

MEETING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
AIR RESOURCES BOARD

COPY

CALIFORNIA AIR RESOURCES BOARD
HEARING ROOM
2020 L STREET
SACRAMENTO, CALIFORNIA

THURSDAY, APRIL 14, 1994

9:40 A. M.

Nadine J. Parks
Shorthand Reporter

MEMBERS PRESENT

Jacqueline Schafer, Chairwoman

Eugene Boston
Joseph C. Calhoun
M. Patricia Hilligoss
Lynne T. Edgerton
John Lagarias
Jack C. Parnell
Barbara Riordan
Doug Vagim

Staff:

Jim Boyd, Executive Officer
Tom Cackette, Chief Deputy Executive Officer
Mike Scheible, Deputy Executive Officer
Mike Kenny, Chief Counsel

Gary Agid, Assistant Chief, Technical Support Division
Dale Shimp, Mgr., Emission Inventory Special Projects
Section, TSD
Don Rake, Staff, TSD
Larry Morris, Chief, Fiscal Branch, Administrative
Services Division
Diane Glazer, Staff Counsel

John Holmes, Ph.D., Chief, Research Division
Bob Barham, Assistant Chief, RD
Dane Westerdahl, Mgr., Biological Effects Research
Section, RD
Carole Scibienski, Ph.D., RD

Terry McGuire, Chief, Technical Support Division
Rich Bradley, Chief, Air Quality Data Branch, TSD
Debora Popejoy, Mgr., Air Quality Analysis Section, TSD

Patricia Hutchens, Board Secretary
Wendy Pendleton, Secretary
Bill Valdez, Administrative Services Division

I N D E X

	<u>PAGE</u>
Proceedings	1
Call to Order	1
Opening Remarks by Chairwoman	1
Roll Call	1, 2
Further Remarks by Chairman	2
<u>AGENDA ITEMS:</u>	
94-4-1 <u>Public Hearing to Consider Adoption of Permit Fee Regulations for Nonvehicular Sources Pursuant to the California Clean Air Act</u>	
Introductory Remarks by Chairwoman Schafer	2
<u>Staff Presentation:</u>	
Jim Boyd Executive Officer	5
Don Rake Staff Technical Support Division	7
Questions/Comments	13
Continued Presentation by Don Rake	13
Questions/Comments	15
Continued Presentation by Don Rake	15
Questions/Comments	21
Suggested Amendment to Section 90803 by Supervisor Vagim	32
Questions/Comments	35

INDEX, continued. . . PAGE

AGENDA ITEMS:

94-4-1	(Direction to Staff by Chairwoman)	51, 52
	Questions/Comments	52
	Motion to Accept Resolution 94-19, Including Staff's Amendments	61
	Official Closing of Record to Await Notice of 15-day Comment Period	62
	Discussion	62
	Roll Call Vote	63, 64
	(Direction to Staff re Supervisor Vagim's Proposed Amendment)	65
94-4-2	Public Meeting to Consider an Information Report on Ozone and Public Health: <u>Recent Findings Relevant to Ambient Air Quality Standards</u>	
	Introductory Remarks by Chairwoman Schafer	65
	<u>Staff Presentation:</u>	
	Jim Boyd Executive Officer	66
	Carole Scibienski, Ph.D. Research Division	68
	Dane Westerdahl Research Division	76
	Carole Scibienski, Ph.D. Research Division	89
	Questions/Comments	90

//

P R O C E E D I N G S

--oOo--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRWOMAN SCHAFFER: Good morning, ladies and gentlemen. I'd like to call this morning's meeting of the Air Resources Board to order.

Before we begin our official business this morning, I'd like to acknowledge for the record that the Board has signed and will be sending to our former Board member, Dr. Andrew Wortman, a resolution expressing our appreciation for his outstanding service on the California Air Resources Board.

And with that, I'd like to ask the Board Secretary to take the roll.

MS. HUTCHENS: Bilbray?
Boston?

DR. BOSTON: Here.

MS. HUTCHENS: Calhoun?

MR. CALHOUN: Here.

MS. HUTCHENS: Edgerton?

MS. EDGERTON: Here.

MS. HUTCHENS: Hilligoss?

MAYOR HILLIGOSS: Here.

MS. HUTCHENS: Lagarias?

MR. LAGARIAS: Here.

MS. HUTCHENS: Parnell?

1 MR. PARNELL: Here.

2 MS. HUTCHENS: Riordan?

3 SUPERVISOR RIORDAN: Here.

4 MS. HUTCHENS: Vagim?

5 SUPERVISOR VAGIM:

6 MS. HUTCHENS: Wieder?

7 Chairwoman Schafer.

8 CHAIRWOMAN SCHAFFER: Here. I understand Board
9 Member Wieder may be able to make it. She was out at the
10 airport in Southern California this morning. They had some
11 difficulties with her flight. But I think we should proceed
12 in any event.

13 I'd like to remind those of you in the audience
14 who would like to present testimony to the Board on any of
15 today's agenda items to please sign up with the Board
16 Secretary. If you have a written statement, please give 20
17 copies to the Board Secretary.

18 The first item on the agenda today is 94-4-1, a
19 public hearing to consider the adoption of permit fee
20 regulations for nonvehicular sources pursuant to the
21 California Clean Air Act.

22 For the last five years, large stationary sources
23 have paid fees to partially cover the State cost of
24 implementing the California Clean Air Act. the Act provides
25 explicit authority for the Board to establish these fees,

1 and the revenue generated is used to support the Board's
2 activities necessitated by the Act related to nonvehicular
3 sources.

4 The staff is proposing that these fees be
5 continued at the level authorized by the Act for the 1994-95
6 fiscal year.

7 At today's hearing, the Board will consider the
8 adoption of regulations for these fees.

9 Just to put this into a little context for the
10 Board members, this fee program that we're discussing this
11 morning generates \$3 million of revenue annually. It is one
12 of six administered by the Air Resources Board. Our fee
13 programs generate approximately \$15 million out of our \$100
14 million operating budget.

15 The motor vehicle fund, which is administered by
16 the Department of Motor Vehicles is a major source of
17 funding for the Air Resources Board and accounts for
18 approximately two-thirds of the Air Resources Board's
19 operating budget.

20 The balance of the Board's budget comes from
21 various other sources, including the vehicle inspection and
22 repair fund, as well as grants from the U.S. Environmental
23 Protection Agency.

24 These fee programs were authorized by the
25 Legislature to support specific Board programs. The largest

1 one of these is the air toxics hot spots and the motor
2 vehicle fee programs, which collectively generate about \$11
3 million a year.

4 The fee program to be discussed this morning, the
5 California Clean Air Act stationary source fee program, is
6 limited to \$3 million per year.

7 Although Clean Air Act requirements will continue
8 indefinitely, these fees are authorized by the Act for, I
9 believe, a total of eight years. There are only two more
10 years of this authorization running. So, authorization will
11 be required for continuation beyond June 30, 1997. So, this
12 is the sixth year of the program that we're considering this
13 morning.

14 The \$3 million from this fee program are used to
15 implement some of the requirements of California's Clean Air
16 Act. These funds are used primarily to support work, such
17 as the development of air quality indicators, transport
18 studies, which is of major interest to many of the Board
19 members here; the Board's air quality modeling studies, the
20 development of air quality indicators, collaborative work
21 with the districts for preparation of air quality plans that
22 are required by the Act.

23 By law, these funds can only be used to support
24 the nonvehicular activities needed to implement the
25 California Clean Air Act. Especially during these tough

1 economic times, we all strive to keep fees on businesses to
2 a minimum. As you may know, the acid deposition research
3 program is winding down, and our budget for fiscal year 94-
4 95 reflects the completion of our work in that area.

5 As a consequence, the acid deposition fees ended
6 last year. As a result, many of the facilities subject to
7 the California Clean Air Act nonvehicular source fees will
8 discover that their fees paid to the Air Resources Board for
9 criteria pollutant programs will decrease by about one-third
10 this year, or about \$1.5 million.

11 On that note, putting that into, I hope, a little
12 bit clearer context, I'd like to ask Mr. Boyd to introduce
13 this item.

14 MR. BOYD: Thank you, Madam Chairwoman. And good
15 morning to you and to the Board members and to the members
16 of the audience.

17 Thank you for that very thorough explanation of
18 the item. You've made my job most easy this morning.

19 As the Chairwoman indicated, the California Clean
20 Air Act does indeed make considerable demands on your Board
21 and its staff and the local districts in the State and, as
22 the Chairwoman further indicated, the proposed fee
23 regulation that you're dealing with today supports
24 activities to control the, quote, "nonvehicular sources"
25 that are covered under this Act.

1 As indicated, the fees are capped. They're capped
2 at a total of \$3 million per year. And, as you can imagine,
3 we continue to look at all of our fees and tighten our belt
4 as much as possible. The fees being capped means that, with
5 the tiny bit of inflation and other things that do occur, we
6 don't increase the program any each year. We keep doing
7 what we have to do with a slightly diminishing dollar.

8 But we've been able to be quite successful in
9 doing that. And you remember, last year, we cut the air
10 toxics hot spot fee program back, even below levels that
11 were required, in order to meet the desires of the Board and
12 its concerns for the impact of fees on California's business
13 in these tough times.

14 The intent of today's item is just to present the
15 94-95 fee schedule and to explain how it's based on the most
16 recent, or at least more recent emissions information. The
17 staff presentation will discuss details of the regulation
18 that is passed -- the amended regulation we pass each year
19 to put the fee schedule into play.

20 We'll discuss the preparation of the emissions
21 inventory that is used to calculate the fees and, finally,
22 the application of the fees and the actual calculation of
23 the fee rate.

24 I think, with that, I'll just introduce to you Don
25 Rake of the Technical Support Division who will make the

1 presentation on the proposed regulation.

2 Don, would you please proceed.

3 MR. RAKE: Thank you, Mr. Boyd. Good morning,
4 Chairwoman Schafer and members of the Board.

5 As Mr. Boyd stated, my name is Don Rake, and I
6 work in the Technical Support Division's Emission Inventory
7 Special Projects Section.

8 The proposed regulation amendments that I will
9 describe this morning are to secure the funding needed to
10 implement the provisions of the California Clean Air Act
11 relating to nonvehicular sources for the next fiscal year.

12 This proposal is based on the regulations adopted
13 by the Board for this program for each of the last five
14 years. Before I outline the proposal, I should note that
15 there have been some changes to the calculations of fees
16 since the staff report was published in February.

17 The updated fees will be reflected in the
18 presentation, and they are also incorporated into the
19 package that you have before you.

20 I will describe and explain all these changes made
21 to the fee calculations since the publication of the staff
22 report later in this presentation. The updated package is
23 available to the public on the table outside the back of the
24 room.

25 The changes are reflected in Table 2 of the

1 package and are incorporated in Section 90800.5 of the
2 proposed regulations.

3 I will now outline my presentation for you.
4 First, I will provide an overview of the proposal. Next, I
5 will explain the process we used in developing the
6 regulations and describe the provisions that remain
7 unchanged from prior years.

8 I will then explain how the fee rate is calculated
9 for the proposed regulations. Finally, I will discuss the
10 range of costs to facilities resulting from this proposal.

11 In the California Clean Air Act, the Legislature
12 imposed a number of requirements on the Board and the
13 districts. The Act also provides a mechanism to help defray
14 the State costs of implementing the nonvehicular source
15 requirements in the form of fees on permitted stationary
16 sources which emit 500 tons or more per year of any
17 nonattainment pollutants or their precursors.

18 And, as the Chairwoman stated earlier, this fee
19 program is authorized to extend through fiscal year 1996-97,
20 and next fiscal year will be the sixth year of the eight-
21 year program.

22 We are proposing today that the Board collect
23 sufficient fees to provide \$3 million to support the Board's
24 work to carry out the mandate of the California Clean Air
25 Act in fiscal year 1994-95.

1 Now, I will discuss the process we used in
2 developing the proposed regulations. We first identified
3 those facilities in the State that might be subject to the
4 fees. This included all facilities for which we had
5 preliminary 1992 emission data which indicated the
6 facilities emitted 500 or more tons of any nonattainment
7 pollutants or their precursors.

8 We used the 1992 inventory because it represents
9 the most recent statewide emission data available.

10 We then deleted from the list those facilities
11 that are not located in districts designated as
12 nonattainment for those pollutants. We next provided the
13 affected districts with preliminary 1992 emission estimates
14 for sources which might be subject to the proposed fee
15 regulations.

16 Districts were asked to review and verify the
17 emission figures to be used in the fee calculations.

18 In February, we invited the staffs of the affected
19 districts and representatives of the affected facilities to
20 a consultation meeting to provide them with an opportunity
21 to comment on the development of the proposed fee
22 regulation.

23 No one attended the meeting that had suggested
24 amendments to the proposal. Also, as part of the public
25 review process, the staff report and proposed regulation

1 were sent to all affected districts and all affected
2 facilities.

3 Now, I would like to go into each of the elements
4 of the proposed regulations in more detail.

5 This slide shows the pollutants subject to the
6 fees. On the left are the substances for which the Board
7 has established ambient air quality standards, and on the
8 right are the pollutants and precursors that contribute to
9 ambient concentrations of those substances.

10 I will now review for each pollutant the areas of
11 the State which the Board has found to be nonattainment.
12 These areas serve as the basis for determining which
13 facilities are subject to the fees.

14 For ozone, all areas of the State are
15 nonattainment except for rural Northern California counties
16 other than those in the Sacramento Valley, the Lake Tahoe
17 Air Basin, and Alpine and Yolo Counties.

18 There are no areas of the State in which the
19 sulfur dioxide standard is violated.

20 The South Coast Air Basin and a small area in the
21 Southeast Desert Air Basin are the only nonattainment areas
22 for sulfates.

23 The nitrogen dioxide standard is violated only in
24 the South Coast Air Basin.

25 For carbon monoxide, nonattainment areas include t

1 he South Coast Air Basin portion of Los Angeles County,
2 Orange County, the Metropolitan areas around Sacramento,
3 Fresno, Chico, Stockton, Modesto, San Jose, and the South
4 Lake Tahoe area.

5 The entire State is nonattainment for PM10, except
6 for the Counties of Lake and Lassen and the Southern
7 Mountain County Air Basin counties.

8 The last three pollutants on the slide have not
9 been used in the fee program to date, and no facilities will
10 be assessed fees for these pollutants in the 1994-95 fiscal
11 year for the following reasons:

12 For visibility reducing particles, all areas are
13 designated as unclassified, except for Lake County, which
14 has been designated as attainment.

15 Hydrogen sulfide is not included in the fee
16 program because there are no sources emitting 500 tons or
17 more per year of that pollutant in the two small
18 nonattainment areas of the State.

19 Finally, all areas of the State are currently
20 designated as attainment for lead.

21 As I have already mentioned, the proposed fees are
22 based on emissions of nonattainment pollutants or their
23 precursors. Each year, the Board reviews the attainment
24 designations and updates them as necessary.

25 The current proposal is based on the attainment

1 designations that will be effective on July 1st, 1994. This
2 is the first year that a 500 ton per year source of ozone
3 precursors has existed in a district designated by the Board
4 as nonattainment for ozone due to overwhelming transport.

5 At an August, 1993 hearing, the Board determined
6 that overwhelming transport from the broader Sacramento area
7 and from the San Joaquin Valley caused all of the violations
8 of the State ozone standard in the Mountain Counties Air
9 Basin. Because of this determination, districts in the
10 Mountain Counties are not subject to the planning
11 requirements of the California Clean Air Act.

12 We are, therefore, proposing a new provision be
13 added to the regulation to provide that emissions from
14 facilities are not subject to this regulation if the
15 emissions from the facility would be subject to the fees
16 solely because the facility is in a district designated
17 nonattainment for ozone solely as a result of ozone
18 transport.

19 Amador County is the only district within the
20 nonattainment portion of the Mountain Counties Air Basin
21 which currently has a facility emitting 500 or more tons of
22 ozone precursors.

23 Therefore, if the Board approves the provision
24 which excludes facilities in overwhelmed transport areas,
25 the facility in Amador County would not be subject to the

1 fees.

2 CHAIRWOMAN SCHAFFER: Excuse me, Mr. Rake. Would
3 you repeat again the definition of overwhelming, because I
4 believe it's a term of art that we have used -- the Board
5 has previously identified.

6 MR. RAKE: Let me find it here.

7 CHAIRWOMAN SCHAFFER: I believe it's incorporated
8 in your statement.

9 MR. RAKE: Right. All right. What happened in
10 August, '93, at the hearing in August, 1993 -- I'll just
11 reread this again.

12 CHAIRWOMAN SCHAFFER: Sure.

13 MR. RAKE: The Board determined that overwhelming
14 transport from the broader Sacramento area and from the San
15 Joaquin Valley caused all of the violations of the State
16 ozone standard in the Mountain Counties Air Basin.

17 CHAIRWOMAN SCHAFFER: Okay. "All" is the --

18 MR. RAKE: All.

19 CHAIRWOMAN SCHAFFER: -- is the key word there.

20 MR. RAKE: Right.

21 CHAIRWOMAN SCHAFFER: Okay. Thank you very much.

22 MR. RAKE: You're welcome. Okay. Next is
23 provisions we're continuing with.

24 There are several provisions which have been
25 included in the regulations for the last five fiscal years

1 that we propose to retain for next fiscal year's
2 regulations.

3 The first covers the handling of carryover
4 revenues collected by the program. We propose to continue
5 the provision that requires that revenues collected in
6 excess of \$3 million be carried over and used to reduce fees
7 in a future year of the program.

8 Next is the provision which addresses the
9 assessment of fees to newly identified facilities. It is
10 possible that facilities might be identified subsequent to
11 the adoption of these regulations that should have been
12 subject to the fees.

13 For the sake of equity, the Board has adopted in
14 previous years a provision which requires that these newly
15 identified facilities be subject to the fees. We propose
16 that this provision remain unchanged.

17 The Act and the regulations adopted in the last
18 five years also allow districts to recover their
19 administrative costs for collecting the fees. This
20 provision also is proposed to remain unchanged for the
21 fiscal year 1994-95 regulations.

22 Also included in the regulations adopted in the
23 last five years is a mechanism that releases districts from
24 the responsibility of collecting fees for reasons beyond the
25 district's ability to control -- such as facility closure or

1 refusal of a facility operator to pay the fees, despite the
2 districts having made all reasonable efforts to collect the
3 fees. We are not proposing to change this provision.

4 CHAIRWOMAN SCHAFFER: Let me just ask another
5 question at this point and place, Mr. Rake.

6 As I understand it, it is the districts that
7 collect the fees and then the districts then pass on those
8 collected fees to the Air Resources Board.

9 MR. RAKE: That's correct.

10 CHAIRWOMAN SCHAFFER: That's why the administrative
11 fee is -- costs are recouped.

12 MR. RAKE: Yeah, it's to help the districts defray
13 their costs of collecting the fees.

14 CHAIRWOMAN SCHAFFER: And have we ever added a new
15 facility in the last five years? Just out of curiosity.

16 MR. RAKE: No, we have not.

17 CHAIRWOMAN SCHAFFER: Okay. Thank you.

18 MR. RAKE: I will now discuss how the fee rate for
19 the proposed regulation was calculated. First, we
20 determined that to continue the tasks specified by the
21 California Clean Air Act, the Board would need to collect
22 the full \$3 million.

23 Second, the regulations include a requirement that
24 any revenues in excess of \$3 million collected during any
25 program year shall be carried over and applied to reduce fee

1 assessments in future years.

2 For fiscal year 1992-93, approximately \$3,281,000
3 has been collected. Therefore, we subtracted the excess
4 \$281,000 from the total fee amount to be collected for
5 fiscal year 1994-95. The result is that the amount to be
6 collected to satisfy fiscal year 1994-95 budget requirements
7 is \$2,719,000.

8 To get the fee rate in dollars per ton, the total
9 dollar amount of \$2,719,000 to be collected is divided by
10 the total applicable emissions for 1992. This results in a
11 final fee of \$15.83 per ton.

12 As I mentioned earlier, there have been some
13 revisions to the emission data since the staff report was
14 published. As a result, we are now proposing a fee rate
15 which is slightly different from what was in the staff
16 report.

17 The new fee rate being proposed for fiscal year
18 1994-95 is \$15.83 per ton rather than the \$15.57 per ton in
19 the staff report.

20 The cost of the proposed fees to affected
21 businesses vary depending on how much they emit. We have
22 calculated that the fees of individual companies will vary
23 from a minimum of approximately \$7,900 for a facility
24 emitting close to the 500 ton per year threshold to about
25 \$469,000 for a very large corporation operating at numerous

1 locations in the State.

2 The Administrative Procedures Act requires that
3 agencies determine the impact of regulations on businesses.
4 Based on the staff's methodology for evaluating fiscal
5 impacts, we believe that adoption of these regulations will
6 not have a significant fiscal impact on companies subject to
7 the fees, because the affected companies are among the
8 largest in the State, both in size and financial strength.

9 Also, we believe that adoption of the regulations
10 will not significantly affect the ability of California
11 businesses to compete with businesses in other States, and
12 will not affect the creation or elimination of jobs within
13 California, and will not impose a noticeable impact on the
14 profitability of California businesses.

15 This next slide compares the proposed fee program
16 to last year's regulation. Eight fewer facilities are
17 subject to the fees this year because they dropped below the
18 500 ton per year threshold. The amount of emissions dropped
19 by about 26,000 tons from last year.

20 In prior years, the fees were calculated to
21 include a 10 percent allowance for the fact that some of the
22 fees would not be collectable. However, because of an
23 extremely successful fee collection program last year,
24 carried-over revenues are sufficient that such an allowance
25 is not needed.

1 Accordingly, the fee rate in dollars per ton are
2 proposed to be less for this year than they were for last
3 year.

4 Today, we are asking you to approve the proposed
5 regulation, as described in the staff report, and two
6 changes which have been identified since publication of the
7 staff report.

8 The first of these changes was prompted by a
9 comment received from the San Joaquin Valley Unified Air
10 Pollution Control District. And the second of these changes
11 is to reflect a change in the boundary between the South
12 Coast Air Quality Management District and the Mojave Desert
13 Air Quality Management District.

14 The only comment the staff received on the
15 proposed regulation was from the San Joaquin Valley Unified
16 Air Pollution Control District. The district requested that
17 oil field emissions be reallocated among oil producing
18 facilities to correct inconsistencies in how emissions were
19 assigned by the district to facilities in Kern County.

20 The corrected emissions were determined by
21 applying the definition of stationary source contained in
22 the district's new source review rule. The new emission
23 allocations also reflect the way emissions are currently
24 assigned to facilities in the district's permit files.

25 The staff has carefully reviewed the district's

1 request and recommends making the changes requested by the
2 district.

3 This change would not result in a change in how
4 emissions are determined by oil production facilities
5 outside of the San Joaquin Valley, because these areas
6 already determine emissions in a manner consistent with the
7 stationary source definition in their respective rules.

8 In addition, no oil production facilities outside
9 of Kern County have emissions of over 500 tons per year of
10 any nonattainment pollutant or precursor.

11 The net effect on the California Clean Air Act
12 fees is to reduce the amount of emissions subject to the fee
13 regulation by about 2,900 tons per year, and one less
14 facility will now be subject to the fees.

15 As a result, the fee rate will increase by 26
16 cents per ton from the \$15.57 originally contained in the
17 staff report to \$15.83, the fee rate presented in the
18 package before you.

19 The second proposed change since the staff report
20 was published, and one which is not in the package before
21 you, concerns the recent change in the boundary separating
22 the South Coast and Mojave Desert Air Quality Management
23 Districts.

24 A portion of eastern Riverside county is now part
25 of the Mojave Desert District. It used to be part of the

1 South Coast District. This does not affect the fee rates,
2 but it does change which district is responsible for
3 collecting the fees for one facility. If approved today,
4 this change will be contained in the final rule as part of
5 the 15-day changes package.

6 In conclusion, the major changes being proposed
7 for the California Clean Air Act nonvehicular source fee
8 regulation for fiscal year 1994-95 are for the revised fee
9 rate, and the provision exempting emissions from facilities
10 from the fees (sic) in areas that have been found to be
11 subject to overwhelming ozone transport. The fee amount has
12 been recalculated for the new fiscal year based on 1992
13 emissions.

14 The fees that would be collected for the Air
15 Resources Board, if the proposed regulations are adopted,
16 will be used to defray some of the Air Resources Board's
17 costs of continued implementation of the California Clean
18 Air Act.

19 The fees which we are proposing would result in
20 collection of approximately \$2,719,000. If the Board
21 approves the changes which have occurred since the staff
22 report was published, the resulting fee per ton that would
23 be assessed is \$15.83.

24 Because the changes which occurred since the
25 publication of the staff report have not undergone public

1 review, these changes will be subject to a 15-day public
2 comment period following the hearing.

3 That completes my presentation. I'll be glad to
4 answer any questions you may have.

5 CHAIRWOMAN SCHAFER: Thank you very much, Mr.
6 Rake.

7 The two slides before the end that describe the
8 reduction in the number of facilities that would be subject
9 to the application of the fee, can you describe for us
10 whether the reduction is because -- in their emissions is a
11 result of controls or process changes versus just a
12 reduction in their volume of production?

13 Did they do a better job of cleaning up or was it
14 a recessionary-related slowdown in their overall production?

15 MR. MC GUIRE: Chairwoman Schafer, I'm Terry
16 McGuire. I'll try and respond to that question.

17 In this year, there were some facilities that
18 dropped out, as the slide shows, and I'll tell you what they
19 were. Four of the facilities dropped out because of
20 reduction in activity or throughput. Incidentally, they
21 were National Refractory in Monterey, who closed a brick
22 production part of their business. Louisiana Pacific had
23 had West coast economy for the pulp manufacturers that
24 caused them to reduce activities. Golden West Refinery is
25 phasing out, and Delta Airlines has reduced operations at

1 LAX.

2 There were refined data; that is, we got more
3 accurate data from two of the facilities resulting in their
4 emissions being below the threshold. Those were Southern
5 California Gas in Needles and MCP Foods in Los Angeles.

6 New controls were installed on the Shell refinery
7 at Bakersfield to reduce Nox emissions to bring them below
8 the level. And, finally, one plant was closed. It was
9 Gaylord Containers. They built cardboard boxes. And they
10 built cardboard boxes in the Bay Area and, again, the excess
11 availability of pulp and diminished demand had caused them
12 to close down.

13 CHAIRWOMAN SCHAFER: Okay. Thanks very much. Is
14 that kind of pattern found in the previous years that we
15 considered this?

16 MR. MC GUIRE: That is fairly close to the
17 previous years that we looked at. Can you add to that any,
18 Dale?

19 CHAIRWOMAN SCHAFER: It's a mixed story.

20 MR. MC GUIRE: It's a mixed story. But,
21 generally, the mixture is about -- a lot like that. In
22 previous years, what we did find is some of the facilities
23 that drop below the threshold were utilities -- electric and
24 gas utilities -- and for reasons that just have to do with
25 everything from the climate to the amount of hydro

1 production.

2 Some of their facilities dropped below 500 tons,
3 so it wasn't necessarily market driven.

4 CHAIRWOMAN SCHAFER: Okay. Thank you very much.
5 Do any other Board members have questions?

6 MR. LAGARIAS: Madam Chair?

7 CHAIRWOMAN SCHAFER: Yes, Mr. Lagarias.

8 MR. LAGARIAS: I have two questions. I think
9 you've answered one. The fees are based on actual emissions
10 rather than permitted emissions?

11 MR. MC GUIRE: That is correct. They are actual
12 emissions.

13 MR. LAGARIAS: All right. And the second
14 question, the California Clean Air Act permits the ARB to
15 ask for up to \$3 million in fees for stationary sources.
16 And, so, we ask for \$3 million. But how much is actually
17 required? Is it 2 million or 5 million? What's the actual
18 cost of implementing the California Clean Air Act by ARB for
19 stationary sources?

20 MR. MC GUIRE: It's in excess of the 3 million.
21 Larry, can you elucidate on that?

22 MR. MORRIS: Well, it would be -- it would
23 probably be something substantially greater than \$3 million.
24 I'm Larry Morris, and in charge of the Board's Financial
25 Operations. And almost everything that the Board does in

1 some way relates to our responsibilities under the
2 California Clean Air Act. So, I think the number something
3 very much in excess of 3 million.

4 MR. LAGARIAS: Yes. But this is specifically
5 earmarked to stationary source activities. So, I think we
6 should have some kind of estimate of how much of the
7 California Clean Air Act activities goes towards stationary
8 source activities over and above what ARB would be doing
9 before the California Clean Air Act was passed.

10 MR. MORRIS: The Board's activities related to
11 stationary sources are something in excess of \$40 million.

12 MR. LAGARIAS: Thank you.

13 CHAIRWOMAN SCHAFFER: It's about a 70-30 split as I
14 recall, and our budget this year is 107 million? Okay.

15 MR. BOYD: Yes, Madam Chair, but just to
16 elaborate, it's the law -- this is California Clean Air Act
17 related stationary source activities only. And the
18 accounting structure doesn't -- for budgeting purposes isn't
19 that finite. I just know that it's as Mr. Morris indicated.
20 The cost of actually carrying out those responsibilities is
21 far in excess of the 3 million that we get, but I'd say it's
22 \$5 to \$6 million for that specific set of activities.

23 MR. LAGARIAS: Well, that point was not brought
24 forth in your discussion.

25 CHAIRWOMAN SCHAFFER: Okay. Mayor Hilligoss.

1 MAYOR HILLIGOSS: Yes, I wanted to know if each of
2 the districts collect emissions information the same way. I
3 know in our district we actually go out and collect them
4 ourselves. Do all the other districts do that, too?

5 MR. MC GUIRE: Each district --

6 MAYOR HILLIGOSS: Or do they accept it from the
7 industries?

8 MR. MC GUIRE: The Air Resources Board gets
9 virtually all of its stationary source emission data from
10 the districts, and the districts are the ones that collect
11 the information from the sources. And it's normally in
12 conjunction with their permitting program. Some districts
13 may use different computational procedures or factors, but
14 the fundamental approach is the same.

15 MS. HUTCHENS: Could we have a list of how much
16 each area is going to pay now? Because it has changed.

17 MR. MC GUIRE: That is in the 15-day package.
18 Could somebody give me a page number?

19 MS. HUTCHENS: Where is it?

20 MR. MC GUIRE: It's right after the regs. It
21 appears to be a little more than halfway through, and it's a
22 table called Table 2. And in that table, it describes by
23 district the number of facilities and the amount of fees
24 that they would pay.

25 MAYOR HILLIGOSS: But that was with the 15.57, was

1 it not?

2 MR. SHIMP: No.

3 MR. MC GUIRE: The one in the Board book is with
4 the original amount.

5 MAYOR HILLIGOSS: Yes.

6 MR. MC GUIRE: The one in the 15-day package shows
7 the corrected amount, which is --

8 MAYOR HILLIGOSS: Well, what does the 15-day
9 package say on the front of it?

10 MR. MC GUIRE: Well, let's see. It's "Revisions
11 to the ARB Staff Report" is the start of the title.

12 MAYOR HILLIGOSS: Okay. Thank you.

13 MR. MC GUIRE: We have a slide that may provide a
14 little more information on this after you've had a chance to
15 review that.

16 CHAIRWOMAN SCHAFER: I just think some of the
17 Board members would like to see how their own districts are
18 affected by the proposal. So, we're just -- we're perusing
19 the document you just referred to on revisions.

20 Dr. Boston, did you have a question?

21 DR. BOSTON: Yes, Madam Chair.

22 Mr. Rake, regarding the overwhelming transport
23 change that you've suggested there, even though an area -- a
24 nonattainment area is due to overwhelming transport, it
25 seems to me that a facility that's emitting more 500 tons

1 per year is still adding to the adverse health effects in
2 that area and could reasonably be fined for that emission.

3 What's the logic behind your thinking on that?

4 MR. MC GUIRE: Dr. Boston, the rationale was when
5 the Board concluded last fall that the violation of the
6 standard -- in Amador County in this case -- would have been
7 virtually the same as it is whether they had local emissions
8 or not, based upon that conclusion, the district will not
9 have to do any of the things that incur cost under the Clean
10 Air Act, nor will the Air Resources Board have to go through
11 the planning process.

12 So, the rationale was, since the costs were not
13 incurred, it wouldn't be appropriate to collect fees to
14 cover those costs.

15 DR. BOSTON: What does that do for the health
16 effects of the person living in that area, though? We're
17 not doing anything to reduce the emissions in that area.

18 MR. SCHEIBLE: I think the determination on
19 overwhelming in this case is that the sources within the
20 area are not having any sort of substantial or measurable
21 effect on air quality in that area. And that's the
22 conservative definition of overwhelming that the Board
23 applied in this case.

24 Therefore, we are not asking or seeking additional
25 controls on those sources. And neither the State nor the

1 district incurs expenses in the planning process or in the
2 California Clean Air Act process because of the source's
3 emissions.

4 DR. BOSTON: So, if you took away that 500 tons,
5 you'd still have just about --

6 MR. SCHEIBLE: You'd have the same air quality.
7 You'd have the same violations of the standard, because very
8 close to 100 percent of the problem is coming into the area
9 from the outside.

10 DR. BOSTON: Okay.

11 CHAIRWOMAN SCHAFER: This is a continuation of a
12 preexisting Board policy. Can you describe the history of
13 this a little bit?

14 MR. BOYD: Madam Chair, last year, in dealing with
15 this issue that's been contentious for quite some time --
16 that is, the impact that others have on their downwind
17 neighbors -- in kind of almost an annual review of that
18 issue, the policy that was enunciated here today was
19 adopted. That is, in the case of the district in question,
20 the Mountain Counties, it was deemed that they're
21 overwhelmed by transport out of the valley, in effect, into
22 their area. And, thus, they shouldn't be held as
23 accountable as otherwise one would instantly determine from
24 just looking at the readings for what's occurring; and,
25 thus, they shouldn't have to be classified as severely as

1 one might initially determine and, thus, not have to carry
2 out as many activities -- planning activities and regulatory
3 activities -- themselves as would otherwise be dictated.

4 That was the policy that the Board approved. And,
5 thus, in this very narrow context of just a fee regulation,
6 the one major source in the area in question is withdrawn
7 from being subject to the fee, because it's no longer in an
8 area that is classified such that it would have to pay a
9 fee. So, this is a change in the regulation, because it's a
10 change in the status of that one particular industry in the
11 Mountain Counties Basin.

12 CHAIRWOMAN SCHAFER: But it was the change in the
13 application -- the change is a result of the application of
14 the policy that the Board previously adopted.

15 MR. BOYD: That's correct.

16 CHAIRWOMAN SCHAFER: Thank you.

17 MR. SCHEIBLE: And prior to this year, we had no
18 sources that kind of fell into this twilight zone. So, this
19 is the first year where we had -- if we just applied the reg
20 as previously written, we would have applied it to a source
21 in an area that was only nonattainment for ozone because of
22 transport.

23 CHAIRWOMAN SCHAFER: Okay. Mr. Calhoun.

24 MR. CALHOUN: My question relates to the accuracy
25 of the inventory. Mr. Lagarias asked if the fees were based

1 on the permitted allowance or the actual allowance. And my
2 question would be, what effort, if any, is put forth to
3 determine the accuracy of the inventory or the validity of
4 the inventory?

5 MR. MC GUIRE: Being under a hundred sources, this
6 is a manageable number. And for the purposes of this
7 particular program, those sources are given extraordinary
8 scrutiny, particularly compared to the rest of the
9 inventory. The sources themselves are very concerned if
10 their emissions are high, and they let that be known to the
11 district.

12 The districts put additional QA, and the Air
13 Resources Board puts additional QA. I can't tell you the
14 percent error band, but I can tell you that, of the sources
15 in the inventory, these 70-some-odd sources are by far the
16 most accurate. Looked at very carefully and individually.

17 CHAIRWOMAN SCHAFFER: Yes, Supervisor Vagim.

18 SUPERVISOR VAGIM: Thank you, Madam Chair.

19 On the transport issue, we have a valley study
20 being completed now. How do we know, before that complete
21 study is done, exactly what the transfer is? Is it
22 hypothetical?

23 MR. MC GUIRE: No. We had -- in fact, we had used
24 a great deal of the information, the aerometric information,
25 that was collected during 1990 in the San Joaquin Valley

1 field study part of the activity. What we -- we collected a
2 lot of additional information about which way the winds blow
3 during various kinds of episodes and where ozone
4 concentration -- we measured ozone concentrations at a lot
5 of additional sites.

6 And based upon the information that we had
7 collected there, we did a fairly lengthy analysis where we,
8 as best we could, tracked the transport of emissions. In
9 addition, we looked at what the emissions were in the
10 downwind. And it was definitely a downwind area in the
11 valley. And we compared those to the emissions in the
12 Mountain Counties Air Basin and found that the Mountain
13 Counties Air Basin emissions were extremely small compared
14 to the emissions just across the air basin boundary.

15 So, when the San Joaquin Valley modeling exercise
16 is completed, it will undoubtedly shed more light on this.
17 It might even allow us to be somewhat more quantitative.
18 But we believe that the data that we used to make the
19 transport analysis last fall is fairly compelling in those
20 instances that the air mass did definitely go from the
21 valley into the Mountain Counties on the day that the
22 violations occurred.

23 SUPERVISOR VAGIM: So, you feel that, when the
24 study is complete and analyzed, the data won't change that
25 much.

1 MR. MC GUIRE: Essentially, it's the same data.
2 The conclusions should not change that, because we looked at
3 it not using a model, but we looked at it just using data
4 analysis techniques. And we expect the model to bear them
5 out.

6 SUPERVISOR VAGIM: Okay. Also, in the reduction
7 of one facility in the San Joaquin Valley, it was basically
8 a method of assessment the valley uses versus the Air
9 Resources Board; is that correct?

10 MR. MC GUIRE: Well, actually, this particular
11 issue was one of the changes that, of course, Mr. Rake
12 described from the staff report as originally published.

13 The staff report, as originally published, relied
14 on the emissions in Kern County as they had been provided to
15 us over the years by the district. Recently, the district
16 had looked at the way they compiled the emissions per
17 facility, and concluded that there were some inconsistencies
18 in the way that they did it. And they asked that the way
19 emissions be aggregated be modified.

20 We looked at their proposal and agreed that that
21 modification was indeed reasonable. And, as a result, some
22 sources that, in a case where perhaps two sources had been
23 added together to be over 500 tons, with this new method of
24 aggregating, it turned out to be two sources smaller than
25 500 tons.

1 SUPERVISOR VAGIM: There is -- in addition, there
2 is one facility in the valley that, evidently, there was a
3 calculation error in years before, and which there was a
4 holdback on that facility to pay their fees, the way I
5 understand it. Is that correct?

6 MR. MC GUIRE: Is that the Guardian?

7 SUPERVISOR VAGIM: Guardian Industry facility.

8 MR. MC GUIRE: We are aware of that. There are
9 some questions raised by the source operator about whether
10 the emissions were correctly accounted for in earlier fee
11 programs. And, in fact, our staff has been working with the
12 district. We believe that that is resolved. It's being
13 resolved to the source operator's satisfaction.

14 SUPERVISOR VAGIM: In the discussion about the
15 failure of a facility to pay the fees, I believe the
16 language in 90803 deals with that; is that correct?

17 MR. MC GUIRE: If that is the section number. The
18 language specifically is meant to account for problems like
19 this. If a source, for legitimate reason, cannot or does
20 not repay, the language allows them to be forgiven.

21 SUPERVISOR VAGIM: But, evidently, there is some,
22 perhaps, clarity that my district staff, the valley district
23 staff, is still a little bit, I guess, on an uneven keel.
24 And they have suggested -- and if I may, Madam Chair, I'll
25 read it into the record. It's an amendment to 90803. And

1 it would essentially add in a line or sentence that is in --
2 of course, it's a one paragraph sentence. But, if I may, it
3 would be in the line that had the words ". . . other
4 enforcement action, such district shall notify Executive
5 Officer of the State Board."

6 The suggested language there would be added at the
7 bottom, which would be in place of 9800.5 (sic) which says,
8 "Nothing herein shall relieve the operator from any
9 obligation to pay any fees assessed pursuant to this
10 regulation."

11 In other words, if there is a calculation error
12 and everything is omitted, but yet they can still go back
13 and hit them for the calculation error, it's a convoluted
14 kind of a position.

15 One of the -- a suggested change is, "If
16 demonstrated to satisfaction of the air pollution control
17 officer and the Executive Director (sic) of the California
18 Air Resources Board that the quantity of emissions used in
19 determining the fee amount was calculated in error, the
20 facility and the district shall be relieved of paying the
21 portion of the fees that was calculated in error."

22 And that is the suggested language change to 908--
23 I'm sorry. That would -- I'm sorry. That would be the last
24 sentence, striking ". . . nothing shall be relieved (sic)
25 relieve the operator of any obligation to pay any fees

1 assessed pursuant to this regulation."

2 And that language would be substituted with the
3 language I just read.

4 CHAIRWOMAN SCHAFFER: For Board members -- in order
5 to follow this -- if you look at the document on "Revisions
6 to the ARB Staff Report, which presumably will be the
7 document that we would have comment on after this Board
8 meeting, the language being referred to appears on page A-

9 The designator, 90803, Failure of Facility to Pay
10 Fees, is the last line on page A-19.

11 So, to read the text we're discussing now, you
12 have to go to page A-20.

13 Can you, Supervisor Vagim, repeat the text of the
14 substitute language that I gather you may intend to open for
15 discussion here?

16 SUPERVISOR VAGIM: Madam Chair, the --
17 essentially, the paragraph was in two parts. It basically
18 says, if a facility closes or operator refuses to pay, the
19 district shall notify the Executive Officer of this Board.

20 Then, it goes on to say, ". . .demonstrated good
21 cause, the district may be relieved. . ." Well, the issue
22 here is calculation error or whatever, if -- the language
23 that is being suggested to help that particular discussion
24 be more clear and precise would be this language that is
25 suggested to be added to the bottom of the 90803, which

1 would be in place of the sentence that says, "Nothing herein
2 shall relieve the operator from any obligation to pay any
3 fees assessed pursuant to this regulation."

4 In other words, there could be an on-ending -- an
5 unending dispute that may go on, and on, and on. One of the
6 areas that our staff has felt at the valley district to
7 clarify this is this language. "If demonstrated to the
8 satisfaction of the air pollution control officer and the
9 Executive Director of the California Air Resources Board
10 that the quantity of emissions used in determining the fee
11 amount was calculated in error, the facility and the
12 district shall be relieved from paying the portion of the
13 fees that was calculated in error."

14 That clarifies, and more distinct to add to the
15 definition for demonstrated good cause.

16 CHAIRWOMAN SCHAFFER: So, you're forcing -- in this
17 language -- the Executive Officer of the Air Resources Board
18 and the local air pollution control officer to concur in
19 this judgment of --

20 SUPERVISOR VAGIM: If there's a disagreement, then
21 he can carry on exactly the way it is. If there is some
22 agreement, then it does come to some conclusion.

23 The ". . . demonstrated good cause, the district
24 may be relieved from the (sic) portion of fees. . . required
25 to collect" is a nebulous kind of an undefined area.

1 CHAIRWOMAN SCHAFFER: Well, I think -- I'm going to
2 defer to counsel in a minute. Does counsel have the
3 language that has been proposed?

4 MS. GLAZER: No.

5 CHAIRWOMAN SCHAFFER: Have you heard enough of the
6 language that's been proposed?

7 MS. GLAZER: Not entirely to evaluate it.

8 SUPERVISOR VAGIM: I have a copy of what they just
9 faxed me. There was some discussion, and I'm not sure why
10 you would not have this. But let me make sure you do have
11 it. Here's another copy of it here for you.

12 CHAIRWOMAN SCHAFFER: Just a question for the staff
13 on procedure. We held meetings on this rule, and I assume
14 we had extended conversation with the San Joaquin Valley
15 District staff, since we made changes based on -- you know,
16 based on their calculations in that district.

17 Could the staff elaborate why this might not have
18 come up in the staff deliberations? Or did it come up in
19 the staff deliberations?

20 MR. MC GUIRE: No, it did not come up. Did we
21 hear something this morning that there was going to be a
22 change proposed?

23 MR. AGID: Yes. I'm Gary Agid. I received a
24 phone call about nine o'clock this morning saying that there
25 might be a proposal to make a change like this. But we

1 hadn't heard any suggestion of this prior.

2 SUPERVISOR VAGIM: Madam Chair, in discussing this
3 with the staff of the valley district this morning, also,
4 they had felt -- after discussions with the CARB staff --
5 that there was -- and what they just had to go through in
6 the last few weeks of the undetermined assessment and still
7 being left in a state of indecision, in the sense that we're
8 going to go back and take a look at it and that kind of
9 issue, which I feel that they are -- CARB staff is giving
10 some assurances that that will be done.

11 And I think this is more not for the current event
12 as much for future events. I think their concern, if it
13 happens again, that we get in this state of undetermined
14 decision of how we're going to recalculate, who's in error,
15 et cetera, this is more precise. It gives definition of who
16 makes the decisions.

17 And once it's agreed upon, the issue is over with.

18 CHAIRWOMAN SCHAFFER: Well, it occurs to me that if
19 you have to have a consensus where there may not be a
20 consensus, there's no decision-maker specified. It stands
21 in the way of the Air Board being able to determine what the
22 fee ought to look like.

23 And I'm a little concerned about, you know,
24 bringing this, you know, the potential of leaving a
25 disagreement open; whereas, this appears to make it clear

1 that the operator will get a determination and will have to
2 pay the amount that is specified through this process that
3 we're following this morning.

4 SUPERVISOR VAGIM: Yeah, if it's -- of course,
5 this clearly kicks in if there's -- if there is a
6 calculation error. And, of course, anybody can charge a
7 calculation error at any particular time.

8 But if there is no place, except for demonstrated
9 good cause, that's a fairly loose term, they would precision
10 to the fact that the two parties -- the Air Resources
11 Control Executive Director (sic) and the APCD Officer at the
12 district level -- agree that there has been a calculation
13 error, that is the decision versus "demonstrated good
14 cause."

15 Now, who makes demonstration of good cause?

16 CHAIRWOMAN SCHAFFER: Board Member Edgerton.

17 MS. EDGERTON: If I understand you correctly -- if
18 I understand correctly, the thrust of your comment is that
19 an error in calculation is demonstrated good cause.

20 SUPERVISOR VAGIM: By one party perhaps. By the
21 other party, there is still calculation that needs to be
22 refined, and it may not be solved until both parties agree.
23 But it doesn't say which parties are going to agree in this
24 and where the action will take place. Demonstrated good
25 cause.

1 What this is saying, that there will be an
2 agreement -- and, of course, CARB has the control; because,
3 if they don't agree with the calculation error, they still
4 assess. Executive Director says, "I don't agree," end of
5 issue. You still get the assessment.

6 If both parties agree, it shows culmination here.
7 What I believe that they're nervous about is the fact that
8 it stays loose by the demonstration of good cause. Who will
9 make that determination of demonstration of good cause?

10 MS. EDGERTON: It's difficult for me to figure out
11 what would be more demonstrated good cause, frankly, than a
12 calculation -- a miscalculation, an erroneous calculation.

13 It just seems to me that that would be -- maybe
14 the staff can speak to that. That would be the most de
15 facto and clearest demonstrated good cause, was that there
16 was an erroneous mathematical calculation. So, maybe there
17 is a reason to have some additional clarification on that
18 point.

19 But just -- to me, that seems to be a lay down
20 demonstrated good cause. Thank you.

21 CHAIRWOMAN SCHAFFER: Counsel?

22 MR. KENNY: I would tend to agree with Board
23 Member Edgerton. Essentially, what we have here is a
24 situation in which -- I think Board Member Vagim is
25 attempting to define the good cause situation. However, in

1 trying to do so, he's specifying one particular aspect that
2 would be definitely considered to be good cause.

3 The way that the regulation is currently
4 structured, we tried to provide as much flexibility as
5 possible in terms of determining what good cause would be.
6 And we have the flexibility, basically, in the demonstrated
7 good cause language.

8 If we open it up by basically going further in
9 defining one aspect of what good cause is, we at least raise
10 questions about other types of good cause that should be
11 defined in this regulation.

12 Ultimately, I think what you end up with is a
13 regulation which basically results in a list of items which
14 are going to be considered to be good cause. And to the
15 extent that there is an exclusion in that list for some
16 demonstrated item, you have questions which then arise.

17 It seems to me that, at least, the language that
18 currently exists accomplishes very much what Supervisor
19 Vagin is attempting to accomplish. And I'm not quite sure
20 how the additional clarification really provides any added
21 benefit.

22 CHAIRWOMAN SCHAFFER: I'd like to ask Mr. Boyd --
23 or perhaps he'd like to defer to Mr. Scheible -- on our
24 experience with this potential miscalculation problem, how
25 we've resolved it in the past, I'd like to get a better feel

1 for what the problem is that needs to be solved here.

2 MR. MC GUIRE: Perhaps I can shed a little more
3 light on that, Chairwoman Schafer. This provision is meant
4 to deal with changes that come up from the time the emission
5 inventory was originally produced.

6 And, normally, I think we've only used it a couple
7 of times, including the most recent one having to do with
8 the facility in the San Joaquin Valley.

9 What it normally is is not an error in the
10 calculations as much as, from year to year, the source may
11 make some change in its control equipment or something that
12 affects emissions. And sometimes, if those changes are not
13 communicated from the source to the district and from the
14 district to the Air Resources Board in the timeframe set up
15 for these regulations, the regulations could be based on
16 emissions that are higher than now exist.

17 And, in fact, that was what happened in the case
18 of the Guardian facility that we're talking about now, which
19 is, to my knowledge, completely resolved and has been for a
20 matter of days anyway.

21 So, your original question -- how frequently has
22 this been used -- it has been used only very rarely. And,
23 normally, it's a matter more of timely updating rather than
24 out and out computational errors.

25 CHAIRWOMAN SCHAFFER: So, to date, for the five

1 years' experience we've had with this provision, it's
2 working pretty well.

3 MR. MC GUIRE: I would say that.

4 CHAIRWOMAN SCHAFFER: We resolved it before the
5 regulation had to be considered by the Board.

6 MR. MC GUIRE: That's right. And I'll ask Ms.
7 Murchison to confirm if it has been used only --

8 MS. MURCHISON: Several times, but not many.

9 MR. MC GUIRE: Several --

10 MS. MURCHISON: Two or three times, say.

11 MR. MC GUIRE: Two or three -- less than four
12 we're sure. So, I say a few. I said two, maybe three, but
13 very rare.

14 (Laughter.)

15 CHAIRWOMAN SCHAFFER: Are there any more questions
16 or discussion from Board members?

17 SUPERVISOR VAGIM: Madam Chair?

18 CHAIRWOMAN SCHAFFER: Dr. Boston?

19 DR. BOSTON: Mr. Vagim, your suggested change is a
20 little unclear to me. I don't think we have an Executive
21 Director. We have an Executive Officer. Is that what
22 you're --

23 SUPERVISOR VAGIM: Well, I presume that's what
24 they mean, Dr. Boston.

25 DR. BOSTON: Not the Chairperson, you mean the --

1 SUPERVISOR VAGIM: I mean the language, obviously,
2 would need to be clarified. I think what I'm offering today
3 is just the thrust of the change that reflects the ambiguity
4 of the discussions that were going on between the district
5 and CARB. And even though it might have happened four times
6 or not many times, but many, or whatever the discussion over
7 the years has been, the issue is -- and I disagree with
8 counsel in some ways, because if you're going to have a
9 calculation error, it's going to be over the quantity of
10 emissions.

11 And this basically points that out. It makes it
12 clear. For good cause, in an area where there's an
13 assessment of fees, to demonstrate a good cause is a fairly
14 loose term. Evidently, what happened in this particular
15 case, because it was so loose, there was a significant
16 amount of definitions that had to be applied versus just a
17 quantity of emissions, which is really what we're talking
18 about.

19 And the calculation was done in error after some
20 particular retrofitting or something happened, and it was
21 still -- it was not recognized. I'm not sure exactly what
22 happened and the specificity of this; but, nonetheless,
23 there was an accepted calculation error.

24 I think what the valley staff is proposing for
25 clarity in the future to get to the point and to the issues,

1 there would be some point of discussion that would
2 essentially allow this to be defined as a quantity of
3 emissions used in determining the fee calculated versus --
4 that would be coupled with, of course, the demonstration of
5 good cause that literally adds refinement to that definition
6 of "for good cause."

7 It puts some clarity to it. Whether it tightens
8 it up because counsel's saying that's too tight; they want
9 more liberty with that definition, as Ms. Edgerton just
10 said, if it's an error in calculation, what more could it
11 possibly be?

12 This is just a definition or refinement to that
13 definition of the calculation error. Evidently there was
14 some -- some -- this has been going on, I guess, with
15 Guardian -- the particular industry in question -- because
16 they've held back their fees from last year because there
17 was a disagreement. This has been not just a few weeks.
18 This has been last year's fee assessment. And they've been
19 going around, and around, and around with our staff and
20 others about how come they should -- they're trying to show
21 they shouldn't owe it, and it's taken this long.

22 So, this clarity would shorten up and allow the
23 industry to have some resolvment versus this overhanging
24 fee assessment that they may or may not have to pay. And
25 it's taken this long for them to resolve it.

1 So, I think there's a timing issue, too, on how
2 long these things are going to be outstanding. And this
3 would clarify it and allow people to sit down and deal with
4 the actual emission quantity calculation, not something else
5 that might be esoteric.

6 SUPERVISOR RIORDAN: Madam Chair?

7 CHAIRWOMAN SCHAFER: Yes, Supervisor Riordan.

8 SUPERVISOR RIORDAN: I might make a suggestion. I
9 think what is offered may have merit, but it's very
10 difficult for us to, I think, discuss it and to have our
11 staff and counsel review it.

12 And I might suggest that it would be appropriate
13 to move forward with the language that we have. And that at
14 an appropriate time -- and I'm not sure how the Board
15 operates technically -- that maybe we revisit that with some
16 additional analysis that would give us a clearer feel for
17 what might be acceptable language, not dismissing what it
18 offered, but just so that we can move off of, perhaps, this
19 particular point at this time.

20 SUPERVISOR VAGIM: Madam Chair, that's acceptable
21 to me. Basically, this is the venue to offer the language.
22 I have no problems as long as we're moving to some kind of
23 analysis and later revisit this. That's fine with me.

24 CHAIRWOMAN SCHAFER: Okay. Mr. Boyd.

25 MR. BOYD: Well, I think Supervisor Riordan's

1 suggestion alleviates the concern -- I would agree with
2 that. I was trying to refrain from getting into this,
3 because I'm a little surprised that this has come in so
4 late. And in deference to Supervisor Vagim, I'm a little
5 disappointed the district didn't discuss it with us.
6 Because, quite frankly, I think some of my staff went above
7 and beyond the call of duty of helping the district resolve
8 its problem with Guardian.

9 And I'm a little taken aback by the feeling of the
10 district staff that they need some change. So, I do think
11 we need some time to have a discussion with the district
12 staff to see whether they have a concern that has not come
13 to our attention relative to how things might occur in the
14 future and, therefore, the applicability of this to other
15 districts and other situations. Because I do agree -- I do
16 agree with our counsel that from lots of experience, as you
17 start to finely define things, you begin to leave more
18 things out than you desire. And the global language has
19 worked to date to allow us to resolve most of these issues,
20 maybe not with the speed that the industry in question would
21 have liked to have seen -- and I'm not quite sure what the
22 issue is there. And since the Board has asked us to look
23 into this, you'll hear more about, perhaps, why it took so
24 long.

25 But, to me, it was an issue between the district

1 and the facility and once resolved with our staff's help,
2 was resolved under the broad umbrella that this -- that the
3 language at present provides us.

4 So, we'd be glad to look into it in more detail
5 and report back to you.

6 CHAIRWOMAN SCHAFFER: All right. Thank you very
7 much.

8 SUPERVISOR VAGIM: Yeah, thank you, Madam Chair,
9 but just one quick comment.

10 Mr. Boyd, I hope that the timing of when this
11 member or any member puts an offering to you and this Board
12 does not create a sin by the sheer timing. I think we're
13 all --

14 MR. BOYD: I would never say that one of my Board
15 members could ever commit a sin.

16 (Laughter.)

17 SUPERVISOR VAGIM: All right.

18 MR. BOYD: The sin was committed by the district,
19 my peer at the district, as far as I'm concerned, in not
20 letting me know that he had a concern.

21 SUPERVISOR VAGIM: Thank you.

22 CHAIRWOMAN SCHAFFER: Thank you very much,
23 Supervisor Vagim. I certainly expect that the reason we
24 have Board meetings is that so that we can consider all of
25 these things together. And so, anything that comes up at a

1 Board meeting, as far as I'm concerned, initiated by one of
2 the members of the Board is very timely.

3 Yes, Mr. Lagarias.

4 MR. LAGARIAS: Madam Chair, I've been looking at
5 the charges by district, and it seems to me that while the
6 fees are going against plants that put out more than 500
7 tons of a pollutant per year, there's some inequities here.

8 The Bay Area is charged \$970,000. The South Coast
9 is \$500,000. Well, that may reflect the fact that there
10 aren't as many plants in the South Coast that have as much
11 as 500 tons per year emissions. But, then, when you look at
12 the Mojave Desert, its fees are \$318,000, or three-fifths
13 what the South Coast fees are, and I -- while there may be
14 large sources in the Mojave Desert, there's no way you can
15 convince me that stationary sources in the Mojave are
16 greater contributors than those of the South Coast.

17 And, then, you look at San Diego, which is
18 \$81,000, and that's a fourth of what the Mojave Desert fees
19 are. And it raises the point, are we just charging the fees
20 against the deep pockets, the large stationary sources? And
21 when we had the original discussion with a 500-ton limit, I
22 think we should consider whether this is a disproportionate
23 charge against the big few rather than the total many.

24 MR. BOYD: Well, Mr. Lagarias, we've got two
25 dilemmas here as I see it quickly. One, the Legislature's

1 definition of the threshold is what we had to work with, and
2 it restricts our flexibility, so to speak, if you want to
3 approach it that way.

4 The other thing is, in terms of the magnitude of
5 emissions from various sources or various geographical
6 areas, it is a product of, in some degrees, the amount of
7 Nox control that some districts have put in place vis-a-vis
8 others. And I guess there is a dilemma, but it's almost --
9 in some people's eyes -- but it's almost beyond our
10 capability of addressing it really, because the 500 tons was
11 fixed in the law as the threshold to utilize.

12 MR. LAGARIAS: But it has been successful in
13 forcing these larger affected industries to apply more
14 controls because of the cost of the fee and the desire to
15 get under the 500-ton limit, if at all feasible, to escape
16 these fees; is that correct?

17 MR. SCHEIBLE: I believe that the level of these
18 fees or the acid deposition fees provides an incentive,
19 although a relatively small one relative to the cost of
20 control. And the sources are going to be paying in the
21 order of between \$2,000 and \$10,000 a ton for emission
22 controls; the fees are quite small. And they're also
23 relatively small compared to the amount of the fee charged
24 by the local district for the direct regulation, permitting,
25 and other activities.

1 I guess the law does not -- would not prevent us
2 from having some sort of sliding scale for those sources
3 that make it in at 500 according to the area the source is
4 in. But the Board chose in its original adoption not to use
5 a more complicated fee program. That might be something you
6 would like us to look at in the future. It would make it
7 more -- on the premise, which is undoubtedly correct, that
8 certain emissions cause more problems and, therefore, incur
9 more cost than other emissions.

10 CHAIRWOMAN SCHAFFER: I think you've raised some
11 fundamental questions, Mr. Lagarias, about the design of the
12 fee structure overall. And I had some questions when I was
13 first briefed on this as well, because, again, I'm still new
14 to this particular topic in any event.

15 And I think that, as we move towards the end of
16 this eight-year authorization period, that we need to give
17 some really intelligent thought to how to design a few
18 structure for the future should we pursue legislation to
19 finance these kinds of activities through a fee, giving a
20 lot more consideration, perhaps, than we have in the past to
21 the overall incentives picture.

22 I think, generally, this fee was a revenue-raising
23 proposition in order to finance certain activities that the
24 Board must carry out as distinguished from being designed as
25 an incentivizing set of fees. And I think that's something

1 that would be a very constructive pursuit for the staff to
2 take, maybe not even as early as next year, certainly by the
3 time we are preparing legislation and budget proposals for
4 the following year in the Governor's budget submission for
5 ARB.

6 Yes, Mayor Hilligoss.

7 MAYOR HILLIGOSS: Could the ARB require each
8 district to collect their emissions in the same way? I
9 think that's where the problem comes in.

10 CHAIRWOMAN SCHAFER: Okay. Yes, Board Member
11 Edgerton.

12 MS. EDGERTON: I'd like to agree with the
13 Chairwoman. I'd very much support a more careful analysis
14 of the results of this program in light of the goals that
15 the Legislature set out and/or the way that the ARB sees it.

16 Again, returning to whether it's supposed to be a
17 revenue -- whether it's primarily a revenue generator or
18 whether it's a market incentive program, something designed
19 to influence behavior, that is where I find I have had some
20 questions with respect the overwhelming transport issue,
21 because that suggests that there is an effort to influence
22 behavior within the program. Because you're saying, since
23 they have no control over their program in the mountain
24 area, they shouldn't have to pay the fee.

25 On the other hand, since -- from what I understand

1 from talking to the staff -- the fees are so small that they
2 don't appear to be influencing behavior in any significant
3 extent, then I'm sort of wondering whether Dr. Boston's
4 comment isn't the one that makes sense, is that it should be
5 perhaps just a flat revenue generator, just everyone who's
6 emitting, irrespective of the effect in the particular
7 district.

8 I'm just saying if I were a legislator. These are
9 just issues that have come up in my mind trying to
10 understand what the purpose of it -- of the overall program
11 is. And, so, I would -- I very much support the idea of
12 approaching it with a little bit of the wisdom that we have
13 gleaned about market incentive programs.

14 And I think this is consistent with the Governor's
15 establishment of Cal-EPA and the whole idea of trying to
16 make sure we get the most bang for each buck.

17 MR. BOYD: Madam Chair?

18 CHAIRWOMAN SCHAFFER: Just a moment, please, Mr.
19 Boyd. Yes, Mr. Calhoun.

20 MR. CALHOUN: I'd like to hear the staff's
21 response to Mayor Hilligoss' suggestion.

22 MR. BOYD: I think Mr. Scheible was going to
23 comment as to whether we can make them do it all the same
24 way.

25 MR. SCHEIBLE: I might need some help from counsel

1 here. The emission inventory is one of the functions that
2 the Health & Safety Code applies primarily to the Air
3 Resources Board to use to the maximum extent possible the
4 information created from the district.

5 But I -- my quick assessment would be that the way
6 the Health & Safety Code is constructed, the Board could, if
7 it so desired, prescribe or guide very strongly districts in
8 how they put together their emission inventory to try to
9 achieve consistency or more consistency than there is.

10 I think it would be a very, very substantial
11 undertaking. I think it would be quite controversial with
12 the districts to try to do something like that in a
13 regulatory mode. We try to do it now in terms of technical,
14 you know, getting the best technical job done. But they do
15 go about things differently, and there are substantial
16 aspects of the emission inventory that you cannot resolve
17 clearly. You can argue several different ways of doing it
18 for a given source.

19 So, I think it's legally possible. It would be a
20 difficult undertaking to do that. And it would be something
21 where we have by and large, for the stationary sources that
22 they directly permit and regulate, we've seen them as the
23 primary generator of the information. And then we use the
24 information.

25 And in instances where we saw, like we did a few

1 years ago, in refineries in the Bay Area and the South
2 Coast, there was a difference and there was a problem to try
3 to work on it not through a regulatory mode, but in terms of
4 there's a technical issue here, and let's get together and
5 try to resolve it through consensus.

6 CHAIRWOMAN SCHAFFER: If there are no further
7 comments or questions from Board members, I'd like to remind
8 the public that this now is your opportunity to present
9 testimony to the Board.

10 I don't have any indication that members of the
11 public have signed up requesting to testify. I'd just like
12 to, before closing this item --

13 MR. BOYD: Madam Chair?

14 CHAIRWOMAN SCHAFFER: Yes, Mr. Boyd.

15 MR. BOYD: If I might, Ms. Edgerton brought up two
16 things I'd like -- well, you brought up one issue I'd like
17 to provide some information to the Board, and that is the
18 timeliness of this discussion about how fee structures and
19 systems work. And I'm not sure we'll have the luxury of a
20 lot of time in terms of waiting for when this particular --
21 as you already indicated, we may not be able to wait for
22 when this law needs to be reauthorized, because I'm aware
23 that in the Legislature right now there is discussion
24 beginning to take place, initiated by industry sources, on
25 how to finance the PM10 activities that need to be carried

1 out in the State.

2 And with their knowledge of the Kapiloff bill, the
3 acid deposition program -- and, as already indicated by you,
4 the program is just finishing and the fees did just finish--
5 there are some discussions beginning to take place about, in
6 effect, picking that same process up again or reutilizing
7 that approach, which is basically this approach -- it's just
8 a threshold of some kind to raise revenue, not to influence
9 behavior, but to pay for programs that there seems to be a
10 mutual understanding need to be paid for in the future.

11 And I'm aware that there are some sources talking
12 about doing this in order to pay for all that people are
13 beginning to realize needs to be done in this century, we
14 thought maybe next century, to address the PM10 issue. So,
15 I think it's very relevant to talk about it in the near
16 term.

17 The other issue was Ms. Edgerton's reference to
18 Dr. Boston's earlier concerns. I was very much appreciative
19 of his concerns, and I don't want to leave that issue lying
20 on the table not totally responded to in terms of protecting
21 the public health of the people in the area.

22 Whereas, a local district won't have to require an
23 industry in question to pay a fee, this particular fee let's
24 say, or won't have to carry out controls that they may
25 believe are excessive in terms of controlling their own

1 local industry with respect to its contribution to the local
2 program, you're right. The people in the area are still --
3 their public health is assaulted, assaulted primarily by
4 what's -- everybody decides what's coming into them.

5 But those industries usually are subjected to some
6 rules and regulations. Certainly, there are baseline rules
7 and regulations. New source performance standards that the
8 Federal Government requires are an initial starting point.

9 And many of the districts in question do have
10 regulatory approaches they do take through their new source
11 review rules or through some retrofit provision they may see
12 necessary to at least have the industries in question make a
13 contribution to the issue.

14 So, we are cognizant of that need. And I think
15 the local areas are cognizant of the need. It got here to a
16 point of equity in terms of where do we stop and where do
17 others start. And it's not just the Mountain Counties.
18 That issue rages to this day between the South Coast Basin
19 and San Diego, between the Mojave area and the South Coast,
20 between the Bay Area and the valley in general, and so on,
21 and so forth. And we'll continue to strive to resolve each
22 and every one of those.

23 In some cases, it takes work of many, many years
24 of a lot of sophistication, such as the San Joaquin Valley
25 air quality study and its ultimate model, to get everybody,

1 hopefully, to the table to agree to who's doing what to whom
2 and to what precise amount.

3 We know a lot in generalities. We know the Bay
4 Area does it to the valley to some degree, but we know the
5 valley's responsible, to some degree, for its own, so on and
6 so forth.

7 So, hopefully, to address Dr. Boston's concern and
8 Ms. Edgerton's about the health of the people in question,
9 we try to deal with that as well as dealing with all these
10 other more technical issues.

11 CHAIRWOMAN SCHAFER: Thank you very much, Mr.
12 Boyd.

13 It appears that there are no witnesses requesting
14 the opportunity to comment on this issue this morning. So,
15 at this point -- excuse me, Counsel?

16 MS. GLAZER: Madam Chairwoman, I just wanted to
17 point out one technical thing. In the 15-day notice
18 package, which I believe the Board has before them and which
19 members of the audience may also have, apparently through
20 some error, the corrections that were suggested in the 15-
21 day package, they were made to the old version of the
22 regulations, not to the version that was out for the 45-day
23 notice.

24 So, while the information in there as to each
25 district's share of the \$3 million is correct, the proposed

1 staff change, which was in the 45-day notice package, with
2 regard to the Amador County facility and their overwhelming
3 transport exclusion for that facility is not reflected in
4 the 15-day notice package.

5 So, I wanted to clarify for the Board that the 15-
6 day notice package, which you have in front of you, will not
7 actually be that which is published based on the Board's
8 resolution.

9 CHAIRWOMAN SCHAFFER: Very good. I appreciate you
10 pointing that out, and expect that conforming amendments to
11 the package will be made to reflect the decision of the
12 Board that is about to be made.

13 Yes, Member Edgerton.

14 MS. EDGERTON: I would like to qualify it just as
15 a point of information, following up on the PM10
16 legislation, is the staff contemplating working up an
17 analysis or a mechanism for providing to the Legislature a
18 better understanding of how to harness market forces in the
19 imposition of the fees for PM10?

20 Is that -- is that something that you're actively
21 thinking about doing?

22 MR. BOYD: Board Member Edgerton, actually, the
23 issue has not matured to that point. It's a very new issue.
24 I just learned in the last 8 to 10 working days that some
25 people representing some industrial sources had started a

1 dialogue with some legislative staffers about the need to do
2 this and have started a dialogue within their own industry.

3 They've not approached us directly. It just
4 triggered in my mind that, obviously, we are approaching a
5 threshold of having to start some discussions on this
6 subject, if they carry through with their stated intention
7 of amending a bill that's, in effect, just a spot bill that
8 Assemblyman Sher has to begin to address something like
9 this.

10 But there's been just the most preliminary of
11 references of this to our legislative staff. So, we've just
12 kind of picked it up as something that some people have in
13 mind doing.

14 But this is not old. I've heard this for two or
15 three years. As people have debated what to do about PM10,
16 they've thought about continuing the Kapiloff program or
17 doing something like that.

18 The dilemma is, if I -- is that that program is
19 basically -- the Kapiloff program for acid deposition
20 basically addressed, quote, "traditional smokestack"
21 industry, and PM10 is more complicated and more diverse. It
22 affects ag sources, and they couldn't find a -- they had
23 not, as of that point in time, found a way to bring them all
24 in. And they're still talking about how to do just that.

25 But it's off and running again and probably

1 deserves to be broadened to how can we deal with it in a way
2 that takes more account of the interest in using the market
3 and incentives.

4 MS. EDGERTON: The most environmental benefit for
5 the environmental dollar.

6 MR. BOYD: Right.

7 MS. EDGERTON: Thank you.

8 SUPERVISOR RIORDAN: Madam Chair?

9 CHAIRWOMAN SCHAFFER: Yes, Supervisor Riordan.

10 SUPERVISOR RIORDAN: May I offer a motion to
11 approve Resolution 94-19 that's before us now?

12 CHAIRWOMAN SCHAFFER: Yes, ma'am, in a moment. I
13 want to ask Mr. Boyd if there were any -- in addition to
14 what has already been presented to us -- written comments
15 that the Board has received by individuals unable to testify
16 at the hearing before we actually consider the motion?

17 MR. BOYD: We're not aware of anything more, Madam
18 Chair.

19 CHAIRWOMAN SCHAFFER: Very good. Yes, we accept
20 the motion to adopt the --

21 DR. BOSTON: Second.

22 CHAIRWOMAN SCHAFFER: -- matter before us; the
23 staff's proposal will be adopted subject to the 15-day
24 notice of public availability.

25 I might just continue to point out that written or

1 oral comments received after this hearing date, but before
2 the 15-day notice is issued, will not be accepted as part of
3 the official record on this agenda item.

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

8 Also, I want to just remind Board members of our
9 policy concerning ex parte communications. I don't believe
10 there are any involved in this matter and, therefore, we can
11 dispense with that.

12 You all have had before you a copy of the
13 resolution, and we have a motion to adopt the resolution as
14 amended by the staff's proposals.

15 SUPERVISOR VAGIM: Madam Chair, for discussion?

16 CHAIRWOMAN SCHAFFER: Yes, Supervisor Vagim.

17 SUPERVISOR VAGIM: In the resolution, it does have
18 the Section 90803 as part of the adoption. And in light of
19 the discussion today and, Supervisor, I presume your
20 discussion or your direction will also be included in your
21 motion that we can revisit this?

22 SUPERVISOR RIORDAN: I was going to handle that
23 maybe in a subsequent motion if that were appropriate.

24 SUPERVISOR VAGIM: That's fine with me if that's
25 appropriate. I don't care which way, but I think it's

1 important that we do revisit it, since this is part of a new
2 package that is being included in the 15-day period anyway.
3 This is something new.

4 CHAIRWOMAN SCHAFFER: All right. So, the
5 resolution that is before us and on which we will vote is
6 the one that is printed and before you reflecting the
7 changes that the staff has proposed to make over the
8 previous way we've managed this fee program. Do I have a
9 second on the motion to adopt this resolution?

10 DR. BOSTON: Second.

11 CHAIRWOMAN SCHAFFER: Seconded by Dr. Boston. The
12 Clerk may call the roll.

13 MS. HUTCHENS: Boston?

14 DR. BOSTON: Yes.

15 MS. HUTCHENS: Calhoun?

16 MR. CALHOUN: Aye.

17 MS. HUTCHENS: Edgerton?

18 MS. EDGERTON: Yes.

19 MS. HUTCHENS: Hilligoss?

20 MAYOR HILLIGOSS: Aye.

21 MS. HUTCHENS: Lagarias?

22 MR. LAGARIAS: Aye.

23 MS. HUTCHENS: Parnell?

24 MR. PARNELL: Aye.

25 MS. HUTCHENS: Riordan?

1 SUPERVISOR RIORDAN: Aye.

2 MS. HUTCHENS: Vagim?

3 SUPERVISOR VAGIM: Aye.

4 MS. HUTCHENS: Madam Chairwoman?

5 CHAIRWOMAN SCHAFFER: Aye.

6 MS. HUTCHENS: Passes 9 to 0.

7 CHAIRWOMAN SCHAFFER: As I just mentioned
8 previously, there will be a 15-day comment period for this
9 item.

10 I recognize Supervisor Riordan.

11 SUPERVISOR RIORDAN: Yes. Madam Chair,
12 understanding the process, I think the analysis -- and I
13 don't know whether it would apply or could apply even to
14 what we've just adopted, but perhaps for the future year, or
15 it may be able to be amended in, you know, some part of the
16 year. I don't know how you proceed in that regard.

17 But it seems to me that we ought to have a staff
18 analysis brought back to the Board of that suggested change
19 to the effort of the fees for the stationary source program.
20 So, however that might be done, it may be simply by
21 direction of the Chair to the staff. I don't know if you
22 need a motion.

23 CHAIRWOMAN SCHAFFER: No. I would rather use this
24 as direction to the staff, have them look at the language
25 and discuss it with district officials and others as needed

1 rather than handle it as a regulatory item. If, as a result
2 of the analysis that the staff does, the Board then decides
3 to proceed with regulatory changes, then we'll have to do
4 that in accordance with our normal regulatory procedure,
5 which would involve advanced notice and opportunity for
6 public comment.

7 So, I think the members of the staff understand
8 the charge from the Board on reviewing this matter.

9 MR. BOYD: Indeed we do, Madam Chair.

10 CHAIRWOMAN SCHAFFER: Okay. Thank you very much.
11 Thank you, Supervisor Riordan, Supervisor Vagim.

12 I'd like to call for a short break while we
13 reshuffle staff here for the presentations that will also be
14 made at the Board hearing this morning.

15 (Thereupon, a brief recess was taken.)

16 CHAIRWOMAN SCHAFFER: If the Board members will
17 retake their seats, we'll reconvene the hearing. I'd like
18 to remind those of you in the audience who would like to
19 testify on the next agenda item, to please sign up with the
20 Board Secretary at this time. The next agenda item for this
21 morning is No. 94-4-2, a public meeting to consider an
22 information report on ozone and public health/recent
23 findings relevant to ambient air quality standards.

24 For this item, we'll hear an update of the ozone
25 health effects studies completed since the 1987 revision of