APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Doreene D'Adamo

Ms. Lydia H. Kennard

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John Telles

STAFF

Mr. James Goldstene, Executive Officer

Ms. La Ronda Bowen, Ombudsman

Mr. Tom Cackette, Chief Deputy Executive Officer

Mr. Bob Fletcher, Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Ms. Lynn Terry, Deputy Executive Officer

Ms. Lori Andreoni, Board Clerk

Ms. Sharon Anderson, Manager, Program Management and Integration Section, OCC

Ms. Tabetha Willmon, Air Pollution Specialist, Program Management and Integration Section, OCC

Ms. Edie Chang, Chief, Program Planning and Management and Integration Section, OCC
APPEARANCES CONTINUED

STAFF:

Mr. Kevin Kennedy, Assistant Executive Officer, OCC

Ms. Kim Heroy-Rogalski, Manager, Off-Road Implementation Section, Mobile Source Control Division (MSCD)

Mr. Tony Brasil, Chief, Heavy-Duty Diesel Implementation Branch, MSCD

Mr. Michael Benjamin, Chief, Mobile Source Analysis Branch, PTSD

Mr. Erik White, Assistant Chief, MSCD

Mr. Bob Cross, Chief, MSCD

Mr. Michael Terris, Senior Staff Counsel, Office of Legal Affairs

ALSO PRESENT:

Ms. Karen Douglas, CEC

Mr. Javier Romero, California Workforce Investment Board

Mr. Hank Ryan, Small Business California

Mr. Juhan Canete, California Hispanic Chamber of Commerce

Mr. Hank de Carbonel, Concrete Pumpers

Mr. Henry Hogo, South Coast AQMD

Mr. Damien Breen, Bay Area AQMD

Mr. Rasto Brezny, MECA

Mr. Michael Graboski, American Rental Association

Mr. John Lawson, Lawson Rock & Oil, Inc.

Mr. Skip Brown, Delta Construction Company
APPEARANCES CONTINUED

ALSO PRESENT:

Mr. Jon Cloud, J. Cloud Inc.
Mr. James Jack, Emission Control Technology Association
Mr. Michael Kennedy, AGC
Mr. James Lyons, AGC
Mr. Michael Steel, AGC
Mr. Tom Brown, AGC
Mr. Mike Shaw, EGCA/AGC
Mr. Eric Carleson, Associated California Loggers
Mr. Richard Lee, California Diesel Emissions
Mr. William Davis, SCCA
Ms. Betty Plowman, California Dump Truck Owners Association
Mr. Dave Harrison, Operating Engineers
Mr. Jim Jacobs, Operating Engineers
Mr. Randal Friedman, U.S. Navy
Mr. Don McKinley, U.S. Marine Corps
Mr. Michael Lewis, Construction Industry Air Quality Coalition
Ms. Bonnie Holmes-Gen, American Lung Association of CA
Ms. Nidia Bautista, Coalition for Clean Air
Mr. Andy Katz, Breathe California
Mr. Nick Pfeifer, Granite Construction, Inc.
Mr. Matt Schrap, California Trucking Association
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CHAIRPERSON NICHOLS: Ladies and gentlemen, good morning. Happy Earth Day. We are about to begin the April 22, 2010 public meeting of the Air Resources Board, so I will call the Board to order, and as our first order of business we will stand and say the Pledge of Allegiance to the flag.

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

CHAIRPERSON NICHOLS: Will the clerk please call the roll.

BOARD CLERK ANDREANI: Dr. Balmes?

BOARD MEMBER BALMES: Here.

BOARD CLERK ANDREANI: Ms. Berg?

BOARD MEMBER BERG: Here.

BOARD CLERK ANDREANI: Ms. D'Adamo?

BOARD MEMBER D'ADAMO: Here.

BOARD CLERK ANDREANI: Ms. Kennard?

BOARD MEMBER KENNARD: Here.

BOARD CLERK ANDREANI: Mayor Loveridge?

Mrs. Riordan?

BOARD MEMBER RIORDAN: Here.
Chairperson Nichols?  

Chairman Nichols: Thank you.

I trust all of you made your way through the Earth Day festivities downstairs. For the last couple of years CalEPA has combined take your child to work day with Earth Day. And so the employees not only have their children here, but they have a whole set of exhibits and demonstrations going on. I believe the Air Resources Board is responsible for three of those exhibits. One of them I know relates to fuel cells, and one of them is a "building a cloud" exhibit which is supposed to be quite fun. So during the break I hope that you'll all get a chance to go down and make your way through it. You don't have to be a kid to participate in the activities, and they really are
A couple of announcements for housekeeping purposes. I want to make sure everybody knows that there are emergency exits at the rear of the room and that in the event of a fire alarm we're required to evacuate this room and to go down the stairs and out of the building until we hear the all clear signal and then we can return to the room and resume the hearing.

Again, for anybody who is not familiar with the procedures, we have staff outside the auditorium with cards to sign up. If you wish to speak you are asked but not required to include your name on the speaker card. We do impose a three-minute time limit, generally, on public comment simply so we can get to everybody who wants to speak. So we appreciate it if when you come up to the podium you state your full name and then just speak in your own words rather than reading a prepared text. If you have written comments, they will be distributed to the Board.
2009. We are clearly approaching the home stretch as we work to complete development and approval of all of the greenhouse gas emissions reduction measures that were identified in the Scoping Plan by the statutory deadline which is the end of this year.

So it's obviously important for the Board and the staff that we maintain our focus and make sure that we are keeping our momentum. However, I think as is evident from our meeting yesterday afternoon, we're also in a situation that is somewhat more challenging than I think anyone anticipated when the bill was passed, and so the amount of attention to the relationship between AB 32 and the state's economy has never been more intense than it is right now. And I think that yesterday's proceeding went a long way towards at least clarifying what we know as well as what we don't know about how models and other economists' tools can help us understand better how we can craft our plans in a way that addresses both the energy challenges that the state has and also deals with the very difficult economic times that we're in as well.

The report that we're about to hear is one of a series of regular updates and is intended to be informational only in terms of the activities of the staff to date. It's not meant to be a rehash of
yesterday's economic symposium. I think that we aired those issues quite adequately. And although I'm sure we'll get new information from time to time, we've now completed our review of the Economic Impact Analysis Report and the review by the EAAC committee. So with that, Mr. Goldstene, would you please introduce this item.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman Nichols. As you mentioned, today's update is part of the ongoing series of updates to the Board on our progress to develop measures that implement the Climate Change Scoping Plan. As part of this month's progress report we also wanted to update the Board on many ongoing activities that complement the successful integration of Scoping Plan measures into the development of a green economy. Although these aren't the regulatory activities normally associated with what we do, they are
nonevertheless crucial to the success of AB 32.

I would now like to have Ms. Tabetha Willmon of the Office of Climate Change begin the staff presentation. Tabetha?

AIR POLLUTION SPECIALIST WILLMON: Thank you, Mr. Goldstene.

Chairman and Board Members, it's my pleasure to be here today to present our Climate Change Scoping Plan Implementation Update.

Prior updates to the Board on the Scoping Plan have focused mainly on the implementation status of the regulations needed to achieve the 2020 emission reduction goal. Today I'll provide a brief update on our progress for implementing these measures including an update on federal activity and a preview of upcoming milestones.

I'll also touch on some of the important nonregulatory activities that we and our partners are undertaking to help pave the way for successful implementation of AB 32.

As you know, the Climate Change Scoping Plan includes over 70 measures to implement AB 32. To date the Board's approved 14 of the 30 ARB regulations identified in the Scoping Plan including all nine Discrete Early Actions. Together the measures that have
already been approved, including those by other agencies, will reduce our emissions by about 78 million metric tons in the year 2020. This is almost half of the emission reductions needed to get back to the 1990 levels.

The two regulatory measures that the Board considered and approved since our last update in November will provide over 8 tons of greenhouse gas reductions towards the 2020 goal. But perhaps more important, measures like these continue ARB's efforts to reduce emissions from high global warming potential gases, a small but growing part of climate changing emissions, and emissions that will likely not be included in the cap-and-trade regulation.

As we continue to develop and bring regulations to the Board for approval, we'll occasionally need to refine our approach. For example, following the June 2009 adoption of the cool cars regulation, issues were raised regarding the regulation's potential effect on public safety. After much consideration, last month ARB staff decided to cease rulemaking on this measure and instead will pursue an alternative performance-based approach as part of our vehicle climate change program.

While situations like this require us to veer slightly from our original path, we'll continue to
explore alternative approaches that will allow us to
make up these emissions reductions and to meet our
Scoping Plan goals.

As you know, California's climate change
program affects every sector of the economy and requires
that we work closely with other state and federal
agencies. At the state agency level, the eleven working
groups of the climate action team, or the CAT, are in
the process of preparing near-term implementation plans
for strategies that will be implemented this year. This
information will be incorporated into the CAT's 2010
report later, later this year.

The U.S. EPA has also been busy. Within the
last few weeks the EPA has finalized their regulations
on light-duty vehicles along with the Department of
Transportation's CAPE standards. And following our
nation's lead, the Canadian government recently
announced their intent to establish the same standards.

California is now looking to develop its next
round of standards for light-duty vehicles. U.S. EPA
recently finalized a reassessment of the Johnson memo
which will delay regulation of greenhouse gases from
large stationary sources until January 2nd, 2011. In
addition, EPA also finalized their federal mandatory
reporting rule which became effective late December.
Now, what about Congress? We've heard news that a concept paper for legislation from Senators Kerry/Graham/Lieberman may be coming out soon, so we'll stay tuned on that.

As we head into the home stretch for bringing Scoping Plan measures to the Board for consideration, we are approaching several milestones. As we continue to pursue rulemakings, we recognize the current economic conditions and will take that into consideration during regulatory development.

With that in mind, we're building on the existing 20 percent renewable portfolio standard with a 33 percent renewable electricity standard. Together these two measures will achieve about 21 million metric tons of reductions in 2020. We've been working closely with the Public Utilities Commission, California Energy Commission and Cal-ISO as well as the public on developing this proposal, and we're on schedule to bring this item for board consideration this July.

Since your last update in November, ARB staff have been collaborating with the Metropolitan Planning Organizations for each of the 18 regions in California to establish the SB 375 regional targets. In May the MPOs will provide us with alternative scenarios on how their regions can grow into the future. These scenarios
will help us develop the draft targets which we will release in late June, and we expect Board consideration of the targets in September.

CalRecycle in partnership with ARB continues to fine-tune draft regulations for mandatory commercial recycling. We anticipate formal rulemaking is going to begin in mid 2010 with ARB scheduled to consider these regs in October of this year.

Later this year the Board will also consider the cap-and-trade regulation. This regulation we expect to provide the largest reduction of greenhouse gas emissions from the Scoping Plan measures with an estimated 34 million metric tons of reductions. And I'll discuss this regulation in the next slide.

The Board will finish the year with a number of vehicle related regulations. Early last month we held a workshop to kick off our regulatory development for the next generation of cleaner cars. ARB is taking a new approach called Advanced Clean Cars which links the Low Emission Vehicle and Pavley standards into a single regulatory framework. One portion of this regulation will focus on criteria pollutants, and the other will focus on greenhouse gases.

As you know, staff has continued to work on development of the cap-and-trade regulation over the
last several months. In late November the ARB released a preliminary draft cap-and-trade regulation. This document combines in one place the results of over a year-long public process involving 22 workshops on issues related to cap-and-trade design and builds on more than two years of collaboration with partners of the Western Climate Initiative.

We expect to initiate the next phase of our rulemaking soon. The process we engage in will be a deliberative approach that will provide businesses and industries in the state with sufficient time to reduce their emissions in a cost-effective manner without unnecessary short-term costs.

We'll continue to invite stakeholder participation throughout the process which involves proposals for how allowances could be distributed, the phase-in of covered sources into the program and market oversight and enforcement. ARB is also developing revisions to our existing mandatory reporting requirements to align these with the federal program.

ARB is focusing attention on the development of high quality offset protocols to incorporate rigorous verification and enforcement provisions that are necessary for compliance.

Finally, as part of the rulemaking process, ARB
is performing technical analyses to identify potential environmental, health and economic impacts that might be associated with the implementation of the cap-and-trade program. We're planning to present a final draft regulation to the Board later this year.

Another part of this presentation is the revisit of our original AB 32 Scoping Plan economic analysis. Some of you attended the Board Meeting yesterday and heard presentations and feedback. But let me quickly go over the activities for the past few months.

ARB staff held a workshop to discuss the modeling efforts for the updated economic analysis and made several public presentations during the Economic and Allocation Advisory Committee meetings. Late last month we released an updated economic analysis which forecasts robust economic growth as the State continues implementing AB 32. The updated economic analysis was prepared in close consultation with the Economic and Allocation Advisory Committee's economic impacts subcommittee. This subcommittee advised ARB staff during the analysis and also contributed their own peer review.

Yesterday ARB staff conducted a forum as part of our Board Meeting to receive feedback on the updated
analysis and also to discuss other economic analyses of
the Scoping Plan. As our chairman mentioned, evident
from yesterday's discussion, many stakeholders continue
to focus attention on the Scoping Plan's implementation
and its relationship to the State's economy.

ARB's updated analysis confirms that full
implementation of the Scoping Plan is the right choice
for California to make an affordable transition to a
clean energy economy. ARB will continue to evaluate the
economic impacts of the Scoping Plan measures as they're
proposed for Board consideration.

Overall, the economic evaluation reassures us
that the State's greenhouse programs are moving in the
right direction, but this road is not without
challenges. I want to share information about some of
the nonregulatory activities that are underway to
support AB 32 and to smooth our transition away from
dependence on foreign nations and their fuel supply to a
more self-sustaining, low carbon economy.

We have good news. California has seen
increased venture capital investment in clean
technologies as well as an increase in number of green
businesses and green jobs, in spite of a slowing
economy.

Because the Scoping Plan covers so many
different areas of the State's economy, ARB has been monitoring how the activities on the ground level integrate; meaning, what does transportation, energy, land use, solid waste, water and these other sector measures mean for individuals, business owners and local and regional governments? We're working to increase knowledge and understanding of California's climate change program at the ground level to ensure that our programs are successful and deliver the emission reductions needed to meet our near-term and our long-term emission reduction goals.

Some of the activities I'll touch upon include American Reinvestment and Recovery Act, or ARRA funding, focusing our efforts on ways to expedite economic recovery through workforce training and development as we transition to clean energy jobs, reaching out to small businesses on green opportunities and successes, and working to provide local governments with guidance and tools for climate action planning.

Because of the broad scope of these types of activities, we're working closely with partners in the public and private sectors, including other state agencies, nongovernmental organizations, the Federal Government and local governments to ensure coordination in the programs we develop. And some of our partners
are here today to talk about their activities.

ARRA funds are not just being used for economic growth but also to stimulate reductions in greenhouse gas emissions through investment in green energy and efficiency. Over $800 million in ARRA funds has been directed for building energy projects in California. This includes the U.S. Department of Energy direct and California Energy Commission distributed Energy Efficiency Block Grants as well as State Energy Program funds and Community Services and Development Department weatherization funding.

ARB staff have been working with other state agencies to track how the Recovery Act money will help stimulate green economic growth. Much of the ARRA money is being used to fund projects that could reduce greenhouse gas emissions, which ultimately may mean more reductions than we projected in the Scoping Plan.

As investment in clean technology and industry increases, ARB staff and others are working to identify the real jobs created throughout California in these green businesses. I'd like to take a moment to highlight some of the jobs being created in the clean energy sector. These jobs will help strengthen our local economy as well as offset job losses associated with our transition from fossil fuels to renewable
sources.

Just this month we heard that a Spanish solar development company called ODPE chose West Sacramento as its location for their U.S. headquarters. They plan to build the biggest solar plant of their kind in the country by June 2011. This plant will add 250 jobs for construction of the facility and another 75 to 120 permanent jobs to operate it.

Also, Genesis Solar plans to construct, own and operate a concentrated solar electric generating facility in Riverside County. This project will employ up to 1000 people during the 37-month construction phase and 45 full-time employees once the construction is completed to operate and maintain the facility.

Another type of renewable energy, biofuels, is being produced by Sapphire Energy which is an algae-based fuel producer in San Diego. Sapphire has proven its biofuel technology by having successfully flown a Continental Airlines Boeing 737 on its algae-based jet fuel with textbook results. It's also driven a Toyota Prius cross country on algae-based gasoline and diesel with equally impressive results. Sapphire Energy has recently added 37 new jobs in San Diego County.

Because we know there may be challenges to
developing these projects, it's important that we understand the obstacles so we can help work to resolve them. We believe that investment in clean industry and technology will help spur economic growth in California. Governor Schwarzenegger agrees, and part of his California Jobs Initiative eliminates sales tax on green technology manufacturing equipment thereby fostering a more clean business friendly economy.

With job growth comes the need for worker training. In response to broad environmental and clean energy policies, California established the Green Collar Jobs Council which ARB's Executive Officer is a member of. ARB staff worked with the California Workforce Investment Board, which is the oversight body for the Green Collar Jobs Council, to help shape the direction of the workforce development and support California's green business and economy.

The Council has successfully pushed a regional approach to the California Workforce Investment Board's activities so that green workforce training responds to the green regional economies.

One success from the Green Collar Jobs Council is the Clean Energy Workforce Training program which provides $27 million to 34 workforce development partnerships. This program will train approximately
5,000 to 6,000 workers for jobs in the energy efficiency, renewable energy, and alternative and renewable fuel and vehicle technologies.

Also, the California Workforce Investment Board was awarded $2.5 million in Regional Cluster of Opportunity Grants. Ten workforce investment areas will receive funds to develop more specific regional information about the known and projected needs of the employers so that workforce training can be more targeted.

In addition, the U.S. Department of Labor awarded their maximum grant of $6 million to the California Workforce Investment Board to support six regional teams to develop energy efficiency and renewable energy training programs.

California is working to strengthen its economy by helping businesses with their bottom line, creating jobs and enhancing workforce development. The Governor recently established an Office of Economic Development which is designed to serve as a centralized point for helping businesses.

As you heard in the Ombudsman's report to the Board in February, ARB has also focused on the role small businesses play in implementing AB 32 and a green economy. Last year we established the CoolCalifornia
Small Business awards program to recognize small California businesses that have demonstrated leadership and made notable voluntary achievements towards reducing their climate impact. In December we recognized the efforts of 21 California small businesses.

ARB has also identified numerous proactive small businesses to serve as case studies. We've delivered ARB's message on climate change, energy efficiency and the green economy to over 30,000 individual businesses and to 1200 small business associations representing hundreds of thousands of small businesses.

These efforts culminated in an ARB-hosted small business workshop which was held last month in conjunction with the Green California Summit on the green economy. The workshop included sessions that featured small business owners describing the steps they've taken to reduce economic and environmental costs to their businesses, their employees and customers.

The workshop was well received by over 100 attendees, and we've had numerous requests to hold similar workshops in other parts of the state. Through venues such as these we continue to promote the CoolCalifornia Small Business toolkit. Stay tuned as we're working on an upcoming campaign to
increase the visibility of our CoolCalifornia toolkits.

In the next few slides I'll highlight a few success stories from small businesses. I'd first like to demonstrate how environmental experts and public utilities worked together to help business and residents in the Lennox area in Los Angeles County to reduce energy use. This project demonstrated how small businesses can participate in the benefits of AB 32.

For this project, ARB brokered discussions with local leaders, Southern California Edison, the West Basin Water District and the Golden State Water Company to provide installation of energy and water conservation resources such as new lighting, refrigeration and heating, low-flush toilets and kitchen resources. This collaboration provided up to $10,000 in energy and conservation improvements to each of the more than 90 businesses.

The goal is to demonstrate how small businesses can easily achieve nearly 15 to 20 percent in energy savings with retrofits by taking advantage of available resources.

For Old Town Trolley Tours, clean transportation is the key to their success. Over the last 20 years, Old Town Trolley Tours in San Diego has provided sightseeing tours using 27 trolleys and five
boats on wheels vehicles. They give tours to approximately 500 to 1000 people per day.

Old Town Trolley's CEO instituted companywide green policies which included implementing a recycling program, creating a green team to educate the public on sustainable practices, and they implemented energy efficiency measures in their offices which reduced electricity use by 33 percent. To pay for the retrofits they used on-bill financing and rebates. These proactive changes annually save over 300 tons of carbon dioxide emissions from entering the atmosphere and $1440 in annual lighting costs.

Another example in Sunnyvale is Savory & Sweet Catering who has been working to make their company green while also helping clients become more environmentally friendly. Since 1993 this small business has made it a point to combine deliveries so they drive less, conserve energy, save water, recycle, use environmentally-preferable products, reduce food wastes, reduce paper usage, and they encourage climate-friendly practices. These actions and others have resulted in annual savings of 12 percent on fuel costs and 10 percent of their electricity bills.

We recognize that local governments are essential partners in helping California achieve our
greenhouse gas reduction goals, and we've been working
to help integrate local government activities into
successful AB 32 implementation. By developing on-line
inventory and climate planning tools, we can help local
governments start the process to inventory their
greenhouse gases and identify the most cost-effective
and appropriate strategies to save money while reducing
emissions.

We're working to develop a funding wizard which
will help local governments identify grants and other
funding available to them to plan and implement
greenhouse gas reduction activities. Over the next year
we will be incorporating these tools into the
CoolCalifornia Local Government Toolkit.

We're also working closely with other state
agencies, the Strategic Growth Council and U.S. EPA on
ways to encourage local government action. ARB has
assisted the Strategic Growth Council in developing
criteria for their sustainability planning grants which
will help local governments integrate sustainability
strategies into their planning elements. We're also
identifying successful models and strategies that can be
replicated by communities throughout California.

We know that cities and counties hold the key
to encouraging sustainability in local communities. For
instance, Sonoma County has been on the forefront of climate planning and is noted for its regional planning approach. The ten local governments within Sonoma County set a mutual greenhouse gas target to reduce emissions to 25 percent below 1990 levels by 2015. They've published a regional Community Climate Action Plan and have initiated countywide programs such as their retrofit and renewables program for homeowners and the business community. Sonoma estimates the program will create significant local jobs, reduce greenhouse gas emissions by 168,000 tons and add to the local economy.

You can see that much has been accomplished since December of 2008 when you considered the Scoping Plan. Measures have been approved that achieve nearly half the reductions to meet the 2020 goal, but the Board will consider many significant emission reduction measures this year.

We are also working to make sure that California is ready for the transition to a low carbon economy. And we will continue to respond to the question: How does AB 32 affect me and what do I need to do?

It's critical to provide outreach information about our climate change program to those that will
ultimately see its effect -- homeowners, business
owners, employees and policymakers.

Our actions and leadership in both the
regulatory and nonregulatory arenas continue to have a
positive impact on the region, the nation and the world.

Thank you. This completes my presentation, and
we'll take any questions you have.

CHAIRPERSON NICHOLS: Thank you. Are there
questions at this point?

Sorry, I didn't have my mic on.

I note the Chairman of the Energy Commission is
in the audience, and I'm assuming she's here on this
topic.

EXECUTIVE OFFICER GOLDSTEN E: She is, and I was
just going to introduce her or prompt you to introduce
her.

CHAIRPERSON NICHOLS: No, no, please do.

EXECUTIVE OFFICER GOLDSTEN E: Well, Karen
Douglas, the Chairman of the Energy Commission, is here
to give us an overview of what they've been doing in
this regard.

CHAIRPERSON NICHOLS: Okay. Well, I think it
would be great to hear from our sister agency,
especially since I was just over in her territory this
morning kicking off a joint panel on carbon capture and
sequestration. So there's a lot going on here.

Welcome.

MS. DOUGLAS: Thank you so much for this opportunity.

Chairman Nichols, Air Board Members, it's a real honor to be here today to talk about what the Energy Commission is doing to administer particularly stimulus funds -- I'll touch briefly on some of our other programs -- in a way that creates jobs and helps advance State energy policy and helps all of you and helps the State in meeting the goals of the Scoping Plan.

I want to start by thanking the Air Board for its leadership and its hard work on AB 32 and the Scoping Plan. You've done a tremendous job, and we and other agencies are doing everything we can to support you and help you meet your goals.

I'll talk about some of the things we're doing, but I wanted to recognize your achievements and also express my appreciation for the close working relationship and partnership we have had, the Energy Commission with the Air Board, certainly on the time that I've been on the commission and I know for a long time, but I think the relationship is very good right now and the need to work together is so important,
because as you all know, climate, energy, air quality, these are inextricably linked as we move to pursue all of these goals.

In terms of our ARRA work, we've done two things. I'll talk about two categories of programs that we're working on. There are the bread-and-butter programs where we know exactly what to do and how to do it and we can roll out money quickly. And these are for things like energy efficiency retrofits. We've got one program through block grants that gives direct grants to small cities and counties and helps fund them to do energy efficiency projects. So they are renovating streetlights to put in less energy-intensive street lights. They're improving buildings. They're putting in new lighting systems in public garages. They're doing tremendous work.

The block grant money is reaching literally, between our program and the matching Department of Energy program, every county in the state, virtually every city in the state -- and we knocked on the door of every city in the state and most of them took us up on it and helped develop programs. And there are projects taking place up and down the state everywhere. So this is really exciting. Local governments have responded in a tremendous way to this opportunity.
We funded $20 million into our ECAA program. The ECAA program is a low interest loan program for energy efficiency retrofits, again for public buildings. In many cases local governments matched their block grant money with our ECAA loans in order to be able to do a bigger, further-reaching project with more benefits. So that's been tremendous.

The ECAA money is gone. Everything we had from our initial program plus everything we added to it from ARRA is gone. And when we started out this program we were concerned about whether low interest loans would fly, in this economic climate, in this time will people be willing to do it. Well, they signed up in droves, and it's really exciting to see, and we've got some very good projects coming out of that.

We put $25 million into a revolving loan program at the Department of General Services for State buildings. So this is the State counterpart to the ECAA loan program which does not reach state buildings. This is the first time that the State has had -- at least first time in a very long time that the State has had this kind of funding set aside dedicated to improving the energy efficiency of State buildings. And it's a tremendous opportunity, because we've structured it as a revolving loan. And this is a
way -- DGS has had to do a lot of work to figure out how to get through the market barriers. Just as there are market barriers in the private sector side, there are barriers in state government in terms of how buildings are managed and lease operations with DGS and so on. We have worked with DGS and the Department of Finance, they have come up with a way of essentially repaying these loans. The fund will be replenished.

As this model proves its worth, it's my hope that we will be able to take another step and look at leveraging private money in addition to utility funds, look at other ways of increasing the investment in the efficiency of state buildings as this model which has worked and proven its worked in the ECAA program for many, many years, makes its debut in State buildings.

So this is a very exciting opportunity.

In terms of the more innovative, far-reaching programs, the first one I'll talk about is the Workforce Training Program. The Energy Commission put $20 million of ARRA funds into the Workforce Training Partnership. But with our partners -- and I'll read them. The California Energy Workforce Training Program, it's a collaboration of the Green Jobs Council, the Energy Commission, the Employment Development Department, the Workforce Investment Board, Community Colleges, the
Employment Training Panel. It's a tremendous -- and
others. It's a tremendous collaboration.

And we managed to with that investment find
leverage up to $87 million and create the largest State
program for training clean energy workforce. It's a
tremendous, tremendous program. It's the first time
that the Energy Commission has had this kind of working
relationship and collaboration with State entities and
regional entities that do workforce training, and we've
just been amazed by the great work that has come out of
it and impressed.

And you'll hear from the Workforce Investment
Board, so I won't say too much. But what I will say is
that there are $58 million going to training for
displaced workers, underemployed and new workforce
entrance. I have heard some stories and some
testimonials coming out of that that have just been
amazing to me and reminded me again and again why we
even do this work. It's tremendous the impact this
program has already had on people's lives.

These are regional partnerships, it's demand
driven, so the partners who get funding have to have an
employer's council. That helps ensure that what people
are being trained to do leads to jobs. And --

CHAIRPERSON NICHOLS: And reliable electricity.
Hang on just a second. Our video people are asking for a time out so they may be experiencing some sort of a problem.

MS. DOUGLAS: Was that the signal, the light turns off when --

CHAIRPERSON NICHOLS: No, the lights are fine but I think there's a lot of cable back there making me wonder what's going on.

Karen, it would be helpful if you would get a little closer to the mic or get it closer to you. You have a soft voice. While they're waiting, I'm going to ask you a question about the link back, because I hear anecdotally that when I talk to businesses about what's going on that they make a connection with AB 32 and some of these other kinds of investments. But do you think there are ways of explicitly monitoring and measuring the impact of these programs on carbon in the state?

MS. DOUGLAS: Oh, yes.

CHAIRPERSON NICHOLS: Are we trying to do it?

MS. DOUGLAS: These programs come with very intense measuring, verification and evaluation requirements. And so we have some of the most advanced MVNE and auditing provisions that we have ever had for programs on the ARRA money, and we're also using those
same protocols and applying them now to AB 118 and peer funds.

So we're doing a tremendous amount of MVNE.

As you know, translating electricity savings in different parts of the state into greenhouse gas reductions is an exercise that ARB has worked quite a bit to develop methodologies for doing. So that's somewhere between an art and a science.

But in terms of assessing energy saved, it's absolutely there. And it's also -- there's also a really important connection to people. The energy efficiency area is a place where regular people can contribute. They can put -- whether it's buying an energy-efficient appliance.

And I would be remiss if I didn't say that today our energy-efficient appliances, cash for appliances program has launched. So if anybody in this room or outside wants a high-efficient refrigerator, room air conditioner or washing machine, you get an extra incentive from the State, from the Energy Commission so long as the money lasts, first come first served. If anybody bursts out of the room as I say that, that's because you're heading to your nearest partner retailer to go get your appliance and get your rebate.
So this is an area literally where people can reduce their bills, reduce their costs, help stimulate the economy and help us meet our greenhouse gas goals. This is where ordinary people can play, can participate, can help and can immediately benefit.

CHAIRPERSON NICHOLS: We got the thumbs up that whatever the problem was is gone. So go on.

MS. DOUGLAS: Very good. I will just say one more thing on workforce because you'll hear more about it. We've got some money through the Employment Training Panel that is going to help train or retrain incumbent workers, again on green energy issues.

We put $110 million into a competitive solicitation for really innovative regional approaches for breaking down market barriers to widespread implementation of energy efficiency retrofits. That's what I was just talking about. Retrofits pay for themselves. They make sense to do today. But there are market barriers that account for a lot of the reason why more people aren't rushing out to do these retrofits. There are barriers like availability of trained workforce, standards, consumer outreach in education. Consistent standards so that the standards in one city in the same county are the same as the standards of the other 87 cities, in a particular county I'm thinking
So we've put out competitive money, and we've now made awards and are working on contracts for some really exciting programs that will bring benefits up and down the state. These programs link quite directly in many cases to the workforce training programs. And the purpose is to break down market barriers and create a sustainable higher level of retrofit activity in the state so that the jobs that are here today because of these programs are here tomorrow, in fact there are even more of them as we succeed in breaking down these market barriers, which the stimulus money has given us a tremendous opportunity to help do.

We have put a significant amount of funding, and again for the first time ever, in manufacturing programs. As staff noted, the Legislature just passed and the Governor just signed a bill removing the sales tax for equipment for green energy or clean energy manufacturing. The Energy Commission with partners at -- our partners will come back to me, but with our partners, and in the case of the 118 money it's the Treasurer's office, and in the case of the ARRA money we're working -- I'll remember who we're working with.

But we're doing low interest loans for clean energy manufacturing, up to $5 million loans. And I was
initially wondering how much interest there would be in low interest loans for new or expanded manufacturing facilities. We did a significant amount of outreach. My sense is that there is tremendous interest. And you asked about the direct link to AB 32. Why do companies want to do manufacturing in California? You hear so much criticism about the business climate in this state. When we have asked that question, we hear that in the clean tech area, we are in front in development. So many of these clean technologies, there is so much venture capital money that comes into the state, the research and the development and the innovation that comes out of the State is tremendous. We are very advanced in deployment of clean energy technologies through our retrofit programs, through our renewable energy programs, through our air quality laws, through so much of what we do we are advanced in deployment. And for certain kinds of technologies, given the market and given the location of all the innovation that's going on here, it makes a lot of sense to do certain types of manufacturing in California. And there is a tremendous amount of interest in it. So I have high hopes for the manufacturing program.

CHAIRPERSON NICHOLS: So do you want to scoop
the Governor's announcement today or should I?

MS. DOUGLAS: Why don't you.

CHAIRPERSON NICHOLS: Okay. Well, we just got
the word that Sun Power, which has been one of the
long-standing solar roofing companies that has been
selling solar paneling in this state, they're based in
Sunnyvale, is announcing today that they're going to be
building their first U.S. manufacturing plant in
California. So that's what the Governor is doing for
his Earth Day celebration. And I think that just caps
what Karen was saying in terms of why they're doing it
is precisely because the market is now here, the
incentives are in place, obviously, to make it
attractive for them to do it. But it's great to see
this actually coming to fruition.

MS. DOUGLAS: It's tremendous. And my hope and
expectation is that we'll see more and more of it in the
near future as these programs roll out and as the impact
of the sales tax reduction comes into effect.

So the last thing that I wanted to make sure I
said is that every year the Energy Commission does an
Integrated Energy Policy Report or IEPR. This is the
update cycle for the Energy Commission. We are focusing
our IEPR on the ARRA investments that the Energy
Commission has made, particularly job creation and
program benefits that are coming out of it. Many of these programs, the MVNE may not be coming in, so it will be more describing the programs and what's actually happening on the ground, likely or projected benefits from that, job creation, what is a green job, how the 118 program and the peer program support that, and also the Energy Commission's work in siting renewable energy plants, which I haven't really talked about but which is a tremendous focus of ours right now as well.

So that will be the focus of the IEPR. We're working on that over the next four to six months. So you'll expect to see workshops at the Energy Commission. We'll certainly be reaching out to your staff and others, and I hope that some of the work that we develop through the IEPR will be of use to you as well in this -- on this topic.

So with that I'll conclude my statements. I really appreciated the chance to be here and enjoyed seeing all of you and thank you again for your good work.

CHAIRPERSON NICHOLS: Thank you. Thanks for coming over. Okay. Next on the list to testify is Javier Romero from the California Workforce Investment Board.
MR. ROMERO:  Chairman Nichols, thank you for this opportunity.  I'm here for Barbara Halsey, our Executive Director who wished to be here but unfortunately due to a prior commitment could not.

I'd like to start off by thanking Executive Director Goldstene for your participation on the Green Collar Job Council and your staff, Sharon Anderson. They've been very helpful in working with the efforts. And as you saw on one of the slides, you saw the slides of the Clean Energy Workforce Training Program in which Chairman Douglas spoke to you. And also you saw the Regional Industry Cluster of Opportunity grant, and you also saw the State Energy Sector Partnership.

Those three components are what we call our Green Workforce Initiative. That initiative is the work of the Green Collar Job Council to align the resources at the State level to support the implementation and development of the green economy.

I'd like to focus on the Regional Industry Cluster of Opportunity grant opportunity. We have our first action clinic on April 28th. The Clean Energy Commission, AB 118, actually funded that opportunity as well. Now, the purpose of that initiative is to fund ten regional collaborations to conduct regional diagnosis of their industry clusters.
You mentioned earlier, Chairman Nichols, that the green economy and California's economy are intertwined, and I think --

(Brief interruption)

We think that, as you know, our economy is made up of regional economies. In order for us to get to where those green job opportunities lie, we believe that it needs to begin with some regional industry cluster diagnosis. And so the Regional Cluster of Opportunity grant process, what it will do is it will fund ten regional collaborations that will engage in that kind of diagnosis, and then they will identify those industry clusters that are growing in their economy.

And then the second point will be that they would, beyond that diagnosis, will engage those industry clusters. And I mentioned that the alternative fuels and re -- I'm sorry. They actually have funded four of those projects. So how that will work is that when those industry clusters are identified, the next phase, they will then engage the employers that make up that industry cluster, and then actually engage in some joint priority setting to identify where are those opportunities, and through that engagement with those employers identify, we think, perhaps barriers, be it a trained workforce, be it other issues, that need to be
addressed to help those -- first of all, for business retention, but also growth.

And then after that, the third phase of that grant process will be actually what we call investment strategy in which I mentioned initially, the initial step would be that regional diagnosis. Well, actually that diagnosis is not done purely through the eyes of local workforce investment boards but also through the perspective of that regional collaboration that will be made up of economic development organizations, educational partners and business representatives. And those business representatives will be industry cluster employers.

And so when they devise -- first the diagnosis, actually do some joint planning, then there will be some investment strategies. They'll come from regionally. And I think that's an opportunity we all have to actually learn what are some of those -- you mentioned the term, you heard anecdotally. Well, I think we will actually know in specific regions what those opportunities are, what are those barriers and actually see how we could further organize our resources to support those opportunities, to ensure that employers make that transition to the green economy and actually take advantage of those opportunities the green economy.
And then the fourth part of that process will be actually sustainability planning. Actually, okay, we've developed a funding -- a strategy, investment strategy, now let's get it done, actually align resources, go get resources, identify regionally who are our resources and so on.

So we're really excited about the Regional Industry Cluster of Opportunity grant process. Each benchmark, I mentioned the four phases, will culminate in an action clinic, and that action clinic will not only ensure that they're leveraging that first phase but also pivots those regional teams for the next phase, and so on.

And we would invite everybody to observe that process. We will be sending invites to our Green Collar Job Council members and our stakeholders of those opportunities, those action clinics, so they can observe and watch this process evolve.

CHAIRPERSON NICHOLS: Thank you. I assume that in all of this you are not reinventing the wheel and that you're building on things that already exist. But I wonder if you are working directly in these regional councils with the community colleges that are in those regions, because they seem to be at the heart of this
type of training.

MR. ROMERO: Absolutely. Absolutely. And those three components, what I called the Green Collar Job Council refers to the Green Workforce Initiative, we believe we've done things that will position those systems -- community colleges, local workforce investment boards, economic organizations -- to come together and position to take advantage of the opportunities in the green economy.

For example, Chairman Douglas mentioned the Clean Energy Workforce Training Program requires an employer council but also required that if the grantee or the applicant was a local workforce investment board they had to have a community college as a partner, and vice versa. We then leveraged the Clean Energy Workforce Training Program process to develop our State Energy Sector Partnership proposal to DOL in which we achieved the highest amount of $6 million. And we basically identified six regional collaborations based on geography, maturity of collaboration and basically opportunity, and used that, and now we've got the $6 million. So we're constantly building.

And the recog, those ten grantees, they also, many of them, are Clean Energy Workforce Training Program grantees as well. Some of them are SS -- State
Energy Sector Partnership regional teams.

So that's a strand, a strand you'll find throughout is ensuring that the collaboration is there amongst our State assets and also ensure that business and the employer community is heavily involved, if not driving.

CHAIRPERSON NICHOLS: Thank you.

Comment or question? Yes.

BOARD MEMBER RIORDAN: Question, and that is the region, how large are these regional groups that you're looking to set up?

MR. ROMERO: Initially the region, the proposals, they came up with a proposed region. They suggested that these few counties -- for example, Fresno County Workforce Investment Board came in with practically the whole Central Valley. However, the regional -- the industry cluster diagnosis is going to have a data-driven identification.

So basically the diagnosis will say if that industry cluster is your target, this is what your region should look like. So we anticipate that there may be some counties that are complimentary or there may be some counties that are not in the discussion that need to be. So it will be data-driven, ultimately.

BOARD MEMBER RIORDAN: So you're willing to
look at some fairly substantial regional areas if you're looking or willing to accept, say, the Central Valley, correct?

MR. ROMERO: Right. But at the end of the day, the industry cluster diagnosis will dictate what that region should look like.

BOARD MEMBER RIORDAN: And who came to you initially to offer that? What seems to be -- who instigates this regional effort?

MR. ROMERO: This go-around, basically, we started through a competitive process, the solicitation for proposals, which targeted our local workforce investment boards. So that being the State Workforce Investment Board, we started with our local workforce investment boards; however, we ensured that the necessary partnerships were in place.

And the origins of this approach go far. I mean, the Labor and Workforce Development Agency for a long time has been working with the Economic Strategy Panel that developed the California Regional Economies Project that developed a methodology referred to as Industry Clusters of Opportunity Methodology. We came up with this approach with the Regional Industry Cluster of Opportunity grant to actually implement that methodology in a way which provides the mechanism in
which that methodology is actually driving program
policy investments.

BOARD MEMBER RIORDAN: Thank you.

CHAIRPERSON NICHOLS: Thank you. Any other
comments? Yes.

BOARD MEMBER BERG: Just one other quick
clarification. Are you depending on the stakeholders to
come to you and identify their regions, and are they
bringing you the data or is the Board establishing the
regions?

MR. ROMERO: I'm glad you mentioned that, and I
should cover that. We are working with Collaborative
Economics. I don't know if many of you have seen the
Many Shades of Green Next 10 report. That report was
put together by Collaborative Economics. Collaborative
Economics was the principal consultant with the
California Regional Economies Project. So we have
contracted with them to provide technical assistance
throughout the process and actually provide that
initial -- that regional diagnosis. So they will have
this objective source which will provide that analysis
for them.

CHAIRPERSON NICHOLS: Thanks. Okay. Next up
is Hank Ryan.

(Brief interruption)
MR. RYAN: I appreciate the opportunity to speak before CARB, and this is a day that I'm really glad to be here to be able to talk about these issues, Earth Day being one where we really need to get the job done.

I want to cover four areas briefly, two that I think show advancement to their challenges. First of all, from the business point of view, we are, I think, wanting to do our best to save energy because that's going to make us more competitive. However, we've been doing that in a blind fashion up until now because we don't have the ability to really see what we're using closely enough.

Smart Meters are being installed across the state now that are going to help with that, and I was pleased to get an e-mail from Ralph Cavanagh at NRDC noting that Google would now be addressing the commercial sector in this so-called software dashboards that would allow us to see how our ice machines are doing and what they're using and when so we can control that.

That is very important because when we just get a bill that says what we used and we don't know the different components of our business, we can't control it. And as small businesses and medium businesses and
large businesses, if we can define what that is, we will address it. So I think that's important, and it's coming fast, and it's going to really help us invest, knowing what we're doing.

There was a discussion of funding wizards, and the ECAA dollars that are now gone to help cities and towns and state projects. I would be remiss if I didn't mention on-bill financing, and that is something that we've worked on both for small businesses but also for the institutional sector, meaning taxpayer-funded entities. And I believe all three utilities are going to be offering on-bill financing to government entities at zero percent interest and up to a million dollars per meter. So that can really help these cities and counties which we clearly know now are having trouble with funding. So that's a major plus.

It was discussed that understanding the obstacles so as to be able to work through them is important, and I want to address just two areas that I think are worth mentioning.

The coordination of agencies within the State, I think, is incredibly important. A simple example is that a couple years ago we went to the Department of Alcoholic Beverage Control for the simple reason that food service equipment, and for businesses to take
advantage of those incentives, it's a really tough go.

There is not a real connection between food service and
efficiency. There hasn't been. A lot of new advances
have occurred.

But we thought, you know, what if when you're
applying for your liquor permit that when you go to
DABC, which you have to do, if those incentives are
right there in the window for you to pick up and take
advantage of before you've purchased all your equipment.
And the challenge was whether DABC would help cooperate.

Well, we met with Steve Hardy, and this was a
couple years ago, and we talked about that initiative
which we've made happen with PG&E starting a pilot
program which demonstrated that those pamphlets are
being taken. But DABC went farther in offering that
whenever there is a transaction that occurs, whether it
be a new permit or a transfer, the utilities can get
that information so they can then get out to those
businesses right away.

Now, we haven't implemented that yet, but I
think it demonstrates what can occur if the government
agencies simply -- if we're all rowing in the same
direction. So I think it provides one example of how to
move that forward.

Finally, Supervisor Roberts brought up what I
think is perhaps one of the most important issues yesterday when he talked about permitting and the issues of those blockages. He talked about an algae pond in San Diego for that industry down there that they simply couldn't get permits for. I think that's a real challenge, and I think that's something that we need to address. It's very important to address, because it also goes to the mind-set of "we can't do this" that many businesses feel in California.

I'll give you an example of one way that we've tried to help to break through, and hopefully have made some progress.

A small business person came to us and joined Small Business California with the idea of building something called aquaponics using a facility in Watsonville that incorporates greenhouses that are no longer used productively because the floral industry has fallen to globalization here in California. The flowers that are coming up from South America are just -- they can't compete.

So the square footage in greenhouses and the taxes being paid to the City of Watsonville are leaving this business person in a tough position. And so they went to Fish and Game to look at something called aquaponics which raises Tilapia -- which you buy at
Costco for $5.99 a pound from Indonesia -- in a closed-loop system so that those food miles, so to speak, can be brought down and that product can be produced in Watsonville.

Well, initially Fish and Game said, sorry, we will now allow -- that is on our list of fish that you cannot work with, and so we can't help you. Well, the distinction of the ability for those fish to get into the environment in normal agriculture and aquaponics, which is truly a closed-loop system, we felt was something that we should bring forward. So we've asked to meet with Fish and Game and also with the natural resources folks at the Legislature to come at it from both ends to say maybe this is a question worth listening to.

Well, fortunately two days ago Fish and Game came back with an e-mail that said, you know what, we think this is a question worth listening to. Now, I don't know if our help made that happen. I think the letter that was drafted by the business really got the job done. But I think it just, again, provides another example where we need to find those areas where obstacles do exist, identify where the distinctions can help move us forward, and in that way we'll be successful.
I appreciate the opportunity to speak.

CHAIRPERSON NICHOLS: Thank you. Thank you for your role in that particular success story. It sounds like being part of Small Business California is a good deal. It's a commercial for your organization.

Okay. Juhan Canete from the California Hispanic Chamber of Commerce.

MR. CANETE: Thank you, Madame Chair, and thank you members of the CARB board for allowing me to speak today.

My name is Juhan Canete, Executive Director of California Hispanic Chamber of Commerce. The Chamber is the largest Hispanic regional business organization in the nation representing over 720,000 Hispanic-owned businesses through a network of 65 chambers and business associations throughout California.

We've been following the development of AB 32 policies for a number of years now, and as specific regulations take shape, one thing has become clear. There will be an enormous impact on employment and on energy and other costs. It's also very clear that if California pursues these policies on its own without similar efforts taking place at the same time by other states, the Federal Government and the rest of the world, we will have spent billions and risked all those
jobs and made absolutely no impact on global warming.

Even our potential partners in the regional cap-and-trade program, the Western Climate Initiative states, have decided now is not the time to embark on such a program. They recognize that their economies cannot sustain the cost.

And from our perspective, California should strongly consider holding off on the solo cap-and-trade program and wait until there are enough partners for us to protect the competitiveness of California businesses and actually have some meaningful impact on greenhouse gas emissions.

The Federal Government is apparently ready to announce its climate change policy, and we believe it's in California's interest to examine the national proposal and try to work in cooperation with the Federal Government and other states to arrive at a uniform national policy that will level the playing field for all concerned, and again, provide the best chance for meaningful emissions reductions.

As it stands now, the higher energy costs related to California's AB 32 plans will disproportionately impact small businesses and low-income communities, a sector heavily represented by our Hispanic Chamber's membership.
And because AB 32 targets carbon-intensive industries, small businesses and suppliers will be disproportionately impacted as well, and additionally good-paying blue collar union jobs that have a high percentage of Latino workers and workers who haven't had the advantage of advanced higher education. Again, these are people from our community, so we are understandably concerned about this, this issue.

We urge you to proceed with caution and work to coordinate with other state and national efforts to achieve the most cost-effective and environmentally beneficial program possible.

And I thank you for your time.

CHAIRPERSON NICHOLS: Thank you. And I think that's good advice. We do need to be coordinated. We appreciate that.

BOARD MEMBER ROBERTS: Could I --

CHAIRPERSON NICHOLS: Sorry I butchered your name. Just a moment, sir. Excuse me.

BOARD MEMBER ROBERTS: One of the comments, not one of the comments, several, yesterday when we were doing the economic analysis, and I don't know if you were able to see that, but one of the things there seemed to be a strong consensus on San Diego going -- or excuse me, California going alone. California going
alone is a far more expensive way to do this. So what you're saying is absolutely right, and I hope you keep saying it.

MR. CANETE: Thank you.


As far as I know, this is the last witness who signed up on this item.

MR. De CARBONEL: Yeah. My name is Hank de Carbonel with the Concrete Pumpers. Certainly an auspicious day today. It's not just Earth Day, it's not just the meeting of the Board, but it's Lenin's birthday. You know, the other Lenin, the crazy one, the one the Germans sent back to destroy their country. He had a fellow named Lysenko who produced their five-year plans, primarily in agriculture.

Mr. Lysenko was not a farmer, was not an agricultural expert, but he was excellent with the paper and pencil, and his plans always failed and his plans led to people dying of starvation and living in miserable conditions. The result was Mr. Lysenko had to start with a new piece of paper. However, other people died. So he was frequently wrong but never in doubt.

Now, on the Scoping Plan, there is no cost in there for getting the electricity from these wonderful gadgets to where the electricity is needed.
I might point out to you I read a story the other day about in Europe there are two-tiered plans for energy. So if you're producing green energy you get to charge more for it than the conventional coal or nuclear-powered energy. They found an energy company that was producing alternate energy and getting paid a premium for it from solar cells. Somebody finely got around to noticing they were producing a lot of solar electricity at night which seemed to be somewhat difficult, a new technological break-through of some kind. They went out and found they were running diesel generators to power the lights to power the solar panels so they could get the electricity at a supreme power. So it's a law of unintended consequences.

And as we see constantly, government agencies have a problem. They can't quite keep up with the speed of private industry. And we've heard these glowing reports today constantly of all the wonderful things that are happening on the energy front and subsidization and the incentive programs and all these things. I'm curious, if these things are so wonderful and so great and so bountiful, why do they have to be subsidized? Why can't these people support their own ideas that are so technically advanced?

And I would also suggest to you that this
money, these subsidies, these tax credits, these loans,
these low interest loans, the State can't print money,
unlike the feds. So this money that gets spent is
somebody's money. It's the taxpayers' money.

So when you go out and start making choices on
who's the winners and who's the losers, I don't think
that's CARB's role, I don't think that's cap-and-trade's
role. Cap-and-trade right now, carbon credits in
Chicago as of a couple days ago are about a dime. In
Europe they're about $24. Now, if I'm buying or
selling, it's going to make a big difference where I buy
or sell.

That's what I have to say.

CHAIRPERSON NICHOLS: If you want to finish
up -- okay, thank you, sir.

Good reminder that not everybody is a believer.

It's also, I think, worth mentioning that one of the
reasons why we're here, why AB 32 was created in the
first place, is because there already are subsidies for
dirty energy. They've existed for a long time, and they
include our lungs and our air and our communities.

So for a long time, I think, entities of
government have been trying to find ways to bring on the
newer, cleaner stuff, but it always lacks competition
because the thumb is on the scales for the other older,
dirtier energy sources.

And if you listen, I don't know if you have placed any credibility with them, but if you listen to the oil industry, they'll tell you that they're poised and ready to bring on cleaner energy sources, in fact they're investing in them. They're just not going to invest very much until government makes a decision as to what it wants, sets the rules and then gets out of the way.

I think that's the right policy. I don't think our job is to pick winners and losers. I think our job is to specify what's needed from an environmental perspective and then try to get there in as economically efficient manner as possible, which certainly does not include us trying to run the program.

So that's been the philosophy, I think, from the very beginning on this board. It certainly is the Governor's philosophy. And I hope, sir, that as you stay tuned, because I can see that you're now spending a lot of time with us, that you will see that that actually is how we're going about doing our work.

All right. That was the list of all the witnesses.

Anybody have any additional questions or comments at this point?
BOARD MEMBER TELLES: There was comments today and yesterday about how some of these green businesses are slowed down by permitting and all that. And I'm aware of that also in San Joaquin Valley. But is there local, state and federal coordination of this, and is there a fast-track way to do this?

I mean, yesterday Supervisor Roberts mentioned that they basically lost an industry in San Diego County that is going to be a green industry, and we hear all that we have for funding for some of these things, which I also agree that's taxpayer dollars, and that funding has to be used correctly, but if we don't facilitate this, it's not going to work.

EXECUTIVE OFFICER GOLDSTENE: There used to be a Trade and Commerce Agency in State government that was eliminated that used to do a lot of that work to help with the streamlining of permitting. I think Tabetha can give us a quick report on the new entity that the Governor just created that helps try to expedite permitting that was just announced the other week. Tabetha?

AIR POLLUTION SPECIALIST WILLMON: Yeah. I think we in California recognize that we need to help businesses. We need to create a place for them to go, a single, unified point.
Governor Schwarzenegger recently created the Office of Economic Development, and he's tying in all of the different state agencies so this can be a centralized point for businesses to go to deal with such issues as permitting challenges, the different challenges that they're going to encounter as we're trying to recover our economy, so particularly as we're transitioning to a green economy.

BOARD MEMBER TELLES: Should we perhaps just send a letter there also just reemphasizing the importance of this? I mean, I'm sure he's aware, but...

CHAIRPERSON NICHOLS: I think it's a fine idea, I really do.

BOARD MEMBER TELLES: I mean, this whole economic analysis is kind of predicated upon the fact that there's going to be green jobs, but if other state agencies kill the green jobs, it's not going to work. And I think that is a priority, not just something to talk about.

CHAIRPERSON NICHOLS: Early on, if I may just respond a little bit further, as part of the Climate Action Team, Secretary Adams has convened a cabinet-level group of all the other agencies that have a piece, either because like the Energy Commission they can channel funds or because they could stand in the
One of the biggest obstacles, though, is the number of state, federal and local agencies that all have a role in permitting. And although people have talked about it for years, the only way that we found to actually expedite permitting is kind of a brute-force system where you get everybody into a room and put them on a schedule and make them do their job faster.

That is now happening with respect to solar energy in California because I think it finally got to the point where everybody recognized that we were our own worst enemies in some respects in terms of being able to take advantage of the solar energy we have in California. So there is actually a working group of people assigned by Secretary of Interior, the Governor's office, all the state agencies and federal agencies that either are land owners or have a role in the permitting to take a list of projects and work through them.

Not every project is going to succeed, because sometimes they were sited in the wrong place or they really do have impacts that are not possible to mitigate. But many of them will, and it's going to be something that we will see getting done, I think, by the end of this year.

But I'm sure those of you with local government
experience in particular have things to say about how
well or badly this all works.

Barbara?

BOARD MEMBER RIORDAN: Well, I think, Madame Chairman, you hit on it. You just have to get everybody together.

I don't know the particulars, and forgive me for this, but I know there is a solar effort in part of our desert and it's had some bumps and it's had some problems. And I think the locals need to be brought into the process very early on, and that's going to change depending on where the facility is sited. But in my case, let's take San Bernardino County, and that is in an unincorporated area so we're talking about the county. We need to have those people sitting at the table as well.

So I want to encourage you to perhaps ask that the local people be there working this through. Because we have just a whole host of federal and state issues, but the local people need to be a part of it because they can undo a lot of good if they aren't brought into the process early on.

CHAIRPERSON NICHOLS: Thank you.

Yes, Dr. Balmes.

BOARD MEMBER BALMES: Well, I'm neither a small
business person nor a person with experience at local government, but perhaps because I'm an academic I'm particularly frustrated or have been particularly frustrated with university bureaucracy.

CHAIRPERSON NICHOLS: You have your own bureaucracy to deal with.

BOARD MEMBER BALMES: So I just wanted to add my voice to the chorus here. I really think that the brute-force approach may be necessary here. I mean, given the economic crisis, given the dissatisfaction with the populous with regard to government, we have to make government deliver for small business in this regard. So I just wanted to add my voice to what's already been said.

CHAIRPERSON NICHOLS: Thank you. Yes.

BOARD MEMBER ROBERTS: I'm not sure where though start here.

CHAIRPERSON NICHOLS: I'm sorry, you've got three minutes. (Laughter)

BOARD MEMBER ROBERTS: It's not necessarily state agencies, it's the whole gamut of state rules and regulations that are killing us. Try to go put in a windmill; you will think you're starting World War III. I went just through a battle just to put up a windmill test tower which is a pole that might be three or four
inches in diameter that's hardly visible, and you start
to set off all sorts of concerns.

Environmentalism has been co-opted in terms of,
in many instances, becoming a weapon to stop things from
getting done, and it's being used against the very
things that we need. It isn't just solar. We still
have problems with solar. I don't know where this
committee is. But it's not just building a plant,
you've got to transmit the electricity, unless we're all
going to move out to the desert. But the plants are
generally in remote areas and you need transmission
lines. And transmission lines, you know, there are
people who imagine you can put these underground for the
whole way. We do everything possible to run up the cost
in an unrealistic way, and the time that's required to
achieve these.

The Sapphire Energy that was mentioned, their
two-scale facility is in New Mexico. It's there because
California couldn't move. It's not just a matter if you
have the land. I mean, there are plenty of places where
it could have been done in California, but if you're
working on research or you're a company, it isn't like
government. They have to move and they have to move
quickly. Government has a different kind of luxury in
terms of, well, we can get to it. And we have
structured a whole series of policies and governmental procedures that are absolutely having a devastating effect.

And I mentioned the smugness that was part of the California, oh, we're the Golden State, you know, we've got all these bright people. That playing field is changing dramatically, and we are losing big time. And for the economists who yesterday claimed that don't worry about it because all the money that goes out of state will come back automatically, I'm still -- I couldn't sleep last night thinking about that comment, which is, you know, it is so arrogant and so misdirected and so wrong. And I just can't believe it.

But what strikes me most is when I heard yesterday and I heard today, we are in effect -- we are -- in the interests of driving the nation into a policy we are taking a lot of risk in California to go out front on this in the hopes that first we will drive the nation into following us and then the nation will drive whose left in the world to doing this. But if it doesn't happen at a federal level, we will have exposed California businesses, taxpayers, jobs and the California economy to what could be a nightmare scenario. (Applause)
note.

Yes, Sandy.

BOARD MEMBER BERG: It feels to me like we really have an opportunity. If we look at the role of businesses and stakeholders, MGOs and communities over the last 40 years, it has tended to be more conflictual. But it feels to me that we are on the cusp of an opportunity for people to come together and figure out what is in the best interest, in fact, working collaboratively rather than in this conflictual nature.

And so as we look at the importance of AB 32 and what we really do want to achieve in California, it has become really apparent to me if these stakeholders cannot come together in a way to be able to assess what is in the best interest of California and to be able to work together to achieve common goals, that is really going to be the test. And I think that this board can have a great deal of influence in getting people to the table and asking them point blank what is it we want to accomplish. And that's what tends to break through barriers in a way that in fact can create breakthroughs that can return and continue California, which I think is on a very great path.

CHAIRPERSON NICHOLS: Well, I think that's a good segue, perhaps, into the next stage. You know,
we're definitely in a time when the public, according to all the polls and all the news stories you read, is extremely divided, and these things are very divisive. And the language that we use as one part of this can help or hurt in that situation.

And I think it is very important, and your comments are very well taken in this sense, that, you know, we're not here because of anything other than the fact that we were all chosen for a purpose, which is to carry out the laws of the State of California. And I know everyone here is very dedicated to that and to doing it in a way that we feel, based on our own history, experience and beliefs, meets all the best interests, best goals of the people of the state of California.

We're not here -- serving on this board is not a stepping stone, as far as I know, to any other office. It certainly hasn't proven that way in the past, anyway, although some of our past members have gone on to other things. Being on the Air Board also presents us with tough situations. But what's made this board a success over the years, and I am very proud of the reputation that it has earned, historically. Under all different kinds of conditions and all different kinds of economies, California has been able to remain a bright
spot when it comes to balancing the environment and
economic progress together.

We were the first to find smog and we were the
first to seriously start to address it, and while doing
it we did it in a way that created industries and
created all kinds of opportunities that have then spread
to the rest of the country. If we can't do that with
respect to climate change and energy policy, then that
would be a terrible failure. I don't think any of us
wants to be party to that.

So we're going to have to find a way to work
through this that will lead to success, and certainly
just sort of a blind attitude that says we know what's
best, or we're number one because we're California,
 isn't what's going to get us there.

So I think your admonishment to us is very
helpful and I really appreciate that.

Just in the interest of factual clarity, this
desert renewable energy task force that I alluded to
before is only working on a list of plants that have
applied for permits to build on federal land in the
desert, although they are looking at -- they have
another list. But they've started with the ones that
are on BLM land and that are all near transmission
lines.
So some of the issues that have affected other
efforts that have popped up in the past have been
avoided. But they actually have enough plants that
they're working on -- I'm turning to Mr. Goldstene to
correct me if I'm wrong about this, but I believe that
when they briefed us on their work the other day that
they had 25 --

EXECUTIVE OFFICER GOLDSTENE: 22.

CHAIRPERSON NICHOLS: 22 plants and enough
megawatts to basically fill every possible transmission
avenue that we have to more than get to the goals of
2020 that are in our plan.

So there's a lot of activity going on out
there. People are making investments and trying to move
these projects forward, and they do believe that they've
got a bench of projects that can make it.

BOARD MEMBER ROBERTS: I applaud those efforts,
don't misconstrue. I don't want anybody to misconstrue.
That's exactly what's needed, and I guess it's
frustrating when you see a Legislature that is faced
with all these problems. And recently they exempted a
new football stadium in L.A. from environmental review
at the same time as the State is burning down and they
don't address these more fundamental, important issues.
If there isn't something schizophrenic going on here,
it's just beyond me.

CHAIRPERSON NICHOLS: Duly noted. Duly noted.

All right. Well, I think that we've had a discussion on this item. We have another major item before us, but I think this is probably a good time to take a brief break. We'll take a 15-minute break. Anybody who wants to go down and look at the Earth Day exhibits, build a fuel cell in your spare time. We'll get back in 15 minutes. Thank you.

(Recess)

CHAIRPERSON NICHOLS: Thanks everybody. Okay.

Our next item today is an update regarding the regulation of in-use off-road diesel vehicles and the in-use on-road diesel vehicles, otherwise known as the off-road regulation and the truck and bus regulation.

These regulations will both significantly reduce the public's exposure to diesel particulate matter and oxides of nitrogen emissions. The off-road regulation which was approved by the Board on July 26, 2007, will apply to over 150,000 off-road diesel vehicles operating in California. And the truck and bus regulation, which was approved on December 12, 2008, will affect nearly a million on-road vehicles operating in California each year.

When the regulations are fully implemented, we
expect them to prevent thousands of premature deaths and provide the State billions of dollars in economic benefit in avoided premature death and health costs.

However, since the time the regulations were approved, the State remains in a significant economic recession which has required that the Board continue to evaluate the economic and emission impact of the recession on the affected fleets.

The last time we heard from staff regarding the truck and bus regulation was in December of 2009 when staff presented an assessment of the effects of the recession on the emissions from trucks and busses. At that meeting there was consensus on the Board that given the gap between where we thought emission levels would be and where emissions actually are as a result of the down economy, there was room to provide some short-term relief in the truck and bus regulation.

We asked that any proposed changes be focused on smaller businesses providing greater relief to those that were most in need, increase the overall affordability of the regulation, and continue to meet the State's emission reduction goals and obligations.

We originally directed staff to return with a proposal in April, but as we will hear later, that date has been shifted back a few months to allow for additional work
to look at potential longer-term changes to the rules as well.

Now, also in December 2009 the Associated General Contractors organization provided us with an emissions inventory report that argued that due to the recession the off-road regulation was no longer needed to meet federal air quality standards and therefore could be delayed significantly. At that time we directed staff to return with an assessment of what impact the current state of the economy had or has had on off-road diesel vehicle emissions and to see whether further changes to the off-road regulation could be made.

In considering further changes to the off-road regulation, it's important to remember that the Board has already approved a number of amendments going back to July 2009 providing short-term relief to off-road fleets that are affected by the recession. While staff's current findings show that emissions from off-road diesel vehicles are in fact lower than what we thought they would be, the question before us today is to what extent we should consider additional changes to the regulation in light of the economy.

As we move forward to consider potential changes to both regulations, I'd like to ask all of us
to keep three requirements in mind.

First of all, the Board's mission, as we all know but need to remind ourselves, is to protect public health. We must remember the needs of the breathers of California and the need to constantly make progress toward achieving clean air.

Second, the need to respond to adverse economic conditions. We also must recognize that unfavorable economic times make it more difficult for industry to comply with our regulations and still function and provide employment in California. And, as we are frequently reminded, unemployment is also a risk to health.

Finally, third, the need to move forward and make decisions even though there is always uncertainty concerning estimates of emissions as well as economic predictions. Our task is to make the best decisions we can even in the face of uncertainty.

So with that I'd like to ask Mr. Goldstene to introduce this item.

EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman Nichols.

Today you will hear about staff's continuing efforts to evaluate the current effects on the economy from emissions from vehicles subject to the off-road
regulation and the truck and bus regulation. As part of
that effort, staff has evaluated what emission
reductions are needed from these two source categories
relative to our obligations under California's 2007
State Implementation Plan.

Through this evaluation staff has concluded
that additional relief in both regulations is possible
while still meeting our SIP obligations.

In making this determination, staff has also
identified specific principles that it intends to follow
in evaluating potential regulatory relief. These
include ensuring any changes maintain the important
health benefits the regulations already provide,
ensuring that we maintain the progress we need to attain
federal air quality standards, and that the amendments
provide real economic relief to those hardest hit by the
recession.

Since we were last before you on these topics
in December 2009, staff has been active in working with
stakeholders on these issues. In January staff held
three workshops to solicit feedback on proposed changes
to the truck and bus regulation to provide short-term
relief to truck operators. We'll tell you more about
what we learned at those workshops and how we intend to
move forward in providing such relief.
Also in January the Associated General Contractors of America, or AGC, petitioned ARB to delay the off-road regulation by two full years citing the economy and accuracy of the off-road emissions inventory.

In February, in response to the AGC petition and to allow additional time for U.S. EPA to consider California's authorization request for the off-road regulation, I issued a delay of enforcement of the March 1st, 2010 performance requirements of the off-road regulation.

This delay of enforcement has suspended the requirement for off-road fleets to comply with either filter or turnover requirements pending further notice. However, the regulations for reporting, labeling and reducing idling do remain in place.

Also, on March 11th I conducted an Executive Officer Hearing to hear directly from stakeholders firsthand regarding the effect the recession has had on their business and whether additional relief from the off-road regulation beyond what the Board has already provided was necessary. Staff's presentation will summarize what we heard that day.

I'll now ask Ms. Kim Heroy-Rogalski of the Mobile Source Control Division to begin the staff
presentation.

Kim.

OFF-ROAD IMPLEMENTATION SECTION MANAGER

HEROY-ROGALSKI: Thank you, Mr. Goldstene, and good morning. I manage the Off-Road Implementation Section here; however, today I'll be speaking about both the off-road and the truck and bus regulations.

So here is an outline of what I'll talk about today. First, I'll give you an overview and discuss principles that staff propose to follow as we consider changes to both regulations.

Second, I'll summarize recent and ongoing improvements to our estimates of emissions and what they mean for our State Implementation Plan or SIP commitments.

Third, I'll update you on the status of the off-road regulation including the March Executive Officer Hearing and options for amending the regulation.

Next, I'll update you on the status of the truck and bus reg including what we learned at the workshops held in January and recent extensions we've made to some of the reporting and compliance dates, as well as options for amending the regulation.

And finally, I'll describe the actions and timeline that staff is proposing you direct us to
pursue.

Okay. So first, let me start with the big picture. The net effect of the recession and other refinements to our inventory estimates have reduced emissions statewide below what we previously predicted. There is, therefore, room for some relief for both the off-road and on-road regulations. Even if we relax both rules some, we can still meet our SIP commitments and protect public health.

To identify an equitable proposal that can reduce the compliance costs for both rules while still meeting our SIP commitments and reserving the overall health benefits, we believe it makes the most sense to consider both rules simultaneously.

While staff has not yet analyzed and vetted all potential changes with stakeholders, we do have some principles we suggest to guide the process.

So here are the ten guiding principles that we suggest.

First, continue incremental progress toward cleaner air.

Second, ensure whatever changes we make do not negatively impact public health. In other words, we don't want levels of harmful emissions to be higher than we anticipated they would be with the regulations in
Third, meet our SIP commitments. Fourth, be cognizant of ARB's goals to reduce greenhouse gases. Where possible, provide incentives to reduce greenhouse gases along with the toxic and criteria pollutants targeted by the two regulations. Fifth, look to improve the cost-effectiveness of the regs as much as possible. Sixth, try to lower peak year costs; that is, spread the costs out more evenly over time. Seventh, consider offering relief to fleets impacted by both regulations and be sensitive to their cumulative impact. Eighth, try to provide the most relief to the fleets hardest hit by the recession. Ninth, ensure we maintain our emissions benefits as the economy recovers. And finally, tenth, to support and incentivize clean technologies, recognizing that we'll need these technologies in the long term. So I've mentioned SIP deadlines and commitments several times, so before moving forward, let me just provide a little context regarding the most pressing SIP deadlines. The two regions that drove development of the
off-road and truck and bus regulations are the South Coast and San Joaquin Valley. Both must attain the fine particulate matter standard by 2014 and the ozone standard by 2023. ARB submitted the SIPs containing measures for off-road and on-road diesel vehicles to U.S. EPA several years ago.

Both South Coast and San Joaquin need large emission reductions to achieve attainment, on the order of a cut in half to 2006 NOx levels. Reducing emissions from trucks and off-road vehicles is key to achieving this as they account for 40 to 50 percent of the total NOx in these regions, and even greater NOx reductions will be needed to meet the 2023 eight-hour ozone deadline.

So, speaking of emissions, I'd like to turn now to a summary of recent work to improve our estimates of emissions and their impact on public health.

Since we last addressed the Board in December of last year, we've made progress on a number of fronts. First, we've reviewed the analysis that AGC brought before the Board in December. Second, a researcher at U. C. Berkeley published a study late last year concluding that ARB's estimates of off-road emissions were too high. Our staff has dug into this work and we will share our
findings.

Third, we've worked to build the effects of the recent recession into our inventory estimates.

Fourth, we've incorporated the results of a recent field study on trucks and updated our understanding of how truck emissions vary regionally. This is particularly important in the South Coast.

Finally, I'll speak briefly regarding recent work to fine-tune our quantification of the health effects of fine PM.

So, back in December representatives from AGC presented you with a forecast of emissions from sources covered by the off-road regulation. They took the vehicle population that had been reported to ARB as of early last fall and then projected it forward using the growth assumptions in ARB's off-road model. Their estimate showed that off-road emissions would remain below rule targets for most future years, even if there was no regulation.

We commend AGC for examining what the recession has meant for off-road emissions and the regulation's targets. However, we believe the vehicle population AGC used was too low for two reasons.

First, fleets have continued to report their off-road vehicles since AGC made their projections.
Second, AGC assumed that all fleets had reported all their vehicles as required. Including an estimate of vehicles and fleets that have not yet reported, we now believe there were about 175,000 vehicles in California last year which is within 10 percent of our original estimate.

ARB staff this week received an update to AGC's analysis, and we've begun looking at this new information. Staff believe AGC's new methodology is similar to the approach we are following, although there are some differences in the base assumption. Staff will continue to consider this new information and how it can be used in our update to the inventory.

So, overall, the vehicle population has turned out to be slightly lower than we expected, which doesn't have a very significant impact on our emission estimates. However, for other reasons, which I'll discuss next, we do believe off-road emissions are lower than previously predicted.

Okay. So first, a little background on how we build emission inventories.

For regulatory development and planning purposes, ARB needs an emissions inventory with specificity in vehicle population, age and horsepower. This is considered a bottom-up approach because it
begins by looking at individual vehicles and then sums up their emissions to the combined statewide emissions. This is the basis for both ARB's and U.S. EPA's off-road emission inventories.

An alternative approach is a fuel-based analysis. In this method the total consumption of fuel across the State from relevant sources -- in this case, off-road vehicles -- is determined. From that information the emissions for the entire statewide fleet are estimated without considering how many vehicles are using the fuel or how much each one is working. This is a top-down approach because it begins by looking at a statewide indicator and then estimates emissions across the State.

While this methodology is less detailed than a bottom-up approach, it does provide a good cross check on the numbers generated using a bottom-up method.

In December of last year, U.C. Berkeley Professor Rob Harley published a study using a fuel-based top-down method to validate ARB estimates of off-road vehicle emissions. Professor Harley concluded that ARB's estimates were too high by a factor of 3 to 4. ARB staff has evaluated Professor Harley's analysis and concluded that Professor Harley, who used federal construction fuel estimates for California, left a
significant amount of fuel out of his analysis. The paper did not account for taxable fuel use in off-road vehicles nor for all equipment categories covered by the off-road regulation such as mining, et cetera.

However, staff does believe that Harley's work has identify a likely overestimate in ARB's previous numbers. Staff believes that previous emission estimates were too high by a factor of 1.4 to 2, and we've adjusted our estimates accordingly for the inventory work described today.

We're continuing to research which ARB inventory model inputs may have led to this overestimate -- emission factors, load factors, et cetera -- and we continue to work to reconcile the top-down method with our bottom-up approach.

ARB staff has also been working to account for the impact of the current severe recession on off-road emissions. Staff examined statistics related to construction from United States and California government agencies as well as data on new equipment sales financed. These indicators have all fallen since 2006 with the drop ranging from 30 to 80 percent. Overall, we estimate a roughly 50 percent drop in off-road vehicle activity since 2006, and staff is building that into our emission estimates.
Since staff last briefed you extensively regarding the on-road truck emissions inventory in December, we've made two important improvements to our emission estimates.

First, we've created a special inventory category for construction trucks. These roughly 76,000 trucks out of about 475,000 trucks total have experienced a reduction in activity similar to that experienced by other construction sources.

Second, we've used results from a two-year field study as well as Caltrans roadway count data to develop region-specific emission estimates for trucks. This analysis indicates greater truck mile travels -- greater truck miles traveled and emissions in South Coast than previously thought.

Okay. So putting all these improvements together, what does this all mean? This slide summarizes the results. For simplicity purposes, we've combined NOx and PM2.5 together here into NOx equivalent emissions. That weights the contribution of both pollutants to ambient PM2.5 levels. We're showing a situation here for trucks and off-road vehicles combined.

As you can see, due to the overestimate illuminated by the fuel-based method, we're revising our
off-road emission estimates down. The recession has also brought off-road emissions down significantly while having a smaller effect on truck and bus emissions. And finally, South Coast truck emissions are higher than previously estimated.

Overall, in the South Coast in 2014 we now expect NOx equivalent emissions to be 21 to 42 tons per day lower than we previously predicted.

Okay. So that means whatever additional relief we propose, including changes to both regulations, should increase emissions no more than a margin of 21 to 42 tons per day. And ARB inventory staff will be working to narrow this range over the next several months.

For the SIPs already submitted, the largest emission reductions are needed in the South Coast, and the most challenging year for showing attainment is 2014. So to estimate the magnitude of changes we can make to both regs, we focused on South Coast emissions in 2014. And I've presented this situation here for South Coast in 2014; however, we expect there to be a margin in the San Joaquin Valley as well.

Okay. So since December of last year, in addition to the work I've summarized on this slide, we've also been working to refine our estimates of the
health effects of fine particulate matter.

So on February 26 ARB hosted a symposium on the science behind the methodology used to estimate PM2.5 related to premature deaths in California. We invited scientists from academic institutions, government agencies and the private sector, and over 20 scientists participated.

The information gained from that symposium is being used to inform our revision of the PM mortality staff report. For consistency, ARB is adopting the U.S. EPA methodology for estimating mortality which has been extensively peer reviewed.

We plan to release a draft report in May followed by a public comment period. And also of note is that the section on diesel PM exposure assessment will undergo formal peer review through the University of California before staff releases the final report in July.

ARB staff will use the new method for estimating PM2.5-related deaths as we evaluate various alternatives or changes to the two regulations.

Okay. So now I'll provide more of an update on the off-road regulation. I'll give you some brief background on the reg and then talk more about developments over the past few months, and I'll give you
staff's current thinking regarding amendments to the

regulation.

Okay. First, a little background. The Board
approved the off-road regulation in July of 2007.
Provisions limiting unnecessary idling and requiring
disclosure with vehicle sales became effective in 2008.
All fleets were required to report their vehicles to ARB
last year.

The first requirements to reduce emissions
through vehicle turnover and installing exhaust
retrofits were scheduled to take effect on March 1st of
this year for large fleets only. However, as you'll
hear later, ARB has temporarily delayed enforcement of
these requirements.

Beginning this year and each year thereafter
until 2020, the regulation requires large fleets to
either meet fleet averages for NOx and PM or meet annual
turnover and retrofit requirements.

For medium and small fleets, similar
requirements begin in 2013 and 2015, although small
fleets are exempt from all turnover requirements.

In July of 2009, the Board approved changes
that provided relief to fleets affected by the
recession, as directed by Assembly Bill 82X.

The relief already implemented for off-road
fleets provided several different credits and a delay.  

First, the changes gave PM and NOx BACT credit 
to fleets that have shrunk or reduced the number of 
hours they operate their vehicles in the past two or 
three years. This includes fleets that are simply using 
their vehicles less in addition to those fleets that 
have retired vehicles. The retirement credit gives 
fleets that have shrunk a break, but it does not prevent 
fleets from adding back as economic conditions improve. 

Second, the amendments allowed all large fleets 
to delay some of their 2011 and 2012 turnover and 
retrofit requirements until 2013. 

These changes were approved by the Board at its 
July 2009 meeting. When the Board met in December of 
last year you asked us to report back this month 
regarding how many fleets have been able to take 
advantage of the AB 8 2X relief. Fleets were required 
to report their reduced horsepower and reduced activity 
by April 1st, which was three weeks ago. So to date 
just over half of large fleets have reported using one 
or both of the credit options in AB 8 2X. And those 
claiming reduced activity have claimed an average 
reduction of about 40 percent; those claiming retirement 
credit have claimed an average reduction of about 30 
percent. And remaining fleets haven't reported any
We are still receiving reports and we've informally extended the deadline for accepting reduced activity applications until the end of this month. We'll be using this information to further refine our inventory estimates as we move forward.

Okay. So to put this in context, for the average fleet claiming credit, these credits will delay any requirement to retrofit vehicles for two years and any requirement to turn over vehicles by four years. So it's clear that AB 82X has offered many fleets a significant delay.

So in January of this year AGC petitioned ARB for a two-year delay of all turnover and retrofit requirements. In February our Executive Officer issued an advisory delaying enforcement of the 2010 performance requirements. This delay gave ARB further time to determine whether additional relief was appropriate, and it also recognized that U.S. EPA has not yet granted the authorization that would allow ARB to enforce the regulation's performance requirements.

To promote further discussion and hear firsthand from affected fleets, the Executive Officer held a hearing on March 11th which I will summarize next.
At the March 11th hearing, AGC invited several presenters including Dr. Lynn Reaser, an economist from Point Loma Nazarene University. Dr. Reaser showed that construction industry sectors are down from 30 to nearly 80 percent from their peak around 2005. She also predicted a slow recovery through 2015 and mentioned that just in the past month there has been a small uptake in both housing activity and construction jobs.

The executive officer also heard from a number of fleet owners, industry representatives and other stakeholders firsthand on the depth of the recession and its impact on their businesses, their income and their employees.

Fleets suggested a variety of potential changes to the regulation. First, many requested a two- to five-year delay, and some asked that we allow fleets to comply by turnover rather than retrofitting, and specifically that we wait until Tier IV engines become available.

Second, several suggested providing additional credits for fleets impacted by the recession along the lines of AB 8 2X, and third, many suggested we make the reg's requirements more gradual and ensure the requirements are not too front-loaded.

Finally some fleets described the significant
resources they had already spent to comply before the enforcement delay was announced and asked that we recognize these actions in whatever amendments we pursue.

So based on all these comments and our work implementing the regulation over the past several years, input from our off-road implementation advisory group and the principles that I outlined earlier, we've laid out some objectives for changes which I'll discuss next.

The AB 8 2X amendments and this year's enforcement delay have already provided short-term relief for fleets subject to the off-road reg. And staff's objectives for longer-term changes include:

1) Allow fleets more flexibility to comply via turning over to cleaner vehicles and engines, thus allowing less reliance on exhaust retrofitting. We see an opportunity for more fleets to comply by moving to final Tier IV vehicles once they're available which is expected in 2014 or 2015. This could allow us to pursue greater NOx reductions in the long term and could allow many fleets to comply with less disruption to their current business models.

2) Ensure fleets that have already taken actions and spent money to comply receive appropriate credit under the revised regulation.
1) Maintain the structure of the existing
2 regulation as much as possible as thousands of fleet
3 owners across the state have already been trained to
4 work within that structure.

Finally, at the same time we'd like to simplify
the regulation as much as possible where it's
complicated or unclear.

So on the next slide we've laid out some
changes we'd like to analyze and consider further.

First, we want to evaluate various lengths of
delay in regulation implementation.

Second, we'd like to look at reducing the
annual turnover and/or retrofit requirements, especially
before 2015.

Third, we want to evaluate expanding the low
use exemption, which would remove requirements to turn
over or retrofit vehicles that are used relatively few
hours each year.

Staff will also carefully be considering
additional suggestions from stakeholders including those
received at the workshops we're planning to hold in May
and June.

Okay. So let's turn now from off-road to
on-road.

On December 11, 2008, the Board approved the
truck and bus regulation. As the regulation stands now, starting January 1st, 2011, fleets will be required to begin to meet PM filter requirements so that by 2014 all engines will be required to have a PM filter. The regulation then requires owners to reduce NOx emissions by accelerating engine or vehicle replacement or by retrofitting engines starting February 21, 2013, so by 2023 all engines will have a 2010 or later model year engine or equivalent.

The truck and bus regulation originally required reporting by March 31st of 2010, and fleets with agricultural vehicles and those with two-engine sweepers were required to meet that deadline. For all other fleets, however, ARB has issued a regulatory advisory extending that reporting deadline until early next year.

When the truck and bus regulation was approved, the Board directed us to monitor the economy and report back in December '09 on the impact of the recession on emissions. At that December board hearing staff presented the results of an analysis that showed that vehicle activity and emissions are both below the levels estimated when the regulation was developed.

The Board determined that additional flexibility could be provided for fleets adversely
affected by the economy.

In January staff held three public workshops to solicit input on proposed amendments. At the workshops some stakeholders requested that the proposed amendments be delayed until a broader analysis of the impact of the recession on statewide emissions and the SIP could be completed.

Staff began the SIP analysis and then determined it made sense to consider potentially broader changes to the on-road regulation together with potential off-road regulation changes. And therefore, staff decided to delay proposing changes to the on-road reg in lieu of more substantial changes that could be considered.

So as part of the package of regulatory changes that we plan to work on over the next four or five months, we plan to propose the short-term relief that the Board directed us to make in December.

At the workshops in January, three options for short-term relief were discussed. The option preferred by stakeholders was one that deferred PM filter requirements for all fleets for up to two years. This option would provide the most relief to smaller fleets such that it would defer all PM requirements for two years for fleets with 20 or fewer trucks.
The Executive Officer also notified fleets that the first compliant state to meet the PM and NOx requirements, which was going to be January 1st of 2011, will be pushed back by several months to reflect this later date for board consideration of proposed amendments.

So in addition to the short-term relief described on this slide, we plan to consider longer term changes as well.

In December we believed we couldn't meet our SIP obligations if any amendments were extended past 2014. However, now, due to the emissions inventory work that I described earlier, we believe there is a margin that will enable staff to consider additional flexibility in 2014.

However, when considering potential changes, it's important to keep in mind that if the whole truck and bus regulation were delayed for a year that would likely consume the entire 21 to 42 ton per day margin discussed earlier such that we wouldn't be able to make any changes to the off-road regulation or any other changes to the truck and bus regulation.

So, our changes to the truck and bus regulation need to be more surgical. Concepts that staff would like to explore include an increase in the mileage.
threshold, a more gradual PM retrofit rate, a more gradual vehicle upgrade rate, and allowing credits to extend past 2014. And, of course, we'll take stakeholder input from our January and upcoming workshops into account as well.

So to work out what package of changes to both regulations to propose, we propose to follow the steps outlined next.

First, there is still work to be done to refine our emissions inventory. Especially for off-road, we need to continue to reconcile fuel-based estimates with ARB's models. As we perform this work, we'll have an open review process and plan to work with U.S. EPA staff as well as other stakeholders.

What I've described to you today regarding regulatory changes is really just a skeletal outline of the type of changes we would like to consider. We plan to create detailed alternatives and then evaluate their cost and emissions impact and use the principles laid out at the beginning of the presentation to judge their merit. We plan to hold a series of workshops to obtain public input on these alternatives.

At the end of the day, we intend to propose a package that fits within the final estimate of the SIP margin, that maintains the health benefits of both
rules, that improves both regulations, that's equitable
and provides the most relief possible.

So to get there we're proposing to follow the
timeline shown here. We plan to hold a series of
workshops in May to present and solicit comments on our
inventory approach and to initiate a discussion of
long-term regulation changes.

In June we plan to hold another series of
workshops to get feedback on more fleshed-out
alternatives and to present our preliminary inventories
for rule assessment.

By August of 2010 be plan to release staff's
proposal for amendments with proposed revisions to both
the off-road and truck and bus regulations to be
considered by the Board in September of 2010.

Thank you. That concludes my presentation.

CHAIRPERSON NICHOLS: Thank you. And before we
turn to the public, just to be clear then, what the
Board needs to do at the conclusion of this is to direct
the staff to go off and pursue this revision to the
regulation and, if possible, give some additional
guidance as well.

Okay. Thank you very much. I've just been
handed a list, and it is long, not surprisingly. So why
don't we try to at least get to a few before we take a
lunch break, if that's okay with everybody.

Let's begin with Henry Hogo from the South Coast Air Quality Management District, and I see you have slides.

MR. HOGO: Good morning, Chairman Nichols.

CHAIRPERSON NICHOLS: Good morning.

MR. HOGO: How about now? Can you hear me?

How about now?

Good morning, Chairman Nichols, Members of the Board. For the record, I'm Henry Hogo, Assistant Deputy Executive Officer of our Mobile Source Division at the South Coast AQMD.

I wanted to provide some brief comments relative to staff's recommendation to amend the off-road regulation and the on-road truck and bus regulation.

The two regulations represent the most significant mechanisms to reduce heavy-duty diesel vehicle emissions beyond new tailpipe emission standards. These emission reductions are critically needed in order for the South Coast Air Basin to attain federal air quality standards by 2014 and beyond.

More importantly, we must reduce residential exposure to diesel emissions as early as possible. We recognize the impacts the economy has had on emissions. However, we must also be cognizant that at some point
the economy will pick up and economic activities will be
the same or greater in the future.

I have a couple of slides that show the impact
of the economy and emissions, if we can go to the next
slide, please.

This first slide shows air monitoring data of
elemental carbon since 2004 in the South Coast Air Basin
at five air monitoring stations throughout the South
Coast region. And what will also show on this slide is
the cargo throughput over the last -- essentially since
1994. And what you see here is a very interesting trend
that elemental carbon does follow economic activity.
And with that in mind, we expect that as the economy
turns around, this is a true marker of diesel emissions.

Next slide please.

This slide shows the economic forecast that the
Port of Los Angeles and Long Beach put out last year.
And what you see in sort of the red and purple was the
original forecast back in 2007 with a very strong
increase in economic activity.

The latest forecast is shown in yellow, and
what you see here is that by 2014 we'll be at the 2006
level, but eventually the economy is going to continue
to grow and we'll have more economic activities.

Sorry, I have to hold onto it.
CHAIRPERSON NICHOLS: I know. I was hoping maybe they would just change that whole microphone out since we have a bunch of them here that other people -- if they could do that. I hope that will work. Don't touch that microphone.

MR. HOGO: Okay. The South Coast staff is concerned that while short-term relief is understandable, given the state of the economy, we must be mindful that additional reductions will be needed in the longer term to meet ever tighter air quality standards.

As older vehicles continue to be used for longer periods of time, these vehicles must be cleaned up. We urge that any analysis of short-term regulatory relief include analysis of the mid and longer term impacts of that relief. ARB must look at what longer term regulatory actions are needed as part of any proposals coming out later this year.

I'm almost done.

Lastly, we must continue to place a high priority in providing funding flexibility to allow for early deployment of the newest 2010 engines and Tier III and Tier IV off-road engines. And we really want to stress funding flexibility. Given the way the guidelines for the Moyer Programs are set up, a lot of
these vehicles are not eligible for public funding given this short time frame.

We recognize the funding that can go to smaller fleets because of the longer time frame, but we still have -- most of the large fleets are the ones that are really affected by this funding flexibility. So we urge some look at that.

CHAIRPERSON NICHOLS: Okay. Can I just ask the staff, before you go on, aren't we looking at another set of revisions or updates to the guidelines?

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes, we are coming to you I think early next year.

CHAIRPERSON NICHOLS: Okay, so there is some potential there. Okay. Thanks.

MR. HOGO: We just look forward to working with staff through the public process, and I'll be happy to answer any questions you may have.

CHAIRPERSON NICHOLS: Thank you. I don't think there are any questions. I'm going to take the liberty, which I don't usually do, of going out of order, because there is one other air district that's on the list, I think only one, and that's the Bay Area.

So I'd just as soon call you down also and that way we will have heard from our partners in the local air districts.
MR. BREEN: I think I have some slides as well, please. Damien Breen.

Good morning, Madame Chair, Members of the Board.

My name is Damien Breen and I'm Director of Strategy Incentives with the Bay Area Air Quality Management District.

Next slide, please.

Firstly, I'd like to compliment you and your staff on your willingness to take input from the industry, the air districts and the public on the implementation of this regulation. I think this demonstrates your sensitivity to fairness, equity and the economic burdens that are on industries in complying with these regulations.

But with that said, we are significantly concerned regarding the impacts that this will have on public health. 80 percent of the toxic health risk in the Bay Area has been determined by our programs to come from on-road trucking. The reason for that is we have 20 percent of the state's population, and as you can see by the diagram there, they are located on highways that are around the ring of the bay. And that population is exposed to approximately 20 percent of the total statewide diesel particulate matter and that comes from
goods movement. And with over 30,000 heavy-duty
vehicles alone registered in the Bay Area, it is a
significant issue for us.

Next slide, please.

In contemplating what you're looking at, you
have to realize that any rollback of these regulations
will have an impact on public health, but we believe
that that impact can be decreased by providing increased
flexibility in the use of grant funding.

One of the things that I wanted to do here this
morning was talk a little bit about the lessons that we
learned from the last regulation that we implemented;
that's the Drayage Truck Program that we just got
through -- well, we're nearly through. And what we saw
there was that in dealing with that particular
community, we had a confluence of a number of things
that really impacted the ability of those truckers to
upgrade their equipment.

One of the things that we saw is that those truckers needed increased access to capital. And what we'd like you to consider as part of your upgrades to your incentives programs is that we could look at some negotiated loan guarantee programs that would provide these truckers with low interest loans and loan guarantees.
Obviously, in implementing the Drayage Truck
Rule we weren't dealing with the same type of population
of trucks that we're talking about when you talk about
the on-road rule. We retrofitted or replaced less than
10,000 trucks as part of that program, and it had a huge
impact on the actual supply system here in the state.

So as you look at these rollbacks, what we'd
encourage you to do is not create another bottleneck
similar to what we saw with Drayage trucks. Currently
your staff is proposing a two-year rollback, and we see
that as possibly creating a situation whereby we don't
have enough available vehicles or retrofits to actually
help the industry comply.

So in order to address that, what we'd
encourage you to do is look at providing us maximum
flexibility in our grant programs to address emissions
from these vehicles. We'd also like you to consider
possibly some bulk purchase at the state level of trucks
that would help drive down the costs for industry,
because this is a very costly provision for them.

And then in terms of the application that these
industries have to go through, we'd look for you to
simplify them so that we could get the funding out there
quicker and reduce the health risk from this category.

And I'll answer any questions you may have.
Chairperson Nichols: Thank you. Those are interesting suggestions. We appreciate it, and we will keep them in mind.

Okay. Rasto Brezny of MECA, and then Michael Graboski from the American Rental Association.

Mr. Brezny: Thank you, Chairman Nichols and Members of the Board. I'm Rasto Brezny with the Manufactures of Emission Controls Association.

Our members have worked with -- our members have worked with your staff to verify most of the retrofit devices on ARB's approved list. Last time I checked this includes about 27 Level 3 DPF devices for off-road and on-road equipment. To get where we are today has taken over 20 years of technology development and investment in order to demonstrate and prove out these technologies and commercialize them. Continued investment, however, relies on some level of regulatory stability.

We certainly understand the strain that today's economy has put on businesses of all sizes including many of our members. MECA has supported ARB's economic relief amendments that were adopted last year and your efforts to make funding available for fleets to upgrade their vehicles. We believe that further consideration for relief should incorporate some relief for the
If further delays to these regulations are considered, we believe that a phased-in delay is the most prudent approach. This approach is valuable for two reasons. The retrofit industry creates jobs, and regulatory stability ensures that retrofits are available when they're needed in the future.

With regard to jobs, one independent economic analysis suggests that a full-time job is either created or preserved for every three to seven retrofits that are installed. Applying this type of analysis to the off-road rule would suggest that somewhere in the range of 11 to 26,000 jobs would be created in the first three years.

Applying this to the on-road rule would suggest 21,000 jobs would be generated. This includes jobs associated with sales, manufacturing, installation and maintenance of retrofit devices, many of which would be in the State of California.

So before I close I just want to say that these devices have been proven safe, durable and effective in tens of thousands of retrofits for both on-road and off-road vehicles. There are always isolated cases where technology may have some issues; however, most of
these have been attributed to either the maintenance or
performance of the engine rather than the devices
themselves.

So I want to thank you for this opportunity,
and MECA is committed to working with ARB and all
stakeholders to make sure that these goals are achieved.
Thank you.

CHAIRPERSON NICHOLS: Before we go on,
Supervisor Roberts had a question about one of the
slides, and I think we should just take that now so we
get it out of the way.

BOARD MEMBER ROBERTS: I'll be very quick, but
slide number 5 deals with South Coast and San Joaquin
Valley, but on the map you have San Diego County colored
in, and I wanted to find out if you were just testing
me.

MALE VOICE: Wishful thinking.

ASSISTANT CHIEF WHITE: I'll take that one,
Supervisor Roberts. You very astutely noticed that we
got a little too carried away with our shading.

BOARD MEMBER ROBERTS: Okay.

CHAIRPERSON NICHOLS: The map will be fixed in
future editions.

BOARD MEMBER ROBERTS: I thought maybe there
was some secret plan that was going to be unveiled.
CHAIRPERSON NICHOLS: Take all the old dirty trucks and send them to San Diego. You caught them. Okay. Thank you for raising that.

Michael Graboski and then John Lawson.

DR. GRABOSKI: Good morning. I'm Dr. Michael Graboski from the American Rental Association, and I signed up neutral about this issue because until a few minutes ago I didn't know what staff was going to say. We've been honest with you, the Board and the staff, and we've been supportive of the regulations. But I'm here to tell you that the rental businesses today are hurting just like everybody else. We see a storm ahead because both the on- and off-road rules impose requirements that few rental businesses are going to be able to satisfy going forward. And I'm going to explain to you why.

Our business model is based on replacement. Our fleets are some of the cleanest in the state, however our businesses tell us that they have not been able to invest in new equipment since about 2008. The fleets have aged, and when the economy recovers we will resume buying new equipment because that's our business model. But modeling some of our cleaner fleets have shown that while they may be compliant through 2013, we're going to fail in 2014 for both rules even assuming
recovery and investment gets back underway.

We have an economist, IHS Global Insight, and they believe that the economy is going to bottom this year and they believe or they have stated that real rental revenues will have fallen by about 58 percent since 2007 for the current year. They also think that there is going to be a V recovery and that real revenue is going to reach back to 2007 levels sometime in 2014 or maybe 2015. That's more optimistic than some other studies I've seen.

What our businesses tell us is that they will be probably delayed a year from when the economy reaches recovery stage until they can go ahead and make investments necessary to new equipment because their balance sheets have been so severely damaged and their fleet values are so greatly depressed. Others say that we're too optimistic. But I don't know, and I don't know what your crystal ball says.

The problem with our picture is that the V, the top of the V, the recovery is coincident with when the attainment demonstration has to be made. And if we guess wrong, the rules that are here are going to really mortally wound our businesses.

So I would suggest that you can't rush to fix things again with the uncertainty in recovery timing and
the impact on emissions. So we would propose that you
stay the rules, and since waivers haven't been granted,
there is no current harm, don't enforce them when the
waivers are awarded.

And unless you have certainty regarding
attainment, ask EPA to extend that attainment date. The
recession has invalidated the plan, and a clear path to
attainment doesn't exist. And perform an honest
analysis of the emissions, a realistic analysis, and
create certainty for business. And only revise the
rules when you've done that. Thank you.

CHAIRPERSON NICHOLS: Mr. Graboski, I just have
an informational question for you. What is the size of
your organization, and what's the profile of the rental
companies?

DR. GRABOSKI: American Rental Association is
231 businesses in California, approximately 500 separate
stores. We have fleets anywhere from small fleets to
very, very large fleets. Some of the larger fleets
which are national chain fleets like Hertz and United
have horsepowers in the range of 300,000 horsepowers in
their fleets.

CHAIRPERSON NICHOLS: So it's really the full
range then of sizes.

DR. GRABOSKI: The full range, that's exactly
right. National chains and the large independents compete. National chains will survive because they'll be able to move equipment in and out. But the large independents that have many stores, some up to 20 stores, only function -- many of them only function in California, and they're feeling a lot of heat right now.

What we did was we took their actual DOORS fleets and we used Global Insight's predicted investment projections based on revenue projections. We didn't put any time frame delay in. And we find that even the very, very cleanest, large fleets that in the 2007-2008 time frame had an age of, let's say, three years, now have an age of five years, next year will have an age of six years without investment money to recover. And if you try and roll that forward in time, even assuming that you're going to have money to buy back, you can't pass the 2014 and 2015 regs.

So we could greatly decrease the size of our fleets, but then what happens is that there is insufficient equipment available when business picks back up in order to sustain the investment that's necessary for the business.

CHAIRPERSON NICHOLS: Understood. And we appreciate the fact that your industry actually has the newest, cleanest vehicles, as you said.
DR. GRABOSKI: Right, and we're in trouble.

CHAIRPERSON NICHOLS: Thank you.

Mr. Lawson and then Jon Cloud.

MR. LAWSON: John Lawson, Lawson Rock & Oil, Fresno, California, home of the dirty air.

I'd like to thank the Board for letting me speak. I have a different plan just that I'd like for you guys just to look at.

CHAIRPERSON NICHOLS: Okay, the clerk will take a copy of that and give it to the Board then.

BOARD MEMBER BERG: Mr. Lawson could you let us know where your business is, where you're from, please.

MR. LAWSON: I said Fresno, California.

BOARD MEMBER BERG: Oh, thank you.

CHAIRPERSON NICHOLS: Okay, go ahead. You can start the clock now.

MR. LAWSON: I'd like to recommend from Lawson Rock & Oil that you don't delay this on-highway trucking clean air act, because California and especially in our area has such dirty air, and there's a lot of people moving forward on this project, and there's a lot of people that say it will never happen. So the "never happens" when you delay it will do nothing again, and it just compounds the problem, and it makes it a lot worse.

And then Caltrans is part of the State of
California, just like the CARB is, and if you guys could
get with Caltrans and give an incentive to the clean air
trucks working on the Caltrans jobs for the contractors
and all your transportation needs get the clean air
trucks on them to give incentives. It isn't just money,
it's incentives to keep these trucks working.

And I also hear you say that we're in a
recession. Yes, we are in a recession, and there's 25
to 30 percent of the trucks that aren't working. Those
are the old trucks. Those are the ones that when it
comes back are going to be the gross polluters. So
you're just kidding yourself by prolonging this project.

That's what I've got to say.

MR. LAWSON: And if anybody ever has any
questions on that they have my card here on that.

CHAIRPERSON NICHOLS: Do you have a question?

Yes.

BOARD MEMBER D'ADAMO: Could you, to the extent
that you feel comfortable, explain how your business,
your model for compliance? In light of the fact that
the economy is down and it's so challenging for many
people, how has it been that you can comply or plan on
complying?

MR. LAWSON: I have approximately 250 power
units. As of this month I have approximately 125 clean 
air trucks, which is a 7, 8, 9 or 10. I already have 
some 10s with the new urea deal. They get better fuel 
mileage. When you're getting three to four-tenths 
better fuel mileage you can cost show that it is a lot 
more economical to run those than it is -- just say, for 
instance -- let's just use a number. It's better to run 
a 7 percent fuel mileage than it is a 5, 5 miles a 
gallon versus 7 miles a gallon on an old truck. 
So it's cost-effective to get into the new 
trucks, and it will help everybody in the end. It will 
clean the air up, it will save fuel. Chevron won't make 
as much money, but who cares. 
BOARD MEMBER D'ADAMO: And what product are you 
hauling and, generally speaking, what range?
MR. LAWSON: I haul in California, Nevada, 
mainly. I haul petroleum products, aggregate, produce, 
a lot of different things. 
BOARD MEMBER D'ADAMO: Thank you. 
BOARD MEMBER TELLES: I have a question. 
CHAIRPERSON NICHOLS: One more question, yes. 
BOARD MEMBER TELLES: Many of your trucks are 
compliant, and you're not the only one in California 
that's in that position, and there are other people even 
in the Central Valley that are in the same position.
And is there -- I mean, going forward with this the way it's planned, would it jeopardize you because it would make other trucks that aren't compliant more competitive?

MR. LAWSON: Could you say that one more time.

BOARD MEMBER TELLES: What I'm trying to ask is: By being compliant are you not as competitive in the marketplace as other trucking industries that you compete against?

MR. LAWSON: Well, sure, that's true. If you've got $110,000 Class A truck versus a $10,000 Class A truck, you're not going to be as competitive. But, you're going to have to get there sooner or later with the $110,000 truck, so the sooner you start and the longer range you put it over, the better off you are. But the $10,000 truck is your gross polluter. So you're in a slight disadvantage. The fuel mileage saving helps you immensely. The $10,000 truck will get 5 miles to the gallon. The $110,000 truck will get approximately 7 miles to the gallon. It varies. On my tankers I get better mileage than on my ag trucks or some of the others. But it's always a lot better with a newer truck, and especially with the new SCR.

Does that answer your question, Mr. Telles?

BOARD MEMBER TELLES: Yes.
CHAIRPERSON NICHOLS: Okay. Thank you very much for taking the time.

Skip Brown and then James Jack.

MR. BROWN: Good morning, and thank you for this opportunity. I'm going to say to Mr. Lawson, it's good to be big.

I believe that the diesel regulations are a fraud on four levels, at least: Scientific, economic, legal and moral.

On the scientific level it's already seen that the regulations or assumptions are wrong by 2 to 400 percent.

And on the health issues, we see that Dr. Jerrett on February 26 agreed with Dr. Enstrom, which I found was astounding, that there is no relationship between particulate matter and deaths in California.

On the economic issues there has been plenty of people that stood up here to tell you about the economic condition in California. You already know that, and the fact that most of us will not be able to make it under these regulations. We'll meet the regulation through attrition. The fact of the matter is there is no economy right now.

Under legal issues, this is the first time that
CARB has addressed owned assets. In the past you've cleaned up the air by addressing new purchased assets, but now you're addressing owned assets. People have assets that they own at this time and you're going to regulate them out of existence. This is a taking. This will wind up with a lot of lawsuits for the State of California, and this is not productive.

In December CARB in trying to justify its regulation posted a bunch of factoids. These factoids -- the definition of factoids is something fictitious or unsubstantiated that is presented as fact devised especially to gain acceptance through repetition. CARB has been doing this for several years, and I find it quite offensive that you maintain that particular attitude.

Under the moral issues, there are 42,000 deaths annually on today's highways. A study by the Transportation Construction Coalition found that 50 percent or 21,000 of these deaths have been attributed to unsafe road conditions. What's CARB's answer to this? We'll devastate the equipment that is necessary to rebuild these road conditions.

There's $217 billion annual cost on road conditions in California but we can't spend money on the roads; we have to spend it on the devastation of assets.
So conclusions, first I want to thank you for actually putting my letter that I sent to you on February 17th on your web site. I would advise or suggest that all folks get ahold of that letter and print it out. I have 14 issues on there that I believe that deserve an answer. These are issues that CARB has swept under the rug, has ignored to answer, and I think these issues need to be addressed. I pointed them out in my letter, and I would love to see someone answer these 14 issues.

And thank you very much for your time.


MR. CLOUD: Chairman Nichols, my name is Jon Cloud. Did you call my name earlier?

CHAIRPERSON NICHOLS: I'm sorry, I did. I apologize. We skipped right by you.

MR. CLOUD: I was doodling. My own fault.

CHAIRPERSON NICHOLS: Go right ahead.

MR. CLOUD: Sorry about that.

You know, when I come to these meetings I'm never quite sure what I'm going to say, and with three minutes to start, I'd better be mindful of what I'm going to say.

I think you're going to hear a lot of things on the technical aspect of this today, so I'm going to step
back from that a little bit and put a face to this thing
and what this actually -- what this rule means to those
of us in the industry.

I think I was going to start today where I left
off at the EPA meeting last week. I happened to be
fortunate enough to be in D.C. last week and I stayed
for the EPA meeting. I told the three members at the
EPA meeting what these regulations mean to me: It's a
dream killer. It's a dream killer for me and my family
on our American dream.

Our business's only way to comply with these
regulations was to downsize. And I'm not sure if we'll
ever actually be able to grow back to a large-size fleet
considering the cost of what it would do for our family.

Here's where the dream killer comes into this
deal. Two weeks ago today, as a matter of fact, I was
standing in Independence Hall in Philadelphia with my
daughter's 8th grade class and 75 other 8th graders.

Some of you may recall Independence Hall. It's
the place where the words:

We find these truths to be self-evident,
that all men are created equal, endowed
by their Creator with certain unalienable
Rights, amongst these are life, liberty
and the pursuit of happiness.
A few years later some of the same men who wrote those words penned the words:

We the People of the United States, in order to form a more perfect union, to establish justice, to ensure domestic tranquility, to provide for the common defense, support the general welfare, do ordain -- and to secure the blessings of liberty for ourselves and our posterity, do ordain and establish this Constitution.

This is a dream killer to me. When I say this law is a dream killer, I believe in the American dream. And the words "the pursuit of happiness" actually meant something to me.

I realized these rules were going to be a problem about three years ago when in a meeting in San Diego County one of your staff members in answering a question from me that some of these rules are going to put people out of business, they won't be able to afford it, one of your staff members looked at me and 250 other people and said, "You know what? Some of you are just going to have to go out of business and find something else to do."

That's not an American dream; that's a
nightmare, that a regulator can look at someone and basically say that to them. And I wonder, the people who penned the words, "We the people", who penned the words, "We find these truths to be self-evident, that you are endowed by your Creator with certain unalienable Rights," would they consider that a taking? Would they tell that regulator, you can't do that? You can't pass an ex post facto law that outlaws the equipment that I bought under state regulations that was legal two years ago and then have the audacity to look me in the eye and say, well, you might just have to go out of business? We have a problem here. And I would hope this Board would direct the staff to actually look at real science, look at facts, take into consideration what those in this industry who are going to be affected by this and who may well have to go out of business have to say about it, and look at some real science. Thank you for your time.

Chairperson Nichols: Okay. Sorry. You are?

Mr. Jack: James Jack.

Chairperson Nichols: Okay. Go ahead.

Mr. Jack: Thank you, Madame Chair and Members. My name is James Jack. I'm here today on behalf of the Emission Control Technology Association. First and foremost, I want to thank you and
your staff for the presentation this morning. Your staff has done an extraordinary job of laying out a comprehensive framework for moving forward on this regulatory issue. We know there is a long road ahead, but we look forward to continuing to partner with the Board and its staff to get there.

One of the things that we want to strongly urge the Board to consider as we move forward is the changes that -- the impacts that changes to the regulation will have on the investment that clean technology manufacturers have made in California.

When California started regulating diesel emissions, these regulations spurred companies to make significant investments in research and development that have resulted in new pollution control patents and new pollution-reducing devices such as the diesel particulate filters. The manufacturers of these retrofit devices have developed clean technology solutions that will help the State meet its clean air goals, also providing equipment owners a more cost-effective way to comply with the regulations by allowing them to retrofit instead of replace their equipment.

Further changes to the regulation, however, put manufacturers of clean technology equipment at risk.
They've built their business models, secured investment capital, and deployed significant resources in California based on the regulations that this state has adopted. Their ability to generate a return on that capital for their investors, shareholders and employees is dependent upon the State meeting the regulatory commitments it has made.

Significant changes to the environment will put this investment at risk and will threaten the economic viability of these manufacturers in California. The manufacturers are unable to sustain their investment, many will be forced to leave the marketplace altogether, stifling the growth of California's green economy and leaving California fewer choices to meet its clean air goals.

More importantly, such changes in the regulatory environment could send a chilling message to other clean technology innovators who are looking to California as an incubator for clean technologies and to be the engine for the nation's green economy.

So in closing, we look forward to continuing to partner together with the Board and its staff as we move forward on this regulatory issue. Thank you.

CHAIRPERSON NICHOLS: Thank you. We now have five people who have signed up, all of whom, I think,
are together with the Associated General Contractors
organization. And it's 12:25. So do you want to take
them all before the break or defer them? I don't think
we want to split in the middle of it. One way or the
other. So it's up to the Board.

Let's hear from them? All right. We will hear
from Michael Kennedy, Michael Steel, James Lyons, Tom
Brown and Mike Shaw, and then we're going to take a
lunch break.

MR. KENNEDY: Thank you, Madame Chair, Members
of the Board. I appreciate the chance to be here today.
I have a couple of slides that we'll try to bring up.

As you know, for some time AGC has focused on
the emissions inventory that provided the foundation for
this rule. We did that because we don't quarrel with
the balance you tried to strike between the economy and
environmental protection. We do believe in improvement
in air quality in California. We have wives, we have
children, and have neighbors in this state. And we're
not asking you and we do not ask you to relax your
objectives.

What I'm going to do today is just turn to the
last page of the book. AGC has just completed an update
of its 2009 inventory of emissions from the regulated
fleets. What you have in front of you is a slide
summarizing where the latest information leads us on NOx emissions from the regulated fleet.

The red line in this graph represents the original emissions inventory that the staff conducted. The white line represents the goals you have set for our fleets. And the yellow line is what the best information available today tells us about where the emissions are actually going to be.

Now, I talk about the best information available today. We're talking about the DOORS data that was not available at the time this rule was developed, I'm talking about data indicating that there are approximately 7.5 percent of the vehicles in the fleet who operate low use. And I'm talking about data made available by your Board of Equalization and the U.S. Department of Energy on diesel fuel consumption in the State of California.

If I can go to the second slide, please.

This is a similar slide for particulate matter. Again, the red line represents the original emissions inventory on which you based your decision to adopt this rule. The white line represents the environmental objectives that you set for our fleets. And the yellow line indicates where we are today.

Before going on, I want to emphasize just one
small point. The yellow line on these graphs does not represent anything relating to the downturn in the economy. The emissions projections that you have in front of you here and that we have provided to each of you individually are based on the same activity levels and growth factors that your staff used to develop their original emissions inventory. This is reflective of changes coming out of the DOORS data, the low-use equipment and a reconciliation between the model and the diesel fuel consumption. We do not advocate that you abandon the model, but we do find it necessary to adjust it.

I wish I had time to explain all of this today. I don't. I've got three minutes. I've got 30 seconds left.

AGC is available. We will meet with you individually. We will meet with you as a group. We will meet with you over the web. We will meet with you by telephone. We would expect you to have questions. We would expect a certain degree of skepticism. We are committed to transparency. There is no question that you can ask that we will not answer.

Finally, I just want to make it clear that by all accounts we have a large cushion, we have an opportunity to provide some direction to where we go
from here, and I urge you to provide that direction
today.

Madame Chair, if I may?

CHAIRPERSON NICHOLS: Well done.

MR. KENNEDY: I would just ask you, it is our
recommendation that you slide the schedule for this rule
for 5 years, and I want to underscore that merely
delaying enforcement of this rule will not achieve your
objectives. As recently as last week a local contractor
sold seven more pieces of construction equipment and
laid off three more mechanics. Unless or until the
schedule itself is slid, merely delaying enforcement
will not affect the economic outcome. Business people
see the water building behind the dam, they know it's
going to break.

Thank you very much. I'll be glad to answer
any questions you may have.

CHAIRPERSON NICHOLS: Thank you. Mr. Steel and
then Mr. Lyons.

MR. LYONS: Actually, we've been asked to
change the order. I'm Mr. Lyons, if that's okay.

CHAIRPERSON NICHOLS: That's fine. You can be
whoever you want to be.

MR. LYONS: Thank you. Appreciate that.

I am Jim Lyons with Sierra Research. We're the
company that has done the updated emissions inventory.

It's only recently been made available to CARB staff. I understand they're looking at it. I just wanted to make a couple of points about what we've done that I didn't hear out of the staff presentation.

First, unlike the December inventory, this one has been updated with an additional dose, if you will, of DOORS data from February. Our vehicle population is about 150,000, not the 100,000 or so we had in December.

And we have looked at this issue of the top-down or fuel-based calibration of the off-road model.

Specifically, what we've done is we have accounted for things like the use of clear fuel in off-road equipment that was a criticism of the Millstein and Harley paper.

We've accounted for the use of fuel in all the equipment subject to the rule.

And I'll just conclude by saying while the staff has got their adjustments of a factor of about 1.4 to 2, our analysis indicates that that factor is about 3.5. So we would feel that you have even more cushion than the staff has led you to believe. Thank you.

CHAIRPERSON NICHOLS: Okay. Thanks. So now Michael Steel and then Tom Brown.

MR. STEEL: Good morning. Thank you.

Just a couple of points. Very pleased to hear
today that the staff now agrees that the previous
inventory is too high. We have a difference of opinion,
as Jim just pointed out, in terms of how far off the
inventory is.

One thing that kind of concerns me, though, is
that I heard that this issue sort of first came up when
Professor Harley's report came out. I think I heard
them say December. It was actually September of last
year. But actually Professor Harley was not the first
person to raise this issue about the adequacy or
accuracy of the off-road model. That was raised by
Professor Robert Sawyer back in 2000. It was also
raised earlier by Dr. Harley before this rule was even
adopted in a contract paper that he wrote for the Air
Resources Board back in 2004.

So this issue of the off-road model having a
problem in terms of the fuel analysis has been out
there. I'm glad we're finally hearing about it today
before the Board.

I also want to comment on this enforcement
relief. The enforcement relief is a statement by staff
that they will not enforce the rule until EPA grants the
waiver. And as they have acknowledged, they have no
legal authority to enforce the rule until EPA grants the
waiver.
On the same day that they announced this enforcement day, which is a sham, they wrote a letter to the EPA urging immediate granting of the waiver. So on the one hand they're sending out this message to the community that relief is forthcoming; on the other, they're begging EPA to withdraw the relief.

What staff's slides show this morning is also that what we have been telling you, which is the way that fleets are complying with this rule is by shrinking, is true. They say that 55 percent of the fleets are taking advantage of the shrinking fleet low-use exemptions. And as we have pointed out, that is an economic disaster for the industry. You don't cope by getting smaller and smaller and eventually disappearing.

Now, we can have more delay and more time for study, that's all well and good. But the industry needs some clear direction from you today, and the staff needs clear direction. I was very pleased that Chairman Nichols started out by saying that the job today is to provide clear direction to the staff and that you have to make decisions despite the uncertainties.

The clear direction that staff needs is to provide relief and to provide relief that pushes this schedule out. By simply saying that we will provide
some deferral of the deadline until 2013, 2015, whatever
you might pick, but then you have to catch up, you've
got a giant balloon payment due, is just inviting
disaster. And from a business perspective, if you know
that you're going to have to catch up in three years,
you've got to start making those expenditures now when
you can least afford it.

Thank you.

CHAIRPERSON NICHOLS: Is that okay? All right.

Thank you.

Tom Brown and then we'll finish up with Mike
Shaw.

MR. BROWN: Madame Chair and Board Members,
thank you in allowing me to address the Board today.
You know, as stakeholders in the industry and
stakeholders in this regulation, we are truly committed
in providing accurate data. We believe as submitted by
Sierra Research the most recent report sheds new light.
While we understand staff continues to review and
examine this data, we also want to remind the Board and
staff of the sensitivity of this regulation and the
impact to the construction industry.
The impact alone to Operating Engineers, the
brothers and sisters that operate equipment, is upwards
of 38 to 40 percent of unemployment. Those are
devastating numbers. These individuals now find
themselves wondering how are they going to pay for their
health insurance, how are they going to pay for the
bills by not having a job, keeping in mind these are
well-paid individuals that on the average cost an
employer somewhere between $65 to $72 an hour. So these
folks are people that generate a fair income. They're
not the ones that you would say that were overextended
and got themselves in trouble.

Another concern is the exodus of businesses in
California. Small business is the backbone of America,
the entrepreneurs of our nation. Whether it be the
recession or the financial inability to make the
immediate investments in equipment, it's totally unfair
to these individuals and their firms during these times.

The model utilized and most recently submitted
by Sierra Research clearly shows that we have achieved
these goals the staff and the Board have set out long
before they were needed.

Respectfully, we request the Board's schedule
be deferred to 2015 of this regulation. Thank you.

CHAIRPERSON NICHOLS: Thank you, Mr. Brown.

MR. SHAW: Good morning. My name is Mike Shaw.

I'm a San Diego County resident. I'm a contractor,
grading contractor, and equipment owner. And I think that one of the things that's become apparent today is that you have a flawed model from which this regulation has been built on. It's going to be an academic discussion with some very bright people to determine maybe how flawed the model is. You say between 40 and 100 percent; we think perhaps as much as 300 percent or more.

And again, these bright people are going to come up with a resolution for this over time and come to an agreement. That's pretty neat.

Now, on the other side of the table you have people out here, people like me that have taken steps towards compliance. I'm a compliant contractor now, after having spent between $5 and $6 million on new engines and retiring over 45 pieces of equipment, 28,000 horsepower. It's really encouraging to me to hear today in this room that maybe we were off only 100 percent, and maybe I only had to spend $2.5 instead of the $5 million I've already spent, and maybe I could have kept 20 of those tractors that I had to get rid of to become compliant today.

So I'm a little discouraged about this process. And I think it's very important that before anything else happens you come to the bottom line on this thing.
We still have to make these moves to comply because they take a lot of time and a lot of planning and cost a lot of money. So this has got to be fixed before you move on.

Bottom line on this thing, I think that -- it's my belief, and I've reviewed the Sierra information for as well as I can read it. Looks pretty good to me. I don't think there's any question you can't push this thing back 5 years to 2015 and still get everything that you want. Those are my comments.

CHAIRPERSON NICHOLS: Okay. Thank you. We're going to take a lunch break and come back to the rest of the witnesses here. We've got another dozen or so to go.

(Lunch Recess)

CHAIRPERSON NICHOLS: The rest of the Board Members are in the back finishing up lunch, but they can listen on the sound system that we have.

We're ready to get back into session. Again, I do want to note for the record that we held a closed session during lunch and were briefed by the Attorney General's office and our own lawyers about litigation that is pending but no action was taken, no decisions were made by the Board.

So we are now ready to resume the hearing, and
the next witness that we have is Eric Carleson from Associated California Loggers followed by Richard Lee. 

MR. CARLESON: Eric Carleson, Associated California Loggers. Good afternoon. Three minutes, three previous transcript excerpts and a little bit more. 

Transcript from January 22nd, 2009. 

Chairperson Nichols: We would like to ask the staff in conjunction with the economic review that they will be working on anyway to put a special focus on the issue of the logging trucks and this industry and to come back with recommendations that would deal specifically with their situation. 

Transcript December 9, 2009. 

Board Member Balmes: I'd like to go back to a year ago when we heard a lot of testimony from the logging industry. We heard some again today. And some of you will recall that I was concerned about that specific impact in the logging industry. And I think that we should consider perhaps an exemption to the 25,000 mile limit. As far as I'm concerned, logging is a type of agriculture. And I think the impacts have been specifically tough in that region that does have relatively clean air. So I propose that there also be considered some kind of --
Chairperson Nichols: Reclassification.

Board Member Balmes: -- another classification for the logging industry.

Chairperson Nichols: Okay. Let's add that to the list of potential to-dos.

Transcript December 9, 2009.

Chairperson Nichols: We've heard from -- I'd like to actually reference communication that I had, even though this is not ex parte, per se, with Wes Chesbro who represents Mendocino County and who has been an effective spokesperson for the idea that the rural counties need to be given special consideration as we look at some changes to this rule. So I just want to note that that input has been received. And as I told Assembly Member Chesbro, we would think long and hard about what we could do to address that issue.

My question through the chair to the CARB staff would be what progress has been made on acting on the request of the chairperson, Members of the Board and Assembly Natural Resources Chair Wes Chesbro with regard to these requested changes for consideration?

CHAIRPERSON NICHOLS: We have to direct the staff to answer the question, and we will put that on the list of things for this meeting. Okay?

MR. CARLESON: Thank you.
With a little time left, my final point would simply be in January 2009 CARB staff made recommendations against relief in attainment area rural California on the basis of modeling in Eureka, overriding actual monitoring data from the adjacent Mendocino County Air District. We formally request the CARB staff refine its modeling of Eureka, given recent revelations regarding flaws in modeling of the off-road rule.

Thank you very much.

CHAIRPERSON NICHOLS: Thank you. Do you want to address the logging issue at this time or save it to the list of items for the end?

Erik, looks like you're ready to speak.

ASSISTANT CHIEF WHITE: Yeah, we can mention a few things. I can say that as we've continued to look at the regulation, we do continue to look at the impacts on logging. Certainly the first compliance dates for the agricultural trucks, including logging trucks, have not yet taken effect, so we're using that time to continue to look at it.

Some of the comments, though, that we just heard came before we presented you with last January a somewhat comprehensive assessment in terms of the localized impacts associated with PM exposure. And we
used the logging trucks because we had very good real

data that were not going to be impacted by our emission

inventory revisions that we did to the statewide

industry and inventory as a whole, which clearly show

that we still need to be concerned about potential

changes in the PM requirements associated with logging

trucks and understand the localized impacts.

As we look at potential changes moving forward

for September and working within our goal of maintaining

the health benefits of the regulation, we'll definitely

add logging trucks as part of that work.

CHAIRPERSON NICHOLS: So it's on the list of

items that will be addressed by the September --

ASSISTANT CHIEF WHITE: Correct.

CHAIRPERSON NICHOLS: -- rule.

ASSISTANT CHIEF WHITE: And as we do that we'll

be looking at agricultural trucks and reporting on the

reporting that we've received as well, so this fits in

very nicely.

CHAIRPERSON NICHOLS: Good. All right. Thank

you. Richard Lee and then William Davis.

MR. LEE: As a citizen of the State of

California, I'm here on behalf of those most afflicted

by the truck and bus rule; namely, all of us.

As much as air pollution is a purported concern
of this board, my personal concern is with the toxic
thought pollution emanating from this building. In the
spirit of cooperating with the Board to clear the air, I
have several questions. These are not rhetorical
questions, rather this is a heads-up that I will be
sending each of you as Members of the Board a letter
requesting your individual, clear and honest answers to
the following.

Number 1, are you aware that the scientific
basis for the truck and bus rule is a fraud?

Number 2, are you aware that the technology
propounded to solve the nonexistent health problem
caused by diesel emissions is a fraud?

Number 3, are you aware that the truck and bus
rule's regulatory taking of the property and the
livelihoods of truck and bus owners without fair and
just compensation is a violation of their 5th Amendment
and due process rights?

Number 4, is not the implementation of the
truck and bus rule a crime in progress for which CARB
can be sued out of existence?

Number 5, are you aware that U.S. Code Title 18
part 1, chapter 1, section 4, is called a misprision of
felony? This is where knowledge of a crime can really
put one on the spot. Failure to report that crime or if
you're, say, in charge of those who commit a crime, is a
crime.

Number 6, were I not to act to counter these
criimes, would I not be complicit with these crimes?

I can and will back up all these statements of
fraud and wrongdoing. The truck and bus rule is not
acceptable.

Mary Nichols, your apologies are not
acceptable. What is acceptable is your resignation.

CHAIRPERSON NICHOLS: All right. We will hear
next from William Davis.

MR. DAVIS: Do I have to?

CHAIRPERSON NICHOLS: You can only go up from
there.

MR. DAVIS: Good afternoon, Chairman Nichols,
Members of the Board and those of you dining in the back
room.

My name is Bill Davis. I'm the Executive Vice
President of the Southern California Contractors
Association. And my job, the way I look at it anyway,
in dealing with this agency is to be cooperative,
informative and constructive as an advocate for our
industry. I am not among those who describe your staff
or yourselves as folks with cloven hooves and horns, and
we hope to keep moving forward in that direction.
And in that spirit I'd like to wish each of you a happy Earth Day. I didn't hear anybody do that today which sort of surprised me considering the celebration that's going on outside and inside the building. I don't think I'll mention Lenin's birthday, because it just doesn't seem to play.

Normally I have some reference to literary or historical fact, but this time I was struck by Chairman Nichols' comments that you can be whoever you want to be, and since I've always wanted to be Cary Grant at his peak, that's where I'm going to leave it.

But one of the things that you also said today, Chairman Nichols, is that in making decisions about these regulations that you have to consult with your feelings and your beliefs on a personal basis. And as an attorney, and I think Ms. Kennard is also an attorney, we were sort of hoping that you guys would consider yourselves a jury. A jury has to put aside their personal feelings and beliefs and decide the case on the facts.

Our industry would prefer that you use the standard for criminal juries, beyond a reasonable doubt, but we'd settle for preponderance of evidence. And as with this microphone, we don't believe that this regulation can be a "one size fits all" document. We
think this rule should offer maximum flexibility and
maximum incentives for our industry. More flies with
honey than vinegar, my mother used to say, and I think
that there is something in that.

For example, if you were to grant the AGC's
request for the past -- excuse me. And change the
requirements for the regulation to 2015, it would put
everybody in the pool for Moyer money and other kinds of
grants, not the SOON program at South Coast which is a
seven-year program, but everybody else. We think that
that incentive would be a good incentive to get large
and medium fleets to retrofit early.

We have concerns about having an active and
vibrant industry in California that helps provide
technological solutions to these problems as well.

There are some other issues with staff comments
this morning. We don't actually use the recession word
in construction; we call it a depression when you're
down 50 percent from where you were five years ago. We
don't expect to return to those levels, which is 2005,
any time soon.

And there are several others. I guess I'll
have to submit them in writing to you.

CHAIRPERSON NICHOLS: Okay, if you have
additional issues....
MR. DAVIS:  One in particular is with regard to the AB 8 2X amendments. We need to remove the balloon payment requirements that are in the current amendments. Those exist for emissions that apparently do not. Thank you.

CHAIRPERSON NICHOLS:  Okay. Thank you.

Betty Plowman and then Dave Harrison.

MS. PLOWMAN:  Hello to you all. In the spirit of kumbayaism, as Bill just expressed, let me say that perhaps my biggest thanks to you all is for making me more aware of what's happened out there in our world, and California specifically, which is why in February when the county health rankings were published I was immediately drawn by the figures. And I guess most important that jumped out at me was the fourth healthiest county which was Santa Clara.

Fourth healthiest with three interstate freeways, 286, 80, 880, Highway 101 and eight expressways. According to what I had heard at these meetings, everybody in Santa Clara County ought by now to be dead. However, they are the fourth healthiest in the State.

Of equal what got me, and I can sure identify with that logging man, was Del Norte County who is the unhealthiest in the State. The most premature deaths.
Del Norte sits at the top of California bordered by the Pacific Ocean, zero particulate days, zero ozone days, they're dying like flies up there. While a lot of things were taken into consideration, a huge factor in this is poverty and unemployment.

So once again, as our gracious state enacts more regulations that do kill the California economy -- Supervisor Roberts, you're number 15. Pretty good going down there in San Diego. I'm Solano County, I'm 28. But I'm watching us fall apart daily. I'm watching the businesses leave. I'm watching the same thing, that you can't get permits. That's as far as I'll go with that.

I have a minute left, and I will say that there are some programs that I have brought up numerous times that I want to touch on again, and that was something that we could do here and now to clean up our air. Because frankly I resent the gentleman that says he doesn't want to compete with the $10,000 trucks. The trucks you're putting out of business are not necessarily the $10,000 trucks. Some of them are $150,000 trucks that people paid for just a few short years ago which are now not compliant. I know because I test these trucks for smog. I tested them yesterday. I want to tell you that I tested a '94 with an opacity reading of 7.1. These are clean trucks. They don't
need to go.

If in fact we have a small percentage of low-hanging fruit, 10 to 15 percent of the trucks are polluters. Let's test these trucks. Let's get them out of here. I don't want to see them any more than anyone else. I will be the first one to call 1 800 END SMOG when I see a polluting truck. But to throw the entire state out is wrong. Thank you.

CHAIRPERSON NICHOLS: Thank you, Ms. Plowman.

Dave Harrison and Jim Jacobs from the Operating Engineers.

MR. HARRISON: Bill beat me to the punch. I thought I was going to be able to wish you a happy Earth Day first.

Members of the Board, staff: Dave Harrison, Operating Engineers Director of Safety, Local 3.

Before I go into what I was going to say, I wanted to make a small point. Just last week Toyota closed their NUMMI plant down in Fremont laying off 5500 Californians. And I come in here today and I see a Toyota on display out in front of the CalEPA building. A little disheartening.

I'm here once again to participate in the regulatory process and help to ensure that the off-road rule is implemented in a responsible manner. You still
have a rule that's unsafe, unreasonable and financially
crippling, and you still do not have a waiver to legally
implement that rule.

As it currently stands, a request from the
industry, labor and management has been made to postpone
the regulation for three to five years. We've asked for
this from the very beginning and are still asking for
it. It's frustrating because we've asked for an
extension of the entire rule two years ago. And now
we've got folks like Caltrans, Granite Construction,
some other folks, the gentleman that spoke earlier that
have spent millions of dollars to comply with a rule
that you can't legally enforce. And we told you so two
years ago. So welcome to our frustration.

We're also asking that when you postpone the
rule you postpone the entire rule -- reporting, initial
compliance and all your target dates, as AGC has asked.
If you only postpone the compliance dates and not the
target dates, you've essentially created an impossible
goal and are forcing our contractors to climb what was
once a steep hill to now a sheer cliff. They call that
compression and it doesn't work. It's going to double
and triple the problem.

We believe that improved air quality is a must,
but we do not believe that it should be achieved at the
pure expense of Californians. AGC has given you a fresh
look. The economy has given you reduced activity and
reduced inventory. You have the tools to achieve your
goals; you now just have to choose to use them.

Thank you.

CHAIRPERSON NICHOLS: Mr. Jacobs.

MR. JACOBS: Good afternoon, Madame Chair,
staff, Members of the Board.

Madame Chair, you said this morning that
California is a bright spot. And I absolutely agree
with that, but I'm afraid that it's about to burn out.
We keep having these meetings, and it just seems like
we're spinning our wheels. We're stuck in the mud.
We've spent a tremendous amount of time and money
bringing our ideas, our concerns, opening up our books
and our companies to you. You've thrown us some bones,
but I'm tired of coming down here and begging. I don't
want to beg anymore. Our members are out of work. I
don't know how much longer I'll have a job, because our
members aren't working and that kind of involves me,
also.

All this being said, I came up with a plan also
today that doesn't involve asking anybody for their
resignations, all the people up there. But it does
involve -- let's just put it this way. Let's just drop
this whole plan, fire your staff and give the money that
you would normally spend on your budget to the
California state school system. Let's educate our next
group of kids coming forward. I think that's the
smartest way we can invest in the future of this state,
and that's how we need to move forward. Thank you.

CHAIRPERSON NICHOLS: Randal Friedman will be
next and then Don Anair.

MR. FRIEDMAN: Madame Chair, Board Members:
Randal Friedman on behalf of Navy Region Southwest, and
I'll wish you a happy Navy Earth Day, be the first to do
that.

As you can see routinely on CNN, we continue to
be very busy both in our national defense and
humanitarian missions. So I'm not here to talk about
the recession, because our activity level continues to
be very high. What I'm here to talk about and we did
submit written comments on behalf of all the military
services are issues unique to our status as a federal
agency and of the military.

And those reasons, which I won't elaborate,
they're in our letter, have presented compliance
challenges to us that make it impossible at this point
to meet the deadlines. We've been working diligently,
we continue to work diligently, but in our best
assessment we need until 2014 to get on the compliance track for the reasons that we discuss in the letter. And certainly I can answer any questions. I like the approach the staff is taking. We certainly support taking another look at this. I'd also like to thank all the technical work AGC has done to highlight this issue, and I urge you to consider all this testimony and the work they've done. And in that mix, again, please don't forget the Federal Government and the military, because we have our unique set of issues that, again, has nothing to do with the recession, but at this point we have some very difficult obstacles and we are seeking some help from you.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Don Anair and then Ned McKinley.

MR. ANAIR: Good afternoon. I'm Don Anair. I'm an analyst with the Union of Concerned Scientists. I'm mostly here today just to support the process that ARB has laid out moving forward on this issue. I think it's important that we establish what the inventory and the inventory budget is for these changes that are forthcoming and we use that information to decide what kind of changes are appropriate.

One of the challenges with the changes that
have been proposed by staff for the truck rule, the
delay in the retrofits, staff has assured us that those
changes do meet the emissions budget, but we haven't
seen the actual emissions inventory data from those
changes. And I think it would be helpful in workshops
that are forthcoming to present the emissions impacts of
the presented changes of these workshops so we can
actually see what different options are available and
what the actual emissions impacts and therefore the
health impacts would be going forward.

I'd also like to offer a suggestion on the
implementing or doing a sensitivity analysis on the
economic impacts of the emissions inventory going
forward. We've heard today from different folks about
how they expect the economy to recover, and clearly
there's different opinions on this and there's different
evidence to support different rates of recovery. And I
think it would be useful to have a sensitivity analysis
on the inventory to see what we're really looking at.

We wouldn't want to have a pessimistic view of
the economic recovery and therefore make changes that
would result in excess emissions and therefore impact
public health and also prevent us from meeting the SIP
requirements.

And finally, I think the ten guiding principles
that have been laid out by staff are appropriate and they're good. Especially maintaining the health benefits, we continue to make that our top priority.

Thank you.


MR. MCKINLEY: Good afternoon, Chairman, Board Members. My name is Ned McKinley. I'm here on behalf of Major General Anthony Jackson, the Commanding General for Marine Corps Installations West. Thank you for the opportunity to come and talk and give some very brief comments to add on to what Andy Friedman my Navy counterpart has said.

Major General Jackson is in command of six bases in California. There's about 42,000 horsepower at these bases that is subject to the off-road rule. We are committed to full compliance, we will get there, but as Randy said, we do have some challenges. The federal budgeting process is probably the first one to bring up, and in terms of hitting that timeline that definitely is a challenge for us under the current regulation.

Another challenge is based on global events, the money that we are seeking for compliance, about $60 million for the off-road rule as well as other ARB regulations, that $60 million winds up competing with other money -- Marine Corps budget and the Department of
Defense budget. And that is definitely subject to change based on international events.

We have been talking to your staff. We very much appreciate them working with us and listening to our concerns. We've given some recommendations for things that could help. I don't think it could get us all the way there but it could help. Some things involve, for example, the low-use designation of 100 hours. We have many vehicles that are just over that. And if there is some kind of adjustment along those lines, those kinds of adjustments could help us.

Just in closing, I just want to say that in the case of the Marine Corps, we have about 40 percent of our combat power at those bases. Even more important, most marines come through California to train. What this means is that California is absolutely essential to us. We really can't go anywhere else to do what we do here, and we've got to make it work here. So we are committed to a long-term and a collaborative relationship with the State of California.

So we look forward to working with you and with your staff as you look at changing this rule.

Thank you.

CHAIRPERSON NICHOLS: Thank you very much.

Michael Lewis and then Bonnie Holmes-Gen.
MR. LEWIS: Good afternoon. I wanted to talk to you about a couple of things today. I'm with the Construction Industry Air Quality Coalition. And I wanted to say that I think it's time to overhaul this regulation, not just tinker around the edges. I'm a little disappointed that the staff didn't come up with some more specific things for you to get your teeth into today, so I'm going to give you several.

First and foremost, on your guiding principles you need a new number one. It needs to be: Get the numbers right. Nowhere in any of what's been presented to you today is anybody suggesting that they're going to spend time to get the numbers right, and that's what you need to do. This rule was based on a whole set of assumptions and numbers in the beginning that we now have correctly. We have fuel, we have fleet makeup, we have low use, we have load factors, and those numbers all need to be updated and gotten right. Because until they're right, you're asking us to spend hundreds of millions of dollars, billions of dollars, to reduce phantom emissions, and we're not going to do that.

Secondly, I don't think it's fair to combine the savings that we've realized in emissions for this rule with the trucking rule. We've joined with the other trucking associations, and we are about to
undertake an analysis of the truck rule model, very
similar to the one that AGC did, and we believe that
we're going to be able to demonstrate significant
reduced emissions as a result of that analysis, and that
needs to be taken into account separately.

With regard to your instructions today, I would
suggest you do the following. You need to tell your
staff to revise this rule to keep the reporting, keep
the idling, keep the sales disclosure, and put everybody
on the same timeline as the small fleets, the 2015.
That will get us the certainty.

The second step is to tell your staff to go
back and fix the model. They're not going to do that by
September. It's probably going to take until sometime
in 2012 to do that. But you need to update the model,
you need to reflect the fleet changes, you need to
review the load factor data which we believe is also
inflated. You need to revisit those growth assumptions.
None of those things were changed in the AGC analysis.
And if you add those in, that bottom line on their chart
drops off the page. And I think it's important to get
those numbers right and to revisit them and fix this
rule before it would go into effect in 2015.

Finally, we've been working on that draft
bubble concept that I've told you about. We have some
language. We're testing it on some fleets right now. I would like to inject that in this process at some point, perhaps for that later round of changes, it's going to involve some changes on your part, because we're going to want to include portable equipment, forklifts and perhaps some other rules in that bubble. And that's going to cause some dislocation in your organization, but I think it will be worthwhile. 

I'm just concerned that this rule has needlessly cost us millions of dollars already, it's put quite a few contractors out of business, and it's very important that we get the numbers right and use that data as the basis for moving forward.

Thank you.

CHAIRPERSON NICHOLS: Thanks. We are really looking forward to that proposal, too.

MS. HOLMES-GEN: Good afternoon, if I can zip ahead here. Bonnie Holmes-Gen -- I think I'm next -- with the American Lung Association of California.

CHAIRPERSON NICHOLS: Could you speak up or into the mic. Don't play with it or it will just balk.

MS. HOLMES-GEN: All right. I won't touch it.

Can you hear me now?

CHAIRPERSON NICHOLS: Yes. Thank you.

MS. HOLMES-GEN: Okay, I'll start over again.
Bonnie Holmes-Gen with the American Lung Association in California, and of course the American Lung Association has been a strong supporter of your Board's development and adoption of these regs, of the truck and bus and the off-road equipment regulation, due to the serious health impacts from exhaust from dirty diesel engines. And we believe these measures are critical public health measures, critical to clean up the air quality, clean up air pollution in our state, and critical to our ability to comply with our Federal Clean Air Act obligations.

And we just don't want to lose sight of the fact that diesel soot is a carcinogen, and we are suffering in the state of California -- asthma attacks, hospitalizations, emergency room visits and early death from exposure to diesel soot.

We believe strongly that we have to move forward to implement these regulations. And we appreciate the need to understand and calculate the effects of the economy on diesel fleets and the need for some additional flexibility to address the economic impacts, and we have stated that in our previous testimony before the Board. And we've been especially open to flexibility for small operators. But we do continue to oppose any across-the-board delays in the regulations. We don't think that's the way to go.
We greatly appreciate the Chair's comments at the beginning of the hearing focusing on the importance of the public health benefits, and we agree with the ten guiding principles that the Board has put out today. And I would like to emphasize that in looking at options for additional flexibility, we want to make sure you don't lose sight of the need, of course, to get these near-term public health benefits in addition to meeting our SIP obligations, and that we do need to reduce dirty diesel soot now because communities are suffering now from illness and death that's directly related to this soot exposure.

The SIP deadline is an important measure of how we're doing, but again we also need to look at the near-term community health impacts.

In terms of next steps, we agree with the steps that you've laid out to get additional analysis, to understand the emissions budget, but we do believe that in developing specific recommendations that the Board should continue to focus on flexibility, again, for smaller businesses, smaller operators. And we think that the Board has already given a great deal of flexibility, especially with regard to the off-road regulation.

We also believe that it's extremely important
that we continue to focus on what we can do and how we can partner with you to help owners of diesel trucks and buses and construction equipment through making the maximum use of the incentive funding that's available and working harder to seek some additional funding. And we need to make sure that we're strongly promoting the use of these funds. We appreciate the work that the Board has done in getting the Prop 1B funds out and the Carl Moyer funds, and we especially appreciate the Board's leadership in working with the air districts in that regard. So we want to continue to partner with you on that effort. Thank you.

CHAIRPERSON NICHOLS: Thank you very much.

Nidia Bautista and then Andy Katz.

MS. BAUTISTA: Good afternoon, Chair and Members of the Board. I'm a little short for this tall microphone, so I'll do my best.

CHAIRPERSON NICHOLS: I'm sorry, we should have a box.

MS. BAUTISTA: I need the Barbara Boxer box.

I'm Nidia Bautista, Policy Director at the Coalition for Clean Air. I just have a few short comments.

I want to emphasize the comments that my colleagues also made. What we want to ensure is while
we appreciate the need for some flexibility, and we've stated that previously, we want to ensure that any decisions that are being made, that there is corresponding data for that decision. And I really appreciate the staff's mention of a surgical, the surgical approach, basically, here, in that the same way a surgeon might, you know, be sharing with you, these are the cuts that need to happen, they would also provide you the corresponding health data that's related to those cuts. And that's basically what we're asking from the staff.

And we really urge the Board to direct the staff to provide that so that when we're making decisions about any relief that's going to be provided that it's very clear what the health benefits are that correspond to those reductions, or the health dis-benefits in this case.

Ideally we're staying within the means of that budget and we are hopeful that that's what's going to happen, but the reality is that, you know, if we're just approached with these are the choices but that data is not available, then it makes it very unclear to us and we don't have the confidence to know what exactly we're -- the choice that we are making.

And specifically, that's the diesel -- the
localized diesel risk -- excuse me -- exposure as well
as the SIP commitments, and not just for the South Coast
but also for the San Joaquin Valley which is also very
important since the diesel truck rule in particular is
such a critical piece of the San Joaquin Valley's
emissions. Thank you.

CHAIRPERSON NICHOLS: Thank you. Andy Katz and
then Nick Pfeifer.

MR. KATZ: Good afternoon, Chair Nichols and
Board. I'm Andy Katz with Breathe California, and I
want to agree with the concerns expressed by Coalition
for Clean Air and American Lung Association and Union of
Concerned Scientists.

We think that it's critical, as your proposed
guiding principles state, to maintain the public health
benefits in both regulations.

And it's important to do that because people
are constantly exposed to diesel pollution that causes
asthma attacks, that causes premature death, cancer and
cardiac impacts. So these health benefits are critical
to maintain.

With the reductions in emissions coming from
the recession, there is some reason to adjust the
regulation in very specific, surgical changes, but it's
important to stay fact-based, it's important to have
very clear and undisputed quantification of these
changes so that advocates on the clean air side and
industry can look at the changes and realize that this
is actually what's happening because of the economy.

And more importantly, as the economy rebounds,
that there is a mechanism to adjust. Because we need to
have these health benefits, and if the economy rebounds
we need to have a mechanism to keep track and keep
progress with these health benefits.

So there is an important reason to make sure
that this is a very careful approach and that the
options are not just put out in terms of overall delays,
because that would actually not help some of the small
fleets that we're hearing are struggling, and that would
actually go too far and cause a loss of the health
benefits without providing the economic benefits that
you're interested in providing at the same time.

So I do want to encourage for a safeguard to
make sure that there is a way to address the economy
rebounding as well as preserving the health benefits in
this rule.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

Nick Pfeifer and then Matt Schrap, and that
would be the end of my list.
MR. PFEIFER: I'm Nick Pfeifer with Granite Construction. Granite owns a fleet of about 900 pieces of off-road equipment, and also owns a fleet of about 900 on-highway trucks, so I'd like to think we have a pretty good understanding of exactly what fleets are up against with both of these rules.

I also serve on the ORIAG and TRAC committees and have been engaged with CARB staff for the last five years or so as these things have been developed.

I would like to thank staff for noting some of our comments over the last couple of months in their presentation, but would like to stress two specific items that I'd like to be considered with any amendments.

The first is that they need to protect proactive and compliant fleets. Some items here that I just want to hit on, there needs to be fair and equitable enforcement of these rules as they're on the books to protect fleets that have taken actions and invested money in complying.

With regard to any amendments, there needs to be recognition of and reward for early action similar to what was done with the AB 2X credits rewarding the early repowers, things like that.

And then lastly, there needs to be adequate
time between any amendments and the compliance dates
that those amendments affect so that fleets can adjust
their compliance strategies.

It's a very complex thing. There's budget
cycles. You have to invest money years in advance of
the compliance date. So there needs to be time for
fleets to adjust their strategies.

This being said, Granite operates in the same
construction industry that the rest of the people who
have testified today operate in. The industry, the
market is down in California. There is no disputing
that. And so we feel there needs to be some relief
given so that there is some breathing room there.

Looking at it from Granite's perspective with a
diverse fleet of equipment of not only on-road and
off-road but portable equipment and everything else, the
single largest hurdle for us compliance-wise is the 2014
on-highway DPF deadline. That's what construction
companies run up against because it's such a
black-and-white deadline. And for many vocational
trucks, there is not a retrofit option. Given, there's
been a lot of developments in retrofit technology, but
the trucks just do not lend themselves to retrofit.

So to close I would say that we definitely
think there is a lot of merit in the bubble concept
that's been floated out there. That would allow fleets
to manage the compliance with these rules the same way
that they manage their fleet as one big fleet of
equipment.

And just to reiterate, the two items I'd like
to stress is the need to protect proactive and compliant
fleets; and secondly, to allow some economic relief over
the foreseeable future.

Thank you.

Chairperson Nichols: Thank you. And the last,
Mr. Schrap.

Mr. Schrap: Last, but certainly least as I'm
usually referred to. My name is Matt Schrap. I'm
Director of Environmental Affairs at the California
Trucking Association. I appreciate the opportunity to
come and address the Board here. I will keep these
comments extremely brief knowing that we're on the
downward side of this today.

I'd like to start by, I guess, reiterating some
things that Mr. Lewis had said from the CIAQC
organization.

It is important to get these numbers right.
And if anything that I've taken away today besides
knowing how many plastic bags a consumer uses in one
year is that I have renewed vigor to have a third-party
analysis done for the on-road side, because it's clear that we're only going to be as good as the facts that we're going to be able to have.

And I would agree with, also, my environmentalist colleagues that fact-based data is what we need to work with here.

There's a couple things from the on-road side that I'd like to address. Although this was very off-road heavy, some of the proposed short-term relief amendments, I think, are a little confusing when the staff refers to deferring PM filter requirements for all fleets for up to two years, and then going on in another bullet directly after that it says defer all PM filter requirements for fleets with 20 or fewer trucks. And I can be sensitive to the fact that smaller fleets are having a hard time complying, but I can guarantee that across the board in our entire membership, everybody is struggling to comply with ARB regs, from the Drayage regs, the TRU regs, to this on-road reg as well as the many other regulations we will be facing in the future such as hybridization and whatnot.

I'm encouraged by the Bay Area and South Coast Air Quality Management Districts to request more flexibility in the funding, but I would have to say that any of these conditional considerations that are taken
in for short-term relief, something, as my colleague from Granite had mentioned, needs to be taken into account for those fleets who have been extremely proactive in retrofitting their fleets or replacing their fleets.

We're working in a very interesting competitive environment here in California where we have in-state and out-of-state fleets competing for the same cargo. So those in-state fleets that have made substantial investments leading up to this regulation only to have it pushed out even further are still competing in the same rate structure they were prior to that.

So I would just say if you could direct staff to look at one other potential relief option, which would be for the long-term as well, which would be to provide some early incentive-type credit, that is encouraging to see, could extend past 2014.

But I just wanted to mention that, and with that I will close. And thank you again.

CHAIRPERSON NICHOLS: Thank you very much. That concludes the list of witnesses on this item.

Staff, do you have any additional comments before we turn back to the Board discussion?

EXECUTIVE OFFICER GOLDSTEIN: We'll just talk
about a few of the items that were raised and then take
questions.

CHAIRPERSON NICHOLS: Speak up. You're all
being soft. Either I'm losing my hearing or you really
are all speaking softly.

ASSISTANT CHIEF WHITE: No one ever accused me
of not talking loudly.

I just want to say I think as we sat today and
heard the testimony we heard a number of very good
suggestions of things for us to look through. I was
also encouraged that there seemed to be a great deal of
support around the principles that we've laid out.

And I think, especially with these last
commenters, the need to get the numbers right, I think I
can safely say at the staff level we firmly believe we
need to get the numbers right. And that the decisions
we -- the proposals we have moving forward certainly
reflect the best data that we have available, and we
plan to work with the stakeholders on those numbers so
that by the time we come back with you we have numbers
that those that are engaged in this process have had a
chance to look at, to understand, to comment on as we
move forward.

CHAIRPERSON NICHOLS: Isn't it also the case
that one of the people that you wanted to bring in was,
in fact, the author of the article that originally
criticized the ARB's inventory, Mr. Harley, Professor
Harley?

ASSISTANT CHIEF WHITE: We certainly plan to
continue to have conversations. We have talked with him
quite a bit already about how his work was performed,
and we'll continue to have discussions with him as we
move forward and we start to look at the issue of fuel
use and how that pairs up with the emission estimates
that we developed through our own emission inventory
methodology.

CHAIRPERSON NICHOLS: And obviously there's
other technical experts out there that work with the
trucking industry, and they'll be involved in looking at
the numbers as well.

ASSISTANT CHIEF WHITE: Yes.

CHAIRPERSON NICHOLS: Good. Okay. Well, I'm
sure there are questions and comments from the Board.
It's clear that there is a need for a new look at these
two rules, and I do think the idea that they need to be
looked at together and perhaps even more broadly in the
case of some of the other rules that might be implicated
by a bubble concept for larger fleets or
construction-oriented fleets is a really healthy one.

I just wanted to say a couple of things. This
is not a planned presentation, particularly, but I think
that overall the staff deserves to be commended for not
only recognizing reality when it is obvious that we've
got a serious problem and also that there is a need for
change, but really for trying to think in a positive,
forward direction and lay out the principles as opposed
to just making proposals.

I think this is a good approach to let the
public know what the criteria and the principles are
that you're using as you're designing the rule so that
everybody can be involved in a very open way. I think
that's very helpful.

I also think that one of the hallmarks of an
organization that is strong is that when your facts are
challenged that you do go out and look at them and try
to make sure that you've got it right. And I think that
the fact that you're doing that now and that you are
working to get it right and not just defend what was
there before but actually try to understand how it
happened is also healthy.

My own view is that having attempted to
construct a bottoms-up inventory, as you did in the
beginning, was a good idea. If you had tried to rely
only on a top-down extrapolation from fuel sales, you
would have been justly criticized for not trying to go
out and get real data.
So the fact that you built your model based on
real data was a good idea, and the fact that there is
another way of looking at this which now causes you to
go back and say maybe there were some problems with that
data is only to be expected. But obviously there are
also consequences there in the real world.

And I appreciate very much the willingness of
so many people from the industry to stay with the
process and to help us get it right, which they have
done. And I recognize that during that interim period
people have had to make decisions, and some have made
investments, and that we want to make sure that people
who did step out early and make investments in
anticipation of future rules or just because it was the
right thing to do, that those people should be protected
and not feel like they have been punished for doing the
right thing. So I think that's an important
consideration, and I know it's part of your list.

I want to say also just a word to the people
who come here, and some of them have been here before
and I'm sure they'll be back again.

One of the things that makes this a country
where we celebrate Earth Day and not Lenin's birthday is
the fact that this Board does listen to and welcome
people even when they come in and insult us or attack
us. This is a public space and you are entitled to come
here and you can say anything you want when you are here
short of things that are actually illegal like threats.

But having said that, I think it's also as a
participant in the process helpful if at least from time
to time you would also try to at least recognize that
what we're doing here is only one piece of what goes on
in government and in the world of the State of
California, particularly when it comes to issues like
public health.

You know, we didn't make this stuff up. We are
here because we have data that's given to us about the
state of air pollution research. Does that mean that we
believe that air pollution is the only thing that's
going on in the world? No, we don't. Do we believe
that air pollution is the most important threat to
people's health? We know that's not true. We know
there's many things including genetics as well as
stresses and occupational illnesses and how people live
their lives that affect their health and their death
rates. And I don't believe anybody has ever tried to
say that air pollution was the only reason why people
die, because I think we know that everybody dies no
matter what.
So we don't really need to have to debate that issue every time we're dealing in a regulatory context. We can just sort of stipulate that this is just the problem that we are here to deal with, which is the air pollution problem, and try to do our best with it in the context of knowing what else is going on in the real world. And if that means that we have to be humble about how much we can accomplish, well, that's a fair thing to tell us. We need to be reminded of this. So having said that, I do think we want to direct the staff, as they proposed, to go back and to consult with the public along the lines that they've described and to come back with a broad set of proposals for changes to the rule that reflect the current emissions inventory and likely projections. And if there's additional comments or questions or things that people heard that they feel aren't included, maybe Board Members would like to now add to that list of things they would like to see the staff considering.

BOARD MEMBER D'ADAMO: Just real quickly I just want to reiterate my support for the rule, and I concur with all of your comments, Chairman. And think it seems that staff is headed in the right direction anyway to already take some of the comments that were raised. But
just to quickly go through the ones that I've written
down. That we need to get the inventory right. I think
we need to have a budget. It looks like you're already
working with the stakeholders, but as I was involved
with the ag portion of the rule, it was really helpful
to have a budget going in so that then you provide that
information to the stakeholders and hear from them about
what works best, and of course including the
environmental community in that because of the exposure
issues.

As far as for those that have already complied,
I don't think we just need to protect them; I think we
need to reward them and somehow provide incentives for
additional early action because there is going to be a
window there where the rules don't kick in, in some
cases, for a while.

And then something that I think one witness
brought up, and that has to do with incentive funds. I
think it would be helpful to look at the incentive funds
as you go through and look at compliance dates so that
we can open up the window of opportunity for as many
people as possible.

And then I did have just one question seeking
clarification on the diesel particulate retrofits, a
two-year delay. What does that mean in terms of any
reduction in the number of vehicles that would have to
be touched twice? So if we extend that date, will it
result in a certain number of vehicles not having to
deal with the retrofit requirement at all and instead --
because some of the categories don't have that
requirement until the out years anyway.

HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH

CHIEF BRASIL: This is Tony Brasil, I'm the
Branch Chief overseeing the truck rules.

I can't respond with specific numbers, but
clearly given the rule, the 2013/2014 time frame, and in
particular the 100 percent PM filter requirement, fleets
would benefit and reduce the potential for having to
replace a truck that would have a filter within a
four-year cycle.

That would reduce the potential for that to
happen and would, in fact, reduce the number of vehicles
that they would have to touch twice, as you've said.
And then we would quantify that in looking at any
provisions like that and identify how that would change
the costs of compliance.

BOARD MEMBER D'ADAMO: I clearly understand
that, and I know we already adopted the rule. Everyone
understands the public health implications and why we
need retrofits. But the thing that I think just doesn't
sit right with the industry and just common sense, is if
you look at just that investment you put into it,
retrofit, and then you have to turn around a few years
later and touch the truck again or get rid of it. So
anything that can be done to increase those numbers so
that the truck can just be dealt with one time, I think,
would be a good thing.

CHAIRPERSON NICHOLS: Okay. Yes, Mr. Roberts.
BOARD MEMBER ROBERTS: I'd like to just make a
couple points here quickly.

First of all, I support the rule, and I've been
involved with diesel as a toxic for a long, long time.
I also, and this may seem strange, but I want to
compliment staff on something that happened today and
that was bringing forward, even though there is quite a
divergence in what we thought was there and what you're
finding out, I feel much better when we hear about that
in an open meeting and we're advised of it and we're
acknowledging, hey, we had something that we were off,
irrespective of how much it is. It means we've got some
work to do, but I think it's far more reassuring whether
you're a regulator or the regulatees, you'll have a
little more comfort when you have confidence that you're
being treated honestly and fairly. And I think that's
happening here.
And while I'm disappointed that we were off, I want to acknowledge that the way it's been handled, I'm appreciative. We've got some work to do, obviously. It suggests and you suggested in your staff reports that we're going to go back and we're going to use the other model as a check on where we are, and maybe we can start to refine these numbers. But I think that clearly is critical.

We're in kind of a suspended period now because you don't have a waiver and we can't sort of put this into practice right now anywhere. I think at least from some of the testimony it sounded like there was a little bit of concern that if somehow we got the waiver that overnight we might put this in to implement this. I don't think that's the case, and I guess I want to hear that that's not the case, that we're going to -- except for those things you said, the licensing, the idling and the reporting, we're going to hold off and we're going to revisit this and we're going to get it worked out before we go ahead and do any implementation. Is that -- am I incorrect?

EXECUTIVE OFFICER GOLDSTENE: We would make sure that the industry would have plenty of lead time after the granting of the authority from EPA.

BOARD MEMBER ROBERTS: Okay. So anybody that's
out there nervous will have an opportunity to at least 
see that we work our way through the issues that have 
been raised.

I personally want to say that I'm concerned 
when I hear -- and I hear it constantly no matter where 
-- that somehow we need to draw distinctions between 
larger firms and smaller firms. All the firms are 
suffering with this economy right now. There might be 
one firm or two firms that are -- in the whole state 
that aren't, but this is not a have-s and have-nots. 
Everybody is suffering.

And I would be very concerned about drawing 
distinctions based on some guess as to who belongs as a 
small firm and who belongs as a large firm. I'll just 
say that for me personally, and I'll be looking at 
anything we do along those lines. I want to see that we 
get -- I want to ultimately get the rule, but I want to 
see that our companies are largely intact and have an 
opportunity to do business here and continue to do 
business here in California.

CHAIRPERSON NICHOLS: Good. Yes, Dr. Telles.

BOARD MEMBER TELLES: I was maybe a little -- 
more than a little disturbed to know that on the eve of 
launching this regulation the staff comes up with an 
estimate of an inventory that's twice of what their
original estimate was. And to me it would be very
important to find out what the process, where the
process fell down in estimating this.

I'm sure it's a difficult thing to do, but to
be off by close to 200 percent and then the industry
here estimates about 350 percent, I think that that's --
that's -- I hate to say the word failure, but I think
it's a failure of the organization to not be that close,
I mean to be off by 200 percent and have such an
important regulation regulating an industry and to be
off that much, it's just a little bit incredible to me.

But having said that, I think it would be
worthwhile to look into the three recommendations made
by the Association of General Contractors in their
letter of April 14, 2010 to us. And I think you have a
copy of that letter. I think it would be important to
have staff look at those three recommendations, run it
through, and see if those would significantly affect the
outcome of this.

I'm talking about the recommendations one as
they apply -- the small fleet requirement to all the --
all the fleets, clarify existing exemptions and
regulations to make it clear that exempt vehicles should
not be included in the calculation of fleet averages or
compliance with target rates.
And I think this is even more important, to create a safe harbor, financial safe harbor for firms which are at financial risk.

I don't know how the rest of the Board feels about that, but I think it's worthwhile looking into that. In the San Joaquin District we do have safe harbor provisions not to jeopardize any business by our regulations and we have special provisions for that. I think it would be important to do that at a state level, too.

CHAIRPERSON NICHOLS: Professor Sperling, and then we'll move down to this side.

BOARD MEMBER SPERLING: I just want to say that I think it's unfair to criticize the staff for this analysis. I think that the approach they used was the appropriate one originally using a bottom-up analysis. That's the way they should have done it, and circumstances changed. It's a difficult, very difficult analysis. This is very difficult data to be working with. So I just want to say that a criticism of the analytical efforts is unfounded, I think.

CHAIRPERSON NICHOLS: All right. Everybody down here, so we'll just start with you.

BOARD MEMBER RIORDAN: Thank you, Chairman.
I certainly do agree with many of my colleagues and what they have said, particularly in looking at early incentives and giving serious consideration to those who have already done a lot of the work. I also think that early incentives help us with encouraging innovation and all the things that have to do with the emissions control systems that people have invested in, and a lot of those are companies here in California.

So if we could do something to kind of encourage that and to help that along, I think that's a good thing. Unlike maybe Dr. Telles, I really have to know a lot about what a, quote, safe harbor is. I think that understanding -- I understand where you're coming from, to help people who have great hardship, but I also know that you really have to have an analysis of the business and how it's working and who is taking what as a write-off and who has used this for whatever.

I think where I'd rather go is to giving a lot of consideration to low mileage vehicles, increasing that opportunity, and low-use vehicles. A lot of companies are parking a lot of equipment, and it seems to me as long as it stays parked it certainly should be given some consideration for compliance until it's brought back into use and then maybe a particular amount
of time before it has to be cleaned up.

So I'd rather see something like that that's a little bit easier to monitor and to know that you've not gotten into the books of a company.

I just think that staff has done a good job of moving forward and working this through. Who would have known many years ago that this was going to happen in terms of the construction industry? It was one of the strongest industries in California not that many years ago. So we need to kind of look at this. And it feeds all of the other industries that we're talking about, too, but it certainly is key to the construction industry.

And finally, I think what we would benefit from is as you go about comparing the, for instance this last report that came in from the Sierra Research, something that would give us a pretty simple thumbnail review of the differences and why it has occurred, because I know sometimes it's assumptions, sometimes it's little tweaks that have occurred that we need to understand, and not all of us are modelers, I want to say that after hearing yesterday's presentation. Not all of us are modelers. We need it to be sort of said in very simple terms. Some of us. Not all of us, but some of us.

Thank you.
CHAIRPERSON NICHOLS: Okay. Dr. Balmes.

BOARD MEMBER BALMES: Well, I think I'll start by following up on Ms. Riordan's comments about modeling. Yesterday we had various models presented in terms of the economic analysis, and the modelers came from different perspectives. But when all was said and done, I think we left that meeting with relative confidence that all the models were sort of in the same ballpark. And I would encourage staff to work with AGC to try to see if we can reconcile the models. I'm sure it's due to different input data, different assumptions.

But if we could have some kind of workshop like we had yesterday for the economic analysis where we could get everybody in the same room and try to understand why the models are so different, I think that would give confidence to the Board about moving forward with any recommendation that staff puts forward. That's just a suggestion.

I liked several of the suggestions of the Bay Area Air Quality Management District to try to improve access to funds to deal with either retrofitting or buying new trucks, and I think access to capital has been a big issue. And so I don't know whether we could do anything to come up with a negotiated loan guarantee program with low interest rates, but that sounded like
an excellent idea.

I've heard from several trucking firms that have come to speak to me about that. As nice as our various initiative programs are, without access to capital, they can't do much with them. So if we can do something, I'd like to see us move in that direction.

I also am concerned about a bottleneck as we've already had with the Drayage Truck, so that whatever changes to the rule, implementation of the rule that we make, I don't want to see us all of a sudden in two years or three years have a bunch of people trying to get trucks that aren't available.

And I'll add to the -- I think it's probably close to unanimous so far -- opinion of my colleagues that we have to give credit for firms that have already made efforts to comply. I think it's only fair and the right thing to do, and as Ms. Riordan said, would encourage innovation and appropriate behavior by others.

So I think I would add to or echo what Supervisor Roberts said. I think what I heard today, the staff saying publicly that maybe the estimates we had before are off, and by a fairly large margin, is healthy. And I think we should just build from that healthy start to work with those that have presented a different model and try to figure out the differences so
that we can move forward more or less together as opposed to constant conflict.


BOARD MEMBER BERG: Thank you. I will make it unanimous amongst the Board members. I agree on the early movers, that they absolutely should be rewarded for the investment they have made.

I think a couple of -- I'm not going to reiterate what my other fellow Board Members have said that I think are very important, but I think we have to be mindful, since we're doing two rules, we're looking at two rules simultaneously, that we have to be very mindful to apply the emissions credits appropriately to where they belong. Because otherwise there is just going to be a sense from one industry to another that one has given and didn't get credit for it.

So I think we need to be able to justify how we are identifying those emissions credits, even though I'm in full agreement that we need to look at the rules together in order not to make a mistake of missing the SIP by looking at them separately.

Secondly, I've attended a lot of the workshops, and I've heard a lot of this testimony, and I know the difficulty on both sides of the fence. But I think it is absolutely critical that we do not come back with a
plan that only postpones the day of reckoning. So it is critical, in my opinion, that we are not coming up with a program that is going to have a balloon payment in 2000 -- whatever years you want to talk about -- 13, 14, 15. And I feel really, really strongly about that.

And secondly, I think that we really have to look at the issues of the cost of the PM and the cost of the NOx. One of the things that just made this rule so burdensome is trying to do both at the same time. And I would really recommend that following Board Member D'Adamo's comment of trying to touch the truck once or the unit once is the ideal situation. But if that's not possible, the useful life of the expenditure is something also that we need to look at.

So obviously we have a PM deadline by 2015, and we have to be mindful of that, of course, and on target for that, but I think that we have some room on the NOx, and we need to take a look at that.

And then finally, one of the things we just haven't talked about, and that is there is a deflation of the asset value because of this rule, and that has not allowed the access to capital on top of the financial market collapse. And so where we can take a look at the incentive and whatever I can do to help through the Incentive Advisory Group to see how we can
be more proactive on the incentive funding, or as
Dr. Balmes suggested, on a low interest loan guarantee
program, and I know that our Executive Officer has
offered to also take a look at how we could structure
such a program, maybe we need to step up through the
Incentive Advisory Group's actions towards that as part
of the solution as well. So I want to offer assistance
on that.

Thank you, staff. I know this has been
gut-wrenching, and I don't want to not acknowledge that
and the long hours, and I really do appreciate your
efforts.

CHAIRPERSON NICHOLS: Thank you for your
comments.

Just a quick question. We recently signed a
loan agreement with EPA for $5 million in ARRA funding
for loan guarantee programs. What are those applicable
to?

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE:
Right. We actually have two loan guarantee programs.
We have one in place for trucks now that we paid out of
the 118 funds that we had, and then just the day before
yesterday we signed a grant agreement for a loan
guarantee program for off-road, which is $5 million
guaranteed.
But that should generate quite a bit of loan money, probably seven times that much actual loan money. So that will be in place within a few months. But right now we're not expecting them to be used widely because people are kind of waiting to see what happens with the rule.

CHAIRPERSON NICHOLS: Right.

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: So I think their value will occur as soon as we nail down how exactly we want to go forward.

CHAIRPERSON NICHOLS: But it is important just to recognize that we do have the ability to make it possible for people to get lower interest loans --

CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes.

CHAIRPERSON NICHOLS: -- because of having those guarantees. And that should be factored into the thinking. I think that's a very good point that Ms. Berg made.

BOARD MEMBER KENNARD: I'm the final commentary. I have two comments.

One is I think I might be singular, again, on this board of having sat in a staff position. And so I'm very sensitive to the difficulty staff has. It's easy for all of us to sit here as Monday morning quarterbacks and say we got it wrong, and in fact
science is not exact, as we all know, and if any of you
out there could have anticipated this ever-changing
world that we are now faced with, I'd like to know you,
because I think it all hit us by surprise. And of
course in this context it changed the numbers
dramatically.

So I can't stress enough my support of staff in
terms of not having a failure, but in fact the dynamics
of the numbers change because of the marketplace and
market conditions.

My second comment is that I think if we look at
this in a much broader context, this is a great case
study for all of us in terms of being flexible to make
changes as our world changes and as how economics and
other conditions change what we may have done two or
three or five years ago. And to that point, as we are
decelerating this particular rule, we might have to look
forward in another context of accelerating a rule where
the numbers are going far beyond what we had thought.

So I just want to provide that bit of
commentary that the dynamics of the market will impact
us both negatively and positively.

CHAIRPERSON NICHOLS: Fair point.

All right. I think that has covered everyone
who wanted to make additional comments. We don't need a
formal closure of the record. The staff has presented
us with recommendations for how they want to proceed in
terms of the timeline. We've given them some additional
direction, I think, in terms of the Board's priorities
for how you would like to look at this, and so just say
go forth and get to work, and thank you very much.
That will conclude this item. We do have a
time always for general public comment if there are
people who are here because they just want to say
something that's not related to any of the items that
we've heard today, we do allow time for that.
Oh, we have a board member comment. Okay.
Yes, you're so right. Board member comment comes first.
BOARD MEMBER BALMES: One thing I wanted to ask
the staff to look into is with the new NOx air quality
standard there is going to be near-road monitoring. And
I'm sure staff is well aware of that and is working hard
along with everything else to try to figure out how to
approach that. But I was hoping that we could get a
briefing on that in the near future.
DEPUTY EXECUTIVE OFFICER TERRY: Sure. And
just a little teaser is that staff has actually analyzed
what the federal requirement would be and it's, I think,
on the order of 16 or so monitors.
CHAIRPERSON NICHOLS: How many?
DEPUTY EXECUTIVE OFFICER TERRY: 16. 16, 20, something in that range. And there's very specific siting, so we have a pretty good idea of where those monitors must go, so we're happy to share that.

BOARD MEMBER BALMES: And then also what would be monitored, because I'm sure we will be monitoring things other than NOx.

DEPUTY EXECUTIVE OFFICER TERRY: Yes.

CHAIRPERSON NICHOLLS: Okay. So could we just have that as an informational item? Sounds like you could do it at the next Board Meeting.

EXECUTIVE OFFICER GOLDSTEIN: We could do it at the Board Meeting or we could send a report to the Board. Do you want a Board presentation?

CHAIRPERSON NICHOLLS: I think if you want to prepare a brief written report and then put it on the agenda, and then if people have any questions they can delve into it a little further.

Okay. Any other board member comments before I turn to the audience?

Okay. Any public comment?

Seeing none, we will be adjourned. Thank you very much.

(Whereupon the meeting adjourned at 2:12 p.m.)
CERTIFICATE OF REPORTER

I, DIXIE L. COOKSEY, a Certified Shorthand Reporter of the State of California, do hereby certify:

I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of May 2010.

______________________________
DIXIE L. COOKSEY, CSR
Certified Shorthand Reporter
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