

April 26, 2011

California Air Resources Board

Clerk of the Board

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Subject: PM 2.5 SIP Update – Time for a change.

Air Board Members and staff:

The history of “determining” health affects attributed to diesel exhaust in California is pock-marked with controversy and biased “conclusions”. From the time that a Harvard scientist testified in front of a Legislative committee that his study, being used to underpin the “diesel is harmful” mantra, was ***insufficient*** to make that conclusion, to now when CARB merely dusts off old reports that have been questioned repeatedly for a SIP update; CARB’s answer is the same. “Our science is good and above question.”

Unfortunately the record does not allow such a conclusion.

What does appear are government agencies, tied in a web of self-supporting linkages, using tax payer money, on a mission to deride diesel exhaust as a boogie-man through a campaign of distortion and smoke screens. Objectors to this tide of loosely associated extrapolations have been repeatedly and systematically excluded from an open and honest debate. Most recently some have been threatened with loss of employment.

During the 3-year consideration of the California diesel truck and equipment emission regulations significant controversy boiled up again. Highlights of those controversies include:

* The head CARB researcher who compiled the initial scientific report and conclusions (known as the “Tran Report”), estimating that 3,500 “premature deaths” in California every year from diesel emissions, was found to have lied about his academic credentials. This impropriety was known to the CARB chair, certain Board members and executive staff in advance of the initial adoption hearing for the regulations (12/2008) but was not disclosed to the entire Board, or the public, at that time.
* Dr. James Enstrom, a well-regarded UCLA epidemiologist, in independent research on CARB’s science studies and other supporting material, discovered that CARB was using inappropriate statistical extrapolation in their conclusions. He noted in public comments to the Board and staff that there was a very weak, if any, correlation between PM 2.5 and premature deaths in California. Dr. Enstrom also brought to the attention of the entire Board the issue of the CARB staffer’s falsification of education credentials.
* As a result of the “Tran Report” controversy, CARB pledged to do an independent new science report. They also held a 2010 science symposium on diesel health effects research.
* At the symposium a number of issues were raised regarding the tenuous nature of PM 2.5 effects on public health – the fact that identifying diesel exhaust from other elements of PM 2.5 emissions (such as wood smoke, dust and other non-controllable sources) was a guessing game at best; the lack of identity for causal links between fine particles and specific health outcomes; and the 2010 admission by the lead investigator of a major CARB-funded study that when using California-only data, there **was no relationship between PM 2.5 and premature deaths**.
* Dr. Enstrom and several California businessmen challenged the makeup of the state’s nine member Science Review Panel (SRP) on Toxic Air Contaminants (TAC), which is legally established in 1983 to provide science oversight to CARB and to conduct objective health evaluations of potential TACs like diesel exhaust.. The challenge was that the positions on the SRP were specified to be staggered three-year terms, which would make possible the regular appointment of new members. Unfortunately, the SRP has been dominated by a small group of activist scientists during the past 25 years because the specified nomination and appointment process was not followed. A lawsuit by the Pacific Legal Foundation has resulted in six new appointments to the SRP in 2010. However in a remarkable reincarnation, Dr. John Froines, after a short vacation, is now back as chair of the SRP.
* In 2010 UCLA began termination proceedings on Dr. Enstrom, claiming his PM 2.5 research was “not aligned with the academic mission” of the Department of Environmental Health Sciences. He is currently fighting to retain the UCLA faculty position that he has held since 1976.
* In a separate diesel emission regulation package, the off-road industry became very suspicious of the large amount of emissions attributed to off-road equipment. This was bolstered by a UC Berkeley scientist’s observation that the diesel emissions from off-road equipment were highly out of balance with actual equipment use data. The off-road industry commissioned an independent report that ultimately found CARB had over-estimated off-road emissions by well over 300%.
* A similar independent study for on-road emissions concluded that there may be an over-estimate of 25% on those emissions, but that unwillingness to share base data for independent review made absolute estimates impossible.
* CARB utilized a 2009 Heath Effects Institute Report and 2009 US EPA Integrated Science Assessment of PM 2.5 to support their “diesel emissions are bad” conclusion. However, the estimated annual number of “premature deaths” in California attributed to PM 2.5 has come down from 18,000 (as per 2008 Tran Report) to 9,200 (as per 2010 CARB Report), or 3,500 when only diesel portion of particulates is applied. Unfortunately, the 2010 CARB Report with no identified authors was not the “independently commissioned and reviewed” report pledged by CARB in earlier statements and letters.
* Most recently an independent analysis by Dr. Enstrom and others found that, using the methods and numbers cited in the 2010 CARB diesel regulatory documents, ***only 25 deaths from off road vehicles and 233 deaths from on road vehicles, for a total of 258 deaths per year, will be prevented by the new CARB diesel regulations***. If the California-specific studies, instead of the national studies, are used as the basis for the relationship between PM 2.5 and deaths, then NO premature deaths will be prevented by the CARB diesel regulations.
* The “science” used to estimate premature deaths does not reach a level of confidence required to be submitted in Federal Courts as evidence for any causal effect[[1]](#footnote-1), much less premature death, and therefore the entire debate should be discontinued until it does.
* This supposed causation of premature death from a “particle defined by size” (PM 2.5), without defining the biological plausibility, or at what level of toxicity it would cause mortality, cannot be supported by any scientific study.

Most recently, federal EPA has significantly toned down its drive to lower federal PM 2.5 standards by issuing a report that recognizes the incomplete knowledge about diesel health effects. They are only suggesting a look at higher standards, and providing ranges of control possibilities.

Further, CARB commissioned a report that was supposed to provide closure to controversies on diesel health effects, performed by Dr. Jarrett. That report was due in 2009. No mention of the report’s conclusions was mentioned at the 2010 Science Symposium. The report has not seen the light of day, nor has it been released for critical review. One must wonder, why?

In light of all the preceding controversy and debate, the need for a much more open and active dialogue on diesel health effects is absolutely necessary. Carrying on with the same old reports, in the face of strong and reliable objections, only cements the view that a unified and secretive power play is taking place. It is time for a change.

Sincerely



Jay McKeeman, Vice President of Government Relations & Communications

1. Reference Manual on Scientific Evidence, (2nd ed., Federal Judicial Center, 2000 [↑](#footnote-ref-1)