're in the beginning stages of working on 2011
off-road work.
From all of this, retrofit does provide about 21 jobs per million dollars spent. And for new vehicles, new machines, approximately 15 jobs per million dollars spent. So we do promote job growth with the activities that we undertake.

The economic impact no doubt has been great. Diesel is down 30 to 50 percent in sales. Gas is down 40 percent. Retrofits are flat. With our market share, we've taken a huge economic impact in both retrofit first fit. We've had layoffs. We've had furloughs. So we have actually seen big effect from the economic conditions. But we do continue to invest.

But any delays in the California rules for retrofit will have an impact on JM. We invested a lot of money, a lot of time. And it may influence our management to decide where to put our future resources.

The rules need to be there for health effects and SIP attainment, but some flexibility is probably appropriate, not so much for my company so much, but for the marketplace.

So thank you.

CHAIRPERSON NICHOLS: Okay. Thank you for that.
California.

A little different here, because I fall under the drayage truck rule. We're actually here to tell you not to extend the deadlines anymore. But we want our money. The money was promised to us. The money needs to be delivered to the Oakland truckers.

So I really don't have a Ph.D. in common sense. I have to declare that up front. But I'm going to give it a shot.

We constantly get roadblocks. And the roadblocks are the rules that are made by human beings. Rules can be changed. The Carl Moyer is a perfect example of that. Over the years, I have seen it come and go where we've spent thousands and thousands of dollars trying to push a Carl Moyer program onto people when it doesn't work.

But in this instance, for the port drayage, you've got $12 million for the Bay Air district they can't use for us to get us compliant. You've got us half ass taken care of at the port of Oakland. Half our fleet got grants, is retrofitted, ready to work. And then we have 1200 people, 1200 families that can't work at the beginning of the year.

The protesters were very clear today that they weren't coming to clog up Sacramento. They circled. They're letting you know, we're out here. All of this is
an example of what's going to happen in port drayage.

So typically in industry you build a prototype. You see how it works. And then you produce it. And that's what needs to happen here.

We are the prototype at the port drayage. Put the money to us. Let us take it, figure out if it works. Delay this rule until you're sure it works, and then you can implement it. That's common sense.

So I urge you to ask staff to go ahead and research and find out what needs to be done to get that Carl Moyer money directed as quickly as possible to the Bay Area district to the port truckers.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Gordon Downs, are you here? Gordon Downs, going once. Going twice.

Roger Isom, I know you're here.

Followed by Lowell Robinson and Nidia Bautista.

MR. ISOM: Good evening.

Let me clarify for the record, it's Roger Isom with California Cotton Ginners Association and Cotton Growers Association and Western Agricultural Processors Association.

I just want to make sure that the 23 people that have e-mailed me and texted me out there in the Internet
world I'm not proclaiming myself a genius. Let me clarify that for the record.

Two issues.

First one is about the science issue, and I'll just call it that for lack of a better term. We spent a year working with ARB staff and with members of the Board to develop what we considered a reasonable rule under the circumstances. And it was very difficult to many of our members. To this day they still have a hard time accepting it.

We are in the midst of beginning a statewide survey of farm equipment in a prelude to the biggest rule to affect agriculture in terms of air pollution. I personally have spent hours on behalf of the ag industry working with your staff on the health risk assessment, lining up facilities to allow ARB staff to come on site, to count trucks. And if you can imagine how tough that is, it's been very difficult, especially from members that aren't mine, other folks that aren't in the cotton industry. Been very, very difficult. A lot of trust there.

All I want to say is I would encourage you guys to take whatever steps is necessary to preserve that trust. Step back, analyze this thing. What happened in the process, do whatever it takes to preserve that trust.
If we don't do it, if you don't take steps to do that, it's going to be very, very difficult to develop this tractor rule.

The second thing I want to talk about is the economy. A lot of folks will question why is ag up here? Ag got a sweet deal on the last rule. Let me tell you the provisions in there in those extensions effect very few trucks. For example, in the cotton industry, less than a third of the trucks are eligible for those provisions. In the tree nut industry, less than a quarter of the trucks are eligible for those provisions. We are very, very affected by all the provisions of the rule.

We would encourage you guys to step back on that as well. Allow Prop. 1B funding to catch up. Allow the economy to catch up. It's not a matter of the technology being there.

As an example, the last year we worked with USDA to get funding for tractors. We were overwhelmed with applications. We replaced over 300 tractors in the very first year, five years in advance of that rule on a voluntary basis. Guess what. The ARB SIP for the tractor rule says we need to get five to ten tons of NOx reductions from that rule. We got two tons five years in advance on a voluntary basis with that funding. Funding is necessary if you guys are going to be successful in the
truck rule, the construction equipment rule, the farm
equipment rule. I encourage you guys to do whatever it
takes to allow the time to catch up on this.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Lowell Robinson, are you here? Lowell Robinson?

Nidia Bautista, you are the second to the last.

The last witness is going to be Julie Sauls.

MS. BAUTISTA: Good afternoon, Chair, members of
the Board, staff.

My name is Nidia Bautista. I'm the Policy
Director with the Coalition for Clean Air. We're a
statewide air quality advocacy organization with an office
in Los Angeles, Fresno, and Sacramento. And I'm here
today to basically express our support for this
regulation.

I'm also a member of the CARB's Truck Rule
Advisory Committee and very committed to working alongside
industry to ensure we have successful outreach for this
regulation.

As your staff presentation has acknowledged,
diesel trucks do represent a large source of air pollution
in our state and particularly in regions really suffering
with high levels of air pollution, including the San
Joaquin Valley and the South Coast. And those pollutants
include NOx and PM. And we know there is high levels of
toxicity associated with diesel pollution as well, not to
mention the greenhouse gas impacts as well.

To that end, if we are committed to clean air, we
can't overlook the trucks. We can't afford that. We must
support this life-saving regulation, one of the most
important regulations this Board has ever adopted. And we
understand that in doing so we're going to reduce the
harmful exposure as well as help attain our clean air
goals and help reduce climate change.

A year ago, you made a commitment to come back to
have an assessment on the economy and impacts. That's
part of the reason why we're here. We all understand
there has been a downturn in the economy. I don't think
anyone here is denying that. We know there's residents
across the state that have been impacted. It's not just
truckers. It's everyone.

But that said, your staff analysis does
demonstrate there is this opportunity to make some
modifications. And we're open to those modifications,
with one caveat. Those modifications need to be informed
by the emissions budget, as Board Member D'Adamo
mentioned. And we need to ensure there is an assessment
analysis done on that to ensure that we're not trading
things we can't afford to.
So, therefore, we will look forward to working with you and with your staff to move forward in the public process to develop these modifications.

And the other thing that there was a commitment made on the localized assessments of ag operations in lieu of the sweet deal that Roger, the genius, mentioned. We just wanted to ensure that continues to move forward. We know it's been a challenging year with furloughs. But that said, these communities definitely deserve that promise that you made a year ago and we want to make sure that moves forward.

And the other thing just to mention that we've historically and will continue to move forward to look for and find incentive funding. I worked on a task force with Board Member D'Adamo and working with Board Member Berg on the incentives group. We know that's a challenging part, because there may not be money for everybody. That's just the truth. But we'll still continue to try to identify where there is funding. Where we can maximize existing funding, we will be there alongside with you and industry to do that.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Okay. Our last speaker.

MS. SAULS: Good evening.
My name is Julie Sauls with the California Trucking Association.

I want to thank you for your patience and the interest you have shown to all of the speakers who have come before me.

I also want to commend Dr. Telles and Supervisor Roberts on their true concerns about the integrity of this agency, as well as compliment Ms. Berg on her interest in the workshop she attended last week on the economics. She did express you are all very concerned about the economic situation and what is happening here.

Yesterday, I opened up the morning report and was half expecting to see a determined outcome for this hearing already put as the press release for the event. I was pleasantly surprised to see I believe it's the first time you have publicly acknowledged a downturn in the economy and the effect and the impact it is having on the rule.

Today, you additionally saw during the staff's presentation more evidence and as well you've heard over and over by all the 93 or so speakers before me about the economic impact that the rule is truly having. And you've been presented with some options by your staff.

I truly hope that you will treat that as a floor and certainly not as a ceiling for the opportunities and
options that you may want to explore as a Board in dealing
with this rule. This is very important. This is truly
having an impact on all of those. And this is your
opportunity to restore the good work that you have put out
there and the efforts that you are trying to do by doing
something that will help the trucking companies in this
time of this economy and in dealing with this regulation.
I thank you. Thank you very much.

CHAIRPERSON NICHOLS: Okay. That concludes our
list of witnesses.
I think it's been a long but informative day.
I want to congratulate the speakers on giving us
a lot of substantive information, specific information in
many instances, some of it very personal to their
businesses, some of it more industry wide. But clearly
we've heard a lot of different comments.

Today, we have only put before us the update on
the in-use on-road diesel vehicle rule, the truck and bus
rule. But obviously we've been entertaining comments on
all of our rules and in particular on all the diesel
rules, including the port trucks and the construction
off-road equipment rules as well because there is a fair
amount of overlap on a lot of these issues.

However, I think in light of the notice for this
hearding that direction that we would give to the staff
should be limited to things that we want them to do with
the on-road rule, even though we may express our opinions
about other things as well.
You know, I want to come back to kind of where we
were at the beginning. I believe that there is a
consensus on this Board that, given the gap between what
we thought the emissions would be and what the emissions
actually are as a result of the down economy, that we have
some room to work without compromising air quality and
within that window we clearly ought to be taking action.
I don't see any -- there's not even really any question of
that. If you've got the room and you've got conditions
that we've got, we should act.
I think the bigger question is whether and to
what extent we can afford to implement changes in the
rules that would have a negative impact on air quality and
still meet the legal requirements.
The bigger issue has been raised about whether
the federal government is going to back down on the
particulate standard, the deadlines that are in the
Federal Clean Air Act. I suppose anything is possible.
But I think it would be a mistake to bank on that.
California has been down that road before. We've
submitted plans that openly said we would not meet federal
standards. And what happens is we end up getting sued by
citizen organizations, environmental organizations. And
the effect of that is an injunction which ties up your
highway funds, other federal grant funds, as well as
putting a stop to any permits, which is the last thing you
want to do in a situation where you're trying to dig your
head out of a recession. So I don't think there is much
point in going down that path.

But, again, I think there's room. And the staff
has certainly presented us with a few ideas for ways in
which they could modify the rule.

There's also the issue of what to do about the
report that was based on the work of a person who was
exposed as being fraudulent. And I think that the work of
that individual does have to be withdrawn and redone
because of the problems that were created by his action.

It's unfortunate that other good people who had
no idea of what he was doing will suffer because of that,
because, you know, other people were involved in writing
this thing who had no idea what was going on. And so
they, too, are going to be put under a cloud, but so is
the whole organization. And that's just the reality of
what happened.

I think it's also necessary that we do hear a
report from the Executive Officer that lays out in detail
everything that happened and what is being done about it
And I'm still very keen on doing the bigger review of the science behind the rule, because I was a little bit surprised to hear today from people who I think have been following this the notion that there isn't any support for the health concerns over PM2.5. I mean, I know there are people out there today that still think that cigarettes are not really bad for you. But by and large, after years and years of discussion, you think these issues have been kind of put to rest.

And although the Tran report was recent and it was certainly given a lot of publicity, it was coming after years and years of studies, reviews, peer reviewed articles, the federal record basis for the PM2.5 decision, the work on carcinogenicity by our own Toxic Review Board -- not the ARB's, but the Cal/EPA Board, et cetera, et cetera. And I think there is a need for that to be brought back out and for the critics and the skeptics who obviously have had the opportunity now because of what Mr. Tran did to call everything into question, I think that needs to be engaged. And I think the Board needs to take the time, at least a bunch of us -- and I certainly will -- to sit and really listen to all of that, including to the critics.

So I think those are the main areas that we're
talking about here. But I know that there are people who have specific ideas that they'd like to raise. And so I think we should take a little bit of time for some discussion.

BOARD MEMBER LOVERIDGE: Can I just ask staff before that if they could comment on what they heard today referenced with the options --

CHAIRPERSON NICHOLS: The options in terms of the options for delay or for changes.

BOARD MEMBER LOVERIDGE: Right. On item 27, slide 27, you list the possible options that reflect the state of the economy. I was wondering if you could ask staff to draw on what they had heard today to comment on the options that are identified here.

EXECUTIVE OFFICER GOLDSTENE: Would you like us to do that now?

CHAIRPERSON NICHOLS: Yeah, that would be fine.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: Well, I think we heard that -- I think from a number of people that a one-year delay is what many people who commented today have asked for.

But I think we've also heard as well that relief for medium/small fleets, fleets that are above our current threshold, also need some specific relief. So I don't think that we heard a consensus by any means that one was
preferable over the other.

And I think our original intent was to continue
to work on these and gather additional stakeholder input
on which would provide the most substantial and
significant relief within the emission bounds that I think
we've been talking about is how we would propose to
proceed on this.

CHAIRPERSON NICHOLS: Procedurally, you would
hold a workshop, put together a staff proposal. It would
be noticed. And then it would be brought back to the
Board for formal notice and comment rulemaking, because
we're doing this under the Administrative Procedures Act.
If we're going to give any relief, it's got to be in the
form of an actual change to the regulation. Otherwise,
it's just, you know, speculative as to what might actually
happen.

We have to follow the procedures. So we can put
out a notice and gather input, and the Board can certainly
express its general directions as to what they'd like to
see explored. But there can't be an actual vote until
we've gone through the 45-day notice process and filed our
proposals with the Office of Administrative Law, et
cetera. And I've been advised that the earliest that
could then happen would be at the April Board meeting.

But everybody would know what was going on, because we
would be marching through the various steps.

Ms. D'Adamo, did you have your pencil up there?

BOARD MEMBER D'ADAMO: Yes. I would just like to maybe take a look at this a different way, comparing slide 27 to slide 17.

Slide 17, the economy alone does not achieve the expected PM reductions. I really do think we need to make adjustments along the lines of what you outlined. But I'm concerned about that 2014 date. And I don't see Congress changing the date, not unless the whole standards get changed by EPA without going through Congress. I don't know what the likelihood is of that. But I don't expect to see it. We're kind of by ourselves out here. If there were a lot of other states that had the same problem, maybe the Congress would want to take this up.

So what I would like to see is something along the lines of a faster growth scenario where we allow that gap to be our emissions budget, so to speak, without sacrificing any of the public health benefits that we have gained in the rule.

And then we come back. We come back and see if the economy continues to falter and make some further adjustments.

What I don't want to see is that we take a slower growth scenario, we turn out to be wrong. We can't meet
the 2014 date, and then we come back with a more stringent rule. I think that's going to be a lot more problematic for us.

CHAIRPERSON NICHOLS: I'm not sure they understand what you would support then.

BOARD MEMBER D'ADAMO: Well, I would say using a faster growth scenario where we take the gap between the reductions as a result of the economy and where we would have been under the rule, which shows that we can make some adjustments in 2011, perhaps some additional ones in 2012, but not beyond that.

CHAIRPERSON NICHOLS: I see.

BOARD MEMBER D'ADAMO: Use that faster growth as the base line for the budget.

CHAIRPERSON NICHOLS: I understand.

Ms. Riordan.

BOARD MEMBER RIORDAN: Madam Chair, if I might -- and I apologize to the audience and to staff, because I do need to leave to be able to catch my plane.

But I'd respectfully maybe disagree a little bit with Ms. D'Adamo. And the reason is I think we are going to have a very slow recovery in California. And based on all of the construction, or lack thereof, in southern California, I just have this feeling that we're in for a long difficult recovery. So if people would like to see
both analyses, that's fine. But I'd sure like to look at the slower one.

One of the things that I took away from this meeting, it's clear to me that we need to do some of the things, Madam Chair, that you just indicated of looking at possible ways to reflect the state of the economy and provide some relief to our affected parties that have spoken today.

But it also is good to have these hearings, because something that I hadn't thought of and that I clearly think needs to be put into play, and that is those people who have made the investment in the technology to assist all of us in trying to reduce these diesel emissions, we need to be cognizant of their viability.

And I was sitting here thinking about what we might do. And the only thing I can come up with quickly -- and I think many heads and hours later you can probably think of even better things -- but that would be to again give a lot of early credit to people who do want to retrofit. I think that is the way to try to stimulate a market for those who are manufacturing retrofits and are installing retrofits. But there are probably other ways, too.

And then secondarily, it is my belief that we must get the moneys that might still be available to again
the affected parties to provide assistance in doing the retrofitting that's necessary for new engines.

And I'm told, for instance, that in the SOON program -- and I'm only told this. I don't have this by somebody like Dr. Wallerstein telling me this directly. There's money there. There is a lot of money that could still be used.

We heard again from the gentleman from Oakland there's perhaps some money there that could be used that needs to be gotten out. We need to get this money out working for us. If we need to go back and re-evaluate the kinds of contracts that we're drawing up to be able to use those moneys, we need to really think about being very positive and very helpful to people and again give them credit for using this. We've got to incentivize the use of the money that's there, because I think that will get us some early action items that help the whole issue of the amount of emissions and their reductions. But it will also keep in business the people who are doing the R&D and the manufacturing of the retrofits and all of the things that we need.

And then, finally -- and I know, Madam Chair, you said this was on the trucking, but we did notice for the off-road rule, too.

I think we need to look at the inventory; start
talking soon. Because in March, I think there is a date
that we need to recognize. They're going to have to make
some decisions. And I think we initially need to get
working on looking at the numbers that they have produced
and if there is any conversation about what we need to do
and et cetera.

So those I think are my points for today. And I
thank you for your time.

(Applause)

CHAIRPERSON NICHOLS: Just to clarify, the March
date is for the reporting date?

EXECUTIVE OFFICER GOLDSTENE: Reporting date.

BOARD MEMBER RIORDAN: I thought to have to be in
compliance.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Which rule --

BOARD MEMBER RIORDAN: Off-road.

CHAIRPERSON NICHOLS: On the off-road.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF

WHITE: Let me just clarify a few dates.

The reporting for the off-road rule occurred this
year. So fleets reported this spring and summer.

The first compliance date for the large fleets is
March 1st of 2010, although we expect many, if not most,
fleets will -- and we heard many of them here today will
probably have sufficient credits to carry them through.

Yes.

BOARD MEMBER RIORDAN: We hope so.

But just thinking about maybe if there's somebody that doesn't, we better know kind of where we're going.

CHAIRPERSON NICHOLS: We want a faster assessment of where we are.

BOARD MEMBER RIORDAN: If we could just start the process.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: I would say we have. The information from AGC -- we met with them on Thursday and saw that information for the first time. We're working with them to get some additional information on their assessment, look and try to utilize what we've done for the truck here today and apply it to that so we can quickly act on it. Certainly try to get as much knowledge as we can before the reporting for the reduced activities coming in this spring 2010.

CHAIRPERSON NICHOLS: Thank you.

There is some divergence among the witnesses and I suspect probably just in terms of policy on the relief issue as to whether you grant equal relief to all types of trucking firms versus whether you focus it on smaller businesses and in particular on the California-based
businesses, which tend to be the small and medium size, however you want to define it, as I understand that. And I guess that to the extent that we're going to try to keep some momentum going forward to recognize the firms that have invested in retrofits and in doing retrofits, I think it's important that we give the greatest consideration to the smaller businesses, because those are the ones that are the most directly related to the California economy. And the ones who have the ability to pay and to continue are at least inherently more likely to be the largest and especially the ones that are involved in interstate work. So while I don't normally like to discriminate, it seems to me there is a basis for at least looking at some discrimination that's designed to help our state in particular in a time that's bad for everybody.

Other Board members want to speak?

Yes, Ms. Berg.

BOARD MEMBER BERG: Thank you.

I do agree with both Mary, your three actions; and, Barbara, I also agree with your two.

One of the things that really struck me today was what seems to be the misalignment of the ability to comply. So the financial numbers continue from a year ago still to be grand canyon apart.
So I would really like to see based on the fact that our assumptions a year ago there would be freight increases. And we know that freight rates are down. We know that we were hoping that the incentive money that we did have that would go a long way and the incentive money was late getting out, plus we had difficulty getting some incentive money.

I think the asset loss is a huge issue, and it has undermined people's ability to even get funding if they felt that that was a viable option for them.

So I would really like to see if within the compliance area that we're going to look at these options that we truly take another look at the ability, the way that the rule is going to play out, and implement it if it is financially feasible from a cash flow perspective. Not an economic perspective, but a cash flow perspective, because that's what keeps companies in business or out of business.

CHAIRPERSON NICHOLS: I would like to support that as well.

I think one of the things that this hearing really focused on is that it's not just a matter of the general economy and its situation. It's a question of can people actually get financing to put the equipment on.

And, I mean, we know just from reading the
newspapers that everybody is having a hard time getting financing for doing anything at this point. And obviously that's particularly true if you can't back it up with the asset value. So I think that's a very sound point, and it is something we're going to have to get more information and do a better analysis on.

(Thereupon Ms. Riordan exited the proceedings)

BOARD MEMBER BERG: We will reach out to the industry to specifically get some help on getting the database in order to get this information.

And one point we do have coming up, and that is the registration for the first group of on-road vehicles that is due March 31st, and that is the ag specialty equipment. It also is for the retirement fleets is my understanding. And is it also for the fleets that are going to take Option 2 and 3 if you're going to do fleet averaging or percentage, do you have to register then by the 31st?

IN-USE CONTROL MEASURES SECTION MANAGER BRASIL:
The March 31st date reporting is for the fleets that have done early retrofits and expect to take the credit, those who expect to use the retirement credit in the future. And the agricultural fleets, all of their vehicles would be reported as well as the street sweepers that were removed from the portable equipment program.
BOARD MEMBER BERG: So I'd like to hear from staff your projection or if you feel that do you need extra time to get some of these fleets registered? Do we need all of them registered by the 31st, considering that we don't have the program up and running yet and we're probably looking to accomplish -- industry is going to accomplish this registration period at maximum 90 days and probably less than 90 days?

IN-USE CONTROL MEASURES SECTION MANAGER BRASIL:
The first emissions requirement compliance date is January 1st of 2011. So if there were a later date for reporting to take advantage of early credits, we would not change any of the emissions compliance.

The caveat being the street sweepers would have normally been reporting for the portable engines we've given exemptions for, and for the agricultural fleets, if we do have their information earlier in and they will label their vehicles, then it will be much more straight forward to do the risk assessment and understand which trucks would potentially qualify for the agricultural provisions on the roadways as well. That might be a consideration on those dates.

HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH CHIEF WHITE: I would add, as we look at that reporting, the one that's probably the highest priority in the near term is
going to be looking at the agricultural vehicle reporting, simply because we've heard from a number of people about the need to continue to move quickly on the health risk assessment that the Board directed us to do. And so that would allow us to continue to move forward quickly on that. And the other elements could certainly look at some perhaps alternative later dates in recognition of where we are right now.

BOARD MEMBER BERG: So, Madam Chair, I would recommend that we allow staff to include in the proposals for April that the early credit and the other two areas other than the ag could, in fact, report at a -- whatever date you were to look at and to report back to the Board, and then we really focus on the ag to get them registered. And we really rally the outreach committee to put all of our focus in on the ag to get that group done by March 31st.

CHAIRPERSON NICHOLS: Is there any objection? If not, let's give that direction to staff as well.

Okay. Yes, Dr. Balmes.

BOARD MEMBER BALMES: While Ms. Berg has brought up specifics about the agriculture industry, I'd like to go back to a year ago when we heard a lot of testimony from the logging industry. We heard some again today. And some of you may recall that I was concerned about that
specific impact in the logging industry. And I think that we should consider perhaps an exemption to the 25,000 mile limit. As far as I'm concerned, logging is a type of agriculture. And I think the impacts have been pretty specifically tough in that region that does have relatively clean air.

So I would propose that that also be considered some kind of --

CHAIRPERSON NICHOLS: Reclassification.

BOARD MEMBER BALMES: -- another classification for the logging industry.

CHAIRPERSON NICHOLS: Okay. Let's add that to the list of potential to-dos.

Dr. Telles.

BOARD MEMBER TELLES: I think we're getting a little ahead of ourselves. And I think the first order of business would be to do what you suggested, and that's to redo the report on the methodology and the health assessment. And I think that the reason to do this is if we're going to do anything with this regulated industry that has lost respect for this organization, I think we have to demonstrate to them that we will take the necessary efforts to make sure that we have a report that has honesty and integrity in it.

And in that regards, I would make this motion and
would hope that the Board would go on record to support it primarily to get beyond this issue about our lack of integrity. And this motion will be -- perhaps I may not have a second. But I would recommend to the staff that we temporarily suspend -- partially temporarily suspend the truck rule, but to continue the registration, because that will be helpful information for truckers as well as proceeding ahead. But we temporary suspend this rule until we have redone the methodology on the health assessment. And until that's done, in a public manner, that would be done in the same way that it was done before, but with more credible people involved.

CHAIRPERSON NICHOLS: I think I understand the motion.

Is there a second?

BOARD MEMBER ROBERTS: I'm inclined, but I need -- I'm not sure what "temporarily suspend" means. I don't know what the implications of that. I know the rest of you know it.

BOARD MEMBER TELLES: Temporarily suspend until the methodologies report be redone.

BOARD MEMBER KENNARD: I'd like to understand how long that would take to redo the report.

RESEARCH DIVISION CHIEF CROES: Bart Croes, Chief of Research.
To redo the report and then go through the public
process and the peer review process I think could be done
in as little as four months, if things go well. But
certainly the report we did took much longer than that,
and there is a possibility we could accelerate it.

It's really the factor that we don't have a lot
of control over is the peer review. And maybe there is
some steps we can take with the California university
system to expedite that.

BOARD MEMBER ROBERTS: Let me just ask a
question, because there's things here that, try as I
might, are very difficult to understand.

The original report and the guy that we have the
problem with is the statistician. I mean, is it possible
to look at the work, not by anybody connected with this
Board in any way, shape, or form, but somebody comparable
outside to review this work and to see if, in fact, we
have an argument with the work?

I mean, we know we have an argument with the
author. It seems like the question is do we have an
argument with the work product?

I mean, it seems to me we either got to quickly
figure out whether this report is of any value, or the
other option is just throw the report away. You know,
throw it away. Throw it out. This report, I hear it's
not important and I hear it is important. If it's not important, we should be able to throw it away and whatever money we spent on it.

But I think I would -- you know, I'd almost like to have -- Dr. Telles, you had mentioned at one time get an independent party.

BOARD MEMBER TELLES: I'm probably one of the few Board members that actually read the report --

CHAIRPERSON NICHOLS: Excuse me.

BOARD MEMBER TELLES: Okay. I said few.

And the report is based upon a statistical analysis and putting together a lot of information from peer review journals. And I think it would possibly be possible to have some statistician look at it.

Unfortunately, the methodology was written by a gentleman who had falsified his credentials, and I think it puts everything in that report in a doubtful light. And I would feel more comfortable if the methodology was redone by a separate statistician rather than just fumbling through what has already been done.

CHAIRPERSON NICHOLS: I think Dr. Balmes might be a useful contributor to this conversation, because he does do epidemiology for a living and works with statistician.

BOARD MEMBER BALMES: Well, first of all, as I said this morning, the science is there, whether Mr. Tran
had a Ph.D. or not. So roughly the same outcome will be
obtained from a redoing of the analysis.

Again, as I said this morning, there may be a few
less lives or a few more lives lost or saved, but
basically you'll get the same result.

CHAIRPERSON NICHOLS: But there could be --

BOARD MEMBER BALMES: Yeah. No -- so, and I
think the methodology isn't actually that sophisticated.
So, to me, the issue is one of credibility of the Board
has been brought up by multiple speakers, including
members of the Board.

And so I think in order to improve our
credibility with the affected parties, as Ms. Riordan
would say, I think we have to redo the report.

I don't think it needs to -- no new science has
to be done. There has to be the application of
appropriate statistical methodology to the peer-reviewed
scientific literature that exists already.

Now, there are two ongoing reviews of the same
literature. The U.S. EPA is considering whether there
should be even a stricter PM2.5 rule than is already out
there. And so they've done a review of the literature and
in the process of doing it. That's already been published
in draft form.

And then as part of the global burden of disease
effort that originally was World Health Organization, it's been redone. There is a body of epidemiologists reviewing the literature and coming up with a concentration response function with an approach that would not be Mr. Tran's, but would probably -- but would meet any kind of muster because it's being peer reviewed internationally.

I've contacted the people that are doing that review. They have already done that concentration response function analysis. Totally independent of anything Mr. Tran did. It wouldn't be published until, at the earliest, the fall of 2010. So that wouldn't meet the time line. But they've already completed the analysis.

So I think that, as Mr. Croes mentioned, it could be -- especially if we partner with an effort that's already ongoing that we can get something potentially done sooner than later.

CHAIRPERSON NICHOLS: I guess the question that your comment raises for me is why couldn't we take this independent analysis that already exists out there conveniently and have that then peer reviewed by U.C. or other California-oriented peer reviewers and use that as a --

BOARD MEMBER BALMES: That's what I was trying to suggest. In my academic muddle, it didn't come out clearly. Because we haven't formally --
CHAIRPERSON NICHOLS: I mean, Tran's report was not published at the time that we considered it.

BOARD MEMBER BALMES: We haven't formally negotiated with this group. But both Mr. Croes and I have had conversation with Erin Cohen, who is the co-chair of this International Committee that's doing this for the Global Burden of Disease.

CHAIRPERSON NICHOLS: Dr. Telles, I think we interrupted you.

BOARD MEMBER TELLES: I was going to -- I agree with everything that Dr. Balmes says.

But to remind you that what the EPA does is it doesn't make a rule on this. What it does is it establishes a level of PM2.5 which is felt to be detrimental to health. That's what the World Health Organization does.

This health assessment doesn't do that. Basically, the purpose of this health assessment is to use that information and to tell us as Board members in the state of California the impact of exposure to PM2.5 in the state of California. So it has to be done to reflect that information that's important for the Board to make decisions on.

And I agree that, you know, there's plenty of information here that has already been achieved and is
going to be achieved here in the next year or so that can be used to do this. But I just think it has to be done with the same intent that it was initially done for, and that's to establish a risk assessment for the citizens of California.

CHAIRPERSON NICHOLS: I see. Thank you for the clarification.

Dr. Balmes.

BOARD MEMBER BALMES: Just a short follow-up, because I know other Board members want to speak, is that what the comparative risk assessment for the Global Burden of Disease project is doing is coming up with the concentration response function.

And then for the association between PM2.5 and mortality, just like Mr. Tran's effort did, but then you have to apply the California data about exposure to PM2.5 to that concentration response function. So I agree with Dr. Telles.

CHAIRPERSON NICHOLS: Mayor Loveridge.

BOARD MEMBER LOVERIDGE: Three quick points.

One is just a general one. But I've never been part of an organization where the major reports come from somebody deep in the organization. Every organization I've ever been a part of it comes from the people at the top.
I think when a report comes forward, it's not a report of some lowly member of staff. It's a report of the organization. And I think in the future we ought to have the senior members of the CARB staff be accountable and responsible for the reports that come forward.

Two quick things. I mean, if there is agreement we need to rework the report, I see value in doing that. But as to suspending the rule, it seems to me that creates enormous kind of uncertainty and consequences that we talked at some length about.

So just one general, we need to change the procedure of this Board in terms of what reports come. But I do not favor the motion of suspending the rule.

CHAIRPERSON NICHOLS: Okay.

DEPUTY EXECUTIVE OFFICER SCHEIBLE: If I could address Supervisor Roberts --

BOARD MEMBER ROBERTS: You've kind of answered part of the question.

DEPUTY EXECUTIVE OFFICER SCHEIBLE: What role did the additional analysis play?

The Board adopted the Ports and Goods Movement Emission Reduction Plan. It adopted a number of diesel emission control measures, including the port trucking rule and the off-road rule without this report, basically
based on a previous analysis of what was the relationship
between PM mortality and --

BOARD MEMBER ROBERTS: I understand that. And I
don't want to go down that road. Okay.

DEPUTY EXECUTIVE OFFICER SCHEIBLE: The report
was not an essential part --

BOARD MEMBER ROBERTS: No, but you guys are
missing the whole point when you say that. You've got a
major flawed report with our name on it.

DEPUTY EXECUTIVE OFFICER SCHEIBLE: Right.

BOARD MEMBER ROBERTS: And I understand.

Technically, maybe it wasn't the rock on which we based
everything. And that may be a legal answer; it's not a
good answer. Okay. It was very bad work. It was -- you
heard me earlier. I'm going to try to keep my blood
pressure down a little bit here.

We know the answer to -- I think I know the
answer to one. If we're going to redo this thing, it's
going to optimistically take about four months.

So the motion that had been made -- hasn't been
seconded yet -- was that we would have a partial

suspension. I don't know what that --

BOARD MEMBER TELLES: I'll clarify.

By "partial suspension," I think it's important
to continue to collect information on registration of
trucks. That's important information for truckers as well as to be able to predict what's going to happen with the economy. It gives us more solid information to make decisions on in the future. That's part of the rule. I think to continue that would be important.

But to enforce the rule -- in other words, to require truckers to retrofit their trucks or replace them while we're in the process of clearing the air, so to speak, would be inappropriate.

That's what I meant by partial suspension: We continue to collect information, but we don't enact the rule until we get this cleared.

CHAIRPERSON NICHOLS: Well, technically, the rule actually has been adopted. It was sent to OAL a year ago. There was back and forth, and they've approved it.

CHIEF COUNSEL PETER: OAL has approved. The rule is now final.

So in terms of what Dr. Telles was just saying, in terms of enforcement, there is always discretion for enforcement.

The only thing that's happening that's the requirement that was laid out in the staff report this morning, this year, the only thing that's required is data collection, which I think you just indicated that you want that to continue. So there's nothing really to suspend on
the enforcement.

And to actually suspend the rule formally would actually have to do an amendment to the rule that already is in place.

And I think you're discussing amendments with respect to the submissions budget. But you couldn't actually have a motion -- setting aside that it's not on the agenda. But you couldn't make a motion to suspend the rule without going through a notice package, okay, because we have a final rule.

But the bottom line is you can enforce enforcement. You can suspend enforcement. But, in fact, there's nothing to enforce this year.

So it's a circle way around. I understand your point, but I don't --

CHAIRPERSON NICHOLS: Procedurally, it may not be possible.

CHIEF COUNSEL PETER: Procedurally, it doesn't really have an effect.

CHAIRPERSON NICHOLS: We have two other Board members that have --

BOARD MEMBER ROBERTS: Could I finish?

The problem -- let me tell you the discomfort I'm having. It seems to me we're having a couple different discussions here that are all interrelated.
If we simply -- if I understand the motion right, we could -- even if we could do this and we suspended the rule and get everything back four, five months, we're back to reinstating the rule.

We've been having a discussion that the problem's not much more than a five-month problem. That we're looking at a solution that goes out much further than five months. That it has impacts not only on the trucking, but on off-road and every other -- agriculture, forestry, and every other thing. That it seems to me we want that process started. And it doesn't make sense to me to enter into something that we're going to undo four months from now.

I guess I'd like -- I'm trying to mix the two things that I'm concerned about.

I think you have to redo this report.

Absolutely. No question about it.

And I think your recommendations -- you guys are the professionals down there. I'm just a humble architect. I don't get into those kinds of things. I'll help you on land use later.

BOARD MEMBER BALMES: We should redo the report.

BOARD MEMBER ROBERTS: And a planner.

But I think we should do that at the same time as we're directing staff on these other things.
I, for one, think our slow growth projection is terribly optimistic. Okay. I don't think there's -- the amount of equipment and trucking -- I mean, the trucking industry is getting battered. The construction industry is almost nonexistent today.

So there are some self-regulating things -- I shouldn't say "self." There are things happening to them that are going a lot further than we ever imagined in cleaning up the air. And I think we need to use that to help to at least create the breaks.

Barbara Riordon's comment about creating early incentives to assist some of those companies that are investing, I think these are great suggestions.

So I'm for redoing the study, finding ways to postpone this that clearly are based on a less than fast growth. In fact, I'd base it on a less than slow growth. Because every prediction I've seen, every number I've seen, everything I'm evidencing in San Diego is contrary to what we see here.

And I don't know what the timing is. I don't know how you orchestrate bringing all these things back.

CHAIRPERSON NICHOLS: I think it's pretty clear the Board doesn't want to see any enforcement of this rule until the report has been redone. I think that's come through loud and clear.
Can we hear from the other Board members who wanted to speak?

BOARD MEMBER KENNARD: Let me just first -- I see this in two different segments. They're two different issues we're dealing with.

The first is a transgression -- very serious transgression on the part of a CARB staff member, which is distinct in my mind from the rule and the current economic conditions that are affecting the enforcement of the rule and the ability of the industry to comply with the rule.

So let me just first share with my fellow Board members my view on the transgression of staff.

And I respectfully disagree with my Board members who want to throw out this report. Because certainly this gentleman was dishonest. It was egregious. I think that people that had knowledge and their failure to disclose was a miscalculation. But I also don't believe it was intentionally malicious or intentionally neglected.

You know, this is a very large organization with a lot of moving parts and pieces. These things unfortunately happen. I think that there was no intent to misinform or mislead. And I just feel very, very strongly that there's been a myriad of apologies by staff and by our Chairman.

And we've been assured that this gentleman --
although some people would like to see him fired -- that
there are rules, there are civil service rules, there are
legal rules that probably prohibit staff from doing any
more than has already been done to him. Whether we like
it or not, that's the law. And I don't think that staff
intentionally did not do what they could do to punish him.

We've been assured that you do not have to have a
Ph.D. to have done this statistical analysis that he did.
It's been reviewed. And I, for one, don't want to spend
the resources to have this report done again. I think in
a time of very limited resources at the State level that
we would be lacking in our fiduciary duty to go and redo
this report based on the fact situation as I see it.

That being said, to the other issue, I strongly
believe that this is a point in history that is
unparalleled relative to our economic situation. And I'm
very supportive of us going back and seeing how we can
modify the implementation of this rule.

And I'd like to see if staff could look at some
kind of metrics, because all of us are kind of shooting in
the dark whether we're in a slow growth or a fast growth.
And we really don't know. If we all knew, we wouldn't be
sitting here.

So maybe as you do this analysis, you can look at
some kind of metrics, whether it's the GDP or the
unemployment rate or whatever --

CHAIRPERSON NICHOLS: Something objective.

BOARD MEMBER KENNARD: Something objective and
not some arbitrary time of two years or five years or what
have you. That would be my view.

And just as a final note, I cannot support the
motion that's been put forward.

CHAIRPERSON NICHOLS: Okay.

BOARD MEMBER YEAGER: Yeah. Just a couple random
thoughts here.

I also wouldn't support the motion. I think it
would create much more confusion and concern than is
really necessary if we suspended it all together.

But I did want to sort of tie it back to what Ms.
D'Adamo was referring to as well. If you look at that
chart on 17, it does look like obviously that we're making
the goals in 2011 and perhaps in 2012 as well when we come
back with the analysis.

I guess my thought of doing the additional
analysis won't really effect the overall goals that we're
trying to achieve by the rule. If we look at again doing
a modification, if we look at doing more of having more of
the impact of the regulation further down, we have that
four months to do the additional report.

Mr. Goldstene, is that correct? And depending
again what kind of modification we're looking at, the four
months wouldn't affect that?

EXECUTIVE OFFICER GOLDSTENE: That's right. We
could bring it back to the Board by April 22nd, which is
the date of the April Board meeting, publicly workshop
different options. You'll probably direct us tonight to
look at some specific options. Ms. Kennard's option of
indexing or finding metrics or something, we'll explore
different options.

We would put together a rule package that will go
through the 45-day comment period and then bring it to the
Board for consideration with the different options and the
detail.

BOARD MEMBER YEAGER: So my hope is that we can
accomplish both. One, get a new analysis, which I do
think if we don't do it now, we're going to regret it.
Hopefully, just takes that issue off the table. I don't
believe we're going to find anything substantially
different at all, for many of the reasons that Ms. Kennard
just said. I think staff reviewed it and went over it,
and they feel assured that the science itself was solid
and that we're not going to probably get a different
result. But I still think it's important to do.

EXECUTIVE OFFICER GOLDSTENE: I think I might
have misunderstood. Were you talking about an economic
analysis or --

BOARD MEMBER YEAGER: I'm talking about the --

EXECUTIVE OFFICER GOLDSTENE: Oh, the Tran

report. I'm sorry.

So I'm talking with Mike and Bart here about the

most expeditious way of looking at the methodology and the

statistical work and trying to get it peer reviewed.

The challenge sometimes is we don't control the

peer review process timing. So on that, it would be hard

to make a commitment to exactly April.

BOARD MEMBER ROBERTS: Could we just deal with

that first?

And if Dr. Telles would make that his motion to

instruct the staff to redo the report, I would gladly

second that. And we can deal with that.

CHAIRPERSON NICHOLS: I think that already is

sort of out there in my comments. But if you want to

formally make that a motion, go right ahead.

BOARD MEMBER TELLES: Say that one more time.

BOARD MEMBER ROBERTS: To redo the report. To

instruct staff to redo --

BOARD MEMBER YEAGER: But not to suspend the

rule?

CHAIRPERSON NICHOLS: Just asking for a separate

motion --
BOARD MEMBER TELLES: Before I say anything again, I just wanted to address Ms. Kennard's statement. She mentioned that the report had been reviewed and that everybody felt good with that.

Actually, if you read the reviews of the report, a couple of the reviewers -- one of them, Arden Pope, who is probably the most prestigious of all the members on that review, mentioned in his letter to CARB that he felt comfortable with it as long as somebody ran the numbers that Tran had directed.

Now, you have to understand that Tran was the only statistician on this. So he had total control of this report. And in other words, the reviewer himself did not run the numbers.

And I don't know if you understand that, but basically he's asking that the numbers do be run. And I think -- and basically in a way saying, yeah, it's a good report as long as it's good. But that's what needs to be done.

And the process -- initially I thought that if -- and I don't think doing this precludes doing the other things we're talking about, talking to industry and talking to health and environmental groups to kind of redo some things that could be acceptable for everybody. I don't think it precludes that.
But I think it is a necessary component to get everybody on board to say in a statement -- a very strong statement that we are going to do it, and we are going to suspend it until it be done the right way. "Partially suspend" is the word I used.

CHAIRPERSON NICHOLS: That's where you're getting off where the rest of us are ready to go.

BOARD MEMBER ROBERTS: Buried within that I think is the motion I would like to second.

CHAIRPERSON NICHOLS: Do we -- Dr. Telles, if you would retract for just a moment and --

BOARD MEMBER TELLES: Okay.

CHAIRPERSON NICHOLS: -- and allow Dr. Balmes to state the motion.

BOARD MEMBER BALMES: As a procedural move, I would like to make the motion that we redo the Tran report.

CHAIRPERSON NICHOLS: Okay.

BOARD MEMBER ROBERTS: I thought that was --

BOARD MEMBER BALMES: Without the partial suspension.

BOARD MEMBER ROBERTS: I just wanted to give him an opportunity to do that. He doesn't want to do that?

CHAIRPERSON NICHOLS: He doesn't want to do that.

BOARD MEMBER ROBERTS: I'll second your motion.
CHAIRPERSON NICHOLS: We have a motion to redo the report before us. Has been properly seconded.

Does everyone understand the motion?

Would all who are in favor please say aye.

(Ayes)

CHAIRPERSON NICHOLS: Any opposed?

(Whereupon Board Members Kennard and Sperling voted nay.)

CHAIRPERSON NICHOLS: Two no.

BOARD MEMBER KENNARD: For different reasons.

CHAIRPERSON NICHOLS: For different reasons. But that's okay. I'm sympathetic with Ms. Kennard's rational here.

But I think that, you know, Dr. Telles has really -- whether you agree with him or not, he has done a huge amount of work on this issue. And because of his lonely at first pursuit of it, he has made it an issue of the Board's credibility. And so now we have to deal with that. We have no choice. We have to deal with it. So I think it passes anyhow. So here we are. We've agree to redo the report.

Now, next, Mayor Loveridge.

BOARD MEMBER LOVERIDGE: Just as you listen today, this problem of one-size-fits-all became difficult.

And we identified the question of the lumber trucks, the
cattle trucks. And I don't know anything about cabs or
something struck me as telling. I looked at the other
comments as telling.

I guess the only point I want to make is as you
listen to testimony and do your work in this, if there are
exceptions that don't fit, staff ought to bring them to us
for consideration.

CHAIRPERSON NICHOLS: Come back with any
additional cleanup that you think would be useful.

All right. Are there any further motions?

BOARD MEMBER ROBERTS: Do we need a motion to
direct staff?

CHAIRPERSON NICHOLS: We don't normally need to
do that, but I think we could. We could direct staff to
reflect on the options that you presented and on the
additional options that others have proposed, including
the idea of indexing in some way any relief to
improvements in the economy or upticks in emissions that
could be measured.

And the Board wants to see this back again and we
want to be in a position to vote on it before any
enforcement action is taken under the rule. So you've
indicated that you think that's April. I don't think we
need to be -- don't think the motion needs to include the
date, but I think it needs to include the intent that
there be additional information gathered and a draft put out and go through the whole rulemaking process, if that's an acceptable motion.

Do I have a second on that?

BOARD MEMBER LOVERIDGE: Second.

BOARD MEMBER ROBERTS: I guess my biggest concern is as we get to April, I don't know when spending requirements of any kind kicked in. And if they were even a few months later, for a business to be waiting for us to have a hearing to know what they're going to have to do within a few months after that may be very problematic.

And I think we need to keep that -- we have to take that into consideration.

CHAIRPERSON NICHOLS: I hear you. I just remembered that I also wanted to add, if I may amend my motion, one of the things we want staff to also look at is the idea of any possible incentives that could be used in lieu of just regulatory force that could help keep the progress moving forward, but at the same time allow for relief. So that should also be added to the motion.

Okay. We have a motion and a second. Any further discussion?

The motion was to direct staff to prepare some proposed amendments to the on-road heavy-duty truck rule that reflect the fact that emissions are down and will be
down for at least another year or two at a minimum and
perhaps longer. And that would put this rule on track to
kick back in again. That's not very technical elegant
language. But to ramp back up again based on some
objective criteria about increases in emissions or
improvements in the economy. Sorry. You want to --

BOARD MEMBER ROBERTS: And the off-road.

CHAIRPERSON NICHOLS: We're also -- well, maybe
we can do the off-road separately, because I'm on a roll
here on this one.

We can take up the off-road. And that they would
look at -- among the options, they would look at ways of
creating additional incentives for people who can't afford
earlier compliance to comply. And also look at exceptions
that may have been considered in the past but not brought
forward that would carve out certain types of trucks or
uses of trucks that are of less concern from a health
perspective.

BOARD MEMBER Berg: Where in this process it
would include the financial review.

CHAIRPERSON NICHOLS: And the financial issue
would be included within that, not just the general state
of the economy, but specifically the affordability and
availability of credit and so forth.

If that is clear enough, I hope my seconder will
continue to second it and --

BOARD MEMBER ROBERTS: Yes.

CHAIRPERSON NICHOLS: Could we have a vote on that one?

All in favor, please say aye.

(Ayes)

CHAIRPERSON NICHOLS: Opposed?

Now on the off-road.

BOARD MEMBER ROBERTS: Well, I think I want to initiate a similar look. We've been talking that we're going to have that data somewhere early in the year, if that could be brought under the same track, so be it.

I would like to have the same kind of review with the same intention as to what can be done to relieve the economic impacts on an industry that is largely disappearing right now in California.

CHAIRPERSON NICHOLS: Okay. Staff, did you --

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Right now, per your direction, we're coming back to you in July to do kind of what we did today for off-road. And we would have the benefit of knowing which vehicles have taken advantage of the legislatively-provided delays to the program and which ones have gotten credits for retiring vehicles, for scrapping vehicle, for parking vehicles, various things like that that came out of the
budget review last year that you adopted as part of that
rule. We'll know what those are in March. That's why we
picked the July date, so we can see what's happened and
have better accurate metrics of --

BOARD MEMBER ROBERTS: Why can't we take a look
at it in April so we can have this kind of discussion we
had here today?

BOARD MEMBER LOVERIDGE: The data that the
General Contractors of America provided is at least one
way of looking at this question, the 63 page report which
used our modeling and data.

BOARD MEMBER ROBERTS: Well, yeah. They've given
us -- the staff I think just got that. But it seems to me
we have an awful lot of information that you're going to
have a lot of information early in the year. And it seems
to me we should be in a position to have the kind of
discussion that we had on trucks today on construction
equipment before July of next step year.

CHAIRPERSON NICHOLS: I feel there is a little
bit of perhaps some Board members received this report in
advance. I saw it for the first time today. I don't know
when the staff received it.

EXECUTIVE OFFICER GOLDSTENE: Thursday.

CHAIRPERSON NICHOLS: It was clear from the
testimony that a lot of work has gone into this and
they're very anxious to engage with us. And you guys have not engaged with them, at least as I understand it. And they really want to have an open process.

BOARD MEMBER ROBERTS: The staff testified they got this last Thursday, I think is what I heard. And the testimony -- I'm not asking to use this as the basis of anything other than to prepare a report for us.

CHAIRPERSON NICHOLS: But it's certainly data that we need to look at and review and get some comments to the Board on. I'm looking for a process.

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: The key process is that we won't really know which companies have been severely impacted by the economy, which companies have been less severely impacted by the economy, because that reporting and that information is what comes in in March.

And so the problem is that we're going to get that almost within weeks before you'd ask us to come back. That's really key to the relief that the Legislature already gave them. Because if, in fact, you are severely impacted, essentially there is a two-year delay in the rule. It's already in place. You've already amended the rule to reflect what the Legislature's direction was. And so the question is, well, what about the companies that weren't as seriously impacted? What are
they doing? Are they just on the serious part? Or do they still have problems getting money? Things like that. We would at least know when they are, how many they are, what size vehicles and size fleets they are in March. But I don't know that we can completely turn that around. And we can give you a sense of it, I guess, but I don't know if we can do the proper analysis in a few weeks, given we have to do the truck rule as well. I'm just telling you that's why we picked July. Obviously, we'll do whatever you like.

BOARD MEMBER ROBERTS: I'd like to see it in April.

CHAIRPERSON NICHOLS: Why don't you plan on doing the best you can with the data that you get in March and we'll see where we get.

If things haven't turned around much, I think the answer is that it's going to be pretty bad. But, you know, you may have some bright spots that you've been able to identify or at least get some ideas of ways in which you could adjust to this.

I think the Board would like to hear at least a preliminary review of this issue, regardless of where you are. I mean, with the truck rule, we're expecting to have a real regulatory hearing. With this one, it may be more of just an assessment of where we are.
Okay. And I think that doesn't require a motion. I think you get what it is we're looking for here.

BOARD MEMBER BERG: I think by April we'll be through the first quarter of 2010. If those of us that are very concerned that it's going to be slower than slow, maybe we'll be pleasantly surprised after the first quarter. And I think that that can also help in guiding us on how we're going to perceive the rest of 2010.

CHAIRPERSON NICHOLS: That's a hopeful note. Is there anything additional that we can do right now?

I will tell you before I at least leave, we have two people who signed up for regular public comment, and not on any item on the agenda. If they're still here, we are required to listen to them.

Do we have the people from Kern Oil and Refining Company still with us this evening, or have they given up on us? Well, they may have decided that -- they did submit written comments. This is related -- is not related to any of the rules we're dealing with. It's actually related to the low carbon fuel standard. We'll make sure the Board members see this. And that will constitute the public comment.

All right. Without further ado, we will be adjourned. Thank you all very much for your
participation.

(Thereupon the California Air Resources Board recessed at 6:48 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 17th day of December, 2009.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277