MEETING

BEFORE THE

CALIFORNIA AIR RESOURCES BOARD

ORIGINAL

HEARING ROOM

CALIFORNIA AIR RESOURCES BOARD

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8:30 A.M.

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Shorthand Reporter

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MEMBERS PRESENT

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

Staff:

Jim Boyd, Executive Officer
Tom Cackette, Chief Deputy Executive Officer
Michael Kenny, Chief Counsel

Bob Cross, Assistant Division Chief, MSD
Susan Huscroft, Chief, On-Road Controls Branch, MSD
James Shears, Manager, On-Road Controls Section, MSD
Su Nathan, Staff, On-Road Controls Section, MSD
Paul Jacobs, Manager, Northern Heavy-Duty Diesel, MSD
Jim Rydan, Staff Counsel

John Holmes, Chief, Research Division
Bob Barham, Assistant Chief, Research Division

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

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PROCEEDINGS

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CHAIRWOMAN RIORDAN: I'd like to call the Board the meeting to order. I believe we have a quorum. And we'll find out if we have a quorum, because I guess we'll have the Secretary call roll.

MS. HUTCHENS: Bilbray?

Boston?

DR. BOSTON: Here.

MS. HUTCHENS: Calhoun?

Edgerton?

MS. EDGERTON: Here.

MS. HUTCHENS: Hilligoss?

MAYOR HILLIGOSS: Here.

MS. HUTCHENS: Lagarias?

MR. LAGARIAS: Here.

MS. HUTCHENS: Parnell?

MR. PARNELL: Here.

MS. HUTCHENS: Riordan?

CHAIRWOMAN RIORDAN: Here.

MS. HUTCHENS: Vagim?

Wieder?

CHAIRWOMAN RIORDAN: Thank you. We do have a quorum, and I will say good morning and begin with our next item, which is 94-12-4. This is a public hearing too

consider delaying implementation of the periodic smoke self-inspection program for the heavy-duty diesel-powered vehicle fleets.

The subject of this public hearing is the Board's program calling for periodic self-inspection of heavy-duty diesel vehicles.

This is one of two programs that the ARB has established, with the assistance of the engine manufacturers, the California Highway Patrol, and representatives of the trucking industry, to control excessive smoking vehicles.

The first program, the roadside smoke inspection program, was adopted by the Board in 1990. This program began in November of 1991 and it provides for ARB inspectors to test vehicles at highway weigh stations and other roadside locations for excessive smoke.

The second program is the periodic smoke self-inspection program for heavy-duty diesel vehicle fleets adopted by this Board in December of 1992, which requires fleet owners or operators of heavy-duty diesel vehicles to perform regular smoke inspections on their vehicles. The program was to begin on January 1st of 1995.

We have before us a proposal to consider starting that periodic smoke self-inspection program in 1996 instead due to a delay of the completion of needed test procedures

by the Society of Automotive Engineers.

Mr. Boyd, I'd like you to introduce this item and begin the staff presentation.

MR. BOYD: Thank you, Chairwoman Riordan, and good morning, Board members, the public in the audience.

As you certainly well know, as members of the Air Resources Board and for some of you members of boards in your respective communities, there's a long history of public concern about smoke, and particularly excessive smoke, from heavy-duty vehicles here in the State of California, and particularly because of the known and additional possible health hazards from some of the components and constituents of that smoke.

Through the roadside smoke inspection program, your staff has been successful in the past in reducing the number of smoking vehicles that we've seen on California's highways.

Well, really, as required by statute, and to augment that roadside inspection program, the Board adopted in December of 1992, a program known as the periodic smoke inspection program for heavy-duty vehicle fleets based in California. And at the 1992 hearing, the Board specified January 1st of 1995 as the program implementation date. And at that time that date was set to allow completion of the development of a refined smoke test procedure by the Society

of Automotive Engineers as the Chairwoman has indicated.

However, since the Society of Automotive Engineers has not yet completed and approved this new test procedure that is to be known as SAE recommended practice J1667, there is frankly insufficient time now for the Board to formally adopt this procedure for implementation by -- of the program by January 1, 1995.

Consequently, we regretfully propose delaying the start-up of the program now until July of 1996.

And with that, I will just call upon Ms. Su Nathan of the Mobile Source Division to give you the particulars and background of this particular item.

MS. NATHAN: Thank you, Mr. Boyd, Madam Chairwoman Riordan, and members of the Board.

Good morning.

Today, I will present the staff's proposed amendment to the regulations for the periodic smoke inspection program. This is a program of self-inspection by heavy-duty diesel vehicle fleets that was adopted by the Board in December, 1992.

The proposed amendment would delay implementation of the periodic smoke self-inspection regulations from January 1st, 1995 July 1st, 1996.

I will begin by providing a brief background of the excessive diesel smoke emissions problem which led to

legislation requiring the Board to adopt the periodic smoke self-inspection program.

Excessive exhaust smoke is not only visually objectionable, it is harmful, because it is composed of particulate matter, which is believed to be carcinogenic. It impairs visibility and it contributes to the inability of the State to meet ambient particulate matter standards.

Additionally, excessive exhaust smoke is primarily caused by emission control tampering and malmaintenance, and is a target of numerous complaints from concerned citizens.

Heavy-duty vehicles account for five percent of the vehicle miles traveled in California. The chart shows, however, that this relatively small group of vehicles emits 34 percent of the NOx in 83 percent of the vehicular particulate matter emissions. It should be noted that diesel exhaust PM10 contributes to only about two percent of the statewide PM10 emissions. However, its contribution is important because of its potential health impact.

Vehicle owners' practices cause excessive smoke through engine malmaintenance, emission control tampering, or combinations of both. Certain engine components, such as fuel injectors and air cleaners, tend to suffer from lack of maintenance, while fuel-pump flow settings and smoke-puff limiters are items that are likely to be tampered.

The primary reason for tampering with these controls is to increase the acceleration of the vehicle. Excessive smoke can also be caused by defective emission control system components.

Recognizing the need for improved enforcement of the State's smog laws for heavy-duty diesel vehicles, the State Legislature adopted two laws concerning diesel exhaust smoke enforcement.

First, in 1988, the Legislature passed Senate Bill 1997, which directed the Air Resources Board, in conjunction with the California Highway Patrol, to establish a roadside inspection program for heavy-duty vehicles.

In November, 1990, the Board adopted regulations implementing this program. In 1990, the Legislature passed a second bill, Senate Bill 2330, which directed the ARB to establish a periodic smoke self-inspection program.

In December, 1992, the Board adopted the periodic smoke self-inspection program regulations with an implementation date of January 1st, 1995.

Before discussing the periodic smoke self-inspection program, I will review the key elements of the existing roadside smoke inspection program. The roadside inspection program became effective in November, 1991. The program applies to all heavy-duty vehicles of 6,001 pounds gross vehicle weight rating or more operating in California.

ARB staff inspect these vehicles at highway weigh stations and urban roadside sites with assistance from the California Highway Patrol.

Under the roadside smoke inspection program, gasoline- and diesel-powered vehicles may be inspecting for tampering of emission control equipment. Diesel-powered vehicles are also subject to the snap idle smoke test. The determination of whether a vehicle produces excessive smoke emissions is based upon smoke emission standards set forth in the regulations for specified categories of vehicles, generally based upon vehicle model year.

In most cases, the applicable smoke opacity standards are either 40 percent peak smoke opacity or 55 percent peak smoke opacity, subject to exemptions granted by the ARB Executive Officer.

The penalties for excessive and/or emission control tampering range from $300 mandatory to $1800 additional penalties for repeated violations.

Proof of repairs made are required to clear violations.

Although the roadside smoke inspection program has been very effective in reducing excessive smoke emissions from heavy-duty diesel vehicles, the Legislature recognized that it's also beneficial to establish a formal regulatory program under which heavy-duty diesel vehicle

owners regularly self-inspect and repair their vehicles.

An important reason for this is that the roadside program has been primarily at interstate highway weigh stations and focuses upon trucks and buses engaged in long-distance operations on major highways.

The periodic smoke self-inspection program would provide an incentive for the owners of other heavy-duty vehicles, including buses and trucks, with localized operations that rarely pass by roadside weigh stations to test and repair their vehicles and thereby lower smoke emissions.

Consequently, the periodic smoke self-inspection program and the existing roadside program would complement each other and strengthen the State's heavy-duty diesel vehicle smoke emissions reduction effort.

In December, 1992, the Board adopted the periodic smoke inspection program regulations, which are summarized as follows:

The program applies to heavy-duty diesel vehicles with a gross vehicle weight rating of 6,000 pounds, and which are part of California-based fleets consisting of two or more vehicles.

Interstate vehicles which are not based in California are exempted, because these vehicles -- being based outside the State -- are generally serviced and

maintained at facilities outside of California, and these vehicles would be subject to smoke inspections in the roadside program.

Under the regulations, the owners or operators shall smoke test their vehicles annually and, if needed, make repairs to bring their vehicles into compliance with the prescribed smoke standards.

After completing the needed repairs, owners will retest their vehicles and, if necessary, make additional repairs to assure that their vehicles are in compliance. They will also record the smoke testing and repair information and keep these records for two years.

Maintaining records of smoke emissions is necessary to prove that smoke testing has been performed periodically according the regulatory requirements.

Smoke repair records would document that engine repairs were performed to correct any excessive smoke problems. These records would then be subject to audit by ARB inspectors to monitor program compliance by fleets.

At the time of adoption, the Board directed that the program not be implemented until January 1st, 1995, at the request of heavy-duty diesel engine manufacturers and others. This would allow time for the Society of Automotive Engines (sic) committee to develop and publish a standardized smoke test procedure, known as SAE recommended

practice J1667, for the snap idle smoke test.

During this time period, the ARB staff would study the recommendations made by the SAE and evaluate the new test methods and test instrumentation technology.

Additionally, the ARB staff would conduct a public outreach effort to prepare owners and operators of heavy-duty diesel vehicle fleets and the vehicle repair industry for the periodic smoke self-inspection program.

The staff has indeed carried out these efforts since the 1992 Board hearing. This has been a summary of the background up through the Board's adoption of the periodic smoke inspection program in 1992.

I will now update the Board on events since 1992, which has led to our proposal for delaying the periodic smoke inspection program from January 1st, 1995 to July 1st, 1996.

In September of 1993, Assembly Bill 584 was passed. This bill modifies the current roadside program by specifying criteria relating to the adoption of smoke testing standards, procedures, and measuring equipment.

The bill requires that the smoke test procedure produce consistent and repeatable results, and that the test procedure produce no false test failures.

The bill states that the adoption of SAE recommended practice J1667, which specifies a standardized

procedure to measure smoke emissions from heavy-duty diesel vehicles, would satisfy these criteria.

I will now describe in more detail the ongoing work of the SAE committee. Since May, 1992, the ARB, along with engine manufacturers, smoke meter manufacturers, the California Trucking Association, and others, has worked in an SAE committee to develop an industrywide smoke test procedure.

As mentioned, this procedure is known as SAE recommended practice J1667. Testing conducted in accordance with SAE J1667 is intended to provide an indication of the state of engine maintenance and/or emissions controls tampering.

The procedure is expected to be of use to regulatory and enforcement authorities responsible for controlling smoke emissions from heavy-duty diesel powered vehicles and to heavy-duty vehicle maintenance and repair facilities.

The staff anticipates that smoke opacity meters that will meet SAE J1667 specifications should effectively evaluate the level of smoke emissions.

The ARB is working closely with SAE to develop the SAE J1667 procedure in an effort to comply with the provisions of AB 584.

The new procedure is expected to result in a

number of improvements. The smoke opacity meter sampling requirements are being revised and will be more precisely specified to ensure a standardized opacity sampling methodology.

Reference opacity meter response and performance characteristics will be specified along with performance acceptance test criteria to allow any type of opacity meter to be qualified.

The smoke test procedure will account for the wide variety of exhaust system configurations and use on heavy-duty diesel vehicles by providing guidelines and opacity correction factors for conducting vehicle opacity tests.

And SAE J1667 may include an altitude opacity correction model so that heavy-duty diesel vehicles at higher elevations can be tested to high altitude adjusted opacity standards.

The completion of the SAE J1667 work by the SAE committee has unfortunately taken longer than anticipated due to the delay in the resolution of a number of these technical issues. These issues need to be resolved, and the SAE must approve the J1667 before the periodic smoke inspection program can be implemented.

SAE J1667 must be completed for smoke opacity meter manufacturers to provide the properly configured

meters on the market for the heavy-duty diesel fleets to purchase.

As a result of this delay, the ARB has had to delay its work in adopting SAE J1667.

The following is a summary of the work that still must be done before the periodic smoke inspection program can begin:

The SAE Committee has given preliminary approval of SAE J1667; therefore, with the drafting of SAE J1667 well along the way, this will enable the ARB staff to conduct a limited vehicle demonstration study to confirm that J1667 would comply with the mandates of AB 584.

As mentioned, AB 584 requires that the smoke test procedure produce consistent and repeatable results, and that false test failures should not result. Staff will oversee a hundred-vehicle study to be conducted and analyzed byy an independent contractor to demonstrate that J1667 complies with these mandates.

This demonstration will be performed from January to May of next year.

The next step in the SAE approval process of J1667 is for the document to be reviewed and approved by the Motor Vehicle Council of SAE. Prior to giving final approval, this body must review the work of the J1667 Committee and any dissenting comments by the Committee.

When the governing body is assured that all significant dissenting comments have been satisfactorily addressed, it will vote on approving J1667. We expect this balloting to be completed by the summer of 1995.

The next step will be the ARB Board hearing to adopt SAE J1667 into regulations. Staff will present J1667 along with accompanying regulatory language changes to the Board for adoption into the roadside smoke inspection and periodic smoke inspection programs. This should occur next year.

From the summer of 1995 to July 1996, it will be up to the opacity meter manufacturers to meet the J1667 meters -- to make the J1667 meters available on the market for fleets to purchase.

Staff believes it is reasonable to also allow this time period for individual fleets to investigate the various brands of J1667 meters and procure the meter brand that is right for them.

This is the single most important reason for proposing the periodic smoke inspection program implementation delay to July 1st, 1996.

In conclusion, to allow adequate time for the SAE to formally approve the SAE J1667 smoke test procedure, for the ARB to demonstrate that J1667 complies with the AB 584 mandates, for the adopt J1667 into regulation, and, most

importantly, to allow time for the J1667 meters to be placed on the market, and for fleets to prudently purchase these meters, staff recommends that thae periodic smoke inspection program implementation be delayed from January 1st, 1995 to July 1st, 1996.

I will be happy to answer any questions.

CHAIRWOMAN RIORDAN: Are there any questions for the staff by the Board members?

MR. CALHOUN: Yes, Madam Chair.

CHAIRWOMAN RIORDAN: Mr. Calhoun.

MR. CALHOUN: Yes, I'd like to ask one question. Do we have a draft copy of the SAE practice?

MR. SHEARS: Yes, we have a draft copy. We can give you one.

MR. CALHOUN: So, our planning for the demonstration project's, based on that draft, could be in process, right?

MR. SHEARS: That's right.

CHAIRWOMAN RIORDAN: Yes, Ms. Edgerton?

MS. EDGERTON: I have a comment, and then I have a question.

My comment is this, and it's basically to be sure that the members of the Board are aware of this, because this is an experience that I had.

This delay in this particular program has already

been very costly to this Board. In August of this year, during the confirmation hearings of Jacqueline Schafer, Senator Lockyer raised the delay in this particular program as one of the failings, in his view, of this Board.

During my confirmation hearing, Senator Ayala raised this issue with me, and pointed out to me that it is very difficult for Californians to understand why they must smog check their cars and the large trucks on our roads continue to move forward without this periodic self-inspection.

My fear is that this delay -- any further delay on this measure may be even more costly to this Board. It's hard to imagine that something could be more costly than what we've just experienced this fall, in that our most valued Jacqueline Schafer is not here with us right now.

But my fear is that this delay would be raised again by the Legislature, legislative committees, and might be more costly.

So, having said that, I've thought about this particular program, and I do not understand -- I think that there's a lot of trust that needs to be there between the ARB and the trucking industry. I don't understand exactly why this SAE committee with whom we're working couldn't have scheduled an earlier meeting to meet -- to help us meet our regulations.

I think these things are a two-way street, and I don't know why they couldn't get together. I understand they have this -- I understand they have this draft 16. And there's before me today Howard Sargent, Executive Vice President and Chief Engineer of Caltest. He's going to say, I guess, that almost for sure there will be a final formal vote by mail on draft 16 of the SAE committee, which will be developed in the next meeting of the committee, for which two days have been set aside -- March 16th and March 17th.

And my -- I just want to -- my view here is that, while I will support this delay, I would like to have the Board members -- I would like to have it understood that, at the moment, my feeling is that we should provide that if the SAE committee does not come to a final vote by the end of -- by 90 days after the beginning of this year -- by March 30th, that then we will ask our staff to move forward with your best guess of what that committee would do.

I mean, we will just move forward with the specifications, which will be, for all practical purposes, the same ones that would be adopted in that committee.

I think, as I said to a colleague of mine, I have children. You know, at first they don't get their homework in. You say, well, you were sick; secondly, the dog ate it. I don't think the Legislature can -- will be very patient with us anymore.

So, in that context, I fully agree that we need to work with the industry, and I fully agree that we want to have the very best regulations, and I fully agree we don't want to go in and have duplicative regulation -- make people buy one thing and then another.

But I do think that this particular program is -- delays in this particular program are getting to be too expensive for this Board.

Thank you.

CHAIRWOMAN RIORDAN: Thank you, Ms. Edgerton.

Any comments by the staff to conclude the staff presentation?

Mr. Boyd?

MR. BOYD: Well, it might be dangerous for me to say very much. I appreciate Mr. Edgerton's comments. I share her concern. I, too, sat there through the legislative confirmation hearings, and didn't enjoy being on the receiving end, as an organization, of their chagrin and their concern. And it's legitimate. And I frankly don't think SAE ought to be very proud of what they have allowed themselves to be confronted with.

But nonetheless, the law is pretty specific, and we're in a "Catch 22." We need to work with the folks involved. We need to work with the requirements of the law, and we need to put something in place that meets the

requirements of the law.

So, as I indicated in my opening, I regretfully recommended the adoption of our proposal.

CHAIRWOMAN RIORDAN: Ms. Edgerton.

MS. EDGERTON: I'd like to ask counsel. This is something that was unclear to me from looking at this.

Do we have the authority -- it seemed to me that we do have the authority. The Legislature made it clear that we -- if we adopt the SAE committee, per se, recommendations, that's great with the Legislature.

But it didn't seem to me that they said we couldn't adopt anything but that. Did they direct us only to adopt something that was formally approved by that committee?

MR. RYDAN: No. The standard that they suggested was that it be repeatable and the test be fair. And they suggested in the statute that 1667 would meet those requirements.

If 1667 isn't viable, we could then come back and present some information and evidence to the Board, which would allow you to make a determination that, whatever else is ut there -- for example, like 1243 -- if, in fact, in your judgment, that had repeatable results, that, you know, didn't violate the due process rights of the people who receive the citations, was that measure, I think that that

would probably be acceptable -- legally anyway.

CHAIRWOMAN RIORDAN: Any other questions? Dr. Boston.

DR. BOSTON: I share a lot of the same sentiments that Ms. Edgerton just expressed. But it seems to me that it would be possible for this SAE committee, which is composed of many different groups, to keep stalling and pushing this thing on, and on, and on and say, "Well, we just can't come up with a final 1667."

So, I think there should be a time certain when we say, if 1667 isn't finalized, we go ahead with our own program. And any further delays beyond -- I think even July of '96 is too far. That's 18 months' delay. To me, that seems way too much.

But I think there should be something in our recommendation that states, if this is not finalized, that we go ahead with our own program and our own test.

CHAIRWOMAN RIORDAN: As we listen perhaps the testimony, you can begin to formulate some of those thoughts as a Board, and maybe we can add that to the final action that this Board takes.

Any other comments by staff?

Mr. Cackette.

MR. CACKETTE: Yes, Madam Chairwoman. I want to just make it clear for the Board that there's actually two

different smoke inspection programs at stake here. And one of them is called the roadside program, which is a citation program for -- done at weigh stations, where trucks with excessive smoke get tickets.

And that program was suspended by the Board basically by the Board to devote resources from the staff that runs that program to the investigation of the diesel fuel problem. And in sort of the interim of doing that, that program got caught up in this same issue of -- are their procedures repeatable and good engineering practice?

And the restartup of that program depends on, as a first line of action, this 1667 resolution of the test procedure. If it gets resolved at the next meeting of that committee in March, the roadside program can start up before June of '96. The Board could probably deal with adoption of that 1667 into regulation sometime in late summer, early fall, depending on how much we can, you know, parallel the development -- as I think Ms. Edgerton and Dr. Boston have suggested.

And that really is, I think, the more critical of the two programs. This program is a complement one that the Legislature designed, and I think that the delay period, as the staff had indicated, is largely to allow -- once these meters are formalized -- people to go out and buy them, set up their own recordkeeping systems and how they're going to

do their self-inspection program.

And there's an educational issue involved there and outreach that takes that extra time.

So, what I wanted to leave the Board with is that, as they express a sense of urgency here, it could probably be best expressed in terms of the roadside program rather than the one that we're talking about delaying today. And hopefully that could get going in the upcoming calendar year and not 1996.

MR. CALHOUN: Has anyone challenged our use of the equipment at the roadside inspection program? As I recall, those probably have been business for years.

MR. CACKETTE: We've been in court continually, I believe. Maybe counsel or Paul Jacobs could --

CHAIRWOMAN RIORDAN: Counsel might like --

MR. CACKETTE: -- comment on that.

CHAIRWOMAN RIORDAN: -- to comment.

MR. RYDAN: The CTA, I think, has collectively -- in fact, they're actually here, my worth opponent -- they've challenged, I don't know, five or six, seven hundred -- it's been challenged three times in the Superior Court level, and they've challenged a number of the citations that are probably well in excess of 500 of the citations.

We've been challenged one time in a declaratory judgment, which is sort of like a brand new review of it.

MR. CALHOUN: What was the basis for the challenge?

MR. RYDAN: The challenge had multiple bases. One was that the snap idle test didn't meet the Kelly-Frye standard. That's an evidentiary conclusion standard.

One, that the standard was phony science; that there were due process problems because they didn't get an adequate hearing. There have been issues raised that the Board wasn't fully informed when you adopted the program, a multivariety -- even to the point of raising some issues about search and seizure, improper Fourth Amendment inspections of the trucks on the roadsides.

And so far, I mean, a whole plethora of challenges have been made. And like I said, we've had them three times in Superior Courts, once down in Imperial County, which the judge essentially gave what's called an independent review, because it was a declaratory judgment, and came to the conclusion that the Board had authority adopt the test.

They gave adequate consideration. There was substantial evidence on the record to support the test, and they essentially upheld the roadside inspection program.

The actual citations have been challenged in the Superior Court of Sacramento last summer, in a conglomeration of cases that are now called Harris

Transportation, which is up on appeal through the Third District Court of Appeals, and we haven't gotten a decision back yet.

And another challenge came in a group of cases, 14 or 12 cases, called Aura Hardwood vs. ARB. And the same issues essentially were raised, and Judge Ford essentially denied by their petition to review. It's called a "writ of administrative mandate," essentially upholding the validity of the program.

We received notices last week from Dan McCarthy that he's going to appeal that.

There's another case that they've filed in court, which is cumulatively called Viviano vs. The Air Resources Board, which I think has about almost 400 citations in it. And we've stayed the resolution of that pending the resolution of all the other cases that are currently before the court, because they essentially raise the same issues.

CHAIRWOMAN RIORDAN: Any other questions on this?

Okay. I think, then, we'll go to the witness list. I would invite Mr. George Karbowski from the L.A. Metro. Good to see you again.

(Thereupon, Supervisor Vagim entered the hearing room and took his place on the dais.)

MR. KARBOWSKI: Good morning, this time, Madam Chair and members of the Board, the ARB staff.

My name is George Karbowski, and I'm an Equipment Supervisor in the Engineering Section of the Los Angeles County Metropolitan Transportation Authority, standing before you this morning to kind of detail what our involvement in both the roadside inspection and the voluntary smoke inspection program has been over the last few years.

And we have been involved in both.

The video, the informational video that ARB uses to demonstrate the procedures involved in the roadside inspection program actually starred two of the mechanics that work for me. In that video, they have received tickets up and down the State.

So, I can tell you we've been -- the MTA and the predecessor agency, the SCRTD, have been very proactive in this program.

Additionally, probably about four years ago, maybe a little longer, the MTA purchased 20 smoke meters that, at that time, were recommended by ARB staff to comply with the soon to be mandatory smoke inspection program.

During that four years, we spent a hundred thousand dollars on meters. During that four years, we have probably performed 50 to 70,000 smoke inspections. Now, while the ARB staff -- the mandatory smoke inspection program requires that a vehicle be checked once a year, we

actually have been checking our vehicles on the average of eight to ten times a year.

We do it at every 6,000 mile inspection, generally between five and 6,000 miles.

I'd just like to point out now, with a mandate by our board of directors to never buy another diesel bus, currently, our fleet is composed of about 15 percent alternate fuel vehicles. If this postponement of the regulation does occur, by the time that it does come into effect, our fleet will probably be about 35 percent alternate fuel vehicles, of course, which don't fall under the mandatory smoke inspection program. And the air quality management plan for the South Coast Air Quality District has the MTA in a position of being eventually 70 percent alternative fuel and 30 percent zero emission vehicles, you know, after the turn of the century.

So, what I'm standing before you today kind of asking you to consider and maybe do a little work on is the fact that we have spent a considerable amount of money and probably, if ou look at the time and the labor -- besides the equipment involved -- we have probably spent a million dollars over the last four years in looking at our fleet to verify that it does meet the requirements by the ARB for the smoke inspection program.

And I can tell you, quite honestly, it has

worked. The number of citations or comments -- not citations, but the number of smoky buses in our fleet have been reduced dramatically. I mean, we just don't' see that anymore.

So, it is an effective program within our organization.

The situation we have here now is, because of our increasing size of alternate fuel vehicles, the amount of investment that we have in our current smoke inspection program, we are asking that the ARB consider looking at our situation in particular, in that we would be forced to again go out and buy a whole new group of equipment if J1667 does pass, even though our program has been very effective over the last few years.

With the mandate for zero emission vehicles in our future, money's very tough right now; it's something that we would rather spend looking toward the future to our zero emission vehicles rather than buying equipment that, within a few years, we will have no use for.

So, again, whatever the -- whatever the Air Resources Board does decide, we will definitely comply with the regulations. However, we are asking some consideration in this situation.

Thank you. And I'll answer any questions you may have.

CHAIRWOMAN RIORDAN: Okay.

MR. LAGARIAS: Madam Chair?

CHAIRWOMAN RIORDAN: Yes, Mr. Lagarias.

MR. LAGARIAS: Mr. Karbowski, I certainly sympathize with you. But don't you really feel that that issue should be addressed at the time this Board considers the adoption of the J1667 process, the SAE process for fleet inspection?

MR. KARBOWSKI: Oh, absolutely. I'm not asking for any action right now. I just wanted to bring it to your attention.

One of the problems that we have within our organization is the time frame. Now, we've been trying to get the ARB staff to say, gee, when the 1667 does come into effect, what's going to happen to our existing equipment? Are we going to have to replace it?

Within our organization, buying things -- especially large dollar items -- is a fairly lengthy process. And if there is not a ruling on whether our equipment will be grandfathered, we'd like to have as much time as possible to be able to budget money to buy the new equipment. And we'll obviously comply with the regulations, whatever they are.

I just wanted to bring this to the Board and the staff's attention.

MR. LAGARIAS: Fine.

CHAIRWOMAN RIORDAN: Okay. Are there any other questions?

Staff? Mr. Cross.

MR. CROSS: Just quickly. From the staff's perspective, we will look at the issue of grandfathering meters during the development of the 1667 regulation. I think they bring up a good point, and we'll work with MTA and see if there is a way that that can be done. Because there probably will be other fleets with similar problems.

CHAIRWOMAN RIORDAN: Thank you.

MR. KARBOWSKI: Thank you.

CHAIRWOMAN RIORDAN: Thank you for raising the issue.

Let me call next on Mr. Howard Sargent from Caltest Instruments, Incorporated.

MR. SARGENT: Madam Chairman, members of the Board, as someone mentioned previously, I'm Executive Vice President and Chief Engineer of Caltest Instruments in Wilmington, California.

And Caltest is one of the three leading U.S. manufacturers of smoke opacity meters. And for two and a half years, I've been a member of the SAE's J1667 committee developing the recommended practice on the snap acceleration test procedure and smoke meter specifications.

I might say, as an aside, the snap procedure has been put to bed two years ago. I mean, there's hardly any change in that. Most of the time has been spent on smoke meter specifications.

And the snap procedure is very, very similar to what California's been using for many years.

Before I get started on the SAE, let me say a little bit about your mail-out. Your mail-out on page 145 gives two alternatives to you. One is to delay the program implementation to July the 1st, 1996. Alternative 2 is an interesting alternative.

It says, implement the program on the 1st of January, '95, and require everybody to buy two meters. Spend $10 million buying the J1243 meter, and then later buy the 1667 meter. And I think you agree that it would be very hard to find somebody in California who would be the proponent of that alternative.

But the biggest problem is that nobody makes 1243 meters anymore, so you couldn't spend the $10 million if you tried.

The 1243 meter doesn't have any specifications for the frequency of which smoke readings are taken. It doesn't have a half-second algorithm, which would smooth out irregularities, and it would make no sense to buy any of those.

Now, the alternative 3 that I'm proposing to you is a variation of alternative 1. It says, delay the program implementation to January, 1996, provided that the J1667 is approved by August the 31st, 1995. And if it isn't approved by August the 31st, 1995, then go ahead and delay the program to July the 1st, 1996.

It's very similar to, I believe, what Ms. Edgerton was proposing. Don't just schedule -- postpone everything 18 months. Give a chance to start it in 12 months if J1667 is finally approved by SAE by the end of this coming August

Before I also comment on this, I'd like to say a little bit about our committee. Unfortunately, in the two and a half years, there's been delays caused by political pressures. We had an outstanding chairman provided by Detroit Diesel, John Duerr. We had an outstanding meter consultant provided by Detroit Diesel, Bill Baker, who happens to chair an SAE committee that supervises all of the recommended practices having to do with diesel emissions, including 1667 when it's published.

And they were ordered to quit by their CEO at Detroit Diesel. Suddenly. They had to walk out of the meeting. And nobody ever told us who put the pressure on the CEO at Detroit Diesel.

But anyway, we lost two valuable people. That

was political action.

And I've seen undue comments on the ARB membership. In my opinion, I've been in government for 30 years and private enterprise for 20. I've never seen two better public servants than Don Chernich and Paul Jacobs. But, they, in my opinion, have come under unwarranted criticism for their participation on this particular committee. I won't go into details on that.

Let me give you the status of J1667. Just a few days, December the 1st and 2nd, we developed draft 15 of the recommended practice with five appendices. So, if you ask for the current draft, you won't find Appendices C and D, because we just added them a few days ago.

They've seen sitting aside, and we've put them in there finally. And everyone on the committee, generally speaking, is eager to complete the task.

And, as I think, on the next meeting on March the 16th/17th, we will be making some final votes as far as our committee. It's possible we'll have another meeting, but this particular meeting has been set aside for three months to develop one of the appendices.

And this one is called Appendix D. It's the adjustment for altitude or air density. The California Trucking Association has asked for an independent study, possibly Southwest Research or something else, to look at

Appendix D, which is really -- comes up with a very funny looking table that you would use to adjust a reading taking on a smoke meter at some altitude.

And the committee voted formally a few days ago to consider Appendix D favored by ARB -- currently favored by ARB, plus the one that's supposed to be developed in the next three months by this independent laboratory to be -- yet to be chosen.

The other thing that's still open -- let me tell you that -- let me explain a little bit what an algorithm is that differs -- J1667 meter, how it differs from a 1243 meter, the old obsolete one.

Two years ago, Bill Baker gave us slides that showed an unmuffled truck. When you hit the accelerator, the puff of smoke can go from almost zero up to 80 in, oh, 10 milliseconds. It goes up, drops, and then goes down. And then you put a muffler on the same truck, and it changes the shape of the curve.

So, to overcome that problem so that the effect of a muffler doesn't influence whether -- what your opacity is, the committee adopted a half-second moving average. So that, as the puff goes up on an unmuffled truck and drops, that is recorded over half a second, and a muffled is -- same thing happens, and you get roughly the same score if you take a half-second moving average. That's the purpose

of the half-second moving average, is to more or less eliminate the effect of a muffler, or not having a muffler or having different design mufflers.

Basically, the meters read at least 100 readings per second. So, when you get a half-second moving average, 50 of those readings are averaged. And then, every one-hundredth of a second is recomputed. One of those 50 readings drops off, and the other is added, and the average keeps moving across the curve.

And whatever the highest one is, that's the one that's recorded for that particular vehicle.

Now, the one thing that's' open for the committee is a filter proposed by a Dr. Jones of England. We adopted the half-second moving average -- it's called an arithmetic average, because all you do is take the 50 readings and take the arithmetic average. And that's been adopted in August, 1993.

As a matter of fact, three manufacturers -- Caltest and two others -- provided meters that were sent here to Sacramento for the Donner Pass-Sacramento road test. So, the half-second moving average has been in development, or you might say approved since August, '93.

Dr. Jones of England is proposing a filter be used. And let me read what I have here. The committee, in August, 1993, adopted an arithmetic half-second moving

average algorithm. That algorithm is in Appendix C of SAE J1667 since a week ago. It's formally put in there.

Dr. Jones proposed in the recent meeting in Chicago that he be permitted to present the case for a filter, which would replace the algorithm adopted in August, 1993. The full flow meters made by American companies have physical response times about 5,000 times faster than the partial flow meters made by Dr. Jones' company, Lucas, and other meter manufacturers, Bausch and so forth.

In the July, 1994 meeting, the Bausch representative proposed such a filter so all meter manufacturers could have a level playing field and sell meters.

However, we did some testing in Chicago of six meters, six different manufacturers, using this half-second algorithm. And four of the meters came in very close together. I think under -- a statistician said a 95 percent confidence level.

So, in my personal opinion, the algorithm adopted in 1993, in August, is perfectly workable and probably -- I can't conceive of any filter being better. So, I don't believe Dr. Jones' last-minute proposal will be adopted.

The California ARB consultant -- I believe is the right word -- has proposed that the meters be tested against a reference meter. And I believe that that will also be

added to the 1667. It'll be a full flow meter, which all of the meters that wish to be used have to prove themselves to produce equal results to the reference meter tested by an independent lab.

I propose that -- if you remember that, if J1667 is approved by the end of August of 1995, that you could go ahead and put into effect four months later. One of the reasons for that is I don't conceive there'll be any shortage of meters. Because what we're talking about now is not hardware. It's just what's going to go on the little memory chip inside the meters.

The hardware design is not, at least on full flow meters, influenced by anything that's on the deck now.

And also, I want to point out, if you implement something on the 1st of January, 1996, the first tests are not required under your own regulations for 90 days. They don't have to start testing the first week. They have 90 days before their first test has to be done.

That finishes my presentation. Any questions?

CHAIRWOMAN RIORDAN: All right. Let me ask if any of the Board members have any questions for this witness.

Ms. Edgerton and then Mr. Lagarias.

MS. EDGERTON: An additional concern of this Board is that we have -- because we just went through our

SIP -- ozone SIP, which was due November 15th, 1994, and coming up in 1996 is our particulate -- our PM10 SIP revision. And obviously, the diesel fuel-- the diesel trucks are major contributors to PM10.

So, while it does seem that we lurch from one deadline to another, I was interested in -- particularly thinking of the schedule of how the Air Board can also meet our 1996 PM10 requirement under the Clean Air Act -- why did you pick August? Would you -- why did you pick August?

MR. SARGENT: Why did I pick -- I'm an engineer. Engineers always add fudge factors to what you think is ideal. I think we might wind this up in July sometime. But I used to be a combat engineer, and I learned never to predict when the floating bridge was going to be done.

If you thought it was going to be done by one o'clock, you told the general five o'clock. And then he was happy when it was by three.

So, I've added a little bit in there. I think we can beat that.

MS. EDGERTON: I like that phrase "combat engineer."

MR. SARGENT: Well, I spent 30 years in the combat engineers.

MS. EDGERTON: I wonder if there's such things as combat regulator.

(Laughter.)

MS. EDGERTON: In any case -- but you wouldn't have any problem if simultaneous -- if we went ahead and said that our staff, if the SAE committee had not reported and not finalized its --

MR. SARGENT: They know exactly what to put in it.

MS. EDGERTON: -- they could go --

MR. SARGENT: They don't have to hesitate. They know what it should be. It's the other people who are trying to change this thing.

MS. EDGERTON: So --

MR. SARGENT: They know exactly what should be.

MS. EDGERTON: And, in all likelihood, our staff will move ahead. Ultimately, that's what'll end up in the--

MR. SARGENT: Oh, you don't really --

MS. EDGERTON: -- SAE anyway.

MR. SARGENT: -- need SAE committees and all that. They know exactly what should be for California. All they're doing is fending off people who are trying to change it other ways.

MS. EDGERTON: Other issues.

MR. SARGENT: I think they're in favor -- I think they voted for the half-second algorithm in this meeting that just came up. Yes, they did. They voted for the half-

second algorithm approved in August, 1993, in the recent meeting.

So, they know exactly what should be done for California.

MS. EDGERTON: Thank you.

CHAIRWOMAN RIORDAN: Okay. Mr. Lagarias?

MR. LAGARIAS: Mr. Sargent, how many members are there on the SAE committee, this particular committee?

MR. SARGENT: Formal members, the last time we voted, I think there were about 36. But at a typical meeting, we're lucky to have 15 or -- the last vote, wait a minute. We had -- the vote was 10 to 9. So, we must have had 19 members there on one of the things they voted on. But about half usually show up.

But whatever we do in the meetings has to be formally voted on by mail.

MR. LAGARIAS: Uh-huh, so they all --

MR. SARGENT: Then that takes 40 days. And that's the problem.

MR. LAGARIAS: Is there a ratio, a mix of manufacturers of equipment, suppliers of vehicles?

MR. SARGENT: There are more European meter manufacturers represented than there are -- there are only three U.S. manufacturers, and there's about six Europeans, although not all of them show up at the same time at

meetings; quite a few engine manufacturers are there, all of the principal engine manufacturers.

From law enforcement, California's always there. New Jersey is typically there. Utah -- I think it's one of the counties of Utah; I'm not sure if it's the whole State. But Utah is quite often.

We had a big complaint by the head environmentalist in Utah at the April meeting. He said, "Get on the stick and get this thing done," you know.

But, in the trucking associations, California is always represented by Stephanie Williams, who's going to speak today.

It's a mixed bag.

MR. LAGARIAS: Well, I've served on SAE committees, and I know how long it takes to get anything through the process.

MR. SARGENT: Well, I made a formal protest in July at the way the meeting was run to the head of SAE. I said, "You're not doing your job keeping this thing moving." And it's improved since then.

MR. LAGARIAS: In this mail vote that you anticipate in March --

MR. SARGENT: It's a formal meeting in March.

MR. LAGARIAS: And do you expect to have a full vote on this --

MR. SARGENT: No, that's --

MR. LAGARIAS: -- on J1667 --

MR. SARGENT: -- a committee meeting at which we're going to hear from this so-called independent laboratory about the altitude study, and vote on whether or not the algorithm will be changed to what Dr. Jones wants.

MR. LAGARIAS: When do you expect a vote to occur by the committee on J1667, if ever?

MR. SARGENT: I would be very disappointed -- and I know a lot of other people would be disappointed -- if, after the March meeting, we don't have a mailing out for a formal vote. I mean, there's going to be an awful lot of very unhappy people of that doesn't happen.

MR. LAGARIAS: And let me rephrase it.

MR. SARGENT: In April, I hope we'll have a mailing out for a formal vote with a final decision --

MR. LAGARIAS: Approval of J --

MR. SARGENT: -- by the end of May or June.

MR. LAGARIAS: All right. Then, I'd like to --

MR. SARGENT: As far as our committee is concerned. Then it has to go up to the --

MR. LAGARIAS: Yeah. I'm exploring your concept of moving up the date for approval of this.

So, I'd like to ask the staff: Following an approval of the SAE committee on this J1667 resolution, how

long would it take the staff to evaluate and come back to the Board for proposed action?

MR. CACKETTE: Mr. Lagarias, right now, our tentative plans are to do sort of what's been suggested by the witness, in that we pretty much know what the -- we think the spec's going to be. And we have meters available that meet that spec, then we would go ahead and start the 100 truck field evaluation of the procedure that we do to show that the test doesn't make any errors and that it's a repeatable test.

And we plan on doing that very early in 1995. So, that'll be sort of going in parallel with this SAE process. And then, if the procedure's adopted and the analysis of the data -- I think that's a two or three month effort -- looks good, then we could start the development of the regulation.

And so, right now, I think we'd be tentatively -- we believe we could bring the regulation back to you, barring no other glitches, delays, et cetera, in late summer of this year.

The other thing we're looking at is that this altitude piece seems to be the one part that's not -- that's causing the committee the remaining concerns, the SAE committee the remaining concerns.

And if it continues to be a concern, we can look

at sort of ignoring the altitude aspects and starting the program up at sea level only. It doesn't have to be the piece that slows down the ultimate Board adoption of the regulations and restarting the program.

MR. LAGARIAS: All right. So --

MR. CACKETTE: It's only needed if you want to run the tests, you know, at two, three, four thousand feet.

MR. LAGARIAS: Thank you..

MR. CACKETTE: So, that's sort of the tentative plan.

MR. LAGARIAS: So, you're saying that it's possible, by the end of the summer of next year, you would have had evaluated the J1667 regulation. You would have had your fleet test evaluation, and you would be likely to return to the Board with a proposed regulation.

MR. CACKETTE: Right. Of course, if you had asked me last year, I would have told you that would have been in January this year. So --

MR. SARGENT: We manufacture meters to J1667 now. With the understanding by some odd happening, the half-second algorithm is changed, we'd just put a new chip in. The meters are being manufactured now. There's no long delay for meter manufacturing.

CHAIRWOMAN RIORDAN: Okay. Are there any other questions?

SUPERVISOR VAGIM: Yes, Madam Chair.

CHAIRWOMAN RIORDAN: Supervisor Vagim?

SUPERVISOR VAGIM: Based on Ms. Edgerton's statements about the confirmation and those of us who need to go through confirmation in January, and your statement about being a combat engineer and telling a general, so what do we tell the confirmation hearing board?

MR. SARGENT: Well, you have to tell me their question first, sir.

SUPERVISOR VAGIM: Well, the question she was -- the question that she addressed.

CHAIRWOMAN RIORDAN: Why haven't you got this program going?

Right? Was that it?

SUPERVISOR VAGIM: Didn't you -- I'm sorry.

MR. SARGENT: I would answer that -- and I am not too sure of your law -- but the law says you have to wait for 1667. And since you don't control 1667, what can you do about it, except write a letter to the same guy I complained to -- his name is Max Rumbaugh -- if you want to, and tell him to get along with it.

SUPERVISOR VAGIM: And Max Rumbaugh is?

MR. SARGENT: He's an executive vice president of the SAE, and I think he hasn't pushed this properly, and he's let -- well --

SUPERVISOR VAGIM: Well, Madam Chair, would be appropriate --

MR. SARGENT: No, no, you don't want to do -- actually, the answer is, you ought to get from the Legislature the option to move on your own initiative and, as Ms. Edgerton proposed, not wait for the SAE to hold you back. Because it's been known for many, many months what should be in this procedure. And we have been stalled by -- well, this particular study we're doing now, the first draft was available in June. And on the subcommittee, nothing happened until this December, we said, we're proposing to make a study. Well, you can imagine, if you wait between June and December to do nothing, and then in December you propose a three-month study, what does that do to your time?

And that's just on altitude.

SUPERVISOR VAGIM: And you expressed that in a letter?

MR. SARGENT: Well, I already wrote one, and I don't want to write another one. But things have improved.

SUPERVISOR VAGIM: But would it be appropriate for the Board Chair to write a letter?

MR. SARGENT: And state the urgency, yes, it probably would.

SUPERVISOR VAGIM: Thank you.

MR. SARGENT: The urgency of coming to a

conclusion might get higher ups in SAE working a little bit harder at this.

SUPERVISOR VAGIM: Maybe that would be appropriate to do then. Thank you.

MR. SARGENT: I know the man from Utah came and complained to us. California ought to do the same thing.

CHAIRWOMAN RIORDAN: Thank you, Mr. Sargent. I assume there are no other questions for this witness.

Ms. Edgerton?

MS. EDGERTON: I'd just like to make sure that -- my understanding again was that your answer to my question as to whether we -- or the legislation requires us to wait for the committee was that the legislation does not, and that the legislation directs us to move on having an inspection program and allows us to -- encourages us to have our program be consistent with the committee.

Is that correct?

MR. RYDAN: That's correct. What it suggests is that 1667 meets the due process requirements, repeatability, and fairness.

So, you can have other ones. It just happens that the Legislature's recognized 1667 as meeting that requirement.

SUPERVISOR VAGIM: But we don't have to --

MS. EDGERTON: Thank you.

SUPERVISOR VAGIM: -- wait.

MR. RYDAN: You don't have to wait.

CHAIRWOMAN RIORDAN: Okay?

MR. CALHOUN: May I ask the staff a question?

CHAIRWOMAN RIORDAN: Yes, Mr. Calhoun.

MR. CALHOUN: The decision to stop the roadside inspection was an internal decision, was it not?

MR. CACKETTE: Yes.

MR. CALHOUN: Thank you.

CHAIRWOMAN RIORDAN: Okay. Our last witness today is Stephanie Williams. Will you come forward, please? Representing the CTA.

MS. WILLIAMS: Good morning. My name is Stephanie Williams, and I'm speaking on behalf of the California Trucking Association.

We represent over 2400 intrastate and interstate carriers within and outside of California. We're here to support the staff's recommendation.

Can I answer any questions for you?

CHAIRWOMAN RIORDAN: Are there any questions for this witness?

Mr. Lagarias.

MR. LAGARIAS: I can't resist.

MS. WILLIAMS: I knew you would, Jack.

MR. LAGARIAS: What is the position of the

California Trucking Association on the California diesel fuel?

MS. WILLIAMS: Diesel fuel!

MR. LAGARIAS: Yes.

MS. WILLIAMS: I can't believe it.

MR. LAGARIAS: Yes, since you've gone on record on that, I thought that this would be a good time to hear you.

MS. WILLIAMS: Let me look back to legal and see what our -- we're in support of the diesel fuel to date.

MR. LAGARIAS: Thank you. That's fine.

MS. WILLIAMS: Okay. Any questions about the I&M program?

MR. LAGARIAS: No.

(Laughter.)

MS. WILLIAMS: Okay. Thank you.

CHAIRWOMAN RIORDAN: Okay. Supervisor Vagim?

SUPERVISOR VAGIM: I just want to ask, from out-of-state truckers, how does this affect interstate?

MR. CACKETTE: Which program? The roadside program or the one we're talking --

SUPERVISOR VAGIM: The roadside.

MR. CACKETTE: The roadside program affects the interstate trucks the same way as it does California-based trucks. The periodic self-inspection program we proposing a

delay in only affects in-state trucks, in-state operated trucks.

SUPERVISOR VAGIM: And the acceleration plume test?

MR. CACKETTE: It's the same in both.

SUPERVISOR VAGIM: Same in both?

MR. CACKETTE: The use common procedures.

SUPERVISOR VAGIM: So, if someone has a license to truck outside of California as interstate commerce, when they fail the test, what do we do?

MR. CACKETTE: We issue them a citation and they pay a fine, and they are asked to fix the truck. And the amount of fine is dependent on whether they fix the truck. It's $800 if they don't fix the truck and $300 if they do fix the truck, provide evidence that they do fix t he truck.

SUPERVISOR VAGIM: Okay. Thank you.

CHAIRWOMAN RIORDAN: Ms. Edgerton.

MS. EDGERTON: Ye.s I'm -- I'd like to know -- I've gotten some reports on how your proposal for he scrappage of old trucks is moving. Can you tell me what's happened in the last three weeks with respect to that?

MS. WILLIAMS: We've been working -- I can't believe all these questions that are non-I&M, but I'll answer.

We're looking at international markets right

there for scrappage and sales. We've looked at China and some of the other countries where their standards are 32 grams per brake horsepower hour versus the 10.7 of the pre-'84 vehicles, and the 4 grams per brake horsepower hour of the new vehicles.

So, by selling our scrap vehicles to other countries, that's one way to support part of the program. And then we're looking at funding to put the new vehicles in Sacramento and the South Coast.

MS. EDGERTON: Do you have a -- is there a draft bill that you've submitted to anybody?

MS. WILLIAMS: The FIP Task Force coalition is meeting on Thursday in Los Angeles, and they're working on that right now.

So, we're really moving ahead with that.

MS. EDGERTON: And will that same information be provided to the Air Board staff? Could we have a copy of what you submit to them?

MS. WILLIAMS: Sure.

MS. EDGERTON: Thank you.

CHAIRWOMAN RIORDAN: Okay. Any other questions?

Okay. Thank you very much for your testimony.

I have no other witnesses on our sign-up list. So, if I could, Mr. Boyd, are there any comments by staff as summation?

MR. BOYD: We have some written --

CHAIRWOMAN RIORDAN: Oh, some written. All right.

MR. SHEARS: Yes. I have these comments. We have four comment letters, all of them in support of staff's proposal to delay the PSI, the periodic smoke inspection program implementation.

One is from the Engine Manufacturers Association, one is from the American Trucking Association, one is from the Associated California Loggers, and one is from Exxon Company, USA.

They all support our proposal.

I have another comment letter from the Metropolitan Water District of Southern California. Essentially, their comments parallel that of the Metropolitan Transit Authority, which you heard today. They have purchased some of the existing smoke opacity meters in anticipation of the program -- periodic smoke inspection program -- starting up in January, 1995. Now, they would like to ask for some kind of relief if the ARB is considering changing the meters to J1667. And, as Bob responded, the staff will be considering how those old meters can be used in some way when the program starts up.

The last comment letter I have is from Fullerton Joint Union High School District, from La Habra, California.

Essentially, their comment letter does not address the proposal today. They're indicating that they think that the periodic smoke inspection program would add a burden to them and forces an expense on them that they cannot bear.

They would rather see -- instead of mandatory testing of every diesel vehicle, that just the vehicles that are observed smoking on the road possibly be reported, possibly through a hot line, similar to what the South Coast Air Quality Management District has, and that a notice should be sent to the owner to have that vehicle fixed.

That summarizes the comment letters.

CHAIRWOMAN RIORDAN: Thank you very much. Mr. Boyd, any other comments for the conclusion of the staff recommendation?

MR. BOYD: Just a quick comment that the last letter reminds me of -- historically, as we get letters from operators of fleets who express concern or have questions, or perhaps -- as exhibited in some of the letters. Mr. Jacobs and his team of folks usually set up a visit with the people and explain the program, and give them a lot of hints of cost cutting and cost saving hints on how to deal with this. And we've had a very extremely positive response. In fact, I want to publicly commend the staff for the incredible outreach they've done in this area and helped a

lot of people understand the intent, and helped them with the mechanical approaches and inspection procedures that can help them.

I think here's another candidate for that particularly recognizing how strapped school districts are.

CHAIRWOMAN RIORDAN: And I appreciate that. And I'm sure the Board does, too, that there is, I think, in the whole process of air pollution control, a lot of education that has to take place. And if anybody is affected by the poor air, certainly it is school districts, because, as the alerts are posted, then the children aren't sent out to play at certain times.

I mean, there's obviously a very direct impact on those school districts of another avenue of what we do. And so, I appreciate your efforts to work with them, so that they can understand and work their work through the process.

DR. BOSTON: Madam Chair?

CHAIRWOMAN RIORDAN: Yes, Dr. Boston.

DR. BOSTON: I just want to make a comment. This letter from the Fullerton Union High School District really surprises me. I've lived in that district for 35 years, and some of the dirtiest vehicles I've seen in that area come from school buses. And his statements I would take great exception to.

I don't think his school buses are clean at all.

CHAIRWOMAN RIORDAN: We'll note that for the record, Dr. Boston.

MR. BOYD: Maybe Dr. Boston would like to accompany Mr. Jacobs.

CHAIRWOMAN RIORDAN: And, of course, they're the beneficiaries of some of the terrible air of the South Coast. And so, anyway -- it's interesting.

MR. PARNELL: Madam Chair?

CHAIRWOMAN RIORDAN: Yes, Mr. Parnell.

MR. PARNELL: Just a question of staff, with respect to comments that were made earlier, Mr. Cackette, about the restart or potential restart of the roadside testing.

It was a staff decision to put it on the shelf during the interim because of infrastructure?

MR. BOYD: Well, in the midst of the diesel fuel crisis, and at the emergency Board hearing in October of whenever -- a century or so ago -- the staff was directed by the Board at that hearing to try to address and to go into the field and investigate the allegations of serious mechanical harm, leakage, and so on, and so forth with the diesel fleet, in the most generic sense, in California.

And the most obvious staff, because of their training and the skills they possess in diesel mechanics were the people working that program. So, they were

redirected to that effort, which resulted in all the studies that --

MR. PARNELL: But the real point was, is it necessary if we then direct the staff to restart the program to go through the rulemaking process? Or is it a matter of an executive decision? I don't understand what we would have to do legally to be able to restart the roadside testing.

Do we have to go through a rulemaking?

MR. RYDAN: It would depend upon what test you would choose to adopt. I think it would be my advice that you consider whatever test is going to be the standard to base the citations on.

I think that's not only good public policymaking, but that's also something the courts look to when the citations are challenged. So, it would be my recommendation, even though you probably could just -- when 1667 comes out, just make the amendment to the regulations by a letter that's allowed under the Office of Administrative Law rules. I think a full blown public hearing would be advisable so that you can fully consider the appropriateness of the test.

MR. PARNELL: Okay.

CHAIRWOMAN RIORDAN: Let me then officially close the record if there are no other questions of staff.

SUPERVISOR VAGIM: Madam Chair, I just want to --

CHAIRWOMAN RIORDAN: Excuse me. Yes, Supervisor Vagim.

SUPERVISOR VAGIM: I just want to discuss real quick what the other thoughts of the other Board members would be about a letter from the Chair to the SAE committee urging them about the importance of them getting on with the 1667.

MR. LAGARIAS: And telling them that we will act in their absence as well?

SUPERVISOR VAGIM: Yes, I think that would be appropriate.

CHAIRWOMAN RIORDAN: Okay. Why don't we take that perhaps as an item of action after we do this closing, and that certainly fits in with some direction to staff.

But right now, are there any questions of staff on this particular issue that we need to follow?

Mr. Parnell.

MR. PARNELL: Well, I still have questions. I guess maybe I missed something earlier. But are we -- I hear counsel saying that whatever roadside testing we reestablish should be commensurate with or identical to our other voluntary testing program, or using equipment that is identical to.

So, what we're saying is that roadside testing

has to stay on an inactive basis until such time as we go through the complete process of SAE and ultimately put into place the voluntary testing before we get back into roadside testing, or are we in a position to begin roadside testing prior to that with some piece of equipment that may be compatible?

I guess I'm unclear.

MR. CACKETTE: The bill that passed the Legislature required us to have a procedure that was repeatable and accurate and that didn't create false failures; or if it did create false failures, that we had a process of remedying --

MR. PARNELL: On the voluntary?

MR. CACKETTE: No, this is on the --

MR. PARNELL: On both.

MR. CACKETTE: -- on the roadside.

MR. PARNELL: Okay.

MR. CACKETTE: And our rules on the smoke inspection program just say that we're going to use the same procedure. So, the burden of the Board was to make that finding, that the procedure that was used, whether it be the old one, the new one --

MR. PARNELL: Was repeatable.

MR. CACKETTE: -- or some other one --

MR. PARNELL: Okay.

MR. CACKETTE: -- meets these findings. It just so happened at the time that the -- for the reasons Mr. Boyd said -- that the program was suspended. And so, we were in this kind of a limbo situation. And at least, at any one instance, it seemed most appropriate to try to pursue the SAE procedure, because by definition under the law, if the SAE adopted 1667, those findings that we had to make were made automatically.

And so, the hope was that that would move on very quickly.

MR. PARNELL: Okay. Thanks.

CHAIRWOMAN RIORDAN: Okay. Ms. Edgerton and then Mr. Lagarias.

MS. EDGERTON: Mr. Parnell. I'm intending to make a motion that we'll direct the staff to -- if SAE doesn't approve the 1667 procedure at its March meeting to proceed to enable this Board to have specifications consistent with law by the 1st of January, 1996, and then, as a second part of that, I -- in my motion, I intend to ask that we direct the staff to start a field test of this new procedure, if needed, as soon as it's comfortable that the smoke meters that meet the draft 1667 procedures are available.

So, I think that these seem to be linked together, this road test, when we need to be moving forward

with a time certain on this 1667 or something equivalent.

And we also want to make sure we test that. We want to direct the staff to go forward and begin with the field test on that, if needed, because we've learned we've got to have field tests on all these things.

So, that's -- I don't know if that -- I think we're thinking along the same lines of how are they connected. And I think that was my way I'm going to propose to connect them.

CHAIRWOMAN RIORDAN: Okay. Mr. Lagarias?

MR. LAGARIAS: Well, I certainly concur with Ms. Edgerton's thinking. But when we suspended the roadside test process, we said at that time that we wanted to have the results of the SAE test procedure before we continue the roadside testing. So, I think the roadside testing has to parallel closely the SAE test results. I think that -- but, as for the self-inspection program, I think your approach makes a lot of sense to me.

CHAIRWOMAN RIORDAN: Okay. Well, let us --

MR. CALHOUN: May I add one comment in connection with this?

CHAIRWOMAN RIORDAN: Mr. Calhoun?

MR. CALHOUN: It seems as though the resolution, which we're going to talk about in a few minutes, provides for an 18-month delay. But perhaps it's possible to reword

that so it would be no longer than 18 months. Maybe we can get it started earlier.

CHAIRWOMAN RIORDAN: All right. When it comes to the time of the resolution, perhaps the maker of the motion could entertain that.

Let me, though, for the record, just close the hearing unless there are some further questions for staff. I'd like to indicate that all the testimony, written submissions, and staff comments for this item have been entered into the record, and the Board has not granted an extension of comment period. So, I'm officially closing the record on this portion of the agenda item, No. 94-12-4. Written or oral comments received after the comment period will not be accepted as part of the official record on this agenda item.

This item does have ex parte requirements. And so, Board members, if you have any, would you indicate that this time if it's appropriate. Are there any ex parte communications that need to be indicated?

All right. Seeing none, then, you do have a resolution in front of you. And if anyone wishes to add to it or delete whatever, perhaps they can give a moment of time to think about, and we'll consider this Resolution 94-69.

The Chair would be happy to entertain a motion.

Ms. Edgerton?

MS. EDGERTON: Madam Chair, I move that this Board adopt the proposed Resolution 94-69 with the following three modifications: First, that we resolve and direct the staff that if the SAE committee does not approve the SAE J1667 procedure at its March meeting, for the staff to proceed to enable this Board to have ARB specifications consistent with California law by no later than January 1st, 1996, so that our roadside program also can start up as soon as possible.

Secondly, the second modification I'm proposing that we direct the staff to start a field test of the new procedure, if needed, as soon as it is comfortable that the smoke meters meet this draft 1667 procedure are available.

And third, I propose that we direct the staff to schedule a Board meeting to adopt regulations to start up the roadside program as soon as is practicable thereafter, and to -- and if there are problems that develop with starting up with roadside program, directing the staff to inform the Board of those difficulties so that we can be sure that we are developing all the alternatives we need to be sure we're complying with this Board's obligations under California law.

CHAIRWOMAN RIORDAN: Is there a second to the motion?

DR. BOSTON: I would --

CHAIRWOMAN RIORDAN: Dr. Boston?

DR. BOSTON: -- second with a clarification.

CHAIRWOMAN RIORDAN: Yes.

DR. BOSTON: The clarification, Ms. Edgerton, when you said that if the SAE did not come up with the 1667 by March, that we would proceed and have a date of January 1st of 1996. What if they do come up with the vote in March; do you still want the date of January 1st?

MS. EDGERTON: Oh, good point. A friendly amendment. Yes, and also if they do come up with it, we would like to have -- we would like to be able to implement by January 1st, 1996.

DR. BOSTON: Then I would second the motion.

CHAIRWOMAN RIORDAN: All right. There's a second by Dr. Boston. Mr. Lagarias?

MR. LAGARIAS: I need some clarification. The March SAE meeting will probably be followed by a letter vote, which may not take place till April or so. So, wouldn't it be better to say its spring meeting rather than March meeting? Because, presumably, the March will be the full committee meeting. But, in addition to that, they will have to have a letter vote. Is it your intention to include the letter vote, which will be binding on the SAE committee?

MS. EDGERTON: Well, my intention is to authorize

and direct the staff to move forward in a way that recognizes that we need to move forward, taking into account that --

MR. LAGARIAS: But you said March specifically, and that's the hangup.

MS. EDGERTON: Well, I wanted to have it a date certain at which the staff is supposed to -- has the authority from the Board to go forward to fulfill our obligations under California law, so long as it meets --

CHAIRWOMAN RIORDAN: How about April 30th? That gives them one month to get that vote in.

MS. EDGERTON: Okay. Is April 30th --

MR. LAGARIAS: fine.

MS. EDGERTON: -- good with you? If that meets that, I understand. The sense of it was to, you know, let's authorize the staff to move on.

MR. LAGARIAS: All right. That's fine.

MS. EDGERTON: April 30th. I accept that friendly amendment. April 30th, okay.

CHAIRWOMAN RIORDAN: Will you accept that, Dr. Boston?

DR. BOSTON: Yes.

CHAIRWOMAN RIORDAN: Okay.

MR. LAGARIAS: Secondly, the suggestion has been made, since we're moving up the date, instead of giving 90

days to implement the program, we allow 180 days for implementing this early startup. Would that be satisfactory?

MS. EDGERTON: Do you think that's a better idea?

MR. LAGARIAS: I think that's reasonable.

MS. EDGERTON: I accept the friendly amendment.

CHAIRWOMAN RIORDAN: Dr. Boston, do you accept that?

DR. BOSTON: I'm not sure Jack you meant to --

MR. LAGARIAS: The date is January 1st. And then, under the present regulation, they have 90 days to implement it. But we have the question -- the problem of getting the equipment on the field, getting it to all the fleet operators. And the suggestion of the equipment manufacturers said 180 days make more sense. So, I think that's not unreasonable.

DR. BOSTON: I thought 90 days was reasonable.

CHAIRWOMAN RIORDAN: Mr. Cackette, did you want to comment? Just wait just a moment. And the discussion right now is between Mr. Lagarias' suggestion and the seconder of the motion. So, Mr. Cackette, maybe you could shed some light.

MR. CACKETTE: I was -- just wanted to make sure we understood what was meant in the discussion here.

The 90 days has to do with the periodic or the

self-inspection program, which is the regulation that we're subject to. But the discussion about moving ahead with the pilot program and bringing the regs back to the Board so that we could move on the roadside program by 1/96 is a different program.

So, the two are not --

MR. LAGARIAS: I was going to come to the roadside program.

MR. CACKETTE: -- completely related here. And the motion -- or the resolution is to start the program -- the self-inspection program up in July of '96.

MR. LAGARIAS: No, it's in January.

MS. EDGERTON: I amended that.

MR. CACKETTE: Oh, okay. I'm getting the two mixed up then, I guess. The amendment is to start the periodic inspection program up in 1/96.

MS. EDGERTON: So that you would return to us -- so that we would be able to start that -- that would be the effective date, but then the friendly amendment, as I understood it, enables the implementation to be 180 days, which would effectively extend it then to July.

MR. LAGARIAS: No. Well, within that period, they would be --

MS. EDGERTON: Implementing it.

MR. LAGARIAS: Implementing it.

MS. EDGERTON: But it would be a drop -- you had to have it all implemented by --

MR. LAGARIAS: Yeah.

MR. CALHOUN: What impact does --

CHAIRWOMAN RIORDAN: Wait. Just so -- I still need to get the seconder to accept this, and I haven't seen him accept it. Otherwise, we're going to take it a different way.

DR. BOSTON: I'm not going to accept that amendment, because I think, again, that's delaying it until July 1st, which is what I was trying to avoid.

CHAIRWOMAN RIORDAN: So, Mr. Lagarias, if you want to then have an amendment, you can ask for an amendment and we'll second for that amendment and vote on that separately.

MR. LAGARIAS: Fine. But I'm continuing my friendly discussion.

CHAIRWOMAN RIORDAN: Okay. You're still going to try to convince him; is that what you're telling me?

MR. LAGARIAS: No, no. I'm dropping that for now.

CHAIRWOMAN RIORDAN: All right. Okay.

MR. LAGARIAS: While I continue with --

CHAIRWOMAN RIORDAN: All right.

MR. LAGARIAS: -- with a proposed resolution.

CHAIRWOMAN RIORDAN: Okay.

MR. LAGARIAS: You directed some action on the startup of the roadside test program. I have a question to counsel. We have not agendized that item. So, can we, at this point in time, discuss what we're going to do about the roadside test?

MR. RYDAN: I don't think that her amendment would really significantly impact the roadside inspection program, because I think it was sort of a direction to staff to complete the information and come back to speak to them about the future in accordance with the open meeting requirements.

MR. LAGARIAS: Is that your understanding?

MS. EDGERTON: Yes, it is. My motion is to direct the staff to schedule a Board meeting on the issue to start it up as soon as it's practicable.

MR. LAGARIAS: Oh, fine. There's no problem with that. I thought you were trying to implement some --

CHAIRWOMAN RIORDAN: Practicable was the word there.

MS. EDGERTON: Uh-huh.

MR. LAGARIAS: Okay. Now, I'm ready to make a --

CHAIRWOMAN RIORDAN: Now you're going to do your amendment.

MR. LAGARIAS: Yes.

CHAIRWOMAN RIORDAN: All right.

MS. EDGERTON: I would like to say, though, that since I don't have a second on that, I'm going to --

MR. LAGARIAS: You do have a second on it.

CHAIRWOMAN RIORDAN: You have a second. Dr. Boston.

MS. EDGERTON: I know I do have a second. But I mean on the friendly amendment of 180 days. I'm back with Dr. Boston on the 90.

MR. LAGARIAS: I recognize that.

MS. EDGERTON: Thank you.

SUPERVISOR VAGIM: Madam Chair?

CHAIRWOMAN RIORDAN: Yes. Supervisor. Go ahead. I really do owe him the opportunity for his amendment.

SUPERVISOR VAGIM: This will be real quick. Are we going to include the letter in this motion, or as a separate motion?

CHAIRWOMAN RIORDAN: You could. And I was going to ask you if you'd like to do that.

SUPERVISOR VAGIM: Yeah. You mind including the wording of asking the Chair to draft a letter that addresses the concerns of this Board through the SAE committee?

MS. EDGERTON: I would accept that as a friendly amendment with one change, and that is that I would actually, in view of the situation, I think I would ask the

Executive Officer to send the letter, because we don't technically have a chair at the moment.

CHAIRWOMAN RIORDAN: Dr. Boston, do you want to accept that?

DR. BOSTON: I accept that.

CHAIRWOMAN RIORDAN: Okay. Will that be all right?

SUPERVISOR VAGIM: I have no problem. As long as it comes from the official capacity of this body.

CHAIRWOMAN RIORDAN: Well, let's ask. Maybe Mr. Boyd can reflect the actions of the Board.

SUPERVISOR VAGIM: Of the Board, right.

CHAIRWOMAN RIORDAN: Mr. Lagarias, your amendment.

MR. LAGARIAS: Since the present resolution has an effective implementation date -- time period of 90 days after adoption of the regulation, from July to three months later, I propose, since we've moved up to January 1st in this resolution, that we have an implementation period of 180 days from January.

So, the net effect is only a 90-day difference in the program.

CHAIRWOMAN RIORDAN: Okay. Is there a second to Mr. Lagarias' motion?

MR. CALHOUN: May I question -- would you be

receptive to no more than 180 days?

MR. LAGARIAS: That's right. No more than -- up to 180 days.

MR. CALHOUN: I'll second that motion.

CHAIRWOMAN RIORDAN: All right. It's been seconded by Mr. Calhoun.

SUPERVISOR VAGIM: For clarification, this is an amendment to the amendment.

MR. LAGARIAS: No, this is amendment to the resolution.

SUPERVISOR VAGIM: Because hers is 90, you're moving it to 180. So, it's an amendment to her amendment.

CHAIRWOMAN RIORDAN: Yes.

SUPERVISOR VAGIM: Which the would override her 90.

CHAIRWOMAN RIORDAN: Yes.

MS. EDGERTON: We'll vote on his first and get --

CHAIRWOMAN RIORDAN: Exactly. Yes, Supervisor Vagim.

(Thereupon, several Board members spoke simultaneously.)

CHAIRWOMAN RIORDAN: Excuse me. There is a motion on the floor that has accepted a number of friendly amendments that have been accepted by the seconder of that motion.

The regular second now -- or amendment that's been seconded by Mr. Calhoun is that that we will vote on first, which does change some of the language. We call it the unfriendly amendment for the moment.

Is there any further discussion the amendment? Then, let me ask the Secretary to call roll.

This is for the amendment only by Mr. Lagarias.

MS. HUTCHENS: Boston? Dr. Boston?

DR. BOSTON: No.

MS. HUTCHENS: Calhoun?

MR. CALHOUN: Yes.

MS. HUTCHENS: Edgerton?

MS. EDGERTON: No.

MS. HUTCHENS: Hilligoss?

MAYOR HILLIGOSS: No.

MS. HUTCHENS: Lagarias?

MR. LAGARIAS: Yes.

MS. HUTCHENS: Parnell?

MR. PARNELL: Yes.

MS. HUTCHENS: Riordan?

CHAIRWOMAN RIORDAN: Aye.

MS. HUTCHENS: Vagim?

SUPERVISOR VAGIM: Aye.

MS. HUTCHENS: Passes 5-3.

CHAIRWOMAN RIORDAN: Okay. So now the vote will

take place on the amended motion, and I would ask the Secretary to call roll.

MS. HUTCHENS: Boston?

DR. BOSTON: Yes.

MS. HUTCHENS: Calhoun?

MR. CALHOUN: Yes.

MS. HUTCHENS: Edgerton?

MS. EDGERTON: Yes.

MS. HUTCHENS: Hilligoss?

MAYOR HILLIGOSS: Aye.

MS. HUTCHENS: Lagarias?

MR. LAGARIAS: Aye.

MS. HUTCHENS: Parnell?

MR. PARNELL: Aye.

MS. HUTCHENS: Riordan?

CHAIRWOMAN RIORDAN: aye.

MS. HUTCHENS: Vagim?

SUPERVISOR VAGIM: Aye.

CHAIRWOMAN RIORDAN: Motion carries. Okay.

And I thank you all for a very good discussion, and I thank the staff.

And I think we all have a sense of where we're going, and that we're going to move forward and allow the committee to April 30th. And if, by that point, there isn't some sort of finality there, we're moving forward. Okay?