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CHAIRPERSON LLOYD: The next item on the agenda is consideration of a control measure to reduce emissions of toxic air contaminants from outdoor residential waste burning.

The Board asked staff to look at this issue when public health concerns about backyard burning were raised last year by local air districts. And I must say this was also hammered home to me when I went up to visit Bob Reynolds. So wherever Bob is here, at least he bears some of the credit or blame whichever way.

(Laughter.)

CHAIRPERSON LLOYD: While burning of most residential waste is already prohibited in a large portion of the State, there are still communities that are impacted by this practice. I understand there are also concerns about restrictions on burning especially in some sparsely populated areas.

There are a number of people here who wish to testify on these points, so I would like to get started and turn it over to Mr. Kenny at this point.

EXECUTIVE OFFICER KENNY: Thank you, Mr. Chairman and Members of the Board. Last June, the Board asked staff to move expeditiously to develop a proposed toxic control measure to address residential burning. Since the Board meeting staff has worked extensively with the air districts, fire agencies, the Integrated Waste Management Board and the Regional Council of Rural Counties to gather
Currently rules in 27 air districts all the
burning of some form of residential waste other than
natural vegetation in some or all of the air districts.
Typically, this burning takes place in a 55 gallon metal
container known as a burn barrel. The proposed control
measure will minimize emissions of dioxins and other toxic
air contaminants from residential waste burning by
addressing both the materials which can be burned and the
method of burning.

The proposed control measure provides for
protection of public health while recognizing the desire
to allow some burning to continue in rural areas where
alternatives are not available. Since the release of our
proposal, staff held a number of workshops and seriously
considered the comments received. And as a result, we are
presenting a revised proposal that we think will help
address some of the remaining issues.

With that, I’d like to turn the presentation over
to the Tina Suarez-Murius who will make the presentation.
(Thereupon an overhead presentation was
presented as follows.)

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: Thank
you. Good morning, Chairman Lloyd and Members of the
Board. Today we will be presenting to you staff's
proposal to reduce the public health risks posed by
outdoor residential waste burning. Residential waste burning, commonly referred to
as backyard garbage burning, is a significant source of
dioxins and other toxic air contaminants such as Benzene,
1,3-Butadiene, Poly Aromatic Hydrocarbons, or PAHs, and
Poly Chlorinated Biphenyls, or PCBs in both the smoke and
the ash.

These five pollutants pose the greatest health
risks. However, toxics metals such as cadmium, chromium
and mercury are also produced. In addition, the smoke
from backyard burning produces fine particulate matter.
Dioxins and other toxic contaminants can cause cancer and
contribute to other health effects.

Children’s exposure to this source is of special
concern. Both dioxins and PAHs have been identified by
the Office of Environmental Health Hazard Assessment as
pollutants that may cause children to be especially
vulnerable to illness.

The proposed regulation will reduce health risks
to the households conducting the burning, as well as
surrounding neighborhoods. While backyard garbage burning
is banned in many areas of the State, it still occurs in
parts of California, including many densely populated
communities.
The regulation eliminates backyard garbage burning in all populated areas in the State. In these areas, other waste disposal options are available and should be used. The regulation does provide exemptions in sparsely populated areas where the availability of other waste disposal options is limited, and community health risk is much lower. However, in response to comments received, we have modified the original regulation proposal to provide an improved exemption process and to incorporate a strong public education component.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: Backyard garbage burning is the disposal of waste from one- and two-family homes by burning it outdoors. These wastes can include anything from food waste, plastics and metal cans to paper, cardboard and treated and processed wood. However, it does not include burning of natural vegetation grown on the property. This burning generally takes place in 55 metal gallon drums -- 55-gallon metal drums, known as burn barrels, but it can also occur in piles on the ground.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: The toxic air contaminants identified pose a number of health risks. They can cause cancer, neurological liver and kidney damage, skin and eye and respiratory irritation, and can compromise the immune system. Dioxins are of special concern, because they are the most potent. They may last in the environment for many years. Dioxins can also accumulate in the fat of fish and animals and are then passed on to people when contaminated food is eaten.

In addition, the smoke from backyard garbage burning contains fine particulate matter. It can produce respiratory and cardiac problems, especially among the sensitive populations, such as the elderly and the very young. As discussed in the first board item this morning.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: Young children are also especially vulnerable to dioxins, because dioxins can be passed on through mother’s milk, and because of their rapid growth in development. As mentioned earlier, both dioxins and PAHs may cause children to be especially susceptible to illness. Because the smoke from backyard garbage burning often crosses property lines, health impacts can occur both to the household conducting the burning as well as to households in surrounding communities. Depending upon location within the State,
potential cancer risks from exposure to backyard garbage burning as source location ranges from approximately 180 up to 400 additional cancer cases per million.

For comparison, the current risk posed by exposure to the top 10 toxic air contaminants, including diesel particulate matter, in an urban area is about 750 additional cancer cases per million.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: As previously discussed, although many areas of the state already prohibit backyard garbage burning, there are still many jurisdictions where it is allowed. This map shows what is currently allowed under air district rules. Eight air districts, shown in green, prohibit all backyard garbage burning. Twenty-one air district, colored yellow, allow only the burning of some combination of cloth, treated wood products, paper or cardboard. Finally, six air districts, shown in gray, have no restrictions on what materials, including plastics, can be burned in all or part of the air district. In some instances, there are additional local ordinances that go beyond the air district regulations.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: In developing the proposed Regulation, we worked extensively with a number of groups. These included a residential burning working group, meetings with fire and waste management agencies and air districts. In addition, we held 21 public workshops in 17 locations throughout the State to provide the general public an opportunity to learn about the proposed regulations and to hear and address their concerns. Based on this input, we have developed the regulation and proposed modifications discussed in the next slides.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: On January 4th of this year, we released the initial regulation for public comments, which includes these basic proposed provisions shown here. Because no external control technology is feasible for backyard burning sources, such as burn barrels, the best available control technology is elimination of the burning of all types of household garbage other than natural vegetation. In addition, many air districts and fire agencies report that prohibited materials, such as plastics, are commonly found in burn barrels. Therefore, the proposed regulation also eliminates the use of burn barrels to
assist in enforcement efforts.
Burning of allowable materials can occur only on
permissive burn days and only an approved ignition device
can be used to start the fire. We also included a
provision for limited exemptions, based upon general
criteria including the availability of waste service,
distance to a landfill and population density.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: The
requirements would be come effective July 1st, 2003.
However, since the release of the original proposal, we
have continued to work with the air districts and rural
counties to develop further modifications to this
proposal.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: The
first important modification is that only paper and
cardboard can be burned in exemption areas. Under the
original proposal, there are no restrictions on the
materials that can be burned in the exemption areas.
This modification is in recognition that the
greatest public health risks are associated with the
burning of plastics and other synthetic materials.
Second, the effective date has been moved back to
January 1st, 2004. This provides additional time for

public education by the ARB, as well as additional time for
the Integrated Waste Management Board and local
jurisdictions to enhance waste disposal alternatives.
Finally, many air districts were concerned about
the lack of specific criteria and the role of ARB in the
exemption approval process. Therefore, specific exemption
criteria have been developed that are based upon
population density, using U.S. census zip codes. These
exemptions will be revisited every ten years rather than
every five to be consistent with the availability of new
census data.

AIR POLLUTION SPECIALIST SUAREZ-MURIAS: As
illustrated in this slide, a tiered population density
approach has been developed based upon the 2000 census zip
code areas. A full scale map of all affected areas is
also shown on the stands to my right.
All zip codes with a population density of less
than or equal to three people per square mile will be
automatically exempt. These areas are represented by dark
green on the map. In zip codes with a population density
greater than three and less than or equal to ten people
per square mile shown in light green on the map, the air
district can request an exemption to burn paper and the
ranking fire official can request the use of a burn barrel
1 based upon fire safety concerns.
2 In these areas, a permit provide or other
3 mechanism to distribute educational materials will need to
4 be in place. The district governing board must approve
5 the exemption request at a public meeting. Air districts
6 may also delineate portions of the zip code, where the
7 exemptions do not apply.
8 Finally, no exemptions will be provided for zip
9 codes with a population density greater than ten people
10 per square mile or for any incorporated area.
11 Incorporated areas are shown as yellow squares on the map,
12 with the red areas representing this highest population
13 density tier.
14 However, air districts may request an exemption
15 for portions of the zip code, if they can demonstrate that
16 the population density in the smaller area is less than
17 three people per square mile. Exemptions for these
18 subareas must be revisited every five years.
19 [go to SLIDE TWELVE]
20 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: We also
21 examined the potential impacts of the regulation on waste
22 diversion and landfill capacity, illegal dumping, indoor
23 burning, increased vehicle traffic and fire safety.
24 A strong public education effort coupled with the
25 Integrated Waste Management Board's efforts to work with
26 local jurisdictions to address waste disposal needs will
27 reduce the potential impacts on landfill capacity and
28 illegal dumping.
29 In addition, exemptions will be provided in rural
30 areas where alternative waste disposal options are most
31 lacking. Education about health impacts will also play a
32 key role in discouraging people from exposing their
33 families to additional health risks by burning waste
34 indoors.
35 Finally, because of fire safety concerns about
36 the burning of paper and cardboard in open piles, the use
37 of burn barrels can be allowed in areas receiving an
38 exemption to burn these materials. They will not be
39 allowed in more densely populated areas where only natural
40 vegetation is burned to prevent the burning of illegal
41 materials in them.
42 [go to SLIDE THIRTEEN]
43 AIR POLLUTION SPECIALIST SUAREZ-MURIAS: Potential economic impacts of the regulation include
44 enforcement, public education and waste disposal costs.
45 Enforcement of the regulation will be the primary
46 responsibility of the air districts and fire agencies.
47 Because enforcement is generally complained driven, an
48 overall reduction in backyard garbage burning coupled with
49 extensive public education should minimize the impact on
enforcement workloads.

The ARB is committed to the development and distribution of public education materials and will assist air districts and fire agencies in their further efforts. Households that had previously been burning some or all of their waste will be required to use additional alternative disposal methods. Additional costs could range from $100 to $600 per year per household. However, these costs can be reduced in areas with recycling programs that allow materials to be dropped off at no charge. While the regulation does not require the expansion of waste collection, recycling and disposal services, the regulation may stimulate increased opportunities, better efficiencies and economies of scale for local agencies striving to provide better services to their constituents. During the public comment period, several additional issues have also been raised. First is the consideration of widening the discretionary exemption tier to a higher population density cut point. We have evaluated several different cut points and feel they would exempt substantially more households and therefore would not be as health protected. Second, at the workshops, citizens have questioned whether we have monitoring data or plan to conduct monitoring to demonstrate that toxic emissions exist in unhealthful quantities in their particular community. While ambient measurements have not been made in most communities, because testing has demonstrated that the combustion of backyard garbage results in substantial emissions, and because there is no threshold below which public exposure is considered safe, there is an adequate basis to control this source. Finally, requests have been made for a later effective date to allow more time for public education and development of waste disposal alternatives. We believe our modification to provide ARB commitment to public education will be effective in meeting this need. In addition, the ten-year exemption review schedule will provide time for expansion of waste services in those areas where they are most lacking. AIR POLLUTION SPECIALIST SUAREZ-MURIAS: In summary, we recommend that the Board adopt the proposed regulation with the additional modifications presented today. We believe that a strong commitment to public education and outreach is essential, and we will work with
the air districts and fire districts to provide the needed
information.
We also support a continued, strong working
relationship with the Integrated Waste Management Board
and others to develop and distribute educational
materials, as well as in promoting other waste disposal
alternatives, which are environmentally sound.
Thank you.

CHAIRPERSON LLOYD: Thank you very much. And,
again, Madam Ombudsman, will you please describe the
public participation process that occurred while this item
was being developed before it was brought before the
Board.

OMBUDSMAN TSCHOGL: Mr. Chairman and Members of
the Board, as you know, at your June 29th, 2001 meeting
you directed staff to develop an Airborne Toxic Control
Measure, ATCM, for dioxin emissions from residential waste
burning and the use of burn barrels.

Since that time, staff has worked with the
following entities in the development of the proposed
ATCM, the California Air Pollution Control Officers
Association, Air Pollution Control districts, California
Integrated Waste Management Board, Office of Health Hazard
Assessments, California Department of Forestry, United
States Forest Service and the Regional Council of Rural
Counties.

The residential waste burning working group was
an offshoot of the existing smoke management working
group. The residential waste burning working group
discussed technical and nontechnical issues related to the
proposed ATCM before you now. The working group
membership consisted of 50 people from the various
agencies identified previously in addition to other ARB
divisional staff.
The working group organized 11 conference calls
and meetings with the above mentioned entities between
October 2000 and December 2001. Each meeting was attended
by about 25 people representing the APCDs, OEHHA, the
Integrated Waste Management Board, the Forest Service and
environmental groups, including the American Lung
Association.

Beginning in August 2001, staff met individually
with the staff from Modoc, Yreka, Mendocino, Lake,
Northern Sonoma, North Coast, Monterey, Kern and San Diego
air pollution control districts. In addition, staff met
with local fire department personnel, RCRC, local waste
management agencies and service providers, the California
Department of Forestry and the California Integrated Waste
Management Board.

In December 2001, staff conducted nine public

workshops in the following six locations Sacramento, Yreka, Alturas, Susanville, Hollister and Alpine.

In January of 2002, staff conducted 12 public workshops in the following 11 locations, Nevada City, Auburn, Jamestown, Willows, Oroville, Mariposa, Placerville, Eureka, Crescent City, Redding and Yuba City.

Attendance at these workshops ranged from two in Sacramento County to 40 at the Mariposa County workshop.

Workshops notices were sent out to over 4,000 people.

Staff used these community meetings to receive input from the general public on how best to develop the proposed ATCM. Such as issues as costs, density, distance from the landfill, environmental impacts prohibiting the burning of paper, landfill capacity, as well as the additional trips associated with traveling to the landfill were discussed at these workshops.

All workshops were noticed in the local newspapers via local media advisories and on the ARB's calendar of events schedule. Staff has developed two fact sheets and a web site.

Finally, on January 4th, 2002, the public hearing notice was sent out to over 4,000 people and staff sent a copy of the staff report and proposed regulations to each of the air districts.

Thank you. That concludes my comments.

CHAIRPERSON LLOYD: Thank you very much.

Questions from the Board to the staff?

Seeing no questions, at this time, I'll take the -- start on the first of the witnesses. I'd like to again remind witnesses if they have written copies of the testimony, if they could provide it to the Clerk of the Board. First, we have Supervisor Cantrall, Supervisor Pearson, Mr. Mark Leary, Barbara Lee.

MODOC COUNTY SUPERVISOR CANTRALL: Good morning, fellow public servants of the people of California.

Oh, this mic. Usually, I don't need one.

I would like to say right off that I would like to thank Mr. Effa for bringing the group of people to Modoc County. And I would like to ask you as a Board representing the people of California, how many of you have been to the northern counties?

(Hands raised.)

MODOC COUNTY SUPERVISOR CANTRALL: Very good.

More trips are needed. First of all, I would like to ask you to totally exempt Modoc, Lassen, Siskiyou and whatnot.

We are grateful that you have given us some leeway in every ten years, but the way things are going our population is not going to grow. We have no mills left, no business of any kind in those counties and I can't see us growing, so why don't you just totally exempt us, and
why don't you take MTBE out of the system. That would do
more for the State of California than taking away our
little old burn barrels.

For air quality versus water quality control, I
would wish that you would work a little more closely with
them, because we are under sanction from water quality
control controlling what we take to the dumps, from the
dumps to Lockwood. If we raise that consumption going to
the landfills and the dump sites, then we're going to be
fined by water quality control. And, of course, it is
going to go up if we have no burn barrels. And like I
say, we grant you've given us a little space, give us all
of it.

I would ask you people if you took an oath of
office, like I did, to uphold the Constitution of the
United States? I thought you did. It does say in that
oath that we will defend our people against all enemies,
foreign and domestic.

And I would like to leave you with this one word.

You make laws regarding northern California about a people
you don't know and a land most of you have never really
toured. Isn't that coming under the heading of
domestic enemy, when you slit the throats of the people of
the northern part of the State just to make us look like
Los Angeles county or San Francisco or Sacramento?

I, too, took that oath. And as little girl, I had
the enemies of Imperial Japan and Nazi Germany. And I say
to you that the only enemy I have today are the
politicians of Sacramento and the United States government
and I hope you start changing your ways.

Thank you.

CHAIRPERSON LLOYD: Thank you.

Next Supervisor Pearson.

PLUMAS COUNTY SUPERVISOR PEARSON: My name is
B.J. Pearson and I am a supervisor from Plumas County,
District 1. I was sort of tempted to say me too. She
said it pretty well for the people of Plumas County, but
there are some other areas I'd like to get into.

When I first heard about this proposal, I talked
to several people in the county. And at first, because
I'm known now and again for practical jokes, they thought
this was a practical joke.

They really didn't believe in Plumas County
knowing that we have 1.6 million acres and 20,000 people
in the whole county, that any responsible government
agency would be seriously considering banning burn
barrels.

First, it's thought by most of the people in
Plumas county that burn barrels are beneficial by
containing the way we burn our materials.
And second, they could not see how that if we're to be governed under the Constitution that the majority of the people are to make the rules that we'd abide by and 90 percent of Plumas county at least does not want this, why we wouldn't be entitled to an automatic exemption.

Well, I told them, and I'm telling you that freedom is not easily to come by nor is it easy to keep, and so we have to come to these meetings, we have to appear in front of this body and we have to allow you to know that we cannot live with this regulation for two reason.

First, we don't have how we're going to enforce it, nobody has ever told us that. We don't know what the penalties are going to be. And last, and this is very important, and I would like for you to seriously consider this, my client, as an elected official, is the people of Plumas County. That's who I answer to.

And the vast majority of the people in Plumas county, almost unanimous hot only say they do not want this regulation, they say they won't abide by it.

Now, I'm sure you understand that at some point when you continue to pass rules, and it gets to the point where the vast majority of the people no longer will tolerate your regulations, we've got a serious problem.

And I would like to submit that we're getting close to that problem in California. I would like for Plumas county to be added to the list of categorical exemptions. I don't think that we pose a problem to anybody. We've got 1.6 million acres. We've only got 20,000 people. They don't want this rule. They won't abide by this rule. I have no idea who's going to come up thereAs burn barrel cop and try to enforce this rule.

I ask you to consider just some common sense and back away from trying to force the rural counties, who cannot afford it, to comply with this regulation. They don't want it. They won't live by it. Please back away from your regulation.

Thank you very much.

CHAIRPERSON LLOYD: Thank you.

Mr. McKinnon.

BOARD MEMBER McKINNON: I'm looking at the map and Modoc certainly looks like most of it is exempt. How about Plumas? There's not really an overlay of county lines that I can see from this distance.

It's not Placer, it's Plumas. Our list says Plumas.

BOARD MEMBER RIORDAN: It's Plumas.

BOARD MEMBER McKINNON: So there's some urban areas that are not exempted, but much of it is exempted in Modoc.
PARTICULATE MATTER ANALYSIS SECTION MANAGER

MAGLIANO: Modoc is right here, so it's almost all of them.

BOARD MEMBER McKINNON: So it's almost all exempted. Thank you.

CHAIRPERSON LLOYD: Thank you.

What about the issue of enforcement and the -- is that to be worked out?

EXECUTIVE OFFICER KENNY: What we were trying to do is we actually delayed the implementation date, as way of providing for greater public education. And from an enforcement standpoint, the Health and Safety Code does provide for penalties for noncompliance. But we were hoping to work with the local fire official and with the local air pollution control officers.

CHAIRPERSON LLOYD: Thank you.

Barbara Lee and Dr. Wallerstein.

Thank you, Mark, for coming today.

MR. LEARY: Good morning Chairman Lloyd and members of the Board. My name is Mark Leary. I'm the Executive Director of the Integrated Waste Management Board. And as your staff portrayed, we've been actively involved in these proposed regulations. And what I'm up here today to do is to commit our support as you move forward in the implementation of these regulations to take advantage of the Board's resources, and we'll commit those resources to your implementation, because, in fact, we support the philosophy behind these regulations. We particularly are enticed and supportive of the proposed modifications of your staff. We think, particularly, putting the implementation date out to January 2004 will give us a good 18 months to work with our common stakeholders, the jurisdictions who are affected by this Regulation and assist them in not only waste disposal alternatives, as the staff portrayed, it, but alternatives to disposal for those rural jurisdictions, because that's mainly what the Waste Board is all about, of course, is finding alternatives to disposal and finding productive uses for those materials in the recycling environment.

So, again, we commit our support and look forward to our positive working relationship.

CHAIRPERSON LLOYD: Thank you very much, Mark.

We appreciate you coming.

BOARD MEMBER RIORDAN: Mr. Chairman, may I just ask a question of this gentleman.

We all know that we have responsibilities in recycling and taking as much waste and putting it into recycling programs to save our landfills. Do these
smaller counties have the same responsibility that the larger counties do, the more urban counties?

MR. LEARY: A short answer is that AB 939 passed in 1989, defined a 50 percent diversion rate. The statute also defined an alternative for rural jurisdictions to seek a different rate than the 50 percent to seek a reduction in that diversion rate. So rural jurisdictions can appeal to the Board to seek a reduction in the recycling requirement because of the nature of the rural waste management environment in that it's difficult to final those alternatives.

We are working with those jurisdictions, both the populated jurisdictions, as well as the rural jurisdictions throughout the State, to meet that mandate. And we have assisted in some jurisdictions in putting an application together to reduce their diversion mandate for 50 percent to something less, in consideration of the difficulties that these jurisdictions face in managing their waste materials.

BOARD MEMBER RIORDAN: Would it still fall say some where between 25 percent and 50 percent? Have you lowered any beyond 25 percent?

MR. LEARY: I believe some jurisdictions have sought reductions beyond 25 percent, and I believe they've been granted, but I hesitate to quote. Let me follow up in writing to the Chair and to the Members of the Board to confirm that for you with copies to staff.

BOARD MEMBER RIORDAN: Thank you.

CHAIRPERSON LLOYD: Thank you, Mark.

Thank very much, indeed.

Supervisor Forester from Amador county has arrived, so I'll take the Supervisor, and then Barbara.

AMADOR COUNTY SUPERVISOR FORESTER: Good morning. Thank you for taking my testimony today. I'm from Amador County. I really can't believe we're committing this kind of money and staff to a problem which I consider minimal compared to the impact of Amador County with is coming from San Francisco, Sacramento and the more urban areas of the State.

We have an inversion layer that comes in and impacts us far more severely than any impact that's going to come from burn barrels. I would ask you to take that more seriously than what we're booking at today.

Burn barrels have been a part of life for people in the rural counties. I'm not saying that there aren't corrections we can make. We can educate the people. If you're going to help us at all, help us with the dollars for education.

Right now, we have a program with our local air district where we do educate, we could do a better job if
we had more dollars put into that. Why spend the dollars on enforcement and regulation on burn barrels when we could be taking it and putting it into education to help our people understand the rules more clearly.

And I think the majority of the people understand the rules and do abide by it. Most people know that they're not supposed to burn plastics and thinks of that nature. The other impact is burning the material, cardboard and things like that, if we have to take it to the landfill, you're going to impact, one, our roads and the use of the roads, the safety factor that goes into that.

Our landfill in Amador County, which is already in trouble because it has too much waste going into it, is located on an intersection of Buena Vista Road and Highway 88 which is a major intersection. Just to show you the safety impacts, my mother is sitting in Amador county hospital right now because she was broadsided by a car coming off Buena Vista Road where the landfill is located.

That's just one case, but it hits home with me, because she's going to be in the hospital for about three weeks. That's the intersection of our landfill road. That's a big safety factor. You're going to require a lot of elderly folks who burn their things and follow the rules at their home to travel to the landfill. Our county is dominated by an elderly population.

Now, all those people are going to have to travel to the landfill instead of being able to burn, since we're one of the counties which is not exempted. We have specific areas of our county in the incorporated cities, which should not be allowed to burn. But I think the rural areas of our county should be exempted. We should have that say from our local Air Board, and we'll work along with you on the education. But we believe that our people should be allowed to use that right that they have to burn and use those burn barrels at their homes legally and not exempt them from the other items, plastics and things that they should be taking to the landfill.

We would ask you to just help us with the funding of education and we appreciate your support in that effort, but please don't force us to go under some guidelines that to us appear ridiculous. Help us to stop the inversion layer and make more stringent regulations on San Francisco and the urban areas.

Thank you very much.

CHAIRPERSON LLOYD: Thank you, Supervisor. Just one point of clarification, the pollution that comes from the Bay Area and other areas there, that's
sort of the urban smog, I think this is focused on the
toxic control measures and clearly dioxin is one
of the issues that we're looking at.
And also, we've got some testimony here from one
of the water districts. And I've heard it from my
colleague, the Chairman of the Water Board, to say that
anything that gets into the air, so dioxin gets in the air
from things like burn barrels, do deposit. They also then
become a water quality issue.
But I appreciate the point you raise. This is
clearly a very difficult issue for us. I just want to
clarify the difference between this particular measure and
the other transport of typical smog.
AMADOR COUNTY SUPERVISOR FORESTER: They are two
separate issues. I wish we could have had Supervisor
Guttman who's a chemist from Sierra County. He refuted
everyone of those points at one of our RCRC meetings.
Unfortunately, because he lives in Sierra county and they
are exempted, he's hot here today, but he did refute
everyone of those points with no answer from your ARB
staff.
CHAIRPERSON LLOYD: Okay.
BOARD MEMBER RIORDAN: Mr. Chairman, if I might,
just back to recycling for a moment. Do you have a
recycling program?
AMADOR COUNTY SUPERVISOR FORESTER: We have a
recycling program at our landfill where people can go --
BOARD MEMBER RIORDAN: At the landfill.
AMADOR COUNTY SUPERVISOR FORESTER: At the
landfill and people within the communities have a number
of different recycling facilities. I, myself, take in
cans and plastics in our recycling facility in Ione, in
the City of Ione.
BOARD MEMBER RIORDAN: Do you have any transfer
stations in your county?
AMADOR COUNTY SUPERVISOR FORESTER: We do have
two transfer stations.
BOARD MEMBER RIORDAN: Are those working well?
AMADOR COUNTY SUPERVISOR FORESTER: They are
working very well. And especially we have, on a monthly
basis, people can take in their toxic waste paints and
things like that into the landfills and drop them off for
no charge.
BOARD MEMBER RIORDAN: Thank you.
AMADOR COUNTY SUPERVISOR FORESTER: Thank you
very much.
CHAIRPERSON LLOYD: Mr. McKinnon.
BOARD MEMBER McKINNON: Sir.
CHAIRPERSON LLOYD: Supervisor.
BOARD MEMBER McKINNON: Many of us on this Board
are concerned about transport from the Bay Area, in
particular. And something you should note is that we are
barred by law, by statute from doing everything we need to
do there. And that's a conversation you should also have
with your legislator, because there's a hole carved out
for the Bay Area that we would like to get to. Just so
you know.

AMADOR COUNTY SUPERVISOR FORESTER: I can believe
that, since a majority of the Legislature come from very
urban areas.

BOARD MEMBER McKINNON: Well, that's another
subject.

(Laughter.)

BOARD MEMBER McKINNON: We have population based
reapportionment. I happen to, in my other activities,
represent timber mill workers. And I have a very clear
understanding of how populated areas sometimes get a
different view of what's really happening in rural areas.
So don't assume that people from populated areas
don't have some understanding, whether it's cattle
ranching or forestry operations. I've spent lots of time
working and supporting people's right to work in those
industries.

I'm not convinced that that translates, in my
mind, to being able to poison your neighbor with dioxins.

People burn trash, okay. We both know that. Let's be
honest about it.

So, if there's a better way to do this, if it
means more landfills or whatever, I'm interested in all
the possibilities, but people burn trash, and that smoke
hits their neighbors. And I think we've got to give that
some thought.

AMADOR COUNTY SUPERVISOR FORESTER: Let's define
the trash, what type do they burn, and go with the
education rather than the regulation that government is so
famous for.

I just have a hard time looking around the room
here at the number of staff committed to this and not
being able to realize that education is the key to this,
not enforcement, not regulation. You can put these
regulations on it, but if enforcement is another item.

You're going to have to hit and miss regulation in
these counties because the dollars aren't going to be
there to regulate, but give us the tools to educate the
people and I think we'll do a far better job in helping
you meet your goal.

BOARD MEMBER McKINNON: Okay.

CHAIRPERSON LLOYD: Thank you, Supervisor.

AMADOR COUNTY SUPERVISOR FORESTER: Thank you
very much.
CHAIRPERSON LLOYD: Barbara Lee, Dr. Wallerstein,
Bonnie Holmes-Gen.

MS. LEE: Good morning, Mr. Chairman and members of the Board. My name is Barbara Lee and I'm the Air Pollution Control Officer in northern Sonoma county. I'm actually here before you today on behalf of the California Air Pollution Control Officers Association to express our support for reducing public exposure to harmful emissions from garbage burning in burn barrels.

As you will recall last June, the membership asked the Air Resources Board to move forward to address this important air quality and public health issue. We also asked ARB to consider the circumstances in the more rural parts of California, and ensure that efforts to reduce exposure to burn barrel emissions did not create an undue hardship in those rural parts of the State.

The staff of the ARBAs done a tremendous job in a very short timeframe making themselves available throughout the State to work with stakeholders, hear our comments and seek solutions.

As an association, CAPCOAAs worked with its members to identify and understand the needs of individual districts and to develop consensus solutions. Our goal has been to achieve real reductions in public exposure to harmful air pollutants, while continuing to recognize the need for local flexibility.

To further this effort, our members developed and approved a consensus position on regulating burn barrel use, and we believe that this position focuses the efforts of the ARB and the local districts in areas where the greatest benefit will occur.

It provides the time needed for effective implementation, and it allows flexibility for areas that are not currently able to eliminate burn barrel use, while providing a mechanism to educate the public in those areas and to reconsider the circumstances as the population of the area changes.

Most of the points of our consensus position have been incorporated into the proposed regulation that's before you today. The only point that we supported that you did not incorporate into your proposed regulation was our request that once exemptions and applicability have finally been determined on the basis of population density and the other exemption requests that have been submitted, that the Air Board hold a public hearing to formally exempt to make sure that there is not some significant controversy outstanding. And we would like to reiterate that request as part of our testimony today.

I also need to point out that there have been...
several changes to the proposal in the last couple of weeks that go beyond the consensus position that we adopted. And I want to make sure that you do not construe my testimony now as being supportive of those changes. I cannot take a position on those changes, because the membership has not had a chance to consider them and vote on them.

We did provide a complete written statement of our position to ARB staff. Our consensus position represents a considerable amount of compromise by individual members districts. Some districts would have gone further with the ban, while others still have strong reservations about moving ahead.

While not everyone was happy with all elements of the compromise, our members felt that the result was acceptable. Nonetheless, some districts will be addressing you today to convey their individual interests. As always, we encourage you to listen carefully to their concerns.

We believe it is our diversity that makes California such a unique and wonderful place. And it is our ability as regulators to recognize that diversity that makes us effective in our request to protect air quality and public health.

In closing I would like to express our gratitude for the support given to CAPCOA by this Board and by the ARB staff in moving ahead on our request of last June, and the substantial resources you committed to this effort over the last several months.

We look forward to working with you and your staff in the future on this effort and other efforts.

Thank you very much.

CHAIRPERSON LLOYD: Thank, Barbara.

I think we have a question, Ms. D'Adamo.

BOARD MEMBER D'ADAMO: Ms. Lee, could you or Ms.

Terry identify the significant areas in which the staff proposal differs from the consensus based proposal that CAPCOA supports.

MS. LEE: The basis of our consensus position was the concept that areas with a population density of less than three people per square mile should be exempt from the regulation.

And that in areas where the population density is between three people and ten people per square mile, the area should be able to request an exemption from the regulation if two criteria hold true.

And that would be that there is a distance to the nearest landfill of 15 miles or greater or the local fire chief has found that the use of burn barrels is necessary for a fire safe consideration.
We also had some other criteria regarding the issuance of a written permit to use the burn barrel or the provision of some alternative mechanism for disseminating information to people who would be using burn barrels, so that they would be able to consider whether or not this was something that they really wanted to be doing based on the health effects.

We asked that the Board of a District wishing to have an exemption be required to hold a public hearing, and in that public hearing consider the risks associated with the use of burn barrels and articulate the basis for the board deciding that the use of burn barrels was still necessary.

We also provided in our consensus position some requested time frames for the provision of information to the districts, and from the districts to ARB in order to support a smooth determination of applicability and enforcement.

BOARD MEMBER D’ADAMO: Could staff respond and perhaps give the justification for the changes?

PARTICULATE MATTER ANALYSIS SECTION MANAGER MAGLIANO: This is Karen Magliano. Two of the primary differences between what Ms. Lee presented and what we have in staff's modified proposal, one, that in the exemption areas under our modified proposal, you would only be allowed to burn paper and cardboard.

So in air districts that had currently been allowed to burn plastics and other garbage, that would no longer be allowed even in the exemption areas.

The other change was that we have included a provision to subdivide some of the census zip codes, because they are so large in some cases, to allow the districts to look at how population density may be different throughout the zip code itself.

We also did not include the provision for being greater than 15 miles from a landfill and essentially provided that discretion to the air district to make a determination that they needed to continue burning paper and cardboard within their exemption areas.

CHAIRPERSON LLOYD: Mr. Calhoun.

BOARD MEMBER CALHOUN: Ms. Lee, couldn't the local districts do, in effect, what you're asking the State to do, in terms of banning burning? And if that's true, why haven't you done it?

MS. LEE: Well, certainly the local districts have the authority to establish regulations. The districts do not specifically have the authority to establish air toxics control measures that the Air Board has.

In some instances, we believe it is more
efficient and effective where the impacts of a particular activity are recognized and are not going to vary throughout the State. And by this I mean, that exposure to dioxins is a serious health consideration. And if the exposure occurs, it doesn't really matter where you're living when the exposure occurs.

This is not a circumstance where you're dealing with local smog issues where there is a significant variation throughout the State in the sources that are comprising the pollution problem, the degree of the pollution problem, that sort of thing.

So our feeling was that this was a significant public health concern, that the best way to address it was through an Air Toxic Control Measure to reduce the exposure.

That being said, there are a number of districts that have gone ahead and made this move on their own. There are many others who are contemplating this move. Sometimes, it is more effective to have us all move forward together. And in support of that, the membership voted unanimously last May to request you to do this. And I believe at that meeting we had all but three or four of the local air districts present.

BOARD MEMBER CALHOUN: I can understand why Mr. Wallerstein is supporting this particular regulation, because burning in these incinerators have been outlawed in Los Angeles County for almost 50 years. And I'll just drop this. I won't pursue it anymore.

MS. LEE: I appreciate your concern there. I can say certainly on behalf of my own district, and this is not on behalf of all districts, but merely northern Sonoma, we are in support of this proposal. We had intended to move forward with the ban. We're one of the areas that allows the burning of nonplastic. We allow paper and cardboard and vegetation to be burned. Our intent had been to move forward regardless of your action. And I think you'll hear from a number of other rural districts that are in support of the proposal. You will also hear from rural districts that have concerns about this proposal. And I think the diversity of the opinion largely reflects the composition of the people living in the area, and it is the job of the Air Pollution Control Officer to represent the position of their board. And the Board represents the feelings of the people, and that's why you will hear the diversity of opinion.

CHAIRPERSON LLOYD: I compliment you coming forward in representing CAPCOA, when I see the list of people here who are members who are going to be here.

Do you have any idea, or does the staff have any
idea, how many burn barrels are we talking about statewide, approximately?

PARTICULATE MATTER ANALYSIS SECTION MANAGER
MAGLIANO: We've surveyed the air districts, and approximately we came up with about 100,000 burn barrels statewide.

CHAIRPERSON LLOYD: What are we going to do with the burn barrels when they're not used?

(Laughter.)

MS. LEE: They make excellent planters.
(Laughter.)

CHAIRPERSON LLOYD: Okay.

MS. LEE: I thought you were going to ask me if I had life insurance.
(Laughter.)

CHAIRPERSON LLOYD: Thank you.

Dr. Wallerstein, and then Bonnie Holmes-Gen, James Hirsching, and Richard Davis.

DR. WALLERSTEIN: Good morning, Chairman Lloyd and members of the Board. I'm Barry Wallerstein. I'm the Executive Officer at the South Coast Air Quality Management District, I'm here to present our staff's comments.

We are home to Los Angeles County. We're most often thought of as home to the metropolitan Los Angeles area, and we do have, in our district, about 40 percent of the State's population. However, we're also home to communities in the San Bernardino Mountains. As we're also the home of the Coachella Valley, so we do have rural portions of our district.

I'm here today to strongly support your approval of the proposal that is before you. I also support the CAPCOA proposed amendments. I want to point out and emphasize that the proposal that you have before you has a tiered exemption structure. You not only have some of the very rural areas that are automatically exempt, based on the current population statistics, you have an ability for other low population areas to opt in to an exemption. And the opt-in process seems to me to be very fair and not burdensome.

Mr. Calhoun, the real reason that I'm here today is because when I first started delving into this topic as a member of CAPCOA and I saw the risk estimates that your staff has produced, and I compare those to large industrial sources in urbanized areas are frankly almost to the total contribution from our stationary sources in south coast, and see how these levels from the burn barrels mirror even potentially exceed that of what we find in our most urbanized areas. As a matter of public health and environmental protection, and frankly,
reflective of the 20-year plan that your staff just
described to you in the previous agenda item, I think it's
urgent that the State move forward on this item.
And with that, I would urge your approval.
CHAIRPERSON LLOYD: Thank you very much, Barry,
for coming.
Any questions?
MS. HOLMES-GEN: Good morning. Bonnie Holmes-Gen
representing the American Lung Association of California.
And I am pleased to be here today in support of the
proposal before your board today.
The position of the American Lung Association of
California is that open burning of garbage poses a health
hazard and is a practice that must be stopped. As you are
aware, residential waste burning causes dioxins and other
potent persistent hazardous chemicals not to mention the
fine particle matter, which we're greatly concerned about.
Communities throughout California are adopting
ordinances regulating wood smoke emissions due to the
severe health problems posed by exposure to wood smoke
pollution. And pollution from barrel burning and backyard
burning is so much more hazardous due to the dioxins and
other toxics emitted into the air.
And because there are no emissions controls, As
you've just heard, the toxic risk from barrel burning
mirrors the risk of industries in urban areas. This is a
very serious risk that must be controlled.
As you know, there are several counties and air
districts that have already banned residential burning
successfully, and the bans have resulted in substantial
improvement to the environment, health, fire, safety and
the quality of life in communities around this State.
Smoke and emissions from backyard residential
burning are unhealthy for everyone, but can cause severe
reactions in residents that have sensitive lungs. And As
your presentation earlier noted, that we are all in a
sensitive group As some point in our life, whether we're
children, whether we are the elderly, whether we have an
asthma condition or other respiratory condition, we all,
at some point may, fall into a sensitive category where we
are specially sensitive to the impacts of these burns.
At the Lung Association, we receive many
complaints from people affected by air pollution from many
sources, including burn barrels. We receive calls from
people who say they feel like they are prisoners in their
own homes. They fear going outside because they fear the
health effects of breathing in toxic fumes. We've
received many letters and communications from individuals,
and we've passed some of them on to your staff and we can
certainly pass others on to you, but it certainly is
greatly disconcerting to us that people feel like they're prisoners in their own homes because of the toxic effects of these burns.

We support the strongest restrictions possible on burn barrels, and the strongest restrictions on any exemptions that are allowed. We are concerned about some of the revisions that have been made recently. The extension of the effective date and the provision to revisit exemptions every ten years. We think that's too much time. We would encourage you to look to go back to a four- or five-year time period to revisit those exemptions.

And we do support the recommendations for permitting exemptions and requiring permits for any exemptions and accompanying any exemptions with a very strong educational program and materials describing the health impacts of open burning.

The air of our community is a valuable resource that must be protected and we commend the Air Resources Board for its leadership and urge you to move ahead and ban this unhealthy practice.

CHAIRPERSON LLOYD: Thank you.

Mrs. Riordan.

BOARD MEMBER RIORDAN: Bonnie, I wanted to ask, two of the supervisors brought up what I think is a very good point, which is an education program, asking the ARB to participate. And I know our staff feels very strongly that we do need to educate people.

Could the Lung Association also join us in that effort. I think you would have maybe some resources that could be very helpful to us at this time, and I'm sure you have a number of members in the northern areas, but we need to do some real outreach to people. Would you be willing to commit to that?

MS. HOLMES-GEN: Yes, we certainly would enjoy being apart of that and helping in the educational process.

BOARD MEMBER RIORDAN: I think that would be very helpful to this program.

Thank you.

CHAIRPERSON LLOYD: Thank you very much.

James Hirschinger, Richard Davis, Cynthia Cory.

DR. HIRSCHINGER: Good morning. I'd like to thank the Board for allowing me to come testify this morning. My name is Dr. James Hirschinger. I'm here to address what I consider to be the ultimate secondhand smoke, and that is the burn barrel.

I'd like to compliment the staff on the tremendous report that they did that was eye opening, very sobering when I first read this report. I'd also like to
thank them for the way that they conducted the public
hearings.  
I was amazed at the public hearing in Placer
County of the passion that people had to keep their burn
barrels.  I would like to assure you that I am equally as
passionate to do something about it.
Twenty years ago my wife and I bought an acre of
land in rural Loomis and spent our life building a place
that we wanted to enjoy.  We opened the windows on a nice
morning, there's fairly clear air outside, my neighbor
about 100 yards away cranks up, fires up his burn barrel.
Immediately the air comes into our house and we become
prisoners in our house as the last speaker said.  It's
affected us.  It's affected my wife's health.  It's
stifling.  It's got to be changed.
I'd like to support this ATCM.  I think it's
needed.  It needs to be implemented.  I'd like to have
As original implementation time, but I understand those
kind of restrictions.
We live on an acre with 40 oaks.  We have not
burned for ten years.  Education needs to be apart of this
process.  We use a chipper program, that the County comes
out and will chip our wood for us on site.  That needs to
be expanded.  It needs to be promoted.  We recycle, and we
use other methods to get rid of what we consider some
things that are biodegradable.
Education, As said, is critical.  I'd like to
recommend that there be other things done besides the burn
barrel.  I think that's only the tip of the iceberg.  Open
burning is also an issue.  I think there need to be new
restrictions on that.  The Loomis basin is becoming
intolerable.  It's going to affect the health of the
children, the psychological impact of people living there
and the economy ultimately.
I would recommend that they promote and support
the expansion of the chipper programs, that they promote
and support a green waste program in the county to help
people to find ways to deal with getting rid of their
waste.  We understand where people's concerns are.  The
government has to do something to help them.
And finally, I think that if people are not
burning outside, they're going to take their garbage and
things and burn it in their stoves inside, including
Christmas paper, which is toxic to wildlife and birds.
There needs to be a way for business and industry
to provide incentives for people to upgrade their
wood-burning stoves, so that they can find a way to lessen
the pollution that's out there.
So in summary, I would like to urge you to
support this and to make sure that we enjoy California and
the air that we would like to have healthy for all of us.
Thank you.

CHAIRPERSON LLOYD: Thank you very much for coming.

Questions, comments?

Richard Davis, Cynthia Cory and David Conway.

MR. DAVIS: Good morning. I'm Richard Davis from Granite Bay. And I'm here to give you my support for the burn barrel ban. One of the main reasons that -- we live in a basin there in Granite Bay and the air doesn't move out very well, so anything we can do to eliminate burning is going to benefit us.

And Mr. Calhoun mentioned something earlier about why doesn't the local districts try to do something about it. And I've been working with the fire district and the air pollution control district at Placer County for over two years to try to get something done. But it always ends up a political issue. So something has to be done at a higher level. They just don't want to seem to take the responsibility or the blame.

Like I say, I support this ban. I just think that perhaps you don't far enough. I'd like to see you go on and include all open burning in California. How do you eat an elephant? One bite at a time.

Thank you very much.

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Laughter.

BOARD MEMBER CALHOUN: Thank you.

CHAIRPERSON LLOYD: Thank you very much.

MS. CORY: Chairman and Members, Cynthia Cory from the California Farm Bureau. I want to thank your staff, first off, for all the cooperation I've received in working with them on this issue. They included me into their working group and I appreciate that.

And I hope they have feel that I was cooperative too because I did try to advertise the workshops as much as possible and put an article about this in the Ag Alert, which I think did draw a lot of attention to the workshops.

So I wish, you know, with all this cooperation, could say we're singing Koombiya here. We're close to it. We're just a couple chords short of it.

CHAIRPERSON LLOYD: Feel free.

(Laughter.)

MS. CORY: We're not quite in harmony.

So what I'd like to do is just mention a few concerns we have and then I'll offer an alternative, because I'm not asking you to do nothing. And I have submitted my comments in writing and hopefully you have them.

First off, before I go into our concerns, since
I've been sitting here, I would like to -- some of the questions that have come from the Board I'd just like to make two comments on.

First, there was a question about Modoc being exempt. And I would draw your attention to -- this page has been very helpful to me and maybe would be helpful to the Board Members. It's 4-2. It has a table in it in the proposal. And it lists all the counties by county. It shows you exactly what they can do in the county now. So I think it's really important that the Board understand that there's only six districts in the State that can burn, what we call household garbage. The rest of what we're talking about here is paper and cloth in nine of them. But the majority of them we're just talking about paper and vegetation.

And the other point was what Mr. Calhoun had made about can't local districts do it? And I think, as we all know, Politics has a lot to do with anything, but I think that there needs to be political will. And I think I've got in my proposal an answer to that, but I do think -- I'm a firm believer in local control and local decision making.

One of the concerns I have is with the new determination on the population control centers. And this three to ten is based on, what I, guess is a square mile. And then there is something to do with the zip code. And I guess -- since I've only seen the summary, and even from --

The presentation I wasn't able to tell exactly what that means, but I do know that there are areas of the State, let's take Alturas, for example, that where you've got a whole zip code and you've got the City of Alturas, which is going to have a population center that's certainly going to be more than ten people per square mile, but in that zip code you're going to have outlying rural areas that are going to be 20 to 25 miles, they have pretty big zip codes up there.

And so they would be affected by this. So I just -- I want to make really clear how ever you go forward with this three to ten per square mile, where does this square mile start and how does it work with the zip codes. Just doing the zip code, I'm not sure is -- I think it needs a little bit more thought.

I think the majority of citizens, I'd like to think so anyway, want clean air and will, you know, put up the money if they're sure it's the right thing to do and we're going to get a benefit from it. I think what we have here, what I've seen from the rural members I talk to, and you might wonder why the Farm Bureau is up here. I know this isn't directed at farmers, but I do represent...
a lot of people that live in the rural area, and they will be affected by this.

And farmers are very aware of air problems, especially as Ms. D'Adamo knows in the San Joaquin, we're very aware of the air issues we're faced with and so we're want to do our part.

But I think the case hasn't been made really clearly here, and I think it has to do with part of the modeling, and I understand risk assessment has to do with computer modeling and that's 90 percent of it. But I'd like to also draw your attention to, in the proposal, page 3-5, which is the only place I could find where they talk about the testing that was done in California for this.

And as far as I can tell, as far as actual dioxin testing, there was no testing done that had to do with burn barrels. And where it was done, that's even close to the rural areas was in Fresno, and they say it was not of toxicological importance.

And I know I'm not an air scientist, but I just think that it's important that if we're going to make this fairly huge change for a number of people in California that we've got the data that's specific to burn barrels, and the situations that they're in, not incinerators in LA, not U.S. EPA data where we've incorporated it using California meteorological data, I'm talking about measuring the emissions off of a burn barrel up in Modoc county under real conditions.

Now, we've put a lot of money into outreach and I appreciate that. And it would have been nice if we could have put maybe a little bit of that money into real testing. And I'm not saying test, test, test. I'm not trying to stop the stuff by asking for a continuous test. I'm just saying a little bit of actual real testing on the real issue would have been productive.

So the other point I've got to make of concern is illegal dumping. Our people are rural residents, and we are concerned that $100 to $600 increased fee that they're attributing to finding the waste service, there's going to be a lot of poor rural residents that are going do everything they can to avoid that. And unfortunately I think they're going to dump it on a lot of my farmers' lands, and they have a concern about that.

That's why I say local control, local decisions.

And that gets us to your proposal, which is a mandatory five-year, every five years and that's a number I came up with that kind of aligned with your review. You can make it shorter or longer if you want, but a five year review, at least, on every air district that burns more than vegetation in the State. So this would allow the people that apparently are scared to come
outdoors to come to their air boards, their local air
districts and make a lot of noise.
But in the meantime, these decisions should be
based on landfill capacities and risk emissions that are
done right there in that area based on that population.
It could also include waste service availability
in any parameter that would be important in that area.
It's going to be different.
And I think, Mr. Calhoun, as you were asking, why
haven't they very made it? And Ms. Lee is saying --
they're about to ban paper burning in northern Sonoma.
Well, I think that there are a lot of, if you
look at that chart, there's a lot of ordinances that are
made. Even northern California, half the time you can't
burn six months out of the year, because of the burn --
CDF telling them they'll can't burn anything.
So there's a lot of decisions that are made on a
local level and I think we need to capitalize that, so we
can take that local initiative with the mandatory review
and combine it with the public education that has been
proposed here which I full support.
And the money and the effort that's going to go
into that, and then you can educate the local people. If
there is concern about dioxins and barrel burning, these
people -- they'll listen to that and they'll change their
ways, but let that education go out. Let the testing go
with it. Let them see that it's a true problem, and then
go from there.
But I just think this is a public relation's
nightmare for you. We got the diesel retrofit. We
started out where we were going to retrofit every diesel
in the State, and you know how that went over and now
you're following it by, okay now we're going to take your
barrels.
And I understand that people might not understand
scientifically all the parameters and all the
ramifications, but I just want to make sure that we're
picking the right fight. And if you can use a carrot
instead of a stick, I would highly encourage it.
Thank you for your attention.
CHAIRPERSON LLOYD: I cannot let you get away
with just comparing this to diesel retrofit. I mean,
there's all sorts of differences.
MS. CORY: Now what I meant is the public
relations. When you first started out, the way it was
laid out to the State was, and I'm assuming if you meant
it or not, but the it got around to the coffee shops was
that every diesel engine in this State was going to be
retrofitted. And I know we're moving towards a more
realistic approach, but that's the way --
CHAIRPERSON LLOYD: We're moving towards a more realistic approach based on sound science.

MS. CORY: Absolutely.

CHAIRPERSON LLOYD: So on the one hand you're criticizing us for not sound science. In the other case, we're using sound science and you're also criticizing us.

MS. CORY: No, now. What I'm saying is -- I'm very supportive of what you're doing with the diesel retrofit.

CHAIRPERSON LLOYD: Our ambition on diesel retrofit was clearly to protect public health. As we moved ahead with our sound science approach, based on international retrofit committee, clearly we find, as you know, and we appreciate your participating, we can't do as much as we wanted. But I think in this case, I think it's clearly apples and oranges.

MS. CORY: Well, I'm sorry, maybe I used the wrong example. I was meaning in relation and in reference to public relations in the way it kind of rolls out. But I do question the science here.

CHAIRPERSON LLOYD: Since you're also a member of the Diesel Retrofit Committee, maybe you can help us educate the public that we can't retrofit as many engines as we would like. And obviously I know we're working together to see how we can get some replacements there.

MS. CORY: Oh, you know I'm there.

CHAIRPERSON LLOYD: I appreciate that. But I would like to take you up on a question for the staff when we talk about and I think I asked staff this, the comment you made, what basis, what technical basis, do we have for some of the measurements here?

PARTICULATE MATTER ANALYSIS SECTION MANAGER MAGLIANO: The basis is that the U.S. EPA has done testing on burn barrels themselves. This testing was done in New York, and they put together an average composition of household waste.

We did look at how that compared to the typical composition within California, and that compared quite well in terms of the distribution between paper and plastics and food waste and things like that.

CHAIRPERSON LLOYD: And I also think that Bob Reynolds, when he speaks, they've done some work in that area, I think, according to his letter.

We have some more questions.

BOARD MEMBER D'ADAMO: I'd like for staff to comment on the zip code issue. Is there consideration of perhaps subzip codes, or something that would address the concern.

PARTICULATE MATTER ANALYSIS SECTION MANAGER
MAGLIANO: That's correct. Maybe we can also clarify what we mean by a sense of zip code. Essentially, though, the areas that are shown on that map there approximate a postal zip code. And it was pointed out sometimes those areas can be quite large.

In our proposed regulation all incorporated areas would not -- could not be exempted from the regulations. So what we've done is we've taken the and the area of all incorporated areas out of the calculation of population density for the remainder of the zip codes, so it does not influence the population density in the surrounding region.

But as we talked about earlier, because there may be differences in population density throughout a census zip code, we also have included a provision so that an air district could subdivide that to better reflect those variations within density.

CHAIRPERSON LLOYD: Mr. McKinnon.

BOARD MEMBER McKINNON: Yeah, I had the same question, but I wanted to find out the Farm Bureau's reaction to that method of -- it seems to me the point here, we have letters from people that a burn barrel is located underneath their apartment window and blows in their house.

It seems to me the point is in population dense areas, we need to deal with the problem. And I've worked with the Farm Bureau and others on timber issues. I realize that there are people that live out roads where there's very little chance that they'll be exposed by their neighbor.

But what we need to deal with is people who think it's their God-given right to burn their trash in their backyard and have their neighbor breathe it. And so this particular way of kind of framing up zip codes and subdividing dense areas, I'm interested in your reaction to that.

RESEARCH AND ECONOMICS STUDY CHIEF COREY: I'm sorry someone was talking to my right when it was being explained a little bit there.

As long as if there's flexibility as you're not going to take great swaths of areas where you might have a concentration of -- like Alturas. So if Alturas has a waste service availability or some way to deal with their trash, and then you've got 15 or 25 miles outside of Alturas, where you've got one or two people per square mile, but they're not going to get included in that, if that's what you're assuring me of, I think that's the direction I was trying to point to.

BOARD MEMBER McKINNON: Does that match up?

PARTICLE MATTER ANALYSIS SECTION MANAGER
MAGLIANO: That is in deed correct. If you look at the map here there's a dot for Alturas and then the rest of the areas are either in the automatic or discretionary exemptions areas.

MS. CORY: Okay.

CHAIRPERSON LLOYD: Thank you.

Larry Greene and then David Conway and Steven Speckert. I guess Larry you have time constraints.

MR. GREENE: Thank you very much for taking me. I'm Larry Greene. I'm the Air Pollution Control Officer at the Yolo Solano Air Quality Management District. I'm here to speak in support of the position that has been developed, a very difficult position, very difficult negotiations for quite a long time, to get to this point.

It's been difficult for the air districts to come to a consensus position. And even with that, we did have some people who were willing to come to a consensus position. And I really appreciate that, but still have some concerns for their local residents. And they will be here to speak to those today. And I think that the Board should certainly listen and honor those requests, too.

I appreciate the staff's work, because we started out thinking that this was going to be pretty easy and it hasn't been pretty easy. It's been very difficult. As you see today, a lot of people believe it's their God-given right to do their burn barrel. My district bans burn barrels. We don't allow those in my district. Does that mean I don't get complaints? No.

When we get complaints, we go out an investigate them. And I will tell you that because we have a ban in my district, it certainly makes it easier to go out and take care of the problems.

I've had some really serious discussions with residents in my district who have been impacted with burn barrels. And I wish I could have you listen to a couple of those, because they believe it's their God-given right not to have to deal with the burn barrel and not to have those toxins put in into their bed rooms and into their houses and into their communities.

I think this is a good compromise. I think it truly represents the people out in the rural areas that don't have options, and it gives them a way to deal with the problem. And I think it truly deals with those cases where people are being impacted and don't feel like they have the strength, the right or the ability to deal with that smoke impact in their homes.

So we support the position that the staff has brought forward to you in the Yolo Solano district. And, again, I commend everybody for all the hard work that's come forward.
CHAIRPERSON LLOYD: Thank you very much, Larry.

Any questions?

Thank you.

Dave Conway, Steven Speckert, Bob Barkhouse.

MR. CONWAY: Hello, Mr. Chairman and Members of the Board. My name is David Conway. I'm here representing the Mariposa County Air Pollution Control District Board. And you'll find in your packet at letter number 59 from the Chairman of our Board.

Some of the key points that our Board wants to make is that they understand this issue of dioxin generation. They also understand the need to control airborne toxics, but they also understand that we're a small rural county, and we have very large open spaces, and some small pockets of population centers within those open areas that are within the same zip code.

So I'm going to go back to the zip code issue that you brought up. On page two of their letter, they have two issues that they'd like addressed. And that is one is to define the boundaries of relatively dense population pockets, exceeding ten per square mile as has been identified by staff.

It is my understanding now that staff has modified their original position to allow us to -- or those districts to subdivide the district and, you know, we're in favor of that.

The only thing I would like to point out is that the letter addresses the cutoffs as being ten. And the proposed regulation change addressed the change to be three or less. The ten or less is already available for an exemption request by the district. And we have some zip code areas that, by nature of their just being in that zip code, will be allowed to, or the district will be allowed to request an exemption.

Right across the street from them is another zip code, it will still be the same sparsely populated, less than ten people per square mile, but under the proposed change, just across the street, they would not be allowed to burn. And most of these areas are 20, 40, 160-acre minimum parcels. We're looking at zoning issues within our county too.

So if you're going to adopt this regulation with the recommended changes of staff, we would encourage you to change Item 5(e) on page four of the staff's prepared proposed changes to the proposed regulation to the last word to read ten versus three.

Additionally, our Board would like you to encourage you to provide a vigorous program of education regarding the dangers associated with burning products other than paper and cardboard.
Chairperson Lloyd: Thank you very much.

Steven Speckert, Bob Barkhouse, Ken Smith.

MR. SPECKERT: Mr. Chairman and elected supervisors. Thank you for giving me the opportunity to speak on this issue. My name is Steve Speckert. I'm with the Feather River Air Quality Management District, which is comprised of Yuba and Sutter counties.

The Feather River Air Quality Management District proposes this regulation for the following reasons:

In the staff report, it states that tests were done on a waste stream by the EPA in New York. The waste stream included paper, plastics, foods, food wastes, textiles, glass, ceramics and various metals.

Based on these tests, it was determined that approximately three residents per square mile created a health risk of one in a million, which that number was used to exempt people from this regulation. Our rules currently ban the burning of garbage, except clean paper and vegetative materials.

Therefore, we do not believe this study is representative for our district. We do not believe that this proposal should be adopted until a representative study is done for each district.

In addition, this regulation would almost certainly result in increased dumping on public and private lands, which is a problem in our district.

Third, without significantly increased funding, it would be hard for the district to enforce this regulation because most burning occurs in rural areas.

Fourth, even if the regulation could be fully enforced, there would be increased diesel and gasoline emissions in rural areas, which could result in increased cancer risk in those areas.

Because each district is unique, burn regulations should be left to local control and be based on full scientific and geographic data for those districts.

We urge you to vote against the proposed regulation or at a minimum allow local air districts the full discretion to adopt and enforce the local regulations.

Thank you.

Chairperson Lloyd: Thank you very much. We've got your letter here.

Questions?

Now we have Bob Barkhouse also from Feather River.

MR. BARKHOUSE: We're ganging up on you.

(Laughter.)

MR. BARKHOUSE: I come here with two hats. One I'm the Chairman of the Feather River Air Quality
Management District, and the other is that I'm Vice Mayor of the City of Yuba City, so I have two axes to grind here.

You heard Mr. Speckert's testimony. And I'm not going to reiterate a lot of that. But there are some issues that I think have to be brought to bear here. I did not get a chance to read the revised document that's been talked about here. I've seen all original data. And as I read that data, I was alarmed at the many uses of "could", "should" and "may". And it was not very scientific from my perspective of reading it. And I think that you're going to have to do some better education of we people that are out there that will ultimately have to administer this program.

The other thing is that I'm concerned about the unfunded mandate that will be imposed upon us unless you can find some funding. Our district is very small, and it's just barely surviving on the money that it's getting. And we now know that we're going to be cut back again next year, and you're going to impose upon us the job of being burn barrel cops. And that's an impossibility at this particular time with the staff we've got. So administering the program would be very difficult. I think that as what's been proposed here many times already, that we get into some kind of a public awareness program, might do as much good or more good than without it. And I think there is a way we can do that, leave the individual control up to the local burn districts and go to a burn barrel permit, if we have to.

We can charge for those permits, number one. And those permits then, that money could help support the unfunded mandate that you're coming with us. At the second time, it's a great time to get into a public awareness or public education program. As a part of that permit of what can be and can't be in the barrels. I know it's been in the paper, and I know it's been all over the place, but my guess is that many people have not read it to its entirety, and do not know.

We have a similar problem right now. Every Wednesday morning, when I go out of my house, I think it's Christmas again, because I look at my back alley and I see a green can, and I see a gray can, and I see a blue can, and we're segregating all our garbage. And this goes on and on every week.

The problem is that even the people that live in that community, and we've done extensive articles in the paper and everything, they have a difficult time of knowing what should be recycled and what shouldn't, let alone what should be burned and what should not be burned. So I think the public relations tied to a burn
permit could work. I oppose the spottiness of this map, because across the street one person could burn and the other side it could not burn. I think you could tie it to cities that are incorporated, number one, above a certain population, and pick a number 10,000 people, but I haven't got the scientific data, so I don't know.

But if it's above 10,000 people, I'm going to pick that number, that you allow the local districts to administer the program. And if they want to go on a permit basis, why, so be it.

The problem is we have urban motes around almost every town, so you'd have to say a town plus a mile in all directions from the town or something like that. And maybe if we were able to do this, we would probably have 80 percent of the people that are involved in the problem under some kind of control.

My city does not allow burn barrels at all, but we do have the urban mote around us that is a problem. So I think that going with some regulations that would include the urban mote, you're including a significant number of people.

And that's all I have. Thank you.

Any questions?

BOARD MEMBER RIORDAN: I have a question.

Congratulations on having a recycling program in Yuba City. Does that extend to your urban mote area?

MR. BARKHOUSE: Yes, it does.

BOARD MEMBER RIORDAN: How far out does it go?

MR. BARKHOUSE: It's not totally in the county. We have to segregate the waste within the mote and the city limits, but when you get out away from town, they dump everything in a common barrel.

BOARD MEMBER RIORDAN: Okay, but they do have recycling?

MR. BARKHOUSE: It then goes to our dump, and there is a recycling system at our dump site.

BOARD MEMBER RIORDAN: Do you have transfer facilities -- transfer stations throughout the county?

MR. BARKHOUSE: Yes.

BOARD MEMBER RIORDAN: Thank you.

MR. BARKHOUSE: One last thing, I almost forgot it. From my city hat side, somebody mentioned we have our fire department go out, and they'd be the burn barrel cops. I can tell you my fire department is minimal and an excellent fire department, but they're taxed to the limit as it is right now. And to find extra dollars to put on extra staff would be impossible.

Thank you.

CHAIRPERSON LLOYD: Thank you.
We'll take two more witnesses before lunch. We'll take Ken Smith Lassen County and Norm Covell from Sacramento.

MR. SMITH: Thank you, Mr. Chair and Members of the Board. For the record, I'm Ken Smith, Air Pollution Control Officer for Lassen County.

My comments are in reference to letter number 53 that I believe is in your packet. Rather than recite, I thought I'd show you my comments. This is 1.4 pounds of salt, it represents the amount of dioxins that are produced from burn barrels across the United States. From the far reaches of Alaska to the northern woods of main, from the Florida Keys to Waikiki, if were you to collect the dioxins from burn barrels in the United States, this is how much you come up with, 1.4 pounds.

Now, how much does Lassen County produce? If you factor in all of the correction factors considering that we can't burn but half the time because of fire restrictions, that we don't burn garbage, we only burn vegetation, and that we only have 774 burn permits, some of those permits are for open-burning and some are for burn barrels, I have know way of knowing, but there's been an over estimation, and so if you factor that in, in one year's time, from burn barrels you're going to produce two milligrams per year of dioxins.

You can't even see this unless you hold it up to a piece of white paper. I'd like to enter that into the record.

If you contrast that with, we have four cogeneration plants in Lassen County that are wood fired. And they produce 1,000 times more than that. And under AB 2588, we determined that that's an acceptable health risk. You know AB 2588 is a program that the State came up with and there is an approved procedure for scoring and ranking these facilities. And they produce 1,000 times more per year in Lassen County. And that has been determined to be a safe health risk.

So it defies all reason to come up with a to regulation to ban burn barrels in Lassen County. It's not reasonable. It's not reasonable to allow garbage to be burned in burn barrels in California. That's not reasonable either.

So Alternative 2 is reasonable, ban the burning of garbage in California. And that's what Lassen County recommends.

Thank you.

CHAIRPERSON LLOYD: Thank you very much. The material you have in there, what's the material in there?

EXECUTIVE OFFICER KENNY: Salt.
MR. SMITH: Salt, and this is Cayenne Pepper, but I'd like to enter it into -- it's nothing dangerous. It just represents dioxins.

CHAIRPERSON LLOYD: But obviously you're drawing some analogy between the volume which would be occupied by a certain weight of dioxins compared with the salt.

MR. SMITH: Well, we've got to try to get it into apples and apples somehow.

CHAIRPERSON LLOYD: Yes, it's not there yet.

Any questions?

Thank you very much. Are you leaving the salt?

MR. SMITH: Just to look and see how little dioxins there are.

CHAIRPERSON LLOYD: It's not relevant because of the assumption you make there.

MR. SMITH: It's very relevant.

CHAIRPERSON LLOYD: Covell.

MR. COVELL: Good morning Chairman and Members of the Board. I'm Norm Covell the Air Pollution Control Officer for the Sacramento Metropolitan Air Quality Management District. I appreciate the opportunity to speak today and moving me up on the schedule because of commitments I have later this afternoon.

I stand before you as one of the six districts that still has regulations that permit garbage burning in rural areas of the district. Up here today somewhat shamed by one of my associates and good friends Bob Reynolds, who has told me that he spends most of his time Abalone spearing -- fishing, diving for Abalone, and then I find he'd been digging around in burn barrels and doing all kinds of surveys and identifying nasty things.

We have reviewed this regulation. We have worked closely with CAPCOA on the language. We are prepared to move forward with the implementation of it within the southern Delta area of the southeast portions of our county.

I had discussions with the one board member that would be impacted by this regulation going into effect. And he's comfortable with that.

I would like to stress the fact that we are one of the many districts that reside within the great interior valley of California. We're well aware of the impact of air pollution, not only caused by what we generate ourselves, but the issue of transport, which I've heard spoken to a number of times here this morning.

And collectively, we do have a very significant problem. It results in this valley being identified as probably the area with the highest potential for adverse problems from air quality as anywhere in the nation.
We need to do everything that we can to reduce the impacts of pollution that we generate ourselves. I'll probably be asked the question, why haven't you banned it within your own district? We have, over the years, moved to restrict the areas in which this allowed to the most sparsely populated areas. And for those of you that have been on the Board for awhile know that we had some fairly significant burning issues with some of our industries here that had exemption under the Fire Control Marshall to burn expired or expended rocket propellant. It's pretty difficult to go tell somebody you can't uses the burn barrel when you've got tons of this material going up annually. We put a phase-down schedule on that through the cooperative efforts of the State agencies working with us. That no longer exists in that industry. With that findings of toxics associated with this, I think we're prepared to clearly move forward and ban this, especially within the interior valleys of California. So we are prepared to do that. I do want to reinforce the requirement for education. As you know, this regulation is receiving a lot of attention, because it's somewhat like Smog Check in that it adversely impacts the general public. And it seems that the public is certainly more supportive of those things that affect industry down the street, but when it causes us to change the things that we do personally on a daily basis, it becomes more problematic. You've heard from physicians here today speaking to health concerns. You've heard people talk about living in rural areas that are adversely impacted by neighbors who burn these things. You heard one supervisor talk about the temperature inversion. It becomes very problematic, especially in the summer and fall parts of the year. And I don't know -- it doesn't matter who's Governor, we're going to have temperature inversions in the interior valley. And that's something that we've got to live with and reduce the impacts of that by reducing the emissions. That's very much of a challenge for us in areas that are expected to grow in population, like the interior valley is. So we strongly support the proposal before you today, and we would ask you to give special attention to the educational needs of those around the State and perhaps it makes more sense to move ahead with education first in some of these sparsely populated areas, but for urban areas and the burgeoning urban areas of the State,
it clearly makes sense to move forward with the proposal before you today.

Thank you.

CHAIRPERSON LLOYD: Thank you very much.

Questions?

With that, I think we'll adjourn till 1:00 o'clock for lunch. Right after lunch, we'll start with Dewayne Matthews, Joe Moreo, Bill Stephans, Gary Caseri and Jim Hemminger.

Thank you so much. And we'll get back at 1:00 o'clock. I should also mention that the Board will be having a closed session during the lunch time period.

(Thereupon a lunch recess was taken until 1:00 p.m.)

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AFTERNOON SESSION

CHAIRPERSON LLOYD: The meeting of the California Air Resources Board is now in session. Please come to order.

Earlier today, that is in the luncheon period, the Board met in closed session. Before proceeding to the next item on the agenda, I would like to announce the results of the closed session.

The Board has conferred with and received advice from its counsel regarding two pending lawsuits: Daimler Chrysler and General Motors et al. versus California Air Resources Board and Michael Kenny, filed January 3rd, 2002 in the U.S. District Court for the Eastern District of California, and Daimler Chrysler, General Motors and Isuzu et al. versus California Air Resources Board and Michael Kenny, filed June 4th, 2002 in Fresno County Superior Court. No action was taken.

At this time I'd like to continue -- I would like to put on continuation the agenda item vis a vis burn barrels, and open the record on Agenda Item 02-1-5, proposed amendments to the current regulation for voluntary accelerated vehicle retirement. And I'm opening this one in order to take testimony from Senator Johanessen who has other obligations later in the afternoon. So I would like to ask Senator Johanessen to
SENATOR JOHANESSEN: Thank you, Mr. Chairman and Members of the Board. This particular item that you're dealing with is somewhat close to my heart. I think you will understand in as much as was the author of the legislation in which we are discussing. This legislation worked on for several years to come down to some understanding of what the initial legislation not only was about, but how if it were to be any kind of a modification what form would it take. Unfortunately, it has that these kind of things has a tendency when you write legislation to be interpreted. And the problem is that the bureaucracy sometimes has a tendency to try to interpret legislation in the way they would like to see it be rather than that which it is. So in this particular case, this piece of legislation did not, and I repeat the intent of this legislation did not, allow for or mandate for the destruction of any parts including emission related parts. The idea behind this piece of legislation were to retain parts that would be usable, and to be used to repair cars perhaps of another age and to be of benefit to those people who, as a hobby or whatever, would build cars.

people who would restore cars, and, in fact, repair the cars that they had existing cars that they had with perhaps parts and equipment that were, through that era of the car no longer would be available perhaps in the open market with the exception of the after market is coming on strong and doing things, quite frankly better than the originals. But we have a problem here again with the certification and all the rest that take years to get a simple part through certification to be exchangeable in the current rules and regulations. So what transpired in the, and I can quote the legislation, but I'm sure that you have it. What transpired in the negotiation is trying to figure out what to do with this, we came up with a sticking point which is actually emission control devices. Well, emission control devices could mean anything, except perhaps the door handle on the car or something. And so it has been apparently interpreted as being the total drive train of a car. Yeah, granted, if you, I don't know why I would be surprised, but that could contain the whole thing. So I want to make absolutely sure that the intent of the legislation that we worked for would be kept exactly what it is and that the interpretation will be left in that
In essence, the only difference would be the funds that from the, I'm trying to think of the fund's name -- it's not important -- yeah, it's important. It's the amount of money that is paid to the wrecking yard for taking these cars that you will pay the people that basically put the cars in the wrecking yard.

In those cases there is a seven-day waiting period. Unfortunately, that can be construed as well, because the car may never reach the wrecking yard in seven days. So there ought to be to make sure that the seven days occurred at the time it needs the wrecking yard, and therefore being publicized that you have that type of a car.

There have been instances where cars, maybe just the engine block alone is worth $7,000 or $8,000, been crushed for no reason whatsoever. They could be used for rebuilding, perhaps, a show car or something. So we would like to make sure that that is taken -- make sure that that is working.

The other thing that it was hoped for, at the time we were negotiating this piece of legislation through the Legislature, were that we assumed that a car that may not meet the current smog standard, which very few do in the older cars, but they do meet the standard in which time they were built. So that people who -- generally, people who have these older cars are, in most cases, not all, but in most cases are people of limited means. And that the, at least my assumption would be, that if parts were available to be purchased to repair and modify, perhaps, these cars to meet the standards that they ought to be made, is tremendous savings.

Because by crushing these cars, a lot of things happen to them. Crushing these cars doesn't solve the problem, because the amount of money that is given than to that person, they will go out and buy perhaps a similar car that can't meet that, anyway, the next time around. So we're not gaining anything, except it is perceived in the area of air pollution, that if you crush enough cars sooner or later we're going to save the environment. That is the presumption.

And I think it's the same thinking that went into that everybody should run around in electric cars. Unfortunately, there hasn't been long enough cords made to do it. So we're going to end up now probably with some kind of hybrid and so forth.

So, in the case that we're dealing with here today, I just want to make sure that the intent of my legislation is clear and obvious. And I hope that this Board would recognize that, because the most frustrating
thing for a legislator is that you go through the trials
going through putting bills together and then when you're
all done, you give it to some bureaucracy someplace who
will sit a wake at night trying to figure out to put in
some kind of rule or regulation that will basically avoid
or skew away from the intent of that legislation. And I
hope that you bear that in mind, and I appreciate very
much if you would do that.
And if you have any technical questions that you
may want to have, I have with me someone that can do that
for you if that's required.
CHAIRPERSON LLOYD: Thank you very much, Senator.
Will that person be available when we bring this item up
on the agenda?
SENATOR JOHANESSEN: Absolutely. There will be
no doubt about it.
Thank you very much and I'm delighted to see you
all again.
CHAIRPERSON LLOYD: Thank you very much.
We have a question, Senator. Two questions.
Ms. D'Adamo, and Mr. McKinnon.
BOARD MEMBER D'ADAMO: Senator, thank you for
appearing today. I found your testimony quite helpful.
Do you have a copy of the bill that you could leave with
someone so that we could get a copy of it. I'm noticing
in the materials that we have, I don't see it in its
entirety.
SENATOR JOHANESSEN: I can certainly make sure
that you have that. I will make sure of that.
CHAIRPERSON LLOYD: Mr. McKinnon.
BOARD MEMBER McKINNON: Senator, it's always a
pleasure to see my favorite tool and dye maker.
SENATOR JOHANESSEN: You remember.
(Laughter.)
BOARD MEMBER McKINNON: Just so I'm clear, is the
most important subject to you the mechanics of the
seven-day period, so that the cars are truly available?
Is that --
SENATOR JOHANESSEN: That is the one area
certainly. But the other area as well is that some of the
most valuable parts that you have in the car is the engine
and drive train. For the purposes of not only building
cars, replica cars, whatever you want, but also to
remodel, if you will, these kind of cars.
And, for example, if you have -- well, let's just
say a 454, it could be a General Motors or whatever it is,
you have. And those are harder to find with good
rebuildable blocks, for example. And if you want to
restore a show car you need those kind of items and they
become quite rare.
And there's no reason to assume that you sold the problem but merely crushing them. You could force the issue, for example, which has been suggested. You could force the issue that you don't want this particular engine that perhaps is blow by on the rings or whatever it happened to be or whatever, that you get it out of circulation in its current form.

That you can take a couple of spark plugs out, put a little sand in the engine and crank it over, it won't damage the block to the point you can't rebuild it, but it certainly can make that engine unusable in its current condition. And no one is going to take that kind of an engine and rebuilding it at the cost that that engine is going to be put in there.

I mean, that's a tremendous amount of cost. You're talking an engine like that, rebuilding and engine like that, you're talk maybe $4,000 or $5,000 or $6,000. They're going to do that.

So, obviously, it won't be something that someone goes in the scrap heap and take the engine off and pluck them in an old car that smokes like crazy. They're not going to do that.

So I guess what I'm saying is that logic and reason in this area goes a long, long way. And we're not talking about a huge universe of cars here. We're really not.

But the philosophy behind it is, let's save what we can, and I would really appreciate it.

CHAIRPERSON LLOYD: Thank you, Senator.

SENATOR JOHANESSEN: Thank you very much.

CHAIRPERSON LLOYD: I'd like to continue this item in order to go back to the previous item on the burn barrels and continue testimony.

We will go to Dewayne Matthews, Joe Moreo, Bill Stephens.

Mr. Chairman, ladies and gentlemen of the Board, my name is Dewayne Matthews. I'm the Fire Chief with a volunteer fire department. And I'm here representing the Modoc County Chiefs Association.

My objection to this is strictly from a fire safety standpoint. When you do have burning in a burn barrel it is in a contained area, and it's less liable to get away and start secondary fires.

Paper and cardboard, especially, have a tendency when burned to let off sparks that float with the rising air currents from the heat created and can land several feet to hundreds of feet away. So that if you get rid of the burn barrels, all that paper and stuff can start fires elsewhere.

Thank you.
CHAIRPERSON LLOYD: Thank you very much, in deed.

Joe Moreo, then Bill Stephans, Gary Caseri.

MR. MOREO: Thank you for allowing me to -- My name is Joseph Moreo. I'm the Air Pollution Control Officer in Modoc county amongst other things. And before I get started, just so it's clear in my mind, we've a quorum of six, a board of 11, a quorum of six, you can vote on this today, right, with a majority of those present?

CHAIRPERSON LLOYD: Correct.

MR. MOREO: Well I'm hoping everyone came with an open mind, but I really need three people to have shown up this morning with an open mind, and hopefully that's the case.

(Laughter.)

CHAIRPERSON LLOYD: Well, they'll were going the show up.

(Laughter.)

BOARD MEMBER McKINNON: I would bet six of us showed up with an open mind. I'd bet on it.

MR. MOREO: You'd bet on that?

BOARD MEMBER McKINNON: Yes.

MR. MOREO: What kind of odds do I get?

BOARD MEMBER DeSAULNIER: Keep talking and we'll close it.

(Laughter.)

MR. MOREO: Prior to the California Air Resources Board consideration of the proposed prohibition of burn barrels the first suppression benefits of burn barrels must also be considered. We believe that value, in terms of fire safety of this simple technology in rural areas, clearly outweighs the comparatively minimal risk of any emissions caused health effects the staff report, the blue thing, attempts to quantify.

The Modoc County Air Pollution Control District recognizes the amount of fire protection the use of burn barrels affords.

We believe the use of burn barrels is an appropriate environmentally benign method in rural and timberlands of the State, for disposing paper, cardboard and other combustible waste. We believe the prohibition of burn barrels will result in increased wildland fires, illegal dumping and significant solid waste facility impacts. These impacts are of great concern to much of California.

Incredibly, the proposed ATCM has the distinct possibility of actually contributing to wildland fires and air pollution. By prohibiting the use of burn barrels in rural areas, the threat of wildland fire confronts California every summer and typically causes catastrophic
The fire prevention aspect of burn barrels must be recognized and taken into account in any discussion of a proposed prohibition. Fire suppression agencies have been permitting burn barrels in California for many years for fire prevention purposes. We believe this effort has protected California's citizens and environment for as many years.

We request, at a minimum, that the California Air Resources Board consult with local, State and federal fire suppression agencies concerning the potential adverse effects before approving the proposed ATCM, and subsequent burn barrel prohibition. To date, this concern has not been adequately addressed by the ARB staff in our view.

Of additional concern, and further complicating the proposed ATCM is the health risk assessment, once again in the blue book, used for the justification of a Statewide burn barrel ban.

When the risk assessment numbers are analyzed, we find that dietary risk pathway is by far the most significant. Ninety-four percent of the risk in that model is dietary, not emissions. I can't overstate that. And if you haven't looked at that thing, you really do need to look at those numbers today.

We also find the dietary risk pathway described in the report to be highly suspect in its assumptions. For example, the upper range of the dietary risk pathway assumes that a household can produce all of its meet, beef, pork, chicken, milk and eggs within 20 meters of a burn barrel, an area of less than a third of an acre. This is obviously impossible.

On the other hand, the lower range of the dietary risk pathway is shown to be below the level of public health concern by the very same assessment. Again, this dietary risk pathway and its assumptions, account for more than 94 percent of the entire cancer risk assessment.

Without this dietary portion of the cancer risk model, the cancer risk chances per million drops to levels that are insignificant to protecting public health. We request that the California Air Board allow for the time and opportunity to further explore this health risk assessments with ARB staff before the approval of the ATCM.

Given the serious concerns previously described, the Modoc County Air Pollution Control District respectfully requests, at this time, the California Air Resources Board not approve banning burn barrels or prohibiting the burning of paper and cardboard statewide.

In our estimation, the control measure is much
worse than the stated problem. We strongly recommend this
issue be left to the discretion of the local air pollution
districts and their representative constituencies.

And I'd entertain any questions. And I hope
somebody asks me a question about that risk model.

CHAIRPERSON LLOYD: Mr. McKinnon.

BOARD MEMBER McKINNON: Yeah. I'd like to ask
you a question about something else. Do you approve of
burning plastic or styrofoam cups or foam or aluminum
foil?

MR. MOREO: You mean in a burn barrel?

BOARD MEMBER McKINNON: Yes.

MR. MOREO: No, I don't. And I would suggest as
an alternative if we want to ban something, we could
possibly look at banning the burning of plastic. But in
our view, this measure -- banning the method, i.e. He burn
barrel, which has some fire suppression qualities is just
not justified.

BOARD MEMBER McKINNON: My second question is did
you take any enforcement action citation or otherwise in
the last year for people burning plastics or styrofoam or
foil and other?

MR. MOREO: It hasn't been within the last
calendar year. But within the last two years, based on
complaints, what we did is went out and talked to the, I
don't want to call them a violator, because we don't have
a regulation on the books that he's actually violating.

But, you know, basically where I live, if you
have neighbor impacts, you have an agency you can call.
We go out and talk to the guy, and we normally resolve it
at that level. And we're suggesting that's the level we
should keep it at.

BOARD MEMBER McKINNON: I'm not asking you to the
question as where you live. I'm asking you the question as
the Air Pollution Control Officer.

MR. MOREO: As Air Pollution Control Officer in the
last two years, I responded to two complaints that delve
into this burning of garbage, both of which were, I guess
you'd say, mitigated by me talking to the person.
Actually, in both case they quit burning, based on
complaints.

BOARD MEMBER McKINNON: So you had two complaints
in two years of burning trash.

MR. MOREO: Two complaints in two years, yes.

Please, somebody ask me about this model, because you
really do need to look at it.

CHAIRPERSON LLOYD: What do you want us to ask
you about it?

(Laughter.)

MR. MOREO: Well, do you understand that today if
you vote to ban burn barrels, you're not doing it because
of health effects, according to the model, from health
effects from emissions. You're doing it for the dioxin
deposition on forage crops that are then going to be
consumed by people, and that is the method that their
health is going to be impacted by dioxins.

And we test for dioxins in food, milk, meat,
eggs, and we don't find them at anywhere close to health
threshold levels. The model is seriously flawed in that
respect. Ninety-four percent of the risk in that model is
dietary. And I left out the backyard garden and mother's
milk provisions which also have some problems.

CHAIRPERSON LLOYD: Do you want to respond?

PLANNING AND TECHNICAL SUPPORT CHIEF FLETCHER:

Yeah, I'll respond to that a little bit and then we have
Dr. Andy Salmon from the Office of Environmental Health
Hazard Assessment that would be happy to respond further.

I'm Bob Fletcher.

Certainly, there is uncertainty in risk
assessments. And as Mr. Moreo has pointed out, the
assumptions that we make regarding 70-year exposure and
the dietary intake are correct. I mean, he's right about
that.

But I think what we've tried to do in that is
provide a relative perspective on risk from different
compounds. And clearly the multi-pathway for exposure is
important from the dioxin perspective.

The 20-meter estimate and consuming all of that
food is the assumption that's typically made in these
sorts of analyses, again, to provide a perspective on the
relative risk of these compounds.

So there is uncertainty in the risk estimates.
There's uncertainty in the emission factors, and we have
taken, you know, if you looked in the staff report, there
was a couple different estimates of an emission factor.
We have used the lower emission factor. There's a higher
emission factor that's probably 30 times higher than what
we've presented here.

And we believe that the inhalation risks alone
associated with dioxins and the other compounds there, the
other toxic air contaminants are sufficient to justify the
actions that we're taking.

And if you would like more information about the
dioxin exposure, Dr. Salmon would be happy to elaborate.

CHAIRPERSON LLOYD: I think that's fine.

Now, you are a member of CAPCOA?

MR. MOREO: Yes, unless they kicked me out, yes.
(Laughter.)

MR. MOREO: I think they're considering that.

CHAIRPERSON LLOYD: I'm amazed that Barbara still
MR. MOREO: We're working on a deal for me to mitigate that.

(Laughter.)

CHAIRPERSON LLOYD: Thank you. I think we hear your concern. Our difficulty here we've got to look at the State as a whole. And obviously we hear a lot of people in favor of this regulation, people against, people wanted modifications. It's our job to try to balance those issues there, but we appreciate your testimony.

MR. MOREO: Doesn't that make the case for local control? They need this regulation in the populated areas where they have it.

CHAIRPERSON LLOYD: We've heard those lines. We'll hear some more.

MR. MOREO: Thank you.

CHAIRPERSON LLOYD: Bill Stephans, Gary Caseri, Jim Hemminger, Bob Reynolds.

MR. STEPHANS: Well, good afternoon. My name is Bill Stephans. I'm the Air Pollution Control Officer For Siskiyou County. And I appreciate the opportunity to talk to the Board regarding the ATCM for toxic emissions. We have many concerns with ATCM. And my first concern is that the process of adopting this measure appears to have been fast-tracked without the full benefit of review by the affected parties of the relevant comments received by ARB through their long scoping period.

By that statement we mean that Health and Safety Code section 39665(c) has been interpreted by staff to mean something other than what it plainly states. Directly quoting from the law it states, "The staff report and relevant comments received during consultation with the districts, affected sources and the public shall be made available for public review and comment at least 45 days prior to the public hearing required by Section 39666."

Our last public consultation was held on January 23rd, 2002 in Yuba City. On February 4th, 2002 we requested your legal staff to forward the relevant comments to us immediately, if they existed, or to give us their legal reasoning and authority for not complying with this code section.

On February 19th, 2002 at approximately 5:00 o'clock in the afternoon, the district received a written reply from Kathleen Walsh, your general counsel, and I personally thank her for her written response to us about my comments.

As partner with ARB and enforcing air pollution
regulations, we are concerned that the interpretation of Section 39665(c) is not correct. JustAs in CEQA, and the code section is Public Resources Code 21091, "All relevant comments must be published and addressed in the EIR. And failure to comply with this requirement can lead to the disapproval of the project. The public must be assured that each comment was given careful consideration in the final document." Without the relevant comments being made available, how are the public and affected sources able to be sure their voices were heard? The interpretation of this code sectionAs extensively explained in the written document authored by Ms. Walsh appears to say that since ARB conducted a long scope process and the oral comments were extensively discussed, then, ARB has complied quote, "...with the letter and the spirit of the law set forth in Health and Safety Code section 39665(c)."

We agree with Ms. Walsh that the staff report was released at least 45 days prior to the hearing. However, we did receive some comments on official stationary yesterday afternoon. That was approximately 15 to 18 days after I requested those comments. We also agree that the relevant comments can be received up to and including the date of the hearing. However, relevant comments received during consultation,As stipulated in Section 39665(c), are required to be made available at least 45 days prior to this hearing. By my calculations, with the last consultation being held on January 23rd, the earliest this hearing could have taken place is March 11, 2002. It is our understanding that a statute cannot be interpreted differently than what the plain language of the statute says. Case law is very specific in this regard. Additionally, regulatory departments cannot interpret a statute differently than the plain language contained in that statute because it is perceivedAs a burden or would have placed undue emphasis on the comments,As Ms. Walsh has stated in her letter to us.

I believe a process of adopting this ATCM has not complied with Section 39665(c) by interpreting it to mean something other than what the Legislature’s intent was and what the plain language of the statute states. As a partner in the process, we respectfully request that the relevant comments and not just the official comments on letterhead,As stated in legal staff's
February 19th letter to me, be made available to all stakeholders prior to adopting this ATCM.

Chairperson Lloyd: I understand the legal issues, but in terms of our job of protecting public health, are you for or against this?

Mr. Stephens: Well, I'm actually against the ATCMs written, yes.

Chairperson Lloyd: Okay.

Mr. Stephens: And I'll get into the other reasons, if I may?

The ATCM proposes to ban all residential burning, except the burning of natural vegetation in non-exempt areas. This proposed ban includes paper and cardboard. Staff's justification in proposing to include paper and cardboard is stated on page 6-4. And that basically says individual tests are not available to quantify the dioxin emissions from separate material types, such as paper and cardboard.

Therefore staff determined that the best available control technology for residential waste burning would be a prohibition on burning of all types of residential waste materials, other than the natural vegetation. I request that prior to banning the burning of paper and cardboard, the Board directs staff to perform emission tests on paper and cardboard to determine the emission rates of dioxin and other toxic air contaminants.

My third concern is nowhere in the report is a total quantifiable number for the California dioxin emissions associated with the use of burn barrels and residential burning. What amount of emissions are we eliminating by implementing the proposed ban and at what cost to the public.

The U.S. EPA estimates that residential burning emits 620 grams of dioxins per year in the entire United States. That is approximately, as stated earlier, approximately a pound and a half of dioxin emissions. In table 4-4 on page 4-7, staff reports that the average emissions of dioxins are estimated to be .15 grams per year per household or .005 grams per year per household depending on the Series 1 1997 testing or Series 2 2000 testing.

Something does not ring true with either emissions estimates because using either number times the estimated 108,200 households, able to burn residential waste, and that's in table 4-2 page 4-5, the total dioxin emissions in California would be estimated to be 16,230 grams or 541 grams respectively.

The range between these two numbers suggests to us that the numbers used throughout the report vary so
greatly that it is impossible to correctly estimate the
risk.

Pursuant to Health and Safety Code Section
39665(b)(5), the staff report must contain the approximate
cost of each airborne toxic control measure, the magnitude
of the risk posed by the substances as reflected by the
amount of emissions from the source for a category of
sources, and the reduction to risk which can be attributed
to each airborne toxic control measure.

CEQA require transparency. Therefore, I believe
ARB CEQA's equivalency also requires staff to divulge the
numbers they used in all their calculations. My staff has
asked repeatedly for the numbers used in their
calculations so that we could estimate our risk since the
districts' hotspots prioritization threshold is ten excess
cancer cases per million, not the one excess cancer case as
stated in the report. And they use that to justify the
three people per square mile population density.

To date, we have not received this information.
I wrote this yesterday. I was told by Mr. Effa that we
did receive it late yesterday afternoon and staff hasn't
had time to do the risk assessment. So I don't know what
was given to. I wasn't there.

Since the emission numbers attained during
various tests appear to have a low confidence rating since

the numbers vary so greatly, we request that this Board
direct staff to release all calculations including the
numbers used in those calculations, so that public truly
knows the risk and the cost of reducing that risk.

Again, we ask the Board what is the total coast
of this ATCM to the public.

CHAIRPERSON LLOYD: Mr. Stephans, we're running
out of some time here. We do have copies and we're
reading along with you. Maybe you could just highlight
that and then the Board can ask questions based on your
statement here.

MR. STEPHANS: Well, the only thing that I have
is I do burn paper and cardboard. And I have timed my
burning along with my neighbor who is a neighbor that has
four individuals. In no case have I ever exceeded 17
minutes in a two week period as opposed to the two hours
per burn, twice a week which is four hours per week. So I
think that the estimates are quite high.

And in his, it's only 33 minutes for his
household every other week too. So, again, I believe that
the estimates are quite high in their assumptions.

The only other thing that I could say is that if
you look on the Table 3-1 on page 3-4, U.S. EPA estimates
that municipal solid waste incinerators and medical waste
incinerators when they're combined produce almost three
times as much dioxin that the highest estimate of the EPA
is for all burn barrels in the United States. Why aren't
we going after those emissions if it's so bad?
They're almost three times as high as what the
highest estimate is, so that's my question here.
That's about it.
CHAIRPERSON LLOYD: Ms. D'Adamo and Mr. McKinnon.
BOARD MEMBER D'ADAMO: Mr. Stephans, I should
just start off by stating that I think that it's the
position of the entire board, as well as staff, that the
more information provided to the public the better. And I
certainly hope that if there are any remaining comments or
issues that you need additional information, that staff
would be able to provide that to you.
As far as a legal matter though, I'm a little bit
lost here, because you cite the Health and Safety Code and
then you cite CEQA, so I was wondering if Ms. Walsh could
comment on what is actually required of the Board in terms
of the period of time in which members of the public
should be able to obtain this information.
GENERAL COUNSEL WALSH: Under the Health and
Safety Code regarding the adoption of Airborne Toxic
Control Measures, ATCMs, such as this measure, the
legislation states that the staff report, including
relevant comments that have been received are made
available to the public at least 45 days before the
notice.
That actually is a parallel of the basic
Administrative Procedure Act requirements for rule
makings. We do that as a matter of course.
In this case, there were written comments that
were collected prior to the issuance of the 45-day notice.
Those documents were apart of the record and were
available to anyone who requested those.
And as soon as I was aware of Mr. Stephans'
letter, I did make sure we got copies of what was in the
record to him. That's a standard practice.
In terms of comments that came in orally during
the extensive workshopping and meeting process for this
regulation, those are generally reflected in the initial
statement of reasons. That's the basic purpose for those
workshops and meeting activities was to collect
information, ideas and thoughts to provide them to the
Board as a part of the staff report.
The additional concern that somehow the workshops
and contacts that were made subsequent to the issuance of
the 45-day notice creates a, what I would describe, as a
legal conundrum, which Mr. Stephans is suggesting that we
should just shut off all contact with folks at the point
in time we issue the 45-day notice when, in fact, and in
practice and certainly a reasonable process means that's
the point in time when you maybe step up your contact with
c folks.

And, in fact, we do that on a regular basis, not
only with this ATCM but ATCM's generally, and regulations
generally. As you know, oftentimes we come to the Board
with modified proposals from the proposal that went out
with the original 45-day notice based on those comments.

So I believe that we have complied fully with the
statutory requirements, both under the Health and Safety
Code and CEQA in this regard.

MR. STEPHANS: May I respond. I was not saying
that you could not take other comments between the 45-day
comment period. What the Code specifically says in its
plain language is that ".and relevant comments received
in consultation with..." and you can continue to receive
once that 45-day comment period is in place, you can
continue to receive other comments.

We have the same problem with CEQA. I've dealt
with many CEQA issues where I regarding geothermal plants
that they're trying to put in the Mendocino Lake area.

We do have a certain time limit that we have to
accept public comment. And what I have a problem with is
that in the workshops no one took the comments down. They
didn't appear to me at least in Yreka. What we in every
consultation with CEQA, we had someone taking the comments
down and we had to publish those in the EIR and address
those.

Here what I've only received from ARB was the
written comments, and no other comments from anyone else
in any of the workshops. And I guess what I'm concerned
about is there might be issues that have been brought up
that have not been addressed that no one is aware of
because it only happened in some workshop someplace else.

BOARD MEMBER D'ADAMO: But that's the purpose of
a staff report to summarize the issues.

MR. STEPHANS: It doesn't say that the staff
report shall include relevant comments. It says basically
-- this code section says, "The staff report and relevant
comments." There's a difference between saying including
relevant comments, there's a difference between saying
well, they can address relevant comments in the staff
report.

That's not what this code section says. So I
talked to my CEQA attorney who we've used extensively.
And he said there's case law says that you cannot
interpret a code section that's written in plain language
any differently than what the code section is written.
And those that's all my point is.

I'm a partner in this process, and I understand
that, but I’ve been told by my CEQA attorneys that if we
2 did something similar to this in our CEQA review that we
3 would lose in court because we haven't followed step. And
4 we would be required to pay legal fees and other fees
5 associated with that case, if we did lose it because we
6 didn't follow a step. That's my concern.
7   BOARD MEMBER D'ADAMO: I think the staff report
8 does include that information. But if Ms. Walsh could
9 respond just for the record.
10   GENERAL COUNSEL WALSH: That is our position,
11 that the purpose of those workshops was to collect
12 comments to engage in discussion with folks who would be
13 affected by the regulation that was done, and the comments
14 are reflected in the staff report.
15   CHAIRPERSON LLOYD: Yeah. I know you've
16 underlined and, but also you could also underline
17 relevant, so I guess the staff has to --
18   MR. STEPHANS: And you know that I talked about
19 that to the attorney. And he said, yeah, it depends on
20 who calls relevant whatever relevant is. And I understand
21 that that's a wiggle world. But usually you want to err
22 on the side of being cautious As opposed to not being
23 cautious, because you may think something is relevant or
24 not relevant, the judge that you're going against may
25 think it was relevant and there's a problem there.

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1     So you try to be as cautious As possible and try
2 to take in as much. That's what his comment to me was
3 whenever I did discuss this with him.
4   GENERAL COUNSEL WALSH: I will say that I agree
5 with that legal advice, and we do err on the side of
6 caution in that regard. And to the extent that Mr.
7 Stephans is worried that somehow there were issues that
8 were revealed during the workshop process that are not
9 reflected somehow in the staff report, I do believe that
10 is not the case.
11   MR. STEPHANS: But we don't know, that's my
12 point. You don't know, because they're not written down.
13 The only thing that I could say is that I would
14 ask that the Board to take the following proposed actions
15 on the ATCM. And that is direct staff to implement a
16 thorough education program, I agree with that, consisting
17 of educational materials the districts can use to show the
18 dangers of burning illegal products. I agree with that
19 wholeheartedly.
20 I also agree with requiring residential burning
21 on burn days only.
22   CHAIRPERSON LLOYD: What do you mean by illegal
23 products?
24   MR. STEPHANS: We already ban all the products in
25 the ATCM locally, except for paper and cardboard and
1 textiles. Now the textiles were put in years ago because
2 of burning seed bags from farming. Okay, so that's not a
3 problem with us. We can remove that. I don't have a
4 problem with that.
5 But what my main concern is that we do not have
6 the air emissions data to ban burning of paper and
7 cardboard. And I understand there's illegal products that
8 could be burned but that's an educational issue that we
9 can handle on the local level.
10 With the Governor's budget of $5 million removal
11 of subvention to the local air districts, his proposal in
12 his budget, I can't see how we can continue to accept more
13 mandated enforcement programs with less money. So that's
14 what my concern is.
15 The other thing that I would say is continue to
16 allow the use of burn barrels if the local district board
17 adopts a resolution in a duly noticed public hearing that
18 the banning of the use of burn barrels will impose
19 additional serious fire safety concerns on the district,
20 require a permit to be issued which would allow
21 dispersement of educational materials and the collection
22 of residential burning data for further study.
23 That's important. We don't who's out there
24 burning. I don't know. And all these things, everywhere
25 where it says an estimate, that's the best guess, and it's

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1 a big guess.
2 So we would like to gather information like that
3 and revisit the ATCM in four years after staff has
4 performed additional emission studies and the districts
5 have accumulated burn data to either support or not
6 support additional regulatory actions, ban all garbage
7 burning throughout the State, but continue to allow paper
8 and cardboard burning, and extend the implementation
9 date as outlined in the RCRC suggestions.
10 I think that those -- we've already been burning
11 for years and years. I don't understand what the point is
12 that to go so rapidly into this, if people do want to ban
13 it locally, I agree with that wholeheartedly. That would
14 be perfect. In my area it doesn't appear to be what the
15 population wants in my area, so that's why I'm here.
16 Thank you.
17 CHAIRPERSON LLOYD: Thank you very much.
18 Any questions?
19 CHAIRPERSON LLOYD: Mr. McKinnon.
20 BOARD MEMBER McKINNON: Yeah. In the last couple
21 of years have you taken any enforcement actions on
22 individuals for burning nonpaper, cardboard and textile
23 products?
24 MR. STEPHANS: Yes, we have.
25 BOARD MEMBER McKINNON: How many have there been?
MR. STEPHANS: Five so far, and we're taking one criminally right now in the D.A.'s office as opposed to doing the mutual settlement possible with the individual.

BOARD MEMBER McKINNON: My second question is that there's been -- there's an estimate that out of the county's 44,300 residents approximately 6,500 people are estimated to actually use burn barrels to burn waste.

MR. STEPHANS: That was our best guess, yes, sir.

BOARD MEMBER McKINNON: If you are to subtract out those places where you have population densities that qualify for either of the two types of exemptions, how many of the 6,500 people are in those areas that qualify for the exemptions?

MR. STEPHANS: I can't give you an answer right now because I just received the staff right know, so I don't -- I have no idea. We haven't done a study on exactly where these populations are.

BOARD MEMBER McKINNON: Let me just ask you in places like Weed, in town, do people use burn barrels?

MR. STEPHANS: No, they're not allowed, but outside they are.

BOARD MEMBER McKINNON: Outside of Weed, they do or out?

MR. STEPHANS: Yes. In fact, One of the supervisors who was supposed to be here, Supervisor Bill Hoy, does have a burn barrel and he's in Weed, right out outside of Weed.

Hoy, does have a burn barrel and he's in Weed, right out outside of Weed.

BOARD MEMBER McKINNON: Just outside of Weed.

MR. STEPHANS: Yes.

BOARD MEMBER McKINNON: Great. Thanks.

MR. STEPHANS: Any other questions?

CHAIRPERSON LLOYD: Thank you.

Gary Caseri, Jim Hemminger, Bob Reynolds.

We'd appreciate it if you could keep the testimony fairly short. We're running out of some time. I'm worried about losing some of my quorum.

MR. CASERI: Actually, I was going to say I was going to be brief.

CHAIRPERSON LLOYD: Okay, thank you.

(Laughter.) As brief As possible.

Good afternoon. My name is Gary Caseri. I'm the Tuolumne County Air Pollution Control Officer. On behalf of Tuolumne County Air Pollution Control -- on the behalf of the Tuolumne Air Pollution Control District and its board, I'd like to offer the following comments.

We are opposed to the recent draft of this ATCM.

Tuolumne County has, for some time now, prohibited most of the disallowed combustibles proposed in this document. We request your board approve an ATCM with allowances for the
continued burning of paper and cardboard.

We request this in light of the lack of data that's been mentioned previously, with respect to paper and cardboard. The current exemptions based on zip codes fail to adequately address our concerns and I haven't read the most recent version that was put out today.

In general, Tuolumne County is opposed to the ban on burn barrels and firmly believe that it is more appropriate and fair to -- firmly believe in active enforcement and educational program is more appropriate and fair to the public we serve.

With that, I'd like to offer to continue working with ARB staff to finalize a document that meets the needs of more rural counties or districts such as Tuolumne County.

Thank you.

CHAIRPERSON LLOYD: Thank you very much.

Questions?

Thank you.

MR. HEMMINGER: Hi. My name is Jim Hemminger. I'm here today representing the Regional Council of Rural Counties, RCRC.

Perhaps one of the advantages or good points of this proposed ATCM is that it did provide the rural counties and Air Board staff some of you to become familiar with each other, as we never have before. This is a big issue in our rural counties.

RCRC is comprised of 29, pretty much the 29 smallest counties in California. Its board includes county supervisors who have been appointed by each county's full board of supervisors to represent their county.

Over the past several months, we've discussed this within our board meetings and were fortunate enough to appreciate presentations by Air Board staff. Not unlike CAPCOA a fair diversity of opinion within the organization. As you're hearing today, most of the smaller counties have strong opposition to the ATCM.

We do offer, and I hope you have a copy of the letter we prepared, putting together a position of the organization. As you've heard some member counties take a much stronger position opposed to this in consideration of the fact that we recognize that some regulations are going to be -- are being put forth. We have been fortunate enough to work with Air Board staff to look at proposals and evaluate them.

And as stated in the letter, we generally support the concept behind the proposed regulation as it's been modified, but would suggest some specific modifications and urge your consideration for those.
Burning of garbage statewide, hard to take exception to that. Tiered regulatory program, that makes sense, especially when you're talking health risks. It is related to density. A lot of us picture Sonoma County, it is rural county, but it's got 450,000 people in it. What we're talking about and a lot of the opposition maybe you've heard this morning, are from our small counties, with Sierra with 3,000. As you pointed out, Mr. McKinnon, Siskiyou, one of the larger counties is 43,000 people, about enough to fill Enron Field. Modoc just about would fill the ARCO Arena. Not a lot of people spread out over a wide area. Given this, we do support the tiered approach. We do question, however, the numbers that are being proposed. And in the letter we do suggest instead of the light green areas, instead of being from three to ten people per square mile, we're suggesting 20 people per square mile, as more reasonable alternative and more consistent with the scientific basis. As Mr. Fletcher did point out there is a uncertainty in the scientific analysis. I won't try to compete with the statisticians, but it's, as Mr. Fletcher said, trying to reach a balance between the risk factors and the reasonableness. I do realize that the statute gives the Air Board pretty wide latitude when it comes to ATCMs and regulating those. But statute does also limit it to the practicableness. We need to understand, people have spoken about not wanting a burn barrel under their apartment window. That's not the issue here with many of our rural counties. I forget the gentlemen, a doctor spoke about his obnoxious neighbor on his one acre parcel, getting burn barrels smoke. Again, that's not what we're talking about. The ten people per limit, say two or three people per household, we're talking two or three houses per 640 acres. The three limit that's being proposed for the dark green is one house per 640 acres. Most houses, even in Siskiyou county, if you will, only one out of six houses are using their burn barrels. So we're talking here what is the density's threshold that we would suggest as a reasonable balance between risk, cost of enforcement and other environmental factors. Without going on, I do mention in my letter we do suggest numbers which we do feel are reasonable, are defensible and we would really ask for your consideration of that. Parceling out of a zip code map, we think that is
an excellent opportunity, but the suggested three people per square mile seems unnecessarily restrictive.
I do have, and I will try to brief, a couple other comments. The first two comments actually here have been superceded, if you would, by staff's latest proposal by pretty much what I just suggested.
Transition period is my next suggestion.
Regardless of the number, balancing cross-media environmental impacts. There are concerns about illegal dispose. There are concerns that people, no longer able to burn, would be stock piling their garbage on their private property.
If you look at the map, it seems like there's a lot of dark green, a little deceptive, because most of that is public lands, government lands. And part of the reason it's dark green and fits within the zero to three threshold, is the fact that very few people are living on the public lands.
To a lot of our rural counties that dark green looks like the areas of illegal disposal. In a lot of areas within the zip codes hopefully we can have or put together some sort of program for an alternative solid waste collection system, but my proposal is to provide some regulatory ability for local air pollution districts, if they do have a particular area that may exceed a threshold posing particular problems with garbage collection or other competing environmental needs, to give them the option of petitioning the Air Board for a four-year extension, with some findings about the environmental impacts and perhaps some commitment to do some mitigating measures within that four-year period.
Second to last.
CHAIRPERSON LLOYD: Quickly.
MR. HEMMINGER: We would suggest --
CHAIRPERSON LLOYD: The last one in terms of more funds, you can save some time on that one.
MR. HEMMINGER: Funding would be great. A lot of our guys only have a half time person doing air pollution control. We've talked about 100,000 burn barrels, lot of work for one guy.
Education. That's the one thing we all agree on. And I would like to suggest, there's no -- education is difficult in a rural county. I've tried it. It takes a lot of time, effort and thought. And whale supporting that aspect of the regulation, I would suggest at some point maybe through a workshop before the regulations take effect, we do have an opportunity to come before you and assess the effectiveness of that public education program.
Regardless of the numbers we come up with, that is going to be the key to the success of this program.
1 Our guys want to work together with you on the program,
2 but we do need to be sure that that does achieve its
3 desired objectives.
4       CHAIRPERSON LLOYD: Thank you very much, in deed.
5 Thank you, for coming before us.
6 Bob Reynolds, Dean Wolbach, Todd Nishikawa.
7       MR. REYNOLDS: For the record, my name is Bob
8 Reynolds. I'm the Air Pollution Control Officer of Lake
9 County Air Quality Management District. I have a Masters
10 of Science degree with a specialty in control equipment
11 design, an undergraduate degree in chemistry. I've had a
12 chance to follow this issue for a long time. I actually
13 worked for the Air Resources Board and worked on the
14 toxics issues in the early seventies I guess.
15 Dioxins, you know, it's really unfortunate that a
16 lot of people here today do not understand the process.
17 You've already decided dioxins is a terrible compound,
18 terrible molecule. It causes a lot of health problems.
19 That's not an issue anymore. People that don't
20 understand that Agent Orange affects the Vietnam veterans.
21 Many of my friends still suffer from that. That they
22 cause teratogens. The discovered they cause miscarriages
23 and deformed horses. That's the initial way that dioxins
24 were discovered as a problem in our country.
25 I mean, there's a really terrible history. In
26 fact the popular press calls this molecule the monster
27 molecule. It's for good reason. It'a reputation well
28 earned.
29 And people that are worried about other things in
30 environment, whether it be in our air, land or water have
31 got to pay attention. Now, we banned burn barrels in
32 about 1995, primarily because we had banned garbage
33 burning in the late to mid-eighties and found that we
34 could not keep the garbage out of the burn barrels.
35 It's just an honest statement to you is, if you
36 don't ban burn barrels, you're going to have garbage
37 burned, accept that fact.
38 And there is a study in Attachment to the letter
39 that I sent to you that shows you what we did in Lake
40 County. And we made this decision based upon what we
41 consider really good information and honest information.
42 The reason that we made the decision to ban burn barrels
43 then, is the literature that you're talking about today,
44 the risk assessments that everyone is concerned about,
45 it's been out there for seven years. It just got peer
46 reviewed and published in the year 2000. That's what made
47 it different. So it's been a well known fact among people
48 that specialize in air pollution control for a long time.
49 The other points, I want to make is that we
50 banned burn barrels in 1997 in Lake County. It's a rural
1 county. We banned them countywide. No exceptions for
2 nothing. We did review that about a year ago. No one
3 showed up wanting the burn barrels back. Everyone
4 accepted it well, not a single person stood up to say give
5 me back my burn barrel. They all agreed it was a good
6 move. It took courage from the Board that wasn't
7 unanimous when they did it.
8
9 And frankly I've heard, Joe Moreo and I, in spite
10 of our differences, are pretty good friends, at least when
11 we're drinking.
12 (Laughter.)
13
14 MR. REYNOLDS: And the bottom line is I heard the
15 same things you've heard, being good public servants,
16 understanding that you're charged with implementing air
17 toxics control measures. The Legislature charged you with
18 that.
19 You're going through a process that you have to
20 go through, and people's real health, and, you know,
21 you're standing up to emphasize children. I think one of
22 the most sinister things about this particular kind of
23 poison is it causes deformed children. And that's well
24 known. It's just not emphasized because no one know how
25 to quantify it.
26 No one can get enough data together, statistics,
27 to make everyone just feel lovely and wonderful that we
28 should bring that out to you, but it's fairly well
29 accepted.
30 And then the other thing I guess that, you know,
31 I won't repeat everything in my letter because you haven't
32 told me I have two minutes yet.
33 But the bottom line is that you have some
34 testimony from the fire chiefs and stuff. I will point
35 out that I did attach the Fire Chiefs Association from
36 Lake County's letter. We very much involve our fire
37 chiefs as well as your community in any kind of -- I've
38 heard the work ordinance or actually regulations that in
39 our case, at least every time we can, they end up in the
40 State Implementation Plan, so they're also federal laws.
41 And our community has well accepted the fact that
42 we shouldn't burn garbage. I mean, I think they're
43 actually proud of it. The fire chiefs are very
44 participatory in the process. And they made several
45 points. And one of them is is that burn barrels do cause
46 escape fires, they do cause fires. If you don't want to
47 have a fire, you don't want your national forests to burn
48 down, ban residential burning. It would be a good for
49 staff.
50 And the second thing they point out, which I
51 think is really good for them. It says -- I'll just read
52 from it, it says, "The program that moves the State
forward into the 21st Century benefiting the public health
and fire safety..."

And they're urging you to act today. I'm urging
you to act on the staff's proposal. I think it's way past
time.

With that, I'll take questions.

CHAIRPERSON LLOYD: Thank you very much, Bob.

And thank you for providing this for the work you've done
on this as well.

When did you say you passed the ban?


CHAIRPERSON LLOYD: Yes, Ms. D'Adamo.

BOARD MEMBER D'ADAMO: I really appreciated not
just your letter but the attachment and want to compliment
you. We've received a lot of anecdotal information, but
yours is very comprehensive and I think tells -- gives a
good accurate picture of what's out there.

I'd also like to encourage you to go on the road
and let some of the other air districts see that it can be
done. It's not just ARB shoving this down their throats,
but that it can be done at the local level with vision.

Thank you very much.

CHAIRPERSON LLOYD: With a clean vehicle of
course.

MR. REYNOLDS: If ARB would get off the dime and
buy all the districts one, we'd have one.

BOARD MEMBER RIORDAN: Mr. Chairman, one of the
issues that we've heard today happens to surround money.
And what is your experience in terms of enforcement, has
it created a huge burden to you or have you been able to
absorb it within your budget?

MR. REYNOLDS: I've attached to you a letter from
the Fire Chiefs Association and the district, signed by me
and it's in our staff reports that have been early
provided, we clearly state that we think it's a benefit to
the cost.

In other words -- and maybe some of these air
districts don't take complaints. I can't imagine How you
can burn garbage and be in any proximity and not get
complaints. It overwhelmed us. In the Fire Chiefs letter
they mentioned false fire alarms.

Basically, burning garbage, smells like a burning
house. People report a burning, you issue a fire engine
out there. You finally get out there and you find it's
burning garbage. My personal thing is that happens pretty
often.

I have the good fortune actually to have a Fire
Chief that used a burn barrel the caught his garage on
fire when we were discussing it, and it made real obvious
anecdotal information.
MR. REYNOLDS: But the bottom line is people cheat with the burn barrels. The fire chiefs know that. And I think anyone that looks knows that. They burn they're not supposed to burning at all. In fact, I've even heard some air officials say that. And that's, you know, that's just something that happens. And when we talked among ourselves as professional people, no one believes they use burn barrels and don't put garbage in them. Everyone believes they have garbage in them.

BOARD MEMBER RIORDAN: Thank you.

CHAIRPERSON LLOYD: Thank you.

Mr. McKinnon.

BOARD MEMBER McKINNON: Yes, on that point exactly. I thought I was hallucinating when I was hearing that burn barrel -- I've seen a burn barrel or two and they burn trash in them. That's what people do. And your study was real helpful. It identified --

MR. REYNOLDS: I appreciate that. Because some of that stuff is really gross.

BOARD MEMBER McKINNON: I mean, once in awhile you had a good actor in here, once in awhile.

CHAIRPERSON LLOYD: Thank you very much.

MR. REYNOLDS: Thank you.

CHAIRPERSON LLOYD: Dean Wolbach, Todd Nishikawa, Wayne Morgan and David Jones.

MR. WOLBACH: Mr. Chairman, ladies and gentlemen of the Board. My name is Dean Wolbach I'm the Air Pollution Control Officer for Mendocino County. I am here today in support of the ATCM. And the first thing I should say is that Bob has been banned in several counties already.

(Laughter.)

MR. WOLBACH: I am not here in support of this because it is perfect, this ATCM, nor because it won't cause me a lot of heartburn, both me and my district in enforcing it. But I'm here because it is a step in the RIGHT direction.

As Bob alluded to burn barrels are used to burn garbage. I'm fortunate in my district to already have regulations banning the burning of garbage period. We find it. Time and time again we find it in burn barrels.

People think that if they have a burn barrel, it's to burn garbage. I don't think, at this point, that most of my county it is a serious health effect at this time. I know that it will become so, because my county, my district, is going to tip from basically a rural agricultural area into a suburb area probably within the
If we don't start now to put these bans into effect, get people used to not using burn barrels, which they're not supposed to be doing through the six months of the year when the fire ban is on, and they still do, it will be just that much more difficult as the population grows.

I have rather a unique background coming here I notice. I've been in the regulatory end of this now for about three or four years, but I do have a Ph.D in organic chemistry. And I spent over 30 years working on incineration and pollution control.

I was actually with the people and in the same company and organizations that did the earlier research on the generation of dioxins in incinerators and in generation of dioxins in burn barrels.

At the time we began to get this information out, which was in the early eighties, we said to ourselves, oh, the problem isn't with the incinerators, it's with the burn barrels. And we told EPA this in no uncertain terms. They said we can't do anything about that now. But we knew it then and it is here now.

I would also like to read a short quote from an article, Environmental Science and Technology that came out about 18 months ago, and this gets to the heart of the issue.

"Historically, the principal health concerns for waste incineration were mainly focused on communities living near the incinerators."

The National Research Council report more comprehensively identifies three populations at risk, including the local population, the workers and the larger regional population who may be remote from any particular incinerator, but who consume food, as per the risk assessment, potentially contaminated by one or more incinerators and other combustion sources that release the same persistent and bioaccumulated pollutants.

There has been some talk here about but our trash stream is different. The generation of dioxins is based upon the temperature regime, the presence of organic material, the presence of a chloride source, which includes salt, and the presence of a metal, preferably copper, but iron works fine. And you can generate all the dioxins you want.

One and a half pounds of dioxin represents about 700 times ten to the 12th nanograms of dioxins. I believe that a toxic effect can be seen in humans from some of the earlier exposures at about ten to 15 nanograms.

Therefore, if the people were directly contacted by the amounts of materials that are being generated through
these systems, we definitely would have a major health
problem.
With that, I only have one other thing to say. As
a bureaucrat now enforcing regulations, I always look to
the Constitution for my reasons for doing this, "promote
the general welfare."
Thank you.

CHAIRPERSON LLOYD: Thank you. May I suggest you
join Bob on the tour. You'd make an excellent pair there.
Any questions or comments?

Thank you very much.

MR. NISHIKAWA: Mr. Chairman and Members of the
Board, my name is Todd Nishikawa. I'm Acting Air
Pollution Control Officer for Placer County. And I'm here
representing the district board who has adopted a position
with regard to the proposed ATCM.
Our board supports the adoption of the ATCM kind
of conditionally. They support the ATCM, but they believe
that, as some speakers have previously said, that the
banning the burn barrels is not the intent of the measure,
but the measure's intended to prevent garbage and other
materials from being burned.
In Placer county we do currently allow paper and
cardboard to be burned, and we agreed that the prohibition
of burning that material is something that needs to be
done. However, in deference to Bob Reynolds, we do not
believe that there is sufficient justification regarding
the potential misuses of burn barrels to ban the barrels.
And that burn barrel can be used to safely burn vegetative
waste and enforcement measures can be taken with regard to
illegal burning.

And that it is the material in the burn barrel or
in an open burn pile that is of concern and not the burn
barrel itself. And it has been stated by other speakers
today, the district does not wish to become burn barrel
please. I do not believe that fire districts wish to
become burn barrel police, but we would be more than
willing to enforce regulations regarding material that is
burned, and that's all I have.

CHAIRPERSON LLOYD: Thank you very much.
Any questions?

Mr. McKinnon.

BOARD MEMBER McKINNON: How does not being burn
barrel police differ from not being police of what's in
the burn barrel? I'll tell you there's studies and
there's personal experience that says people burn trash,
most people burn trash.
And, you know, we get things like 6,000 people
burning in a county and there's five enforcement actions
for -- it flies in the face of the reality of this.
So how do you get into policing what's in the barrel as opposed to whether or not there's a barrel there, I don't get it?

MR. NISHIKAWA: Well, I think that the question that we would have to address if we did ban burn barrels is why we were banning a burn barrel? When someone was wishing wish to burn vegetative materials in a safe manner.

And so we would have difficult explaining why we're banning a burn barrel, and coming out, for example, finding somebody who's burning vegetative materials telling them you couldn't burn it in a burn barrel, because that's what the regulations stated even though we didn't burn paper.

In Placer County we have -- you know, we don't have a perfect enforcement system but we have a relatively aggressive system. You know, we have limited staff but we still try to enforce the rules.

With regard to the burning of garbage that does occur, but, you know, it's probably going to occur even if ban paper and burn barrels. I think that the need there is to have aggressive enforcement and to have a strong education effort to go along with that.

You have asked, you know, previous speakers regarding whether or not -- you now how many enforcement actions they've taken. In Placer County we probably get maybe 150 to 200 complaints a year. The majority of which are regarding burning of one sort or another.

And we in the past year in 2001, we probably have collected approximately $30,000 in fines regarding those violations, as well as provided warnings and education materials to burners.

So I think that, in our view, it's not the burn barrel that is at issue, it's the material, in that, both the education effort and enforcement effort would go far toward eliminating the burning of that bad material.

BOARD MEMBER McKINNON: Thanks.

CHAIRPERSON LLOYD: Thank you very much.
Wayne Morgan and David Jones.

MR. MORGAN: Mr. Chairman and Members of the Board, our Board Chair was supposed to be here this morning and he got fogged out in Eureka, so he was going to make the presentation.

I'll try to summarize his comments to the Board, however, which represents the position of the North Coast Unified Air Quality Management District.

CHAIRPERSON LLOYD: Which it's supportive.

MR. MORGAN: He is supportive. And he's not only he, but our entire board, was supportive based upon
the review of the health effects from residential burning,
burn barrel burning. It was very convincing to them that
something needs to be done.
CHAIRPERSON LLOYD: That would be excellent,
unless you had anything more to add to that.
(Mr. Morgan)
CHAIRPERSON LLOYD: That would be excellent,

MR. MORGAN: This is very brief, isn't it.
(Laughter.)

MR. MORGAN: There's a couple of things I'd like
to add because the Board did have some concerns. With the
zip code method, I think the staff has corrected those. I
might add is that we were the district that decided that
that could be a viable method of determining population
density with a zip code. We proposed it to CAPCOA.
CAPCOA proposed it to the ARB and here we are today.
CHAIRPERSON LLOYD: Great.
MR. MORGAN: Once in awhile rural districts do
things correctly.
CHAIRPERSON LLOYD: Particularly today.
MR. MORGAN: One of the concerns that our board
had was in California communities and it was echoed here
earlier, there's a law that required districts to divert
up to 50 percent of their waste by, I think it was,
January of 2000.
Humboldt County and our district have achieved
that 50 percent diversion. And their concern was is that
they should not be penalized because of some kind of
backsliding as result of the ATCM going into effect. So
they were asking that perhaps, and I think staff has
discussed with the Integrated Waste Management Board, and
I think, if my read on that is correct, is that there will
be no penalties for that type of backsliding.
CHAIRPERSON LLOYD: Thank you.
MR. MORGAN: There's no mention in this staff
report of any additional funding being made available for
the public outreach, the public education. And, I think,
we all agree that this is a very important part of the
ATCM.
One could argue that should the education be
before the regulation, my experience and my bias is that
you have to have a regulation followed by education to
make it effective. That's my bias.
I think it's appropriate for me to be towards the
end of this presentation. As you recall, I was here
before the Board last June, and I was here advocating that
you direct staff to expedite the process to go forward
with an ATCM for the burn barrels residential burning.
That was the result of looking and reviewing
evaluating the data that came out of the New York health
study, the EPA joint study with New York health. And it's
appropriate here today to finalize this. And we certainly
would recommend that you support your staff by adopting
this regulation today.
The other thing that hasn't been mentioned here
today, which I want to make you aware of is that even
though this ATCM is directed towards dioxin and the
reduction of people's exposure, there will be many other
benefits of toxic air contaminants such as Benzene,
1,3-Butadiene, PAHs and many more that will be reduced and
will in turn reduce people's exposure to those toxic air
contaminants as a result of this ATCM.
From that standpoint, I would beg that you go
forward and adopt the ATCM. It's reasonable.

CHAIRPERSON LLOYD: Thank you very much. Again,
that's helpful.

As question.
Wait, Mr. Morgan.

BOARD MEMBER RIORDAN: I want to hear Mr. Kenny was to say and then maybe I don't have a question.

EXECUTIVE OFFICER KENNY: I wanted to respond to
the one statement that Mr. Morgan made with regard to the
Waste Board. I mean, we actually have worked with the
Waste Board and we are trying to continue to work with the
Waste Board cooperatively. We've had a good solid
relationship with the Waste Board, and I'm sure that will
also relate to the districts.
At the same, I don't think the waste Board can
make a blanket statement that, in fact, any backsliding
would essentially be immune from any kind of prosecution
or penalties. You know, I think the Waste Board will try
to work with us. That's been their statement and their
posture all along, but I have not heard that from the
Waste Board, and so I would not want to essentially
characterize any of the Waste Board's cooperation or
coordination with us to essentially kind of have an
immunity from any kind of prosecution.
Number one, I don't think the staff of the Waste
Board has said that. And number two, the Waste Board is a
Board. And so, you know, the Board is going to direct
policy for the Waste Board.

MR. MORGAN: And I may have mischaracterized that
statement as well.

BOARD MEMBER RIORDAN: Let me just say there's
another component, and I tried not to take to much time,
but there's recycling component. Those people who have
discussed, say, burning of paper, we really should be
recycling that paper. We should not be burning the paper.
So there's more than one part of this and some of
it is, too, of course, keep these things from landfills.
That's another hat that the supervisors must wear. But the big part of this is the recycling program, and to make it all work well.

So we appreciate your comments.

MR. MORGAN: Thank you very much.

CHAIRPERSON LLOYD: Thank you, Wayne.

The last witness is David Jones.

MR. JONES: Mr. Chairman -- can you hear okay?

CHAIRPERSON LLOYD: Yes.

name is David Jones. I'm the air quality specialist for the Robinson Rancheria Pomo Indians. It's a small Rancheria in Lake County, Bob Reynold's, north shore or Clear Lake. We're bisected by Highway 20.

I must say right upfront, and this is a disclaimer from a tribal point of view, I don't speak for the tribe. I can't speak for the council. They're elected government. This is my professional and personal opinion.

Personally and professionally I'm in favor of a burn ban for burn barrels. Well, dealing with the burn barrels.

The Council for the Rancheria passed an ordinance six months ago doing exactly that, much simpler than yours.

(Laughter.)

Very simple.

(Laughter.)

MR. JONES: But there was a lot of education and outreach that went out and was begun a long time before that, so that -- and I'll explain, we have a small subdivision of, like, 22 homes and small a apartment complex of another 12 apartments.

We had approximately 20 burn barrels when we started. By the time the ordinance got passed, we had one, and that individual is still resisting, so we have just passed an ordinance for enforcement and a penalty dollar amount.

So most of the points in regards to this proposed regulation I find are valid considerations. Both the education, the enforcement, we don't have really any costs associated with it.

But we found that there was more to it than just the dioxins and the actual chemicals. We found that it was noxious, it was unsightly, and a potential fire hazard. We went through all the same sorts of things that you're discussing.

People tend to burn anything and everything. So they all have to pay to take their garbage to the landfill, sometimes they don't have transportation,
sometimes they don't have the money, for whatever reason. They tend to put everything in there. Glass bottles, clean clans, rubber, clothes. You name it, it will tend to go in there. With the banning of the burn barrels, the next step people tended to burn in their fire places or wood-burning stoves. All of our units have wood-burning stoves, so they're controlled combustion. That's still only a help to a limited extent. Pretty soon they got tired of the smell, so they only burned paper and cardboard. You know, everything else went out into the rubbish. We encouraged them to stop by increasing the number of cans they had to pickup by the local garbage. We do recycling at the rancheria. Paper and cardboard, by the way, doesn't generate much in the way of money for recycling. It's very minimal. And most of the people eventually stopped burning because it was simply just put it out in the trash, and That's curbside pickup. Like I said, I've got one individual that it's a routine. I don't know if it's exactly cultural or not, but he's still burning, not very frequently. We've got him reduced now. But all that said, like I mentioned earlier, I'm in favor of banning of burn barrels. So the unofficial personal point of view is just that. I might suggest that when you contact, you know, agencies and government groups and whatever about proposed regulations that maybe you include tribes in that list. Around the lake, we formed an environmental consortium, so it's really easy to contact us. Otherwise there's more than 100 tribes and the list is fairly long. CHAIRPERSON LLOYD: Is there something equivalent for the State that would be similar to CAPCOA for the rural counties, is there a central point we can utilize? MR. JONES: ITCA, I think, is the closest, the tribal council. That's probably the closest. The Bureau of Indian Affairs regulates the trust lands, doesn't have a complete list. It's changing. For example, there are six tribes around the lake. A new one was just recognized, so there's now seven. CHAIRPERSON LLOYD: Maybe we can get staff to look at that. MR. JONES: EPA doesn't have a complete list. I maintain a list for about six counties, just for that reason, that those are the people I network and deal with. But I can find out, you know, for you. CHAIRPERSON LLOYD: We'd appreciate it. MR. JONES: Because that would simplify a lot of
things. Tribes in California are all neighbors. We've only got one air shed to work with really. What we generate goes your way and vice versa.

CHAIRPERSON LLOYD: Thank you very much.

MR. JONES: Questions?

CHAIRPERSON LLOYD: Thank you very much.

MR. JONES: So you're finished.

CHAIRPERSON LLOYD: Yes.

Mr. Kenny, do you have any further comments?

EXECUTIVE OFFICER KENNY: No.

CHAIRPERSON LLOYD: I will now close the record on this agenda item. However, the record will be reopened when the 15-day notice of public availability is issued.

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

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

And to my colleagues here, do you have any ex parte communications to divulge at this time?

Seeing none, I guess we are open for discussion and review of the motion.

BOARD MEMBER RIORDAN: Mr. Chairman, I'm just wanting to underscore something that is in the resolution that's before us. And that is in talking about the Integrated Waste Management Board and working with them, we need to be very well coordinated because there may be, in deed, if we pass this, some additional interest in going to landfills by people that normally use the burn barrels.

But in four it does indicate that there might be some financial support for boosting recycling centers or perhaps even transfer stations to make recycling and getting rid of waste easier for the general public.

And I would encourage us to, sort of, underscore that with our staff, because I think that along with the education is going to make it work quite well, if this, in deed, is supported.

And it is my understanding that that money easily could be used. That's a perfect purpose for some of the monies that the Integrated Waste Management Board oversees. It's just a perfect use of that kind of money, so I'm very supportive of that.

CHAIRPERSON LLOYD: I have a couple of questions for staff, and maybe you know the answer to this, but would more time be helpful in resolving the differences with the rural counties?
EXECUTIVE OFFICER KENNY: We don't think so. What we tried to do is actually provide some additional time for implementation, but at the same time we do think that we have, at least, kind of, a reasonable approach here. One of the requests from the rural counties was kind of the reliance upon an educational component, almost exclusively, because, you know, the thought was is that education really would be the solution here. We don't think that's the proper solution. We do think that, essentially, you know, banning burn barrels really will provide the solution that we're looking for.

CHAIRPERSON LLOYD: I was aware of a comment about maybe even an extension of the time period for implementation. Is that available? Is the option available if a particular county wanted to apply for an extension?

EXECUTIVE OFFICER KENNY: We don't have that in there currently. What we tried to do with this regulation was minimize the amount of discretion that would be associated with the regulation, and really set the regulation up so that it was almost self-implementing. We were trying to do that in order to avoid kind of a, almost like sort of a cookie cutter approach. And so we think right now that if we set it up in a way in which it is fundamentally self-implementing with the exception of kind of subdivisions on the zip codes.

And that at the same time we have basically, you know, extend out the implementation timeframe until 2004.

So between those things, we think that we actually have a Regulation that is fairly straightforward, has very limited discretion in it, and is essentially self-implementing, which we thought was all beneficial.

CHAIRPERSON LLOYD: On the education side of it, of course we heard a lot about this. But also I think there was a real need to work with the districts and with the counties there as we go ahead on the implementation of this. I'm read this, from what staff is saying, you'll continue to work with them on the education side.

EXECUTIVE OFFICER KENNY: We do think education is very important. In fact, when we have spoken with the RCRC, and Jim Hemminger has been very helpful throughout the process, I mean, he has highlighted and the RCRCAs really highlighted the value of education and we do not disagree with them at all. We think they're right.

BOARD MEMBER RIORDAN: Also, Mr. Chairman, I think we would make use of some of those air pollution control districts that have in place this ban and their successes.

And while I recognize there are some very rural counties that we've heard from today, I just remind you,
say for instance the Mojave Air Basin, which I represent, we have probably over 22,000 square miles. And in that 22,000 square miles, there is real rural area. Rural that would equate to anything that any of the northern counties might have. And we've had a burn, no burn, for an extended period of time.

It can be done, and it is within your ability to do. You've got to have support. But I can tell you that there isn't anyone who would go back to the old days of a burn barrel. It can be done in the most rural of areas.

So I just say that from my personal experience.

CHAIRPERSON LLOYD: Thank you.

Any comments?

Mr. McKinnon.

BOARD MEMBER McKINNON: I'm real interested in making sure that the bulk of what we do is in populated places. And that in places where there are very few people, we're not as stringent. And I think the zip code subdivision of zip code goes along way to deal with that.

However, after we discussed that, there were a couple of comments about people being across the street in a different zip code or something like that. Is it not possible -- for the record, my understanding of it is then you subdivide two zip codes, so that you get the urban area or the most populated, densely populated, area regulated so people are not burning trash for other people to breathe.

And that in the outside of those subdivisions where you get to the lower density, then the exemptions take place.

EXECUTIVE OFFICER KENNY: The way we've tried to craft the subdivisions on the zip codes is that we would subdivide zip codes down into the zero to three area. And we do think that, in fact, what that will do is that will result in essentially eliminating people who are in those very kind of nondense areas, and we'll exempt them from the regulation.

We don't think that, in fact, this kind of person-who-crosses-the-street concept is really going to be very applicable in that situation, primarily because of the fact that if we're subdivideing zip codes we are down to the zero to three per square mile area. And so it's very unlikely that we would run into that kind of a situation.

If we try to do multiple zip code subdivisions, we're afraid that what will happen is that we'll get into a situation in which we don't have a regulation that essentially is easy to implement. In fact we're having to make decisions across the State in those areas on very
small geographic determinations.
So we're trying to avoid that, and at the same
time recognize that because we're in the zero to three
area, we shouldn't have, you know, the neighbors across
the street where one can and one can't burn.

BOARD MEMBER McKINNON: Then I would really
want -- if we ended up with a strange result that came out
of this, I would want us to have the ability to alter
that. You know, if it really truly turned out that you
got most of a population, the dense population, and there
was a street, and you had a little bit more dense
population, and there were two different sets of rules and
divided it, kind of, if that would really happen, if
that's even possible.

EXECUTIVE OFFICER KENNY: We don't think that
will happen. However, we do hear -- if you can think
back -- if we do have that sort of inequitable result is
something we would want to look at and will probably bring
back to you.

But we don't expect that happen. And so as we
basically sort of -- if we were move to forward with
implementation of this reg, I mean, we will continue to
monitor it. We'll do the education and outreach. And if
we see that, we'll bring it back.

CHAIRPERSON LLOYD: Ms. D'Adamo.

BOARD MEMBER D'ADAMO: Yes. I was going to
suggest that staff come back with a report in, I don't
know, say six months or a year, whatever staff would think
would be most workable, to report on the zip code issue.
Maybe give us a map so we can see just how it works out in
terms of real practice.

And then also if staff could report back on the
public outreach and education efforts, enforcement, I'm
curious to see is this something that's just going to be
put on the books and -- it's a real funding issue, so it's
my hope that this will drive the local communities to
expand garbage collection and recycling services. And I'd
be curious to see what it looks like, you know, in a year
from now.

EXECUTIVE OFFICER KENNY: Actually, if I could
make one comment on that. The implementation is not
scheduled to start until January 1st, 2004. And so my
suggestion there is we report back essentially one year
after implementation, because then we would have, kind of,
information about how it's going forward and what kind of
problems there are, and for example, Mr. McKinnon's
concern about whether or not we are seeing some inequities
with regard to boundaries. And we could look at all of
those things and report back.

BOARD MEMBER D'ADAMO: That would be great. And
then one other suggestion is while on page seven of the proposed resolution, I think it would be helpful to insert public health organizations. This is the group that will be working together with the local districts, make it broad enough to encompass the Lung Association, and others that have made comments today.

CHAIRPERSON LLOYD: Great. Any other comments?

BOARD MEMBER CALHOUN: Have we not resolved most of the concerns expressed by people who have testified here today, except for their desire that we just not ban burn barrels?

PLANNING AND TECHNICAL SUPPORT CHIEF FLETCHER: I would say that that's generally true with the exception of the issue associated with burning of paper and cardboard in the red areas.

I think that would be the one issue we probably have not resolved to everybody's satisfaction.

CHAIRPERSON LLOYD: With that, I would entertain a motion.

BOARD MEMBER D'ADAMO: So moved.

BOARD MEMBER RIORDAN: I'll second the motion.

Mr. Chairman.

CHAIRPERSON LLOYD: I think. Fine okay, Supervisor DeSaulnier?

BOARD MEMBER DeSAULNIER: I'm fine. I'm trying to be quiet.

CHAIRPERSON LLOYD: Do you want that on the record?

BOARD MEMBER DeSAULNIER: No.

CHAIRPERSON LLOYD: All in favor say aye?

(Ayes.)

CHAIRPERSON LLOYD: Anybody against?

It's a unanimous vote on that one from here.
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California Air Resources Board meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of March, 2001.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
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