

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM, SECOND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA

FRIDAY, DECEMBER 17, 2010

8:30 A.M.

TIFFANY C. KRAFT, CSR
CERTIFIED SHORTHAND REPORTER
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APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Doreene D'Adamo

Ms. Lydia Kennard

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John G. Telles

Mr. Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer

Ms. La Ronda Bowen, Ombudsman

Mr. Tom Cackette, Chief Deputy Executive Office

Ms. Ellen Peter, Chief Counsel

Ms. Lynn Terry, Deputy Executive Officer

Ms. Mary Alice Morency, Board Clerk

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

Mr. Jack Kitowski, Chief, Emission Reduction Incentives
Branch, MSCD

APPEARANCES CONTINUED

STAFF

Mr. Scott Rowland, Chief, On-Road Control Regulations
Branch, MSCD

Mr. Todd Sax, Chief, Mobile Source Analysis Branch

Ms. Beth White, Manager, On-Road Compliance Assistance
Section, Mobile Source Control Division

Mr. Eric White, Assistant Chief, MSCD

Ms. Elizabeth Yura, Staff, Off-Road Implementation
Section, MSCD

ALSO PRESENT

Elizabeth Adams, U.S. EPA

Tomas Aire

Don Anair, Union of Concerned Scientists

Cecilia Ayala

Kami Baker, Earth Team

Diane Bailey, NRDC

Segun Balogun

Shirley Batchman, California Citrus Mutual

Nidia Bautista, Coalition for Clean Air

James Blevins, Mountain Valley Express

Peter Bransfield, Rypos

Steven Brink, California Forestry Association

Kevin Brown, Clean Diesel Technologies

APPEARANCES CONTINUED

ALSO PRESENT

Skip Brown, Delta Construction

Chris Cannon, Port of L.A.

Eric Carleson, Associated California Loggers

Tim Carmichael, California Natural Gas Vehicle Coalition

David Chidester, Central Cal Transportation

Jon Cloud, J. Cloud, Inc.

Cynthia Corey,

Richard Coyle, Devine Intermodal

William Davis, Southern California Contractors Association

Frank de Carbonel, California Concrete Pumpers

Carl Dolk, Devine Intermodal

Gordon Downs, Downs Equipment Rentals, Inc.

Ed Duffek

Brad Edgar, Cleaire

Sean Edgar, Clean Fleets Coalition

Eric Eisenhammer, Coalition of Energy Users

Allen Faris, Allen Faris Trucking

Julian Fisher

Kathy Fitzgerald, Fitzgerald Truck Sales

Anabel Flores

Anthony Fourniee, Bay Area AQMD

Randal Friedman, Navy Region Southwest

Laura Fultz Stout

APPEARANCES CONTINUED

ALSO PRESENT

Michelle Garcia, Fresno-Madera Medical Society

Catherine Garoupa, Central Valley Air Quality Coalition

Jill Gayaldo, Elk Grove Unified School District

Michael Grabowski, American Rental Association

Neli Gutierrez, YCA

Seth Hammond, Specialty Crane and Rigging

Adam Harper, CalcIMA

Robert Hassebrock, Weatherford

Henry Hogo, South Coast AQMD

Sheila Hong

Bonnie Holmes-Gen, American Lung Association

Kirk Hunter, Southwest Transportation Agency

Julian Imes, Donaldson Filtration Solutions

Roger Isom, Western Agricultural Processors

Jim Jacobs, Operating Engineers

Elizabeth Jonasson, Coalition for Clean Air

Susan Jones, D&S Trucking

Andy Katz, Breathe California

Michael Kennedy, Associated General Contractors of America

Brandon Kitigawa, Region Asthma Management and Prevention Project

Ralph Knight, Napa Unified School District

Camille Kustin, Better World Group

APPEARANCES CONTINUED

ALSO PRESENT

Joe Kubsh, MECA

Senator Doug LaMalfa

Martin Lassen, Johnson Matthey

Barbara Lee, Northern Sonoma County APCD

Michael Lewis, Construction Industry Air Quality Coalition

Tony Luiz, T&L Trucking

Bill Magavern, Sierra Club

Daniel Massolo, Massolo Brothers, Inc.

Salvador Matteo, SLWBP

Regional McAfee

Christina McGhee

Paul McClellan, American Rental Association

Jay McKeeman, California Independent Oil Marketers
Association

Dan Mezger, Mezger Trucking

Rod Michaelson, Bay Cities Paving and Grading, Inc.

Clayton Miller, Construction Industry Air Quality
Coalition

Paul Moore, CalPortland

Brent Newell, Center on Race, Poverty, and the Environment

Paul Nguon, New Voices Are Rising

Dave Norris, Lakeport Unified School District

Tracey Norberg, Rubber Manufacturers Association

Jessica Orozco

APPEARANCES CONTINUED

ALSO PRESENT

Craig Parker, CalEnergy Operating Corp.

Nick Pfeifer, Granite Construction

John Pitta, John Pitta Trucking

Betty Plowman, CDTOA

Senator Richard Polanco

Isella Ramirez, East Yard Communities for Environmental Justice

Victoria Ramirez

Bob Ramorino, Roadstar Trucking

Jill Ratner, Rose Foundation for Communities and the Environment

Charles Rea, CalCima

Michael Rea, CA Association of School Transportation Officials

Kyle Reams, Kelseyville Unified School District

Betsy Reifsnider, Catholic Charities

Stephen Rhoads, Strategic Education Services

Marisol Rogue

Seyed Sadredin, San Joaquin APCD

Matt Schrap, California Trucking Association

Susan Seivright, Valley Power Systems

Chris Shrader, Cemex

John Spangler, U.S. Marine Corps, MCI West

Jason Thomas, Nabors Well Services Company

APPEARANCES CONTINUED

ALSO PRESENT

Mike Tunnell, American Trucking Association

Kathy Turner, Enterprise Rent-A-Car

Doug Van Allen, BJ Services

Jocelyn Vivar, East Yard Communities for Environmental Justice

Ed Walker, Robinson Enterprises, Inc.

Corey Wardlaw, Wardlaw Trucking

Don Watson

Steve Weitekamp, California Moving and Storage Association

Chuck White, Waste Management

Bruce Wick, California Professional Association of Specialty Contractors

Joy Williams, Environmental Health Coalition

John Yandell, Yandell Truckaway, Inc.

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1 PROCEEDINGS

2 CHAIRPERSON NICHOLS: Good morning, ladies and
3 gentlemen. I'd like to welcome everybody to the December
4 17th, 2010, public meeting of the Air Resources Board and
5 ask the Board to come to order.

6 And before we begin our business meeting, we
7 start with the Pledge of Allegiance to the flag. So
8 please rise.

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

11 CHAIRPERSON NICHOLS: Thank you.

12 Yesterday, we had a surprise visit from the
13 Governor who came over to testify on behalf of the cap and
14 trade rule. So I don't know what's going to top that
15 today. Maybe Santa Clause will show up in the middle of
16 the meeting. Who knows. But we do have some very
17 important work to do today.

18 So first let's start with the roll call.

19 BOARD CLERK MORENCY: Dr. Balmes?

20 BOARD MEMBER BALMES: Here.

21 BOARD CLERK MORENCY: Ms. Berg?

22 BOARD MEMBER BERG: Here.

23 BOARD CLERK MORENCY: Ms. D'Adamo?

24 BOARD MEMBER D'ADAMO: Here.

25 BOARD CLERK MORENCY: Ms. Kennard?

1 Mayor Loveridge?

2 BOARD MEMBER LOVERIDGE: Here.

3 BOARD CLERK MORENCY: Mrs. Riordan?

4 BOARD MEMBER RIORDAN: Here.

5 BOARD CLERK MORENCY: Supervisor Roberts?

6 Professor Sperling?

7 BOARD MEMBER SPERLING: Here.

8 BOARD CLERK MORENCY: Dr. Telles?

9 BOARD MEMBER TELLES: Present.

10 BOARD CLERK MORENCY: Supervisor Yeager?

11 BOARD MEMBER YEAGER: Here.

12 BOARD CLERK MORENCY: Chairman Nichols?

13 CHAIRPERSON NICHOLS: Here.

14 BOARD CLERK MORENCY: Madam Chairman, we have a
15 quorum.

16 CHAIRPERSON NICHOLS: Thank you.

17 A few announcements before we get started this
18 morning. First of all, we have interpretation services
19 available in Spanish for anyone who wishes. The headsets
20 are outside the hearing room at the attendance sign-up
21 table.

22 (Whereupon the announcement was translated
23 into Spanish.)

24 CHAIRPERSON NICHOLS: Anyone who wishes to
25 testify should sign up with the staff in the lobby outside

1 the auditorium before the item actually is heard, if at
2 all possible. And at some point, maybe like around 10:00
3 or so, I'm actually going to shut off the list of speakers
4 just because otherwise it's too hard for the staff to sort
5 this out. We could still accept comments in writing. But
6 if you think you may want to testify, we would really
7 appreciate it if you would get your card in early.

8 We will be imposing a three-minute time limit on
9 speakers. And if it gets too out of hand or we get too
10 much repetitive testimony, it may go shorter than that.
11 But I think particularly for those who have written
12 testimony, it should be pretty easy for you to just
13 summarize your main points. You don't have to read the
14 testimony because it will be in the record.

15 We do have an overflow room next door, the
16 Coastal Hearing Room, which is available. And there's
17 audio and visual connection over there. So if for some
18 reason you can't find a seat or you don't like the one
19 that's available, you can sit over there and just come
20 back when it's time for you to come and testify.

21 I'm also required to tell you that there are
22 emergency exits at the back of the room and on the side
23 here. That one goes to the outside. And if we have a
24 fire drill or an alarm sounds, we're required to evacuate
25 the room and the building, go downstairs and across the

1 street until we get the all-clear signal.

2 So this morning we have before us the adoption of
3 proposed amendments to the regulation to reduce emissions
4 of diesel particulate matter, oxides of nitrogen and other
5 criteria pollutants from in-use on-road vehicles as well
6 as the heavy-duty vehicle greenhouse gas reduction
7 measure, the regulation to control emissions from in-use
8 on-road diesel fuel, heavy-duty drayage trucks at ports
9 and intermodal rail yard facilities, and proposed
10 amendments to the regulations for in-use off-road diesel
11 fuel fleets, and off-road large spark ignition engine
12 fleets. So this is a combined hearing on a multitude of
13 different rules and regulations, but they're all related
14 to each other.

15 The proposed changes that we're going to be
16 hearing about today are the result of direction that this
17 Board gave to our staff last April to evaluate the impact
18 of the down economy on emissions from on-road and off-road
19 vehicles and to make recommendations for how to adjust the
20 rules based on what they found.

21 Overall, the staff found that reduced economic
22 activity has led to reduced pollution, not too surprising.
23 But in terms of evaluating what that means, this did take
24 some time.

25 But what it means is that the Board has both a

1 responsibility and an opportunity to adjust the rules in a
2 way that reflects the changes in the economy, while still
3 meeting our overall obligations to achieve federal air
4 quality standards.

5 Staff is going to be presenting proposed
6 amendments to five in-use on-road and off-road vehicle
7 rules. These include the truck and bus regulation,
8 drayage truck regulation, tractor-trailer greenhouse
9 regulation, the off-road regulation, and lastly the large
10 spark ignition engine fleet regulation, as I said before.

11 Together, these five regulations, which were
12 approved by the Board between 2006 and 2008, were designed
13 to significantly reduce the public's exposure to diesel
14 particulate matter and oxides of nitrogen emissions as
15 well as to reduce ozone-forming and greenhouse gas
16 emissions. The tractor-trailer regulation is one of the
17 measures identified in the Air Resources Board's Scoping
18 Plan under AB 32 that's designed to reduce greenhouse gas
19 emissions from current levels to 1990 levels by 2020.

20 Last month, the Board was updated on the
21 significant improvements that have been made to both the
22 inventories for on- and off-road diesel vehicles. These
23 improved inventories are the basis for the rules that
24 we're considering here today.

25 In that briefing, we learned that current

1 emissions are down mostly due to the impact of the
2 recession and reduced economic activity, but off-road
3 emissions are also down substantially because staff has
4 been able to use new information about fleet operations
5 that has resulted in a lower estimate of emissions, lower
6 projections of what the numbers would be.

7 Despite the reduced emissions as a result of
8 improved inventories, California continues to face many
9 air quality challenges, including the legal requirement to
10 meet federal air quality standards as well as our state
11 law requirements to reduce premature mortality, address
12 localized risks in communities that are particularly
13 impacted by air pollution, and of course reducing
14 greenhouse gas emissions under our state law.

15 In directing staff to propose appropriate relief,
16 we also directed the staff to ensure that the changes
17 preserve the important health benefits these regulations
18 provide, while assuring that all applicable targets are
19 met.

20 So at this point, I think we're ready to talk
21 about the details, and I will turn it over to staff to do
22 it.

23 But I would just like to say that we are very
24 grateful for the input that we've had over the last month
25 from all sectors of the public that are affected by this

1 rule, including the industry, as well as representatives
2 of public health organizations and environmental groups,
3 local governments. It's been a complicated and difficult
4 process, because there are so many rules involved and
5 frankly because the industry is so complex. And I know
6 it's been a tough process for many who have been involved,
7 and we really appreciate the fact that so many of you are
8 here today and have continued to participate. And we
9 thank you for that.

10 Okay. I'll now turn the agenda over to Mr.
11 Goldstene.

12 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
13 Nichols.

14 In December 2008, the Board approved the truck
15 and bus regulation. As part of its approval, the Board
16 directed staff to monitor the economy and report back on
17 the impact of the recession on emissions and affected
18 fleets.

19 At the December 2009 Board hearing, staff
20 presented the results of an analysis that showed that
21 vehicle activity and emissions were below the levels
22 estimated when the truck and bus regulation was developed.
23 This meant that 2014 emission goals would be met with
24 fewer emission reductions from the regulation.

25 During the same time, many fleets subject to the

1 off-road diesel vehicle regulation, which was approved in
2 2007, raised similar concerns about the impact of the
3 recession on emissions and the ability of fleets to comply
4 with the regulation.

5 To more fully understand the situation, in March
6 2010, I held an Executive Officer hearing to hear from
7 stakeholders firsthand regarding whether additional relief
8 from the off-road regulation was possible.

9 In April 2010, the Board directed staff to update
10 the emissions inventories for both heavy-duty on-road
11 trucks and buses and off-road diesel vehicles to reflect
12 the impact of the recession. The Board further directed
13 staff to develop amendments to both regulations
14 concurrently that would reduce the cost for both on-road
15 and off-road fleets while continuing to meet the Board's
16 air quality goals and obligations.

17 In May through October 2010, staff held 20
18 workshops throughout the state to discuss recent health
19 studies of particular pollution's impact on mortality,
20 revisions to the emissions inventory, and proposed
21 regulatory amendments that would reduce the cost of
22 compliance.

23 Staff's proposed amendments for consideration
24 today were developed directly from comments received
25 during these workshops and through other input that we

1 received from interested stakeholders.

2 The proposed amendments will provide substantial
3 economic relief and streamline and improve the
4 regulations, while ensuring we continue to meet our clean
5 air and health obligations.

6 First, for the truck and bus regulation, staff is
7 proposing to exempt smaller vehicles from the filter
8 requirements and postpone all replacement requirements
9 until 2015. These changes will lower costs for most
10 fleets by 60 to 70 percent and lower costs even more
11 dramatically in the first five years.

12 Staff is also proposing to better align the
13 drayage truck regulation of the truck and bus regulation
14 and to add provisions to prevent trucks from circumventing
15 the regulation by cargo transfers outside port boundaries.

16 For the tractor-trailer greenhouse gas
17 regulation, staff is proposing additional flexibility for
18 phasing in trailer retrofits, an extension of the deadline
19 for using low rolling resistance tires and other changes
20 that provide more flexibility.

21 In the off-road regulation, staff is proposing to
22 postpone implementation by four years, lower annual
23 requirements, remove all mandatory retrofitting, simplify
24 its weight average requirements, and to expand the number
25 of low-use vehicles exempted from the rule.

1 Staff's proposed changes will cut cost for the
2 first five years by 97 percent and over the life of the
3 regulation by more than 70 percent.

4 I'm very pleased a key industry group, the
5 Associated General Contractors of America, worked closely
6 with staff on the proposed amendments and supports the
7 changes as we proposed.

8 Finally, staff's proposed changes to the LSI
9 engine fleet regulation provide up to a four-year
10 compliance extension and will align the low-use yearly
11 hour limit with the off-road regulation.

12 So with that, I'll now ask Ms. Elizabeth Yura and
13 Beth White to give the staff presentation. Thank you.

14 (Thereupon an overhead presentation was
15 presented as follows.)

16 ON-ROAD COMPLIANCE ASSISTANCE SECTION MANAGER

17 WHITE: Thank you, Chairman Nichols, James Goldstene and
18 good morning, members of the Board.

19 Today, staff is presenting for your consideration
20 amendments to five ARB regulations effecting in-use
21 vehicles and equipment. The proposed amendments will
22 ensure continued progress towards reducing emissions from
23 vehicles and equipment subject to these regulations,
24 provide important local and regional health benefits, and
25 significantly reduce compliance costs for affected fleets.

1 These amendments are being proposed in
2 recognition that the economy has significantly reduced
3 activity and emissions more than anticipated when the
4 rules were originally adopted.

5 --o0o--

6 ON-ROAD COMPLIANCE ASSISTANCE SECTION MANAGER

7 WHITE: I will first begin with a summary of why staff is
8 proposing changes to these five rules that apply to trucks
9 and off-road vehicles and will describe at how staff
10 arrived at our recommendation.

11 I will then summarize the proposed amendments for
12 the three truck regulations, including and truck and bus
13 regulation, the drayage truck regulation, and the
14 tractor-trailer GHG regulation.

15 Elizabeth Yura will than describe proposed
16 amendments to the two off-road regulations, the in-use
17 off-road diesel regulation, and the large spark ignition
18 regulation.

19 Lastly, she'll summarize the environmental
20 impacts of all of the amended regulations and will close
21 with staff recommendations. I will begin by describing
22 why changes are being proposed.

23 --o0o--

24 ON-ROAD COMPLIANCE ASSISTANCE SECTION MANAGER

25 WHITE: The off-road and on-road regulations were approved

1 emissions are expected to change and how our goals are
2 met.

3 The top line reflects business as usual.
4 Essentially, new engine standards and cleaner fuels that
5 provide emissions reductions as fleets turn over their
6 vehicles naturally.

7 The bottom line shows what statewide emissions
8 would look like with the proposed amendments.

9 At the emissions level that California achieves
10 in 2014, PM2.5 SIP targets in the South Coast and San
11 Joaquin Valley will be met. By 2020, the goals of the
12 Diesel Risk Reduction Program, which was adopted ten years
13 ago, will largely be achieved. Overall, the proposed
14 amendments ensure that emissions are reduced down to
15 levels expected when the regulations were originally
16 approved.

17 The shaded area represents the emission
18 reductions that will be achieved by these rules in each
19 year and over the life of the program. These emission
20 reductions will prevent 3900 premature deaths over the
21 12-year life of the rules. Through our successful
22 implementation of this critical ARB program, California is
23 already beginning to see the real world benefits of our
24 efforts.

25

--o0o--

1 ON-ROAD COMPLIANCE ASSISTANCE SECTION MANAGER

2 WHITE: A recent study examined temporal and spacial
3 trends in ambient concentrations of black carbon in
4 California. The study showed that the concentrations of
5 black carbon had decreased by 50 percent. Black carbon is
6 a key component of diesel soot, and this study concluded
7 that corresponding decreases in diesel emission reductions
8 between 1990 and 2008 resulted in the observed black
9 carbon reductions. The rate of decline in black carbon
10 has resulted in a reduced warming effect.

11 While Californians are seeing the actual benefits
12 of these programs, reductions are still needed from
13 on-road and off-road vehicles in order to ensure our
14 long-term goals and commitments are met.

15 Now I'd like to summarize how staff came to our
16 recommendations.

17 --o0o--

18 ON-ROAD COMPLIANCE ASSISTANCE SECTION MANAGER

19 WHITE: Since January 2010, staff held 20 public workshops
20 and numerous meetings with various companies, association
21 representatives, and individual fleets. Information
22 gathered from this outreach was used to update our
23 evaluations of the economic impact of the recession on
24 individual fleets and helped staff to develop this
25 proposal.

1 contractors, moving companies, towing companies and local
2 delivery businesses.

3 I'd also like to point out that on the slide in
4 the upper-right corner is -- whatever regulation we're
5 discussing, that's what will be in the upper right corner.
6 So that way we know what the amendments are.

7 Staff is proposing to delay the initial
8 requirements by four years until 2015 and to no longer
9 require PM retrofits. Under this strategy, emission
10 reductions would be achieved by replacing the oldest
11 trucks with newer trucks that have the cleanest engines
12 and are originally equipped with PM filters.

13 By 2023, these trucks would need to have 2010
14 model year or newer engines or equivalent emissions.

15 --o0o--

16 ON-ROAD COMPLIANCE ASSISTANCE SECTION MANAGER

17 WHITE: While staff's proposal changes the way in which
18 emission reductions are achieved from lighter trucks,
19 heavier trucks are more costly to replace and the use of
20 PM retrofits are a more feasible way in which to achieve
21 near-term PM reduction. This is because heavier trucks
22 have bigger engines, typically travel higher miles than
23 lighter trucks, and represent a majority of the emissions.

24 PM retrofits are the lowest cost option to
25 control PM exhaust emissions and also substantially reduce

1 the remaining school buses. Retrofits are the least
2 expensive compliance option. \$140,000 from the Lower
3 Emission School Bus Program can be used for the initial
4 purchase of retrofits for seven buses or to purchase one
5 replacement bus. Even when the lifetime costs of
6 retrofits are compared to the lifetime cost of a new bus,
7 retrofits are still three to five times cheaper.

8 --o0o--

9 ON-ROAD COMPLIANCE ASSISTANCE SECTION MANAGER

10 WHITE: Regarding funding, unlike the other vehicles
11 covered by this regulation, funding has been dedicated to
12 help school districts comply. In fact, once all pre-1977s
13 were replaced, funding could have been prioritized for PM
14 filters and nearly all of the 13,000 school buses eligible
15 for public incentive funds would be clean. The decision
16 to fund retrofits or replacement using lower emission
17 school bus funds rests with local districts.

18 Throughout the implementation of Lower Emission
19 School Bus Program, staff strongly encouraged the funding
20 of retrofits, even though local school districts preferred
21 replacements. In the end, many local agencies did not
22 maximize the use of available funds for retrofit, and
23 these decisions will result in 3300 non-compliant buses
24 remaining, even after additional federal and local funds
25 were also directed to fund school buses.

1 those large fleets that already registered.

2 Staff is proposing to extend the deadline for the
3 use of the fuel efficient tires by one to four years on
4 2010 and older model year tractors and trailers to allow
5 fleets time to use existing retreaded tires and allow the
6 U.S. EPA SmartWay Program time to develop standards for
7 the SmartWay retreads.

8 Other changes would delay compliance dates and
9 provide more flexibility in meeting the requirements.

10 This concludes the amendments regarding trucks.

11 Now Elizabeth will discuss the changes being
12 proposed for the off-road regulations.

13 MS. YURA: Thank you, Beth.

14 While the economic downturn has had a serious
15 impact on the trucking industry, its impact on the
16 construction industry has been greater. Construction
17 activity has decreased by more than 50 percent since 2005.
18 This lowered activity, coupled with a revised emissions
19 inventory, together shows much lower emissions from
20 off-road vehicles than originally estimated. Therefore,
21 staff is proposing regulatory amendments that balance
22 economic relief, especially in the near term, while still
23 obtaining emission reductions critical to the health of
24 all within the state.

25 The following slides describe staff's proposal to

1 amend the off-road and LSI regulations. I'll begin with
2 the proposed amendments to the off-road regulation.

3 --o0o--

4 MS. YURA: First, staff is proposing to delay the
5 regulation start date for all fleets by four years, which
6 would result in significant near-term economic relief for
7 off-road fleets. With this proposed delay, large fleets
8 would have more time, until 2014, before compliance
9 actions would be required. As with the current
10 regulation, medium and small fleets are given even more
11 time until the initial start date.

12 --o0o--

13 MS. YURA: Staff is also proposing to simplify
14 and reduce the annual requirements of the off-road
15 regulation so that each compliance year a fleet would only
16 have to meet a single emissions target. The annual BACT
17 requirements would be reduced from a 28 percent turnover
18 and retrofitting requirement to a combined 4.8 to ten
19 percent turnover or retrofitting requirement. This means
20 that a fleet would have both lowered BACT requirements and
21 more flexibility to choose between turnover and
22 retrofitting to meet compliance.

23 Additionally, staff is proposing to raise the
24 low-use threshold from the 100 hours to 200 hours per
25 year. This will exempt an additional ten to 12 percent of

1 the least used vehicles, resulting in overall lower
2 compliance costs.

3 --o0o--

4 MS. YURA: To further simplify the regulation,
5 staff is also proposing an optional simplified compliance
6 path for the smallest fleets in the state. For an
7 owner-operator or owner with only a handful of vehicles,
8 there are requirements to calculate emissions averages,
9 targets, and BACT percentages to determine compliance
10 options can be complicated.

11 Therefore, staff is proposing an optional
12 compliance path which provides a schedule to phase out the
13 oldest vehicle from these smallest fleets. This provides
14 a very clear and simple path for the fleet to follow and
15 also does not require any mandatory retrofitting.

16 --o0o--

17 MS. YURA: Because of the proposed delays and
18 reductions in compliance requirements, staff wanted to
19 make sure that progress towards cleaner vehicles is made
20 during this interim period. Therefore, staff is proposing
21 to extend double credit for the early installation of PM
22 filters, which had expired for some fleets, up to the year
23 before compliance is required for each fleet size.

24 Additionally, for fleets that are still
25 downsizing due to the economy, staff is proposing to offer

1 credits for these fleets that reduce their total fleet
2 horsepower from 2010 to 2011. The new credit would be in
3 addition to the reduced horsepower credits a fleet may
4 have previously received for reducing their fleet between
5 2006 and 2010.

6 Also staff would like to recognize those
7 proactive fleets who met at the first large fleet
8 compliance requirements by March 1st, 2010, and is
9 proposing to exempt these large fleets from their first
10 compliance date of 2014.

11 --o0o--

12 MS. YURA: In summary, staff's proposed changes
13 would delay the regulation start date, make retrofits
14 optional, limit the numbers of actions needed for
15 compliance both overall and in the next five years, and
16 also strengthen the long-term requirement to use the
17 cleanest Tier 4 engines.

18 And now I'd like to discuss how these amendments
19 have reduced the economic impacts of the off-road
20 regulation.

21 --o0o--

22 MS. YURA: As you can see from the slide, the
23 proposed amendments provide significant cost savings
24 compared to the current regulation. The estimated cost of
25 the amended off-road regulation in the next five years

1 would be about 97 percent lower, and peak year costs which
2 would now occur in 2019 would be reduced by more than 70
3 percent. Overall, costs for the proposed amended
4 regulation over the next 20 years would be reduced by \$1.5
5 billion, which is 70 percent reduction.

6 --o0o--

7 MS. YURA: In addition to the amendments already
8 discussed, staff is also proposing a few 15-day changes
9 for off-road vehicles.

10 First, staff is proposing to pull in both engines
11 from all two-engine vehicles, except for two engines
12 on-road sweepers into the off-road regulation. Several
13 types of two-engine vehicles have already been
14 incorporated into the off-road regulation. So for
15 consistency, staff is now proposing to bring in the
16 remaining two engine vehicles.

17 Second, staff is proposing a modified version of
18 what has been referred to as the bubble concept.
19 Throughout the development of the truck and bus and
20 off-road regulations, many fleets have had concerns about
21 having vehicles in several of ARB regulations and have
22 supported an idea to allow the trading of credits between
23 these regulations.

24 Staff's proposal will incorporate into the
25 off-road and truck and bus regulation a compliance path

1 that would allow on-road and off-road vehicles that have
2 been retrofitted to count towards the compliance
3 requirements of either regulation for a specified period
4 of time, so long as the actions taken under this option do
5 not result in a loss of emission benefits in any given
6 year.

7 --o0o--

8 MS. YURA: Although the discussion thus far has
9 focused on reductions from diesel vehicles, I'd like to
10 conclude our discussion of the regulations being amended
11 here today by briefly touching on the proposed amendments
12 to the large spark ignition, or LSI, fleet requirements
13 regulation.

14 The LSI fleet regulation was adopted in 2006 and
15 applies to large spark ignition engine forklifts, tow
16 tractors, sweepers, scrubbers, and airport ground support
17 equipment throughout the state. Because many operators
18 have fully implemented the fleet average emission level
19 requirements, staff is proposing only a limited number of
20 provisions as shown here, which broaden or extend the
21 existing relief provisions for forklift and other LSI
22 fleet owners.

23 --o0o--

24 MS. YURA: Now that I've discussed staff's
25 proposal, I'd like to turn to the environmental impacts of

1 the proposed regulations.

2 --o0o--

3 MS. YURA: Overall, staff estimates that 3900
4 premature deaths would be avoided by the implementation of
5 the amended regulations as well as substantial reductions
6 in localized risk. In addition to achieving significant
7 health benefits, the proposed amended regulations would
8 also continue to provide significant emission reductions
9 that are necessary to meet California's SIP obligation and
10 the goals of the Diesel Risk Reduction Plan.

11 --o0o--

12 MS. YURA: The red line shows the emissions
13 estimated without the recession, which represents what the
14 Board expected when the regulations were adopted.

15 The blue line represents the emissions that we
16 expect to see now with the recession and the proposed
17 amendments.

18 The yellow shaded area shows the emission
19 reductions resulting from the recession.

20 The blue shaded area shows the result of the
21 amendments, to provide flexibility to the on- and off-road
22 regulation.

23 As you can see, the blue area is equivalent to
24 the yellow area. The cumulative emissions of the proposed
25 regulations with the recession are the same as were

1 long-term emission reductions goals.

2 And now I will provide staff's closing remarks
3 and recommendation to the Board.

4 --o0o--

5 MS. YURA: In conclusion, the proposed
6 regulations will provide economic relief and cost savings,
7 while providing important emission reductions and public
8 health benefits, thereby achieving the Board's goals.

9 Staff recommends that the Board approve the
10 proposed amendments to all five regulations along with the
11 corresponding 15-day changes.

12 This concludes our presentation. Thank you.

13 CHAIRPERSON NICHOLS: Thank you.

14 Any concluding remarks? No.

15 EXECUTIVE OFFICER GOLDSTENE: I want to make it
16 clear we have five different rules here. We're ready to
17 take any questions that the Board has.

18 CHAIRPERSON NICHOLS: Okay. Are there any
19 questions before we hear from witnesses? All right.

20 Then we'll begin with our list. I'm sure there
21 are many. I just have the first batch here. We'll get
22 started. So we'll call you a few at a time and hopefully
23 you'll be ready to come forward.

24 Richard Coyle, Michael Rea, Corey Wardlaw.

25 Mr. COYLE: Thank you. Good morning. I'm here

1 to speak specifically to the drayage truck -- the proposed
2 drayage truck regulation changes.

3 My name is Richard Coyle. I'm President of
4 Devine Intermodal, which is a drayage trucking company
5 here in the Central Valley specializing in serving
6 California's ports.

7 While we support closing the loopholes in the
8 current reg, which address the dray-offs and the Class 7
9 trucks, we strong oppose any loosening or softening of the
10 port drayage truck retirement timetable. Relaxing the
11 regs now well into implementation would be more than
12 unfair to companies like ours. It would be downright
13 punitive. Close the loopholes, yes, but please don't mess
14 with the drayage truck retirement timetables.

15 For years, our industry debated with CARB the
16 implementation of truck retirement schedules. And once
17 those regs were finally set, our company accepted them and
18 embarked on an investment strategy for retiring our
19 dirtiest trucks. We analyzed our fleet and we worked
20 through decisions of whether or not to retrofit or to buy
21 new. And the most prudent long-term strategy was to
22 replace, not retrofit much of our fleet.

23 Accomplishing this in a softening economy with
24 tight credit became a Herculean effort for ourselves. It
25 has been enormously expensive and more draining of our

1 resources than we imagined. Yet, we stuck by the strategy
2 knowing it would prove to be the most prudent and
3 profitable decision.

4 Now, CARB staff is suggesting softening these
5 regs. I believe that they believe they're doing our
6 industry a favor by loosening these rules. But they're
7 not. This change would punish our company and companies
8 like ours who invested in new and clean trucks with the
9 anticipation we would finally get a return in 2014. This
10 chart shows more dramatically what we are looking at.

11 2014 is the date that we anticipated trucks -- the great
12 majority of trucks being retired. So we chose to purchase
13 new, knowing that our new trucks would get us out to 2020.

14 It's very dramatic now the relief that's being
15 offered to some of our competitors and going to be
16 extremely detrimental to our company.

17 So I'd like you to take that into consideration.

18 Thank you very much.

19 CHAIRPERSON NICHOLS: Did you say where your
20 business is located?

21 MR. COYLE: We're headquarters here in Sacramento
22 with terminals in Stockton and Fresno.

23 CHAIRPERSON NICHOLS: Okay. Thank you.

24 Michael Rea.

25 MR. REA: Thank you very much.

1 My name is Michael Ray. I'm the Governmental
2 Relations Chairperson for the California Association of
3 School Transportation Officials.

4 We've always valued our relationship with the Air
5 Board, and we care deeply about children's health and
6 safety, just as you do. We appreciate our cooperative
7 efforts over the years to fund bus replacements and
8 exhaust retrofits. As you know, school transportation has
9 been an active, aggressive, and involved partner in this
10 effort over the years.

11 We also appreciate the considerable efforts that
12 the staff has made to meet with us over the past few
13 months and to understand our issues.

14 Although these amendments do delay the rules for
15 school transportation, they're still overly burdensome on
16 school transportation. As you know, school transportation
17 has been poorly funded. Before the economic downturn,
18 school transportation received only about 45 percent of
19 what it took to operate school buses in California. The
20 remaining amount the State required us to take out of our
21 school district general funds, more impacting the
22 classroom.

23 In last couple of years, the State has further
24 reduced our funding by 20 percent. So now the State
25 funding only covers about 35 percent of what it takes to

1 operate school transportation in California. All over the
2 state of California, the impact of that is that school
3 districts are making decisions to severely reduce,
4 restrict, or eliminate school transportation.

5 Because of that, students are not riding on
6 school buses. They're being left out on the streets. And
7 more than likely, it's the most socioeconomic or
8 disadvantaged students that are affected by this.

9 We really request -- respectfully request that
10 the Board delay the implementation of these rules all
11 together for school transportation until funding is
12 available for us to be able to afford bus replacements --
13 fully funded bus replacements and trap replacements.

14 Thank you very much for your time.

15 CHAIRPERSON NICHOLS: Thank you.

16 Corey Wardlaw, and then Carl Dolk, Roger Isom,
17 and Jim Jacobs.

18 MR. WARDLAW: Good morning.

19 From what I'm gathering from the agenda, we are
20 here today because the economy is in the tank. And
21 emissions are lower than thought.

22 I'm thankful that the Air Resources Board is
23 recognizing these conditions, and I encourage the members
24 to approve proposed amendments. But I would also like
25 some more consideration for owner-operators like myself.

1 I have one truck. I'm due to replace it by -- particulate
2 filter by 2014. And in these economic times, I don't have
3 the money. And I don't foresee the money being available
4 within a couple of years to what I would do would be buy a
5 new truck. That way, I would meet all the proposals to
6 the rule.

7 But I have money for a down payment. I work in
8 the construction industry as a transfer dump truck. My
9 business is way off. I wouldn't have money for -- until
10 the economy picks back up to 2004/2005 levels, I don't
11 foresee having the money for a monthly truck payment.

12 The additional costs of particulate filter
13 maintenance, the SCR, units or having extra money to pay
14 for higher fuel costs because smog engines get less fuel
15 economy than mine does now.

16 So with that, with those things in mind, I would
17 like additional time or additional flexibility within the
18 rules.

19 Thank you.

20 CHAIRPERSON NICHOLS: Yes. Do you have a
21 question?

22 BOARD MEMBER BERG: One truck, just for
23 clarification. What's the date for one single vehicle to
24 the first date that they have to do something with that?

25 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF

1 BRASIL: It's January 1, 2014, would be the first
2 compliance date for a fleet with three or four trucks.

3 MR. WARDLAW: About a year ago, you asked me when
4 could I afford to do this. And I said half jokingly then
5 see me in a couple years.

6 CHAIRPERSON NICHOLS: I remember that.

7 MR. WARDLAW: Now my answer would be two years.
8 But that's when the economy gets back to 2004/2005 levels
9 when I can save up the money for a down payment when I
10 think I can make monthly payments and, you know, the
11 higher costs of running a new truck.

12 CHAIRPERSON NICHOLS: Right.

13 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH
14 ASSISTANT DIVISION CHIEF WHITE: Let me add in our Carl
15 Moyer Program, there is funding available for -- not fully
16 funded, but there is money available for retrofits as
17 well. So there are opportunities through that program to
18 help offset some of the retrofit costs associated with
19 that compliance date.

20 MR. WARDLAW: The way I understand it, I have a
21 2000 model year engine in my 1993, so I would have to put
22 this another engine plus a -- no?

23 CHAIRPERSON NICHOLS: I don't think so.

24 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF

25 BRASIL: The PM filter on any truck would be compliant

1 until 2020 at least

2 MR. WARDLAW: Is that a new change?

3 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF

4 BRASIL: That is a fundamental change of the proposal.

5 MR. WARDLAW: Okay.

6 CHAIRPERSON NICHOLS: Maybe it's a little better
7 than you thought.

8 MR. WARDLAW: That's half the cost. But still
9 money and being able to afford it, you know, to run it
10 afterward.

11 CHAIRPERSON NICHOLS: Would be a good idea though
12 probably if we could make sure that people get that
13 information, because it sounds like it's not quite as
14 clear as it should be to people who are going to have to
15 comply.

16 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH
17 ASSISTANT DIVISION CHIEF WHITE: We have some staff on
18 that program who will touch base with them in just a
19 moment.

20 CHAIRPERSON NICHOLS: Thank you for coming.
21 Appreciate it.

22 Carl Dolk.

23 MR. DOLK: Good morning.

24 My name is Carl Dolk, and I'm the Controller for
25 Devine Intermodal. Devine is a trucking company based in

1 West Sacramento. We move freight to and from the port of
2 Oakland to shippers throughout California and Northern
3 Nevada.

4 We support the proposed changes to the drayage
5 truck regulation, with the exception of the amendment to
6 eliminate the 2014 Phase 2 requirement. The 2014 Phase 2
7 requirement mandates that drayage trucks use 2007 or newer
8 standard engines by 2014. The staff proposed elimination
9 of the 2014 Phase 2 requirement would permit a 1994 to
10 2000 model year diesel engine to operate for an additional
11 six years, up to the year 2020.

12 Three years ago, this Board set a priority. The
13 priority was for drayage trucks to comply with the new
14 regulation to reduce emissions at California ports and
15 intermodal facilities. This information was needed
16 because your data showed that communities that surround
17 ports and intermodal facilities are more heavily impacted
18 from emissions which contribute to asthma, cancer, and
19 premature deaths. This was a good rule three years ago
20 and it's a good rule now.

21 Maintaining the 2014 Phase 2 requirement is
22 critical to meeting two of the major goals identified by
23 the ARB which are: Providing safer, cleaner air to all
24 Californians, and protecting the public from concentrated
25 exposure to air contaminants.

1 The staff seems to want to reverse course. Why?
2 One objective stated by them is, as you have heard, to
3 provide flexibility to ease the burden of compliance and
4 consideration of the current economic climate.

5 There is no dispute that the current rules are
6 more burdensome. But it is a burden that can't be
7 managed. For those residents who live near ports and rail
8 facilities, the burden of exposure to toxic air is more
9 serious than the burden on industry. We don't dispute the
10 impact the recession has had on vehicle activity and
11 emissions from heavy-duty diesel trucks. But it is wrong
12 to infer that today's economy will be the economy that
13 will exist in 2014 and beyond. The staff's crystal ball
14 is no better than yours or mine.

15 The voters of California want clean air. The
16 defeat of Proposition 23 made this clear. For the benefit
17 of all Californians, we respectfully appeal to the Board
18 to keep the 2014 Phase 2 requirements. Thank you.

19 CHAIRPERSON NICHOLS: Thank you.

20 Roger Isom and then Jim Jacobs and Craig Parker.

21 MR. ISOM: Good morning, members of the Board.

22 My name is Roger Isom with California Cotton
23 Ginners and Growers Association and Western Agricultural
24 Processors Association.

25 Just one point of clarification up there on your

1 screen. Might want to add a little something that says in
2 favor. My members saw me up in here favor of this rule, I
3 wouldn't have a job tomorrow. I'm in favor of the changes
4 and want to make sure that point is very clear.

5 CHAIRPERSON NICHOLS: We thought you'd changed
6 sides.

7 MR. ISOM: Not yet.

8 But in all seriousness, the staff has worked with
9 us very well to try to address our concerns. We are in
10 support of these changes, the clarifications they made to
11 the agricultural provision, the changes they made to
12 address the trucks that aren't subject to the ag
13 provisions, and the majority of trucks used in our
14 industry are not subject to the ag provision. That only
15 addresses a small percentage. So these delays, these
16 extra time allows us to address that. And so we support
17 that.

18 And I'll just finish with one comment that I made
19 two years ago when the Board adopted this rule, and that's
20 the key is incentives. And we need your help, whether
21 it's helping try to get these bonds done or actual help in
22 lobbying back in D.C. like the effort we have currently
23 underway with DERA trying to get that thing fully funded
24 once and for all. Trying to get additional funds in the
25 next round of the farm bill.

1 And I think that's just a perfect example of how
2 incentive programs can work. As I reported two years ago
3 here, we started with farm bill funding on the tractor
4 rule, which you guys haven't developed yet, but will be
5 next month you'll start on that. And I reported then that
6 we already got two tons of reductions on a program that
7 you guys asked five to ten tons. I am happy to report
8 today we are closer to six tons already. And with the
9 funding that we have coming this next year, we're going to
10 have on target eleven tons of reductions before you guys
11 ever adopt the rule.

12 Incentives work. Incentives help us. And that's
13 where we really need to spent a lot of effort. And I
14 encourage you guys to adopt these changes today, but also
15 make the extra effort to help us get more incentives.

16 CHAIRPERSON NICHOLS: Thank you very much.

17 Might just comment, by the way, I think these
18 columns are pretty arbitrary. Often times, you wonder why
19 an X got put where it did. Maybe it helps show there is
20 some balance anyway.

21 Yes, DeeDee.

22 BOARD MEMBER D'ADAMO: Roger, don't go too far.

23 CHAIRPERSON NICHOLS: There was a question for
24 you. Could you come back?

25 BOARD MEMBER D'ADAMO: I'm glad you brought up

1 the issue of incentives. And I had some questions anyway
2 on the SIP targets on slide 35. And I know that a lot has
3 been done, and I'll sign up for continued work on federal
4 funds and farm bill and all that.

5 But just wondering if staff could put some
6 perspective on this issue of the margin in the San Joaquin
7 Valley. I know that there are going to be a number of
8 witnesses today that will be talking about that.

9 So Roger, since you've been so involved in the
10 incentive issue, I thought this might be a good
11 opportunity to hear a little bit more about those programs
12 and whether or not they were accounted for in the
13 evaluation of the margin.

14 DEPUTY EXECUTIVE OFFICER TERRY: I'll step in on
15 that one.

16 In terms of the margin, the planning staff worked
17 with the rules staff to look at the effect of the combined
18 categories of the on- and off-road. So it does not
19 include the agricultural equipment category. So these
20 tons that Roger referenced are surplus to the SIP and
21 would be additional tons that are being achieved early and
22 are not accounted for in this margin.

23 BOARD MEMBER D'ADAMO: Well, that's terrific. So
24 the margin would then just compare to where we were with
25 these rules before as compared to what's proposed, not any

1 additional programs that are out there.

2 DEPUTY EXECUTIVE OFFICER TERRY: Right. When we
3 constructed the SIP, it's a commitment in aggregate for
4 emission reductions. But for this analysis, we looked
5 narrowly at what we expected to get from these two
6 combined categories, and this proposal just hits the mark
7 in the valley.

8 CHAIRPERSON NICHOLS: Okay. Thank you.

9 Before we take our next witness, I'm going to ask
10 the indulgence of the audience. We do normally make an
11 exception to our rule that we call people in the order
12 they signed up if we have elected officials, particularly
13 members of the Legislature, who take the time and trouble
14 to come and speak to us. So this morning we're pleased to
15 welcome Senator Doug LaMalfa.

16 Mr. LaMalfa, are you here?

17 SENATOR LA MALFA: Good morning. Thank you,
18 Madam Chairman and members of the Commission.

19 I appreciate your allowing me to work in here on
20 a very busy day. I know you've had much to do here. And
21 the task isn't easy and often very controversial, as we've
22 noticed.

23 So I'll rather just keep it brief here. I know
24 you're trying to work out solutions here.

25 Where I come from, I'm a farmer in my real life

1 up in northern California here in addition to the world I
2 work in now here in Sacramento once again. And so my
3 constituents, of course, have very grave concerns with how
4 this will affect their livelihoods. So the voters of
5 California are interested in clean air. They are also
6 interested in having jobs in an economy. And the
7 direction this Board I hope can go will be able to pause
8 and take into account what the best solutions really are
9 in a practical way, especially for rural California where
10 the air attainment zones are doing better. I know the
11 issues down in the valley are more acute. But we are
12 doing pretty good up in the north and much of rural
13 California.

14 So when we look at the plan -- and I know you're
15 working on amendments right now. As we move forward, that
16 we can take into account some areas are doing better than
17 others and some areas don't need nearly the focus. And so
18 as dollars are allocated, whether that's through Carl
19 Moyer or other methods, let's put these efforts where it's
20 really needed. But let the folks that are doing well have
21 a little more of a time line.

22 So one of the things I'm talking about is that
23 people with fleets that need updating, let's let the
24 process work through normal attrition. My own farm, for
25 example, we've purchased newer trucks for us in the last

1 couple years that have brought us quite a bit into the
2 direction you would like to see us go. We're running
3 cleaner trucks than the 70s models we've had in the past.
4 So we are achieving right there just with normal attrition
5 90 percent increases in efficiency in those trucks for the
6 low mileage that we use in agriculture. Applying that
7 model to all across the industry, the long haul people
8 that use them up fairly quickly, trade them off, the
9 medium line people and the mom and pops as these move down
10 the steps, we're achieving air quality improvements
11 dramatically just through that transition.

12 And this is then affordable. I can afford to
13 upgrade my trucks one generation from a 70s model to a 90s
14 model. So can the mom and pops and the medium ones, but
15 they can't all just jump from 1970 to 2012.

16 And I appreciate that you've worked that way with
17 the ag exemption, but more folks out there need this kind
18 of relief. And so as you consider these amendments and
19 other policies as you push forward, please really take a
20 look at what that means. Because I have to be truthful
21 with you. Folks out here in the field they feel like
22 maybe they've been heard a little bit, but not listened
23 to. They're very frustrated and wondering how they're
24 going to make this work for them. A guy hauling hay from
25 the valley up in the far north part of the state, he can't

1 go out and buy a 2012 truck or 2009 truck. It doesn't add
2 up for them.

3 All manner of truckers, especially in the mom and
4 pops, they can't afford to put on technology that does not
5 work for them. We are even seeing it with the newer rigs.
6 Brand-new ones, they're having to get many times major
7 repairs because the retrofit equipment or the new
8 equipment they're putting on is not working for them. In
9 that same situation, you're seeing an additional three to
10 four to even eleven percent lower fuel mileage. So we're
11 talking about reducing the particular. Now we're
12 increasing the CO2 for technology that is not here yet.
13 We have major engine manufacturers that are dropping out
14 of the California market. We need to allow them time to
15 catch up.

16 I go back to the mandate CARB had I think in 1990
17 or so to have the certain amount of cars sold in
18 California be zero emission vehicles. And so the big
19 three at the time had to spend much effort trying to make
20 battery powered cars work at the time battery technology
21 was nowhere near accommodating a real life automobile that
22 people would drive. So that mandate finally after about a
23 decade had to be relieved, because there was no such thing
24 as a zero emission car that was a practical thing somebody
25 would buy.

1 So it isn't always because of mandates that are
2 made by governments that is going to drive technology to
3 come out of thin air. We still don't have battery
4 technology that truly works for the average driver. It's
5 okay for commuters or in town, but if we apply the same
6 logic thinking, it's forcing a mandate upon an industry to
7 develop technology that doesn't meet the goal, we're not
8 necessarily going to see that. We're seeing major engine
9 manufacturers not wanting to be in California applying the
10 needs.

11 So let's take a little longer term look at this
12 and find practical solutions that -- I know the people
13 involved here. They want to help. They want to come
14 forward. They want to be part of a solution here. But
15 when they feel it's so hopeless they can't afford it
16 that -- please help me to help you to get them that hope.

17 CHAIRPERSON NICHOLS: I appreciate very much your
18 taking the time to come over and to join us. I would like
19 to also make the offer. I think I could speak on behalf
20 of all these people down in front here that if you ever
21 see an opportunity for my staff to sit down with some of
22 your constituents, the ones who would like more
23 information or feel like they need to have more direct
24 input, we would like to make our technical folks available
25 as well.

1 We have a pretty good track record. The electric
2 vehicles are back in full force now. The program might
3 not have come on in time that we originally hoped it
4 would, but we're going to have a wonderful success with
5 zero emission vehicles.

6 SENATOR LA MALFA: I bring that example up is
7 that at the time it wasn't ready. And so the big three
8 were kind of forced to go down this rabbit trail for a
9 while when they knew it wasn't going to happen. They
10 could have been spending effort towards ultra low or other
11 types of zero emissions. Maybe we would have been three
12 years further along in the ultra low technology. When we
13 do things in Sacramento, it doesn't always happen in a
14 vacuum.

15 CHAIRPERSON NICHOLS: That is for sure. Anyway,
16 we appreciate --

17 SENATOR LA MALFA: I appreciate the chance to
18 host forums like this up in our area and just have that
19 real dialogue that I think people feel like they're being
20 heard and have that real input.

21 I see some positives happening here today that
22 folks feel like they're getting amendments that are going
23 to happen. So I think it really helps the reputation of
24 all of us here in Sacramento. I venture to say in some
25 quarters maybe only folks with lower approval ratings than

1 the Legislature and I might be -- I'm just saying.

2 CHAIRPERSON NICHOLS: I don't know how to compete
3 with you.

4 SENATOR LA MALFA: Nobody wants to compete with
5 us. Thank you very much.

6 CHAIRPERSON NICHOLS: Thank you. All right.
7 Jim Jacobs.

8 MR. JACOBS: Good morning, Madam Chair and Board
9 members.

10 I'm here today to use a minute of your time. I
11 know you had a really long day yesterday -- to let you
12 know as far as the off-road rule goes, we support staff.
13 I want to thank them for their work on it.

14 That being said, we do have one issue with
15 satisfy. We certainly don't want a rule designed to
16 prevent premature deaths and clean up our air to cause
17 more. When the time comes, we'll take that up with OSHA.

18 But in the mean time, thank you for your work.
19 And everybody have a safe holiday. It's bad weather
20 today.

21 CHAIRPERSON NICHOLS: Thank you.

22 Craig Parker and then Martin Lassen and Paul
23 Moore.

24 MR. PARKER: Good morning, Chairman Nichols and
25 Board members. Thank you for the opportunity to speak to

1 you.

2 My name is Craig Parker. I'm Director of
3 Environmental Services with Cal Energy Operating
4 Corporation. Cal Energy is an independent power producer
5 currently operating about 349 megawatts of geothermal
6 energy in California's Imperial Valley. We have a planned
7 addition of 150 megawatts undergoing certification by the
8 California Energy Commission.

9 Cal Energy supports the staff proposal for the
10 truck and bus rule, for the off-road rule, the large spark
11 ignition rule. In this last month, we received our first
12 new truck. We also are retrofitting engine and
13 particulate matter filter.

14 It's interesting, our local ARB has asked us
15 about the effectiveness. It sounds like there may have
16 been some potential issues there. But we'll look forward
17 to working through that.

18 We appreciate the additional time to use this
19 equipment and see how it impacts. And we want to thank
20 the staff for their workshops coming down to El Centro. I
21 know that's been a long travel. You're welcome any time.
22 We'd like to show you our facilitates, hold stakeholder
23 meetings, and the responsiveness of the staff and the
24 Board to changes. So thank you very much. Appreciate
25 your support.

1 CHAIRPERSON NICHOLS: Thank you.

2 Mr. Lassen and Paul Moore and Ed Duffek.

3 MR. MOORE: Good morning. My name is Paul Moore
4 with CalPortland. CalPortland is a manufacturer of
5 construction materials, and we operate -- we own about 300
6 ready-mix trucks in the California area, but only operate
7 about half of those due to the downturn in the economy.
8 Although the downturn in the general economy of California
9 has been very bad, construction industry specifically has
10 been extremely hit hard.

11 I've installed or had installed 24 retrofits on
12 ready-mix trucks at initial cost of \$497,000. That's a
13 lot of money in this economy right now when we are doing
14 all we can just to keep the doors open. I say initial
15 cost, because the ongoing cost of limited operating hours
16 of those trucks is going to be continuous. The trucks
17 that used to be able to operate 14, 15 hours a day can now
18 only operate about 11 hours a day because the diesel
19 particulate filters have to be regenerated and therefore
20 have to park that truck and bring out another truck out of
21 the fleet to continue our business.

22 I just believe that more time is needed not only
23 for the economy to improve, but the technology of the
24 diesel particulate filters to improve as well.

25 I'd like to thank the staff of CARB for working

1 with our industry as well as all the other industries. A
2 lot of time and effort that was put into coming up with
3 the amendments. And I just want to say I believe the
4 amendments will be good for all Californians in the long
5 run because we'll have better technology and hopefully
6 better economy to work with.

7 Thank you.

8 CHAIRPERSON NICHOLS: Ed Duffek, Robert
9 Hassebrock, Doug Van Allen.

10 MR. LASSEN: Good morning, Chairman Nichols and
11 members of the Board.

12 My name is Martin Lassen, and I'm representing
13 Johnson Matthey today.

14 CHAIRPERSON NICHOLS: I'm sorry. Yes, you are
15 Martin Lassen. I apologize if we took you out of order.
16 Go ahead.

17 MR. LASSEN: Johnson Matthey is a technology
18 company for emission control, and we've been supplying
19 technology for over 30 years. We've got a major market
20 share for 2007 on-road from EPA with particulate filters
21 in 2010 which includes filters plus SCR.

22 We are also heavily involved in the retrofit
23 market here in California. In 2000, ARB essentially
24 invited Johnson Matthey and our industry to come here to
25 California and essentially develop, verify, and

1 commercialize technology for the Diesel Risk Reduction
2 Plan. We came to California. We've spent millions of
3 dollars developing technology and verifying, some cases
4 re-verifying, and commercializing technology. That was
5 based on our business plan, which essentially came off of
6 a market that, in essence, was proposed and promised based
7 on your rules.

8 Today, there are more than 21 verified systems
9 out there, some of them mine. We are also in process
10 verifying combined NOx PM systems, which can take
11 advantage of your rule by meeting 2007 emission standards
12 and allowing engines or vehicles to be operated until
13 2023.

14 Now due to the reduced activity because of the
15 economy, we do agree that relief is necessary. In fact,
16 Johnson Matthey, our business has been effected. And
17 quite honestly, just the specter of the changes in the
18 rule has already started to really slow down the number of
19 retrofits being done here in California.

20 You guys had recommended the staff to look at
21 economic relief for industry. I guess regulated industry
22 was what people had in mind. But our industry has also
23 felt the impact of the recession and such. And we would
24 ask that the Board consider directing staff who we've had
25 conversations with already to look at some measures for

1 economic relief for our industry as well.

2 Our VDEX products are sold here in California
3 through distribution, through California companies. We
4 market. We sell. We install. And we essentially
5 maintain these systems through California green jobs. The
6 changes to the rules really will impact the number of jobs
7 that can be foreign.

8 So with that, I will say thank you.

9 CHAIRPERSON NICHOLS: Thank you very much. We
10 appreciate all you have contributed to the success of the
11 retrofit programs over the years.

12 Ed Duffek.

13 MR. DUFFEK: Thank you, ARB members, for allowing
14 me to speak.

15 My name is Ed Duffek. My wife and I now retired
16 live in a small foothills town. I have a Ph.D. in
17 physical chemistry.

18 Recently, I attended a CARB talk given where we
19 were told we are living in a pollution hot spot. And I
20 quote, we are living in a "pollution hot spot, one of the
21 worst in the U.S." We got a real guilt trip on that one
22 laid on us.

23 I'm not alone in my concern about this
24 intimidation. I belong to a group of like-minded experts
25 and scientists in the Nor Cal Tea Party where our purpose

1 is to explore untruthful statements.

2 I'm afraid that the gross costly air committed by
3 the MTBE, well water contamination that went on for years
4 and years, and the fraudulent PM2.5 report resulting in
5 millions of dollars of fines will be repeated today.

6 Because of this, businesses will close. By the
7 way, these fines that were imposed on these eleven
8 companies back in March have not been returned, over
9 millions of dollars.

10 As a California resident, the senior resident by
11 the way, forever 50 years, I have seen the lifestyle
12 enjoyment disappear completely.

13 Please consider the decisions you make today
14 carefully. I don't want to become leakage.

15 Thank you.

16 CHAIRPERSON NICHOLS: Thank you.

17 Mr. Hassebrock and then Doug Van Allen and Kevin
18 Brown.

19 MR. HASSEBROCK: Hello, Madam Chair, members of
20 the Board, staff.

21 I want to start off with thanking staff. They
22 pounded the miles out and a lot of work has gone into the
23 changes. And while I don't support the rule, I agree with
24 the gentleman in regards to the question of whether or not
25 we are doing greater harm to people's lives and choices

1 due to the economic impact, hardships, choices they make
2 in life whether it's diet, seeking medical care, et
3 cetera, and increasing morality, et cetera. I think the
4 rule is poorly considered, but the amendments are well
5 done. I have a couple exceptions I'd like to suggest.

6 One of the major things first off on the early
7 replacement credit, we asked for and still haven't seen
8 yet where just a straight without any letters VDEX or if I
9 were to buy this truck now and asked for a credit versus
10 waiting until the deadline, can I get a credit for that.
11 That's not the rule. And we would perhaps, our company,
12 makes some decisions to make some choices to just buy new
13 trucks and start those into the rule. As I read the rule
14 I don't see that's in there. I can put a retrofit on. I
15 can buy a new engine. I don't want to put a new engine in
16 an old truck. I want to buy a new truck. And if I'm
17 wrong, you can correct me on that.

18 Secondly, on the body built trucks, where we have
19 a truck that is upwards of ten times the amount of the
20 cost, 1.3, \$1.4 million when we have to put these in the
21 cycle for change, the cost structure you have for
22 justification just doesn't work on these units, these body
23 built units.

24 And I would like to suggest that -- I'm not
25 suggesting we exempt these units. I am saying perhaps a

1 25-year rule versus 20 for anything with the body built
2 that we've taken. And you can't put a retrofit on it.
3 There is no place. You can't have any weight. So it's a
4 replacement anyway.

5 So if we could maybe slide those 25 year versus a
6 20-year replacement cycle and no retrofit requirement,
7 we'll let that go.

8 We'd also like to suggest that this retrofit
9 thing -- I would like to ask we just go to a 20-year slide
10 on everything and no retrofit in there at all. Let's just
11 have a 20-year slide and buy new trucks and get them on
12 the roads.

13 I do want to offer my support for the
14 amendments -- proposed amendments and changes. In
15 particular, I'd like to thank the staff for the ideas on
16 the light duty exclusion, no retrofit on the light duties,
17 and the expansion of the low use vehicles.

18 So that's it for me. Thanks.

19 CHAIRPERSON NICHOLS: Okay. Would the staff
20 comment on the question?

21 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF
22 BRASIL: With respect to the credit for buying the newer
23 engine, we have introduced that as part of the 15-day
24 changes. Fleet has newer vehicles than it otherwise did
25 in the past, they would be able to treat another vehicle

1 as it's 2017 like the early retrofit credit.

2 CHAIRPERSON NICHOLS: He doesn't have to put a
3 new engine in the old truck. He could get credit for a
4 new truck.

5 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF

6 BRASIL: Anything 2007 and newer.

7 With respect to the body load trucks and the
8 regulation, we do specify that any truck with the filter
9 would comply until at least 2020, regardless of model year
10 and would not be subject to replacement.

11 And if it's a '96 model year newer, the filter
12 will not work. They can wait until 2018 until replacement
13 of the engine would be required. There's some time built
14 into the way the rule is structured.

15 CHAIRPERSON NICHOLS: Thank you.

16 Doug Van Allen, Kevin Brown, Joe Kubsh.

17 MR. VAN ALLEN: Good morning, Madam Chair, Board,
18 staff.

19 My name is Doug Van Allen. I've been
20 representing BJ Services for over 15 years working on
21 different CARB regulations.

22 This year, I come to you representing Baker
23 Hughes. We were purchased by Baker Hughes this year. So
24 we're now a division of Baker Hughes.

25 Like to thank the staff for changes on these

1 rules. I support the changes that we have. Still not
2 sure about the science that we did them. But I do support
3 the changes that we have on there.

4 BJ Services would like to ask for one additional
5 change in there as far as the body load trucks where we
6 have the 20-year span for life span for a truck. On the
7 body load trucks, a lot of times just switching the body
8 and putting the stuff on the back of the truck costs about
9 ten times the cost of the initial truck. So we'd like to
10 see that we could get another five year running time out
11 of the body load, instead of 20 years, so we can have a
12 chance to recoup our investment costs on that. Normally,
13 in the past, we've run about 30 years. So five is cutting
14 back some already. Ten year cut back makes it really
15 tough when you're looking at trucks that run about a
16 million, million-four to replace.

17 One other thing I would like to see changed is on
18 the off-road reg where they've asked for us to add a label
19 on there. In the reg, it says it's only ten bucks to put
20 one on the left side, but that's not considering the cost
21 that you have to go track the equipment down, clean it up,
22 put the label on, pay somebody to go out there, and do all
23 of that, it's going to be more than \$10. The label we put
24 on in 2009 that were red with white lettering are already
25 pink with white lettering because of the sun in San

1 Joaquin Valley. In three to four years, they're going to
2 be white on white.

3 What we'd like to know is can't the regulator
4 just walk around and look on the other side instead of
5 having one on each side? What's next? We have to put one
6 on the front, back, and one on the roof, too? So that
7 looked like excessive extra expense there for a company.

8 And I did have to ask one question to the Board
9 that my Board of Directors at Baker Hughes has asked me to
10 ask. That's on the portable equipment Tier 0 engines that
11 were extended last year for one year, are they dead
12 December 31st this year, or are they going to be allowed
13 to keep going?

14 CHAIRPERSON NICHOLS: Sorry. There is a question
15 for the staff, and I was asking a question of my fellow
16 Board member.

17 MR. VAN ALLEN: That was a question for the
18 Board. The question is our company officers were wanting
19 to know the extension that we did for the PERP rule last
20 year for one year, are we going to continue to allow the
21 Tier 0s to run in 2011, or are they dead?

22 CHAIRPERSON NICHOLS: This is a question for
23 staff.

24 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

25 ASSISTANT DIVISION CHIEF WHITE: Short answer is that that

1 one-year extension does expire this year, and there are no
2 plans for further extensions at this time.

3 CHAIRPERSON NICHOLS: So no more extensions.

4 MR. ALBERT: Okay. Thank you. Merry Christmas
5 everyone.

6 CHAIRPERSON NICHOLS: Thank you. Same to you.
7 Thanks for coming.

8 Kevin Brown, Joe Kubsh, James Thomas.

9 MR. BROWN: Good morning, Madam Chair. Thank
10 you. Good morning to members of the Board.

11 My name is Kevin Brown. I'm here representing
12 Clean Diesel Technologies, which is headquartered in
13 Ventura, California, and operates its catalytic solutions
14 division in Oxnard, California and its engine controls
15 systems group which has facilitates in Reno, Nevada and
16 Ontario.

17 We've for the last ten years strategically
18 invested behind ARB's clean air objectives. And we had to
19 make these investments, not just over time, but also had
20 to make green investments in the products to maintain
21 compliance. And despite the fact that we've made these
22 numerous investments, we remain today one of the -- I
23 think the only stakeholder before you which still faces
24 the full impact of the bad economic times, but
25 additionally the pull back of these regulation.

1 So in collaboration with the rest of the industry
2 through our industry association MECA, we did provide a
3 list of proposed relief measures to staff. And based upon
4 initial discussions I've been part of, I'm concerned that
5 I believe a significant period of time can still transpire
6 before we see any of those matters bring any significant
7 relief.

8 So today one of the things I would ask the Board
9 is to reiterate its support for the industry and direct
10 senior ARB staff to lead the pursuit of immediate relief
11 measures for the retrofit device manufactures so that we
12 have some stability in the next year as we ramp up towards
13 complying with the demands in 2012 and 2014.

14 Additionally, we have had reports from our
15 distributors already that when the proposals came out for
16 these rule changes that fleets immediately stopped making
17 purchases. And that's further destabilizing the
18 marketplace that we have to operate in. And we again saw
19 further destabilization in the Lower Emission School Bus
20 Program. Our distributors were recording money that was
21 set to flow, that should have flowed a year and a half ago
22 is now delayed because of the removal of the 26,000 pounds
23 in school buses. There was already money lined up for the
24 school buses, and now it's leading to another delay where
25 all the money is being shuffled to other school buses.

1 This is a very critical time to say we need you
2 today to pass these rule changes so that, at a minimum, we
3 have finality and we have stability.

4 And the last thing I wanted to raise with you is
5 that despite passage of these rules and they're final,
6 some of them are not enforceable until we have that waiver
7 from EPA. And there is, I would say, no transparency in
8 that process. Rules such as the LSI rule which were
9 approved four years ago still don't have an EPA waiver.
10 We don't know where it lies in the system, and we're
11 unable to make appropriate investments.

12 Thank you.

13 CHAIRPERSON NICHOLS: Thank you.

14 James Thomas, Steven Brink, and Mike Tunnell are
15 next, so please be ready.

16 MR. KUBSH: Good morning, Madam Chair and members
17 of the Board. I'm Joe Kubsh, Executive Director of the
18 Manufacturers of Emissions Control Association. Pleased
19 to be here to provide you some comments this morning.

20 Our members include many of the retrofit
21 technology suppliers at a verified level three and below
22 retrofit technologies here in California for both on-road
23 and off-road applications.

24 Surveys of our members have indicated in the past
25 ten years more than 20,000 retrofit filters have been

1 installed here in California on both on-road and off-road
2 equipment, and an additional 35,000 retrofit filters have
3 been installed across the rest of the United States.
4 These companies have made significant investments in
5 technology for supporting both clean diesel initiatives on
6 new trucks and in the retrofit market. Our own surveys
7 indicate investments in excess of two billion dollars.

8 These same companies have created or saved
9 thousands of jobs here in California through the retrofit
10 industry and the amendments that are before you today are
11 going to create additional retrofit opportunities that are
12 going to create thousands more jobs for California and the
13 rest of the United States.

14 As Mr. Brown indicated, our number one request
15 today is that you finalize the requirements for trucks
16 processing off-road equipment that are before you today to
17 provide some certainty in the marketplace and get end
18 users off the sidelines and into the pathway for
19 compliance.

20 We appreciate very much the inclusion of credits
21 and incentives in the package before you for retrofits.
22 These are very important to help jump start the demands
23 for retrofit technology here in California, and we're
24 appreciative that there are additional credits that have
25 been included in the 15-day changes that were mentioned in

1 the presentation this morning.

2 We also suggested some additional opportunities
3 for generating additional reductions of PM through the
4 application of retrofits on segments not covered by the
5 proposal, including older trucks like '94 to '97. But I
6 am glad to hear that there is a conclusion on the '96 to
7 '97 trucks in the 15-day changes.

8 We also suggested keeping requirements in place
9 for school buses of all sizes and requiring filters on
10 high use off-road equipment.

11 Lastly, I'd like to conclude by echoing the
12 comments of Mr. Lassen and Mr. Brown that we are working
13 with staff on economic relief for our industry as well.
14 We think obviously with the changes in the demand for
15 retrofit technology that have been -- that have occurred
16 because of the changes that are before you, some relief is
17 needed. And we think there are pathways for improving the
18 verification end use testing program that can provide that
19 relief. And we would ask the Board to direct Mr.
20 Goldstene and Mr. White to work with us on making those
21 changes happen.

22 And again, I'd also like to thank staff for their
23 many months of hard work on bringing these amendments
24 before you today. And again would ask you to please adopt
25 the amendments that are before you. Thank you very much.

1 CHAIRPERSON NICHOLS: Thank you. I don't believe
2 I have seen the letter that he's referring to, the MECA
3 proposals. If it's here, the Board members have not seen
4 it. So I don't know if you submitted it today or --

5 MR. KUBSH: It is referred to in our written
6 testimonial, though the actual details of the items that
7 we've been talking to staff aren't included in that
8 testimony. But we have provided staff with a list of
9 items for their consideration with respect to verification
10 and in-use testing requirements.

11 CHAIRPERSON NICHOLS: I see. Okay. Thank you.
12 James Thomas and then Steven Brink and Mike
13 Tunnell.

14 MR. THOMAS: I'm James Thomas with Nabors Well
15 Service.

16 Nabors would like to compliment staff on reducing
17 the compliance cost in both the off-road and on-road reg.
18 Nabors has taken a leadership role in investing millions
19 of dollars in the reduction and complying with the
20 original requirements of the off-road reg.

21 CARB should develop a recognition for these
22 fleets that have achieved this. We discussed this several
23 times in the workshops and CARB agreed with it. Staff
24 agreed with it. What we recommend is that the Board
25 direct staff to make this happen within the next 30 days.

1 Recognizing these fleets through posting their names on
2 the website and indicating that they did comply. We do
3 have detailed comments in our letter about this.

4 Staff is allowing for credit transfer between a
5 fleet and the off-road and on-road reg, and we think
6 that's great. But what they talked about in the concept
7 was retrofit credit. But they did not mention anything
8 about fleet reduction credits or early engine replacement
9 credits, and we believe that those two should also be
10 included in that credit transfer.

11 Staff should clarify that yard goats can be
12 operated in both the off- and on-road reg. And staff's
13 cost for work over rigs in Table F1-2 is understated by
14 half of the actual cost of those units. Staff did not
15 include the cost of a Cad 4 inspection, a major
16 refurbishment which is required every 20 years to extend
17 the useful life of a rig, and that cost is 700,000.

18 Here again, I would like to thank staff for their
19 efforts and I hope you take these under consideration.

20 And thank you.

21 CHAIRPERSON NICHOLS: Thank you.

22 Steve Brink.

23 MR. BRINK: Good morning, Chair Nichols and Board
24 members. I'm Steve Brink, California Forestry
25 Association.

1 You have written comments from me, so I'll be
2 brief. I want to make four quick points.

3 One, I'm glad James is back in the room because I
4 want to make sure he hears this from me. We believe the
5 staff, particularly the on-road staff, has been extremely
6 diligent at looking for proposed modifications that would
7 move these rules in the right direction, more cost
8 efficient, while achieving long-term emission reductions
9 and more implementable. So we believe they should be
10 commended for that.

11 Did you hear that, James?

12 EXECUTIVE OFFICER GOLDSTENE: I did.

13 MR. BRINK: Second, that being said, we think and
14 would ask the Board to consider directing staff as we move
15 forward to consider continuing that diligence to look for
16 with specific emphasis on integration and consistency
17 between the rules, keep looking for more changes that
18 would do that and make them even more cost efficient and
19 effective.

20 And I'll give you one example, and it was
21 mentioned earlier. We are proposing today to move the
22 compliance schedule, the off-road rule, back four years.
23 Nothing is being done about the portable rule.

24 What you did last year to extend the life of Tier
25 0 engines for one year expires in two weeks. We would

1 encourage that for consistency and integration the
2 portable rule compliance schedule also be pushed back four
3 years. That's just one example. There's many other
4 opportunities in our opinion.

5 Third, as you've heard already -- and I won't
6 belabor the point. Financial burden is still beyond the
7 ability of many in-state fleet owners to comply even with
8 these modifications. You'll hear more about that. So I
9 won't say any more.

10 We obviously need more money in the Carl Moyer
11 and other related programs. And I was extremely gratified
12 there was 200 million in the omnibus bill for federal
13 emission reductions. Unfortunately, Senator Reed pulled
14 the omnibus bill yesterday, which was bad news. And
15 obviously 200 million, California could suck that up in a
16 heartbeat. That was the national number.

17 Fourth and last, I want to mention what would the
18 Board and staff think about an additional 20 percent
19 reduction in diesel emission reductions in the state? I
20 would think we could all rally around that. And the way
21 to accomplish that is to increase the gross vehicle weight
22 from 80,000 to 105,000 pounds in California. We had that
23 opportunity as an option until 1991 through the federal
24 highway bills. We didn't do it. We're now surrounded
25 with states with 105,000 pound gross vehicle weight. And

1 the studies are in, you get a 20 percent reduction in fuel
2 consumption with the increased gross vehicle weight.

3 Thank you

4 CHAIRPERSON NICHOLS: Thank you.

5 I'm going to call a halt for just a second here
6 and explain to folks that we have 105 or possibly more,
7 109 speakers. It's a Friday. Perhaps the Board members
8 are a little slower than usual because we had a long day
9 yesterday.

10 But I think given all the time that's gone into
11 the preparation for this hearing that we could get away
12 with lowering the time period from three to two minutes.
13 I feel like people could summarize their remarks and we
14 could all pick up the pace a little bit and still be fair
15 to the public and those of you who have taken the time to
16 come here today. We really have reviewed the written
17 testimony that came in early as well as all the staff
18 materials.

19 So I think unless I hear a strong objection from
20 the Board -- and I don't see any -- I'm going to ask the
21 time keeper to switch to a two-minute instead of
22 three-minute limit.

23 Sorry that you're the first one to get caught in
24 this, Mr. Tunnel. But I know you can do it.

25 MR. TUNNELL: Good morning, Chairman Nichols and

1 members of the Board.

2 My name is Mike Tunnell. I'm here on behalf of
3 the American Trucking Associations. And I will try to be
4 very brief.

5 ATA broadly supports the proposed amendments to
6 the on-road regulations. The economic relief -- the
7 amendments will provide some economic relief for trucking
8 companies operating in California, while still attaining
9 the state's stringent air quality mandates.

10 In addition to the proposed amendments, we ask
11 that you consider three additional revisions.

12 First, we would like to ensure that fleets do not
13 have to prematurely change out tractor tires in order to
14 comply with the greenhouse gas regulation. Due to the
15 fact that SmartWay verified fuel efficient retreads are
16 not currently available and SmartWay verified open
17 shoulder tires have limited availability, fleets are not
18 able to purchase the compliant technologies they need.

19 Ideally, the situation changes sometime next
20 year, but this will still leave fleets with slightly more
21 than a year to wear out non-compliant tires. This is not
22 enough time, so we ask that you extend the deadline to
23 2014 for pre-2011 tractors and for those needing open
24 shoulder tires. At the very least, we ask that you
25 monitor the status of these technologies and ensure

1 they're available well ahead of the tire deadlines.

2 Second, we believe the current local haul
3 exemption inadequately addresses lower speed operation at
4 an average speed of 40 miles per hour to fuel consumption
5 benefits of aerodynamics shrink by 70 percent. We ask you
6 to expand the local haul exemption to a 150-mile radius to
7 help reduce those instances where installation of
8 aerodynamic technologies is not cost effective.

9 And lastly, we ask that the use of PM filters be
10 treated equally, whether it's through retrofits or new
11 truck purchase. Sounds like you've done that through the
12 15-day amendment but we'd like your consideration of the
13 other two changes.

14 Thank you very much.

15 CHAIRPERSON NICHOLS: Thank you.

16 Chris Shrader and Betsy Reifsnider and Jack
17 Broadbent.

18 MR. SHRADER: Good morning. Thank you for
19 letting me speak this morning.

20 I represent Cemex, Cemex concrete, Cemex cement.
21 We operate about 500 ready-mix trucks in the state of
22 California. And we operated a fleet of 18 tankers in
23 Southern California.

24 If the deadline -- if staff passes the new
25 regulation, it will save my company a million and a half

1 dollars on January 1st, 2012. My trucks become
2 non-compliant on that date. And it's a very critical
3 important move if the staff passed the amendment today
4 giving us until 2014 to replace our equipment.

5 Thank you very much.

6 CHAIRPERSON NICHOLS: Thank you.

7 Betsy and then Jack Broadbent and Tim Fortier.

8 MS. REIFSNIDER: Good morning.

9 First of all, I'd like to thank the Board and the
10 staff for your commitment and tenacity in dealing with
11 what is a very difficult and complex issue. So thank you.

12 Catholic Charities signed the letter from the
13 coalition from environmental and health groups that you
14 received, so they will be talking more about that. So I'd
15 like to make one point.

16 Regarding the SIP, the current proposal leaves
17 the San Joaquin Valley little or no margin for error to
18 reach the federally mandated standards before 2015. We're
19 keenly aware of the economic crisis in the Central Valley.
20 Hundreds of families come to Catholic Charities every
21 single week, and the number is growing. But bad air
22 quality is also costly, financially and health wise.

23 There were two headlines in this morning's paper
24 that illustrate this point. The first, "Asthma Hits
25 State's Poorest the Hardest. Asthma is on the rise in

1 California, and low-income tend to bear the greatest
2 burdens from the condition." And that is from the UCLA
3 Center for Health Policy.

4 Then in the L.A. Times this morning, "Proximity
5 to Freeways increases autism risks, study finds."

6 On top of this, as you know, people are
7 struggling to pay health insurance. Every day at Catholic
8 Charities, we have many children and their families who
9 come in to sign up for the Children's Health Initiative
10 and Healthy Families. They are struggling. The last
11 headline from today's Sacramento Bee, "Study finds 6.8
12 million Californians without health insurance. As the
13 recession continues to grip the state, the number of
14 Californians without health insurance, especially coverage
15 provided by employers, has continued to decline."

16 Diesel pollution is costly. So I'd ask that you
17 please pass a strong diesel rule with a greater SIP
18 margin. And I thank you.

19 CHAIRPERSON NICHOLS: Thank you.

20 Hi. You are not Jack, but you could be Anthony
21 Fourniee.

22 MR. FOURNIEE: That's me. Jack had to step out.

23 I'll be providing comments today for the Bay Area
24 Air Quality Management District. My name is Anthony
25 Fourniee. I'm a Air Quality Program Manager for the

1 district.

2 I'd like to commend ARB on its willingness to
3 re-visit the requirements these regulations based on the
4 updated inventory numbers and the effects of the recent
5 economic downturn.

6 Based on the inventory numbers and our analysis
7 of the data of the Bay Area emissions, we see there will
8 be a significant reduction in off-road emissions. But we
9 also see there will be an increase from increase in
10 emission from the on-road sources and particularly their
11 contribution to overall diesel particulate matter
12 emissions in the Bay Area.

13 The air district has concerns about the proposed
14 regulatory amendments based on the fact the primary driver
15 of the health risk in Bay Area communities is from diesel
16 particulate matter to on-road trucks.

17 This fact is shown by studies of a joint health
18 risk assessment performed in West Oakland in December
19 2008. The assessment identified West Oakland as having
20 cancer and health risk three times greater than any other
21 location in the Bay Area, and one of the highest in the
22 state of California.

23 The assessment also identified on-road truck
24 diesel particulate matter emissions as being the cause of
25 70 percent of that health risk.

1 With Bay Area residents already subject to 20
2 percent of the total toxic diesel particulate matter from
3 goods movement in the state and the region being home to
4 20 percent of the state's population, it's important we
5 not lose any ground in reducing these emissions.

6 With that, grant programs provide an opportunity
7 to achieve near-term surplus reductions that will help
8 make up for the reductions that will be delayed due to
9 proposed rule extensions.

10 We have five recommendations for the grant
11 program changes:

12 ARB should work to implement grant programs,
13 streamline recommendations from Advisory Committee ARB
14 Board Member Sandra Berg. We believe ARB should support
15 air district's efforts to streamline the legislation and
16 extension of State Grant Programs. We believe fleets have
17 one -- can I finish? I have two more.

18 CHAIRPERSON NICHOLS: Quickly.

19 MR. FOURNIEE: I believe fleets with one in 20
20 vehicles should participate in all state grant programs.

21 And finally, we recommend additional funding be
22 provided for these programs and largely percentages for
23 loan guarantee programs to allow more truckers to
24 participate in these programs.

25 Thank you.

1 CHAIRPERSON NICHOLS: Thank you.

2 John Spangles and then Susan Jones and Camille
3 Kustin.

4 MR. SPANGLER: Good morning, Madam Chair, members
5 of the Board.

6 John Spangles here for Marine Corps Installation
7 West, Major General Anthony Jackson.

8 We appreciate all the hard work of staff that
9 went into these amendments. In particular, the
10 recognition of some unique military federal challenges we
11 have. We have a complex system of laws and regulations
12 that govern our military funding process. It's different.
13 And our procurement processes are also a challenge. And
14 that was recognized. We appreciate that.

15 We also appreciate the recognition of our dynamic
16 and unpredictable mission. We don't always know what
17 we'll be called upon to do.

18 We are committed to complying with the proposed
19 regulations, and we thank you for the opportunity to
20 participate in this process.

21 CHAIRPERSON NICHOLS: Thank you for coming back.

22 Susan Jones. Not here.

23 MS. JONES: Good morning. My name is Susan
24 Jones. I'm an owner-operator of a small dump truck
25 company. And --

1 CHAIRPERSON NICHOLS: I'm sorry. I missed Tim
2 Fortier. That's my problem. He was supposed to -- but
3 he's going to yield to you. Thank you.

4 MS. JONES: I'm also the Chapter Chairperson and
5 the Northern California First Vice President for the
6 California Dump Truck Owners Association.

7 I'm the perfect example of the mom and pop
8 operation that the Senator was speaking about. My husband
9 and I have two trucks. We both drive. One is an '88 with
10 extreme low mileage. It's probably one-fourth its life.
11 The other one is a '91. Neither one can be retrofitted,
12 repowered. It's impossible.

13 In December of 2008, I found out I had qualified
14 for a \$50,000 grant for a new truck. And I was quite
15 excited about that. But then the Prop. 1B money
16 disappeared. And that was really a blessing in disguise
17 because. Had I bought that truck, I would have lost the
18 truck like so many others have that tried to comply and
19 went out and did that. And I probably would have lost my
20 home and my business. I'm glad that money dried up.

21 And contrary to belief, I'm not available for
22 Moyer funds. The dump truckers do not go enough miles, so
23 we can't even ask for that.

24 My business is now down 45 percent, and I have
25 worked more than most.

1 And also up here in the north, as you know, we
2 don't work 12 months out of the year due to the rain.
3 This makes it even harder for us to make up for lost time.
4 I really, really believe that you guys have got to give us
5 mom and pop operations, the low mileage guys, we've got to
6 have more time.

7 We want to comply. We want to do what we can.
8 We can't make it with what we've got with the equipment
9 we're trying to run now. We are in horrible shape with
10 this recession, depression, whatever it is. It's
11 terrible. Just to make our house payments.

12 Please give us some time. Thank you.

13 CHAIRPERSON NICHOLS: Thank you. Okay.

14 Mr. Fortier, thank you for your patience. I
15 called you and then forgot about you.

16 MR. FORTIER: I was hoping that you wouldn't do
17 that so I appreciate that, considering our history.

18 Why I'm here today is primarily on a little bit
19 different issues, but it's somewhat follows the Senator's
20 reaction or testimony before you is that this diesel
21 pollution technology has a profound history of mechanical
22 failure from the beginning. The tow truck association
23 last year said they were towing more new vehicles to shops
24 than old ones. This is counter to the historical norm.

25 These problems have resulted from the dispute

1 between the diesel manufacturing engine manufacturers and
2 2002 and the EPA. As a result of a compromise on that
3 settlement, the technology has been rushed to market. And
4 from the engines from '04 through '06 and '07, '08, and
5 '09 have been a disaster.

6 So the staff continue to advocate a continuance
7 of the policies where it's promulgating the stay on course
8 of action is a disservice. It's bad public policy.
9 There's thousands and thousands and thousands of trucks
10 that had to be towed in because technology breaks down.
11 This is equivalent to like your new automobile or an
12 automobile that has 50,000 miles on it. Then all of a
13 sudden, you've got a \$2,000 repair bill. You go another
14 50,000, you get another \$2,000 repair bill.

15 If these same standards were applied to what's
16 been applied to the diesel users in this state and this
17 country to the airline industry, to pharmaceutical, it
18 would be a disaster.

19 So that's the point I wish to make. We need
20 correction on what is being offered to the public and have
21 real durable reliability and warranties on what they are
22 manufacturing.

23 CHAIRPERSON NICHOLS: Okay. Thank you.

24 BOARD MEMBER LOVERIDGE: Could staff respond?

25 CHAIRPERSON NICHOLS: Yes, I suppose if this

1 wants to characterize any history that you have or aware
2 of or complaints or problems or repair issues.

3 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Well,
4 you know, we get warrantee records from engine
5 manufacturers. And there is not a widespread pattern of
6 failures or high warrantee claims for these vehicles that
7 have been referred to. There are peaks on some vehicles,
8 not so much related to filters, but to EGR systems. But
9 most of those I believe have been covered under warrantee
10 and the design changes have been made.

11 But while I will not disagree that there are
12 people being towed and trucks breaking down, that's not
13 any evidence we've seen that it's increased
14 disproportionately because of these new technologies.

15 CHAIRPERSON NICHOLS: Well, obviously this is
16 anecdotal. This gentleman is claiming to have the
17 information. Maybe we could at least take a look at the
18 specifics and follow up on that.

19 MR. FORTIER: It's beyond anecdotal.

20 CHAIRPERSON NICHOLS: Well, you have to provide
21 your information, and we'll take a look at it.

22 MR. FORTIER: I asked for it. It's beyond
23 anecdotal. I don't know what your statistics background,
24 but any manufacturer or any trucking outfit in here will
25 gladly stand up and say if they've had problems.

1 CHAIRPERSON NICHOLS: That is anecdotal, sir.

2 That's what I'm talking about. Thank you.

3 Camille Kustin and then Elizabeth Adams and John
4 Pitta.

5 MS. KUSTIN: Good morning. My name is Camille
6 Kustin. I'm with the Better World Group.

7 And I'd just like to thank staff, especially Eric
8 White, Tony Brasil, Todd Sax for spending many hours with
9 us, meeting with us, crunching the numbers, and all that.
10 It's greatly appreciated. It's been years.

11 So I'm here to present this letter on behalf of
12 the undersigned 23 environmental, public health, and
13 community groups, these groups representing all parts of
14 the state and hundreds of thousands of members support the
15 diesel cleanup but have serious concerns -- health
16 concerns regarding the proposed amendments to the on- and
17 off-road rules.

18 There will be other people after me to speak on
19 the specifics. I just want to present the letter. Thank
20 you.

21 CHAIRPERSON NICHOLS: Thank you.

22 Elizabeth Adams, hi.

23 MS. ADAMS: Good morning, Chairman Nichols and
24 members of the Board.

25 My name is Elizabeth Adams, and I'm the Deputy

1 Director of U.S. EPA Region 9's Air Division.

2 EPA appreciates the opportunity to come before
3 the Board to support the adoption of the in-use truck and
4 bus rule and the in-use off-road diesel rule. We commend
5 ARB's efforts to reduce emissions from these in-use diesel
6 fleets and believe that the implementation of these rules
7 is a critical step towards achieving clean air and
8 improving public health.

9 As you know, California has submitted several
10 State Implementation Plans, or SIPS, to EPA that rely
11 heavily on reductions from these rules in order to reach
12 attainment of the federal PM2.5 and ozone standards.

13 We are currently discussing with ARB staff the
14 scope of the SIP provisions that will be necessary for the
15 South Coast and San Joaquin Valley SIPS due to the new
16 emission estimates that form the basis for many of the
17 changes to the rules being considered today.

18 We plan to work with your staff on these SIPS in
19 the next few months as we intend to finalize our action on
20 the PM2.5 SIPS by September 2011 and the ozone SIPS by
21 December 30th, 2011, to meet our consent decree deadlines.
22 If the rules are adopted today, we request that you
23 expedite their submittal to EPA so that we may have
24 sufficient time to take action on them.

25 Finally, we acknowledge that emission inventories

1 are always a work in progress, and we understand that the
2 inventory and emission reductions estimates being proposed
3 today are based on the best available information.

4 In light of this, we encourage the tracking of
5 future emissions to ensure that the emission rates in
6 today's proposal continue as expected since these
7 reductions are an important component in the attainment of
8 the PM2.5 and ozone standard in the San Joaquin Valley and
9 South Coast.

10 Thank you again for this opportunity to support
11 the adoption these important rules. We share ARB's goal
12 to protect public health and recognize ARB's national
13 leadership in reducing emissions from mobile sources.

14 CHAIRPERSON NICHOLS: Thank you. Thanks for
15 coming.

16 I would like to send a message back with you,
17 even though I know this is not your area of
18 responsibility.

19 But there is a real world disconnect between the
20 requirements EPA imposes in terms of SIPS that are legally
21 enforceable and for which we all end up getting sued if we
22 don't meet deadlines versus the lack of any apparent
23 accountability in terms of processing waiver requests on
24 the underlying rules that are needed to achieve those SIP
25 requirements.

1 You heard a complaint from the emissions control
2 device manufacturers on this. But I would like to join in
3 those comments. We have a big backlog of rules sitting at
4 EPA with no time line for getting them acted on. And it
5 prevents us from enforcing those rules and getting the
6 real world reductions that we're trying to achieve here.
7 I know that EPA wants us to achieve.

8 So perhaps you could use your visit here today to
9 also make sure that that message gets back to the folks at
10 headquarters, because it's really a real disconnect in the
11 messages that we get from EPA.

12 Thanks for coming and thanks for your support for
13 what we're trying to do here.

14 MS. KUSTIN: Thank you. We are happy to work
15 with you in finding out the status of those waiver rules.

16 CHAIRPERSON NICHOLS: Good. Great. Thanks.

17 Mr. Pitta and then Ralph Knight and Brad Edgar.

18 MR. PITTA: Good morning. I'm John Pitta, John
19 Pitta Trucking, Salinas, California. I'm also a member of
20 CPTOA and an officer in the Executive Board.

21 I'm a two-truck operator, twice as big as the
22 other fellow. 2010 revenue versus 2008 revenue's down 44
23 percent. I have one employee. He's the sole source of
24 income for his family. I no longer can provide him with
25 health insurance, paid holidays, sick leave. He's moved

1 with his family to a house with another family because of
2 these conditions.

3 I cannot afford a new truck, replacement truck,
4 or to put a device on it.

5 I do not qualify for any of the programs for a
6 number of reasons. We need more time. We are hurting.
7 And I'm doing better than most.

8 Thank you.

9 CHAIRPERSON NICHOLS: Thank you, sir.

10 Ralph Knight, Brad Edgar, and Tony Luiz.

11 MR. EDGAR: Chair Nichols and members of the
12 Board, my name is Brad Edgar. I'm President and Chief
13 Technology Officer for Cleaire Advanced Emission Controls.
14 We develop and manufacture retrofit systems here in
15 California.

16 I urge you today to adopt the on- and off-road
17 diesel regulation before you. As a California company in
18 support of the regulations, I'd like to offer some
19 information for your consideration.

20 To start, retrofit filters are proven robust and
21 cost effective. Cleaire alone has delivered more than
22 11,000 systems, including some that have been in service
23 for more than eight years.

24 Our company has sold more than 4,000 plug-in
25 active filter systems, with more than 1200 installed in

1 school buses. And I'm here to tell you that school bus
2 retrofits work, but it gets better. Recently, Cleaire
3 received verification for a passive filter called a long
4 mile. The most exciting feature of this product is it
5 works on very cold duty cycles without the need to plug
6 in. Analysis and field experience shows that the
7 passively regenerated long mile will work on the vast
8 majority of school buses and other light duty
9 applications. We have shared this information with staff,
10 and I believe it was included in today's presentation.

11 In short, you should have confidence that retrofits for
12 school buses, trucks, and off-road equipment will work.

13 We offer two specific recommendations for your
14 consideration. First, require all school buses with less
15 than and greater than 26,000 pounds to be retrofit. The
16 children's exposure to emissions is the same regardless of
17 the size of the bus.

18 Second, for the off-road regulation, we suggest
19 that you expand the retrofit for life option to allow a
20 greater percentage of the off-road fleet to be voluntarily
21 retrofitted early in exchange for being allowed to operate
22 longer. If you focus the extent of life provisions on the
23 cleaner Tier 2 and 3 engines, the long-term NOx impact
24 will be minimal. Remember, this is a voluntary measure,
25 not a requirement, that offers the potential for cleaner

1 air now while lowering long-term costs to the off-road
2 fleet owners. There is a win-win opportunity here.

3 In closing, all the stakeholders impacted by
4 these regulations need certainty to move forward along the
5 path of clean air. And you can provide the certainty by
6 passing the regulations today.

7 CHAIRPERSON NICHOLS: I'm sorry I didn't
8 recognize you, Mr. Edgar. And congratulations on your new
9 device.

10 We have a question.

11 BOARD MEMBER TELLES: What's the failure rate of
12 your retrofit device?

13 MR. EDGAR: Our failure rate is well under four
14 percent. If there is a failure rate, it's in the one
15 percent or less range. We don't have failure rates other
16 than some component issues that have been resolved under
17 warrantee.

18 CHAIRPERSON NICHOLS: Okay.

19 BOARD MEMBER YEAGER: If I could ask a staff
20 question.

21 I know in the presentation you get a lot more
22 cleanup with the retrofit rather than the purchasing of
23 new buses. Is there a way to require the money just to go
24 to retrofit rather than purchase new buses just to be able
25 to have more of an impact?

1 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

2 ASSISTANT DIVISION CHIEF WHITE: Not quite sure I
3 understand. Is it more what is the incremental cost for
4 these lowers buses?

5 BOARD MEMBER YEAGER: I know in the past many of
6 the districts ended up buying new buses rather than doing
7 the retrofit. Is there something we can do to encourage
8 the retrofiting rather than the purchase of new buses?

9 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

10 ASSISTANT DIVISION CHIEF WHITE: There's no way to compel
11 them. The statute for the program that we talked about
12 where there is a school bus program, we specifically leave
13 that discretion to the local districts on how they want to
14 allocate replacement versus retrofit.

15 We have worked and certainly encouraged the local
16 air districts and the school districts that that funding
17 could be spent towards retrofit. But the decision does
18 ultimately lie at the local level.

19 CHAIRPERSON NICHOLS: Okay. Thanks.

20 Tony Luiz and then Peter Bransfield and Stephen
21 Rhoads.

22 MR. LUIZ: Good morning. I'll try to make this
23 quick.

24 I have to agree with the Senator that spoke up
25 here and also John and Susan. I can't believe I have two

1 minutes after 27 years in business.

2 I also have the same type of businesses as John
3 and Susan does. I'm down 72 percent. Barely hanging on
4 with the business. I've already lost employees due to the
5 economic downturn and also legislation that this Board is
6 trying to pass, some haulers, and I don't know how much
7 longer that we can stay in business.

8 I don't support any of these amendments or
9 propositions or proposals that you're proposing.

10 The thing that I do support is what the Senator
11 was saying is through attrition.

12 And again, I take offense to myself and other
13 people that are up here that have had numerous years of
14 being in business, and this Board has given them two
15 minutes to plead their case. That's just outrageous for
16 the State of California to do that the businesses in this
17 state. And other businesses coming up here and asking for
18 this type of amendments to where it supports their cause,
19 so we're going to piecemeal this whole thing together
20 depending on who has the most power in the state is to
21 businesses that spend the most money on retrofits and
22 everything else. To me, this is a travesty.

23 Thank you.

24 CHAIRPERSON NICHOLS: Well, you actually didn't
25 use your full time. So take another minute if you think

1 that would help. I'm not trying to keep people from
2 speaking.

3 I just think, you know, in the interest of the
4 audience, there's over 100 people, and many of them are
5 people like yourself who have taken the trouble to come
6 and they want to be heard. And we appreciate that. But
7 your point is you're going to stand up and say we oppose
8 it. And we're going to listen to you and pay attention to
9 you.

10 MR. LUIZ: Mary, the thing is, I'm a small
11 business person. I attended many stakeholder meetings.
12 Meeting after meeting, we had people come up to the
13 microphone and state that this is going to ruin their
14 businesses.

15 The proposition, the proposal that you guys came
16 up with originally didn't take into account any of the
17 comments that were done at any of these stakeholders
18 meetings. So I'm spending my time and you guys aren't
19 considering that.

20 You guys come into this Board meeting already
21 with an idea of what you're going to pass. Doesn't matter
22 what we come up here and say, you guys already have an
23 agenda that you want to complete.

24 The first of all, if I had to do it, to tell you
25 the honest truth, I would bring criminal charges and I'd

1 have this Board and this staff -- I would have them check
2 out -- the last time I was up here in 2008, okay, there
3 was staff members and Board members that knew that that
4 researcher you had didn't have any certificates like he
5 said he did. And you guys held it back from the rest of
6 your Board members. Okay. And you did not let them know.

7 In my opinion -- in my opinion, that's
8 corruption, because you, as Board members, are supposed to
9 take care of the people of the state of California to do
10 the best for the state of California for the population of
11 the state of California. Not to do your own agendas.

12 And this Board has costs millions -- actually
13 billions of dollars of companies that have already
14 retrofitted, updated for garbage information that you guys
15 took into consideration knowing when you have professors
16 from UCLA and other universities saying that the
17 information you guys have are incorrect. And you guys do
18 not look at that, to me, that's corruption.

19 Thank you.

20 CHAIRPERSON NICHOLS: Thank you.

21 Okay. So I'm just going to take a moment and
22 say, first of all, we made a mistake, and we admitted that
23 we made a mistake. And we also corrected it.

24 And I want to say on behalf of myself, since I'm
25 a party to it as well as the others, that we really are

1 here doing the best we can to balance some objectives that
2 we have. One of those objectives is to follow the law
3 that tells us that we are required to take necessary
4 actions to clean up the air. And we take that mission
5 seriously. And admittedly, that's our primary objective.

6 But secondary to do that is to do it in the best
7 way we can to meet the objective in a way that does as
8 little economic damage as possible. And we've seen every
9 time we change a rule, it has impacts that are different
10 on different competitive elements of the industry.

11 So we're listening. We are balancing those
12 things.

13 I completely disagree with you that we didn't
14 respond to the comments that we heard. I think, you know,
15 you may not have gotten everything you wanted. But
16 believe me, you got a lot more than you would have gotten
17 if you hadn't been aware of and heard the impacts that the
18 proposals would have had on different pieces of the
19 industry.

20 And you've done a lot to educate our staff. But
21 our staff has also done a lot to pay attention to what
22 they hear.

23 I'm sorry you're not satisfied with the result.
24 Of course, it's always better if you have more people
25 supporting what you're trying to do. But I will not

1 accept the criticism that we haven't paid attention.

2 So anybody who feels their two minutes doesn't
3 give them time to say what they want to say, you just go
4 ahead and keep on speaking after the bell, and we'll see
5 where that gets us. But I'm asking people to try to limit
6 their remarks to two minutes so we can get through this
7 long list of speakers.

8 And we will next hear from Peter Bransfield from
9 Rypos and then Stephen Rhoads and Kirk Hunter.

10 MR. BRANSFIELD: Thank you, Chairman Nichols.

11 I'm Peter Bransfield, the CEO of Rypos, Inc.

12 We're a manufacturer and designer of
13 electrically-regenerated diesel particulate filters.
14 We've been developing these products over the last
15 ten years at significant cost to us as individuals and
16 founders as well as our investors.

17 We made that investment based on supporting the
18 market created by the clean air regulations here in
19 California. These systems take years to design and
20 develop and to verify, and we've reached the point where
21 the mandatory retrofit regulation would finally start to
22 produce fruit to support this industry over time.

23 I believe the proposed changes will impact not
24 just our company but the long term health of the industry.
25 It will lead to fewer green jobs in California. In our

1 particular case, we've had no choice but to push off our
2 implementation of a 40-person assembly shop in the San
3 Joaquin Valley that was going to be specifically building
4 off-road retrofit devices.

5 That sends a strong message mine to invest hard
6 to come by private capital in other places and other
7 things.

8 The proposed changes I think set the stage for
9 requests for additional relief from other industries, and
10 I think this is a slippery slope that could ultimately
11 defer or delay the recovery of the economy of California
12 that many believe will be on the backs of clean tech jobs.

13 In our particular case, we're a member of MECA.
14 We support what MECA has proposed as relief for the
15 industry. We ask specifically that you reconsider the
16 100 percent removal of mandatory retrofits. Thanks for
17 your time.

18 CHAIRPERSON NICHOLS: Thank you.

19 BOARD MEMBER TELLES: Sir, what's the failure
20 rate of your devices?

21 MR. BRANSFIELD: Probably in the three percent
22 range.

23 CHAIRPERSON NICHOLS: Okay.

24 MR. RHOADS: I'm Stephen Rhoads. I represent the
25 School Transportation Coalition.

1 And the failure rate is something your staff
2 should know. And they should be out there in the field.
3 And they should be looking at how they're working in the
4 school districts.

5 I'm going to address Supervisor Yeager's question
6 first. First of all, I want to make it very, very clear
7 when the Legislature passed -- the voters voted for the
8 bond measure and the Legislature did the implementation
9 legislation, they specifically gave the direction to the
10 local air quality district. The local air quality
11 district could spend that money either on getting rid of
12 the pre '87 buses. They were built before you had any
13 particulate standards. Very, very dirty buses as far as
14 PM or they can have retrofits for the most polluting
15 buses. The control for the Prop. 1B money is in the hands
16 of the local air quality districts. To do otherwise and
17 to try to change that from ARB is going against the
18 Legislature.

19 As far as the seven-to-one ratio, we have always
20 taken problems with that. Because you take those pre '87
21 buses, they're very, very heavy polluting bus. The ratio
22 cannot be seven to one. And we've been working with staff
23 to try to get some cost effectiveness to study what is the
24 cost per ton for getting rid of a pre '87 bus versus
25 putting retrofits. And I think we have concluded that it

1 is actually cheaper per ton to get rid of a pre '87 bus
2 than it is to put a retrofit on 1995 or earlier bus.

3 I also think that some of staff's assumptions
4 were wrong. Take, for example, we're going to put a
5 retrofit and analyze a retrofit on a 1994 bus. And we're
6 going to assume that that bus -- if you don't mind --

7 CHAIRPERSON NICHOLS: Go ahead.

8 MR. RHOADS: We're going to assume that that bus
9 is going to be in existence for 30 years to do that cost
10 analysis. That means you're going to assume that bus is
11 going to be for 46 years. A little bit overkill. Not
12 something I would put in a journal article. That type of
13 analysis can be refined, and it will support the data that
14 we have even more.

15 Also, staff did not take into account the
16 increased fuel mileage that you get with the new pumps.
17 So be careful about the seven-to-one ratio.

18 Your emission inventory. I think your emission
19 inventory is wrong. I'll be very blunt. The savings
20 you're getting are not due to your regulations. They're
21 due to Prop. 1B. They're due to the \$197 million that
22 you're putting out there that the air quality districts
23 are spending to get rid of old buses and install
24 retrofits. Your baseline shows no change. Your baseline
25 should show the change of that 193 million, not the

1 changes that you say are there because of regulation.

2 ARB staff -- I disagree with them. But ARB staff
3 today said that their regulations cost \$60 million. And
4 ARB staff says there is \$84 million available. Well,
5 geez, that means \$84 million available from the Prop. 1B
6 money. So that means Prop. 1B is going to be paying for
7 everything. So I think you got to change your emission
8 regulations. I just think they're wrong.

9 We also have a difference with staff on the
10 costing of the school bus. When a bus is old --

11 CHAIRPERSON NICHOLS: You know, I said you could
12 have more than two minutes. I didn't say you could
13 filibuster. Please.

14 MR. RHOADS: We have a difference. It's in my
15 writings. The difference is rather important. When we
16 look at the cost of a school bus, we look at the cost of a
17 school bus. When the staff looks at the cost of a school
18 bus, they take a look at the salvage value for the bus.
19 If it's over 30 years, they don't put any cost to it.

20 Two points if I can --

21 CHAIRPERSON NICHOLS: Quickly, please.

22 MR. RHOADS: The first point is that school
23 districts got to make a lot of cuts. They're going to cut
24 school transportation. They're going to cut school
25 transportation especially if it costs money. And

1 retrofits do cost more to service. They're going to make
2 kids walk longer, and I've given lots of examples.
3 They're going to cut out routes. And they're not going to
4 allow them for extracurricular activities. And in some
5 cases, they're going to get rid of them, the whole
6 transportation system. And you can -- San Joaquin is an
7 example. I've given three or four examples.

8 CHAIRPERSON NICHOLS: We've heard this before,
9 sir. We can now get into a debate whether the kids are
10 better off walking than riding on some of these pollution
11 traps they're being driven around in, too. So come on.
12 Let's just stick to the facts, please.

13 MR. RHOADS: I will stick to the facts. Your own
14 staff says, if you don't mind, that when you force down
15 school transportation system, then it's going to be a
16 higher risk of children's deaths --

17 CHAIRPERSON NICHOLS: Right.

18 MR. RHOADS: -- than what they would get from --

19 CHAIRPERSON NICHOLS: If you and the air
20 districts had instead of putting all the money into new
21 buses had put filters on, we would be savings lives and we
22 would be making this -- we would have been able to spend
23 the money that was out there today. And we wouldn't be
24 back here today dealing with all these old buses.

25 Thank you, sir. You've made your point.

1 MR. RHOADS: I would like to talk about the
2 difference recommendations, if I could.

3 CHAIRPERSON NICHOLS: About what?

4 MR. RHOADS: We have -- I have an alternative
5 recommendation that's not on the paper. I was going to
6 talk about environmental justice, but I guess I'll skip
7 that.

8 There is one recommendation that you have that we
9 actually kind of agree with. And that is the one that
10 says in 2018 if a bus does not have a trap, then it has to
11 be replaced.

12 Now, we don't agree with the part about the trap.
13 But we do agree that in 2018 buses like pre '87s should be
14 replaced. In fact, we would actually -- and the reason
15 you have it there is because it's 30 years. And we would
16 actually urge you to continue that type of regulation to
17 say that maybe all buses, as time goes when we reach the
18 age of 30, they should be replaced. In fact, we would ask
19 you to move it down to 25 over time.

20 CDE says buses should be replaced when they're
21 15. If you can get those old buses off the road, you'll
22 do more to children's health than anything.

23 Thank you.

24 CHAIRPERSON NICHOLS: Is this Kirk Hunter?

25 MR. HUNTER: It is.

1 I will just say thank you for yielding Mr.
2 Rhoads' a little more time.

3 Kirk Hunter, Southwest Transportation Agency
4 Public Joints Power Authority in Fresno County.

5 We operate 100 school buses, transport 7,000
6 students one way a day, 53 natural gas buses and the
7 additional balance are diesel. And we are the proud
8 owners of 33 Cleaire traps. And if the staff were to do
9 air quality report, they would say I've improved air
10 quality by 50 percent, because half the time the buses
11 don't run. They're parked up against a fence, and my
12 ongoing costs are unbelievable. Traps are boondoggles.
13 They do not work. I've said this over and over again.
14 Get the tapes. You can look at that.

15 I want to go one other place. If we're concerned
16 about children's safety, two weeks ago three vans,
17 seven-passenger vans from Enterprise Rental Car going down
18 152 with a varsity basketball team coach falls asleep at
19 the while, drives it off the road. Hits a pole. Kids
20 transported by air to a hospital because the kids couldn't
21 afford to be in a school bus.

22 This is the kind of stuff there's going to put
23 more non-compliant vehicles on the road. If a school bus
24 is 172 times safer than any other form of surface
25 transportation, why in God's name are we putting them out

1 of school buses?

2 For the life of me, after 35 years in this
3 business, two years and four months left of retirement, I
4 don't get it. And if I seem passionate, I truly, truly am
5 because I do care about kids in a big, big way.

6 Thank you very much. And I think I'll be the
7 first speaker to wish you all a very Merry Christmas.

8 BOARD MEMBER RIORDAN: Just so the last speaker
9 knows and others in the audience, our staff has been very
10 good. People are having problems with retrofits or
11 installations. They, given some notice obviously, can
12 come out and try to learn as much as they can about what
13 is happening.

14 So I would encourage you -- and I'm sure somebody
15 will contact you -- to have the staff in to see what is
16 happening. Because I've done this not for your industry,
17 but for another industry, and it's paying some dividends.
18 Everybody is learning from it. And I think we can be
19 better effective to have an analysis. So don't hesitate
20 to contact staff.

21 MR. HUNTER: Board Member Riordan, thank you very
22 much.

23 After two of my many times at the podium, I've
24 been contacted by staff saying they're coming out to see
25 me. And the light's still on. The coffee is still hot.

1 The door is still open. We're open from 5:30 to 5:30. I
2 can be had any time if you give me a ring in advance. But
3 I'd love to.

4 BOARD MEMBER RIORDAN: We'll be there.

5 CHAIRPERSON NICHOLS: Thanks.

6 We're going to take a ten-minute break at this
7 time, and we'll be back in ten minutes.

8 (Thereupon a recess was taken.)

9 CHAIRPERSON NICHOLS: We are going to do a little
10 reconfiguring of the agenda, if I can get staff back in
11 place.

12 During this morning's presentation, two of our
13 Board members became aware that they have a potential of a
14 conflict of interest on one of the regulations that's
15 before us. It's not one that we've heard anything about
16 so far. It's the LSI. We heard about it in the staff
17 presentation, but not any testimony.

18 What we've decided to do is to ask that that item
19 be voted on last so that those Board members can excuse
20 themselves and not participate in the discussion or the
21 vote on that last LSI item. And we would also appreciate
22 it, therefore, if we could ask anybody who's here to speak
23 on that item to identify themselves and, if possible,
24 we're going to group them all together at the very end.

25 So if you are here and you're planning to speak

1 on forklifts, then please identify that and wait until the
2 end to take your turn to talk. And then we can group that
3 all together, because I think that will get us through all
4 this more efficiently.

5 Okay. And we will be taking a lunch break today
6 also just so people can plan on it. I'm hoping we can
7 keep it short. We don't have any executive session today.
8 So we should be able to take a half an hour lunch break.
9 But I think that we'll keep everybody more cheerful if we
10 can do that. So we'll try to break for lunch at 12:30.

11 CHIEF COUNSEL PETER: Madam Chair, I'd like to
12 have the Board members that do have the conflict to
13 specifically identify themselves.

14 CHAIRPERSON NICHOLS: Go ahead.

15 BOARD MEMBER BERG: Madam Chair, I own nine
16 forklifts. So I do have a conflict and will excuse myself
17 from the large engine spark vote.

18 BOARD MEMBER D'ADAMO: My husband's a farming
19 company owned during when the regulation originally came
20 before us, we did an evaluation and definitely had a
21 conflict at that time. And I did conflict off originally.
22 I don't know the current status. I don't know how many he
23 owns at this point, if he's decided to lease or come in
24 compliance in some way. So just out of an abundance of
25 caution, I'm going to conflict off.

1 CHAIRPERSON NICHOLS: Thank to both of you.

2 I do not own any forklifts. Kind of wish I did.

3 I've always wanted to drive one. Okay.

4 We will get back to the witnesses then. And I

5 think the next was Ed Walker, followed by Bonnie

6 Holmes-Gen and Seyed Sadredin.

7 MR. WALKER: Good morning. I'm Ed Walker with

8 Robinson Enterprises, a logging construction company with

9 petroleum stations.

10 Want to thank the staff for meeting with us,

11 Eric, Tony, Beth. They've really been great. We don't

12 like maybe the outcome. But they're polite about it

13 anyway.

14 Well, you heard about the economy. Our situation

15 is no different than anybody else's. Quite frankly, even

16 with the adjustments, we're not going to be able to afford

17 the rule.

18 Some solutions that we've come up with is time

19 credit. We haven't had a chance to understand what was

20 presented here this morning, but our written comments will

21 talk about that later on after we understand them.

22 One other item -- I mentioned this before we've

23 been before the Board. We are continuing to have a lot of

24 down time with our new trucks. So we're not anxious to

25 jump into more trucks.

1 We would suggest as government funding becomes
2 available that the rule become implemented over time. We
3 need to stretch out compliance period for a longer period
4 of time.

5 One thing that we are current, some of the other
6 people that have spoken, we're a seasonal operation.
7 We're five-and-a-half months. A good year for us is seven
8 months. We're trying to get compliance to buy new trucks
9 with that money. It's just not possible.

10 One solution we've come up with -- I hope our
11 employees aren't watching -- is cancel our health
12 insurance. If we cancel our health insurance, we could
13 afford to buy five trucks a year. That is not on the
14 table yet, but that is the only place I can see in our
15 operations that we can find any extra money to comply with
16 the rules.

17 So that's about it. Everything else has been
18 said by others. There's no point in repeating it. Thank
19 you.

20 BOARD MEMBER BALMES: I missed what industry you
21 said?

22 MR. WALKER: Logging. Construction.

23 And thank you for the off-road rule
24 consideration. That is very helpful.

25 CHAIRPERSON NICHOLS: Okay. Bonnie.

1 MS. HOLMES-GEN: Bonnie Holmes-Gen with the
2 American Lung Association of California. And the American
3 Lung Association and other health organizations have
4 strongly supported the diesel on-road and off-road
5 regulations because they are life saving regulations and
6 they reduce asthma attacks, reduce respiratory and cardiac
7 illnesses, and hospitalizations, and are very important
8 from our public health perspective.

9 We understand that the ARB needs to provide some
10 additional flexibility in those regulations due to the
11 economy and inventory changes. And we are asking that we
12 do everything possible to maximize the public health
13 protections and maintain the strongest possible
14 regulations.

15 And we have recommended some strengthening
16 amendments to the staff proposal to increase the retrofits
17 and upgrades in the early years and to increase the SIP
18 margin, especially in the San Joaquin Valley.

19 I just want to focus on one ask that's very
20 important to us. We ask that you preserve the school bus
21 cleanup provisions for all sizes of school buses. We know
22 that children are particularly vulnerable. The soot
23 pollution effects the growth and development of their
24 lungs, and we know there's funding out there. We need to
25 work together and get additional funding, but we do

1 believe there should be equal protection for all children
2 riding on school buses.

3 A couple of other key comments. The American
4 Lung Association is, of course, particularly concerned
5 about the most vulnerable and disadvantaged communities
6 and urge you to pay special attention to pollution
7 reduction in impacted areas and to consider measures to
8 strengthen requirements in areas near warehouses, truck
9 distribution centers, rail yards, ports, heavy traffic
10 corridors.

11 And finally, just a couple points. We believe
12 it's extremely important to continue to monitor emission
13 levels that are consistent with production we are looking
14 at today to make sure we are reaching the emissions levels
15 that we're expecting and achieving all benefits we're
16 expecting today and to also monitor the pace of the
17 economy. And we can all agree in closing that it will be
18 important to do everything possible to use incentive funds
19 to get early reductions in health impacted communities so
20 we can all work together on that as we move forward.

21 Thank you.

22 CHAIRPERSON NICHOLS: Okay. We have our two big
23 air districts here. You submitted a joint letter. Thank
24 you for that.

25 MR. SADREDIN: Good morning, Madam Chair, members

1 of the Board.

2 You do have the joint letter from South Coast and
3 San Joaquin before you. I should say, given some of the
4 healthy competition we've had in recent episodes before
5 your Board for resources, this is a momentous occasion and
6 I'm hoping this is first of many that we can work together
7 with South Coast, given our areas that we have shared
8 interests and challenges, that we could work together and
9 bring more balanced recommendations to your Board.

10 I'll try to be concise in the two minutes, hit a
11 few points. And I have three requests regarding your
12 resolution that I'd like you to consider.

13 First, we are extremely concerned with the fact
14 that there is zero margin for compliance in San Joaquin
15 Valley and very little margin of compliance in South
16 Coast. What gives us some comfort to move forward today
17 is the fact that we've looked at the work that your staff
18 has done on the inventory, we scrutinize it with EPA, with
19 South Coast, and our district, and we're comfortable that
20 today's inventory before you and the projected emissions
21 reflect a major improvement in inventory and the
22 assumptions methodology is reasonable.

23 But as you know, inventories are always a living
24 document, a work in progress that will improve over time
25 and. If there is the shortfall, our concern is that given

1 that more than 80 percent of air pollution in San Joaquin
2 Valley and South Coast come from mobile sources and our
3 stationary sources are already well regulated, it is
4 impossible for us to make any shortfall, should there be
5 any. So we want you to reaffirm your commitment that your
6 Board will be responsible for that shortfall and we want
7 regular and ongoing monitoring and tracking.

8 So just quickly get into the three
9 recommendations that I have for you. One -- if I could
10 just take --

11 CHAIRPERSON NICHOLS: Please go ahead.

12 MR. SADREDIN: In your resolution, there is a
13 statement about coming back to your Board in 2012. We
14 asked for a specific time line. We don't have to have a
15 specific month or date in there, but 2012 is really
16 something that we feel nervous about. December of 2012,
17 for instance, in our view, will be very late to come to
18 your Board. And if there are changes needed, it will take
19 time to implement any regulations and time for the
20 businesses to make those changes.

21 So if it's okay with you, respectfully, we ask
22 you to commit to a date to get a report to your Board and
23 leave some time to hopefully do something where we can get
24 reductions in 2014.

25 The other comment that is regarding the grants

1 that we've had great leadership from Board Member Berg and
2 the Committee or the work group that has been in place.
3 We are very close with your staff with some
4 recommendations to fix some of the impediments that
5 currently exist in the program. Your staff mentioned in
6 January we will have \$12 million to go out with grants.
7 As we begin that process, we're going to be offsetting the
8 current grant guidelines and the changes in your rule do
9 not match. And there are some obstacles, some
10 inconsistencies that it would be good for your Board to
11 weigh in on that in this resolution.

12 So as we begin that process, we can count on your
13 Board to support with the specific recommendations that I
14 believe your staff is going to bring to you later on
15 anyway, but we can begin that process. And have as we
16 applications, to be able to count on those things as being
17 things that your Board supports.

18 And finally, regarding this bubble concept that
19 was introduced today, we like -- to the extent that we
20 want to use these grant moneys to actually create a margin
21 of safety, I think your resolution should make it clear
22 that any early reductions, cross-source category that one
23 wants to take credit for towards compliance could not come
24 from any retrofits that are paid for by public funds.

25 I believe that is probably the intent of your

1 staff to maintain those reductions that are paid by grants
2 to be surplus, but I think it would be good to clarify
3 that so there are no false expectations. That would be a
4 question I have. Was that the intent that if the public
5 pays for those reductions, you cannot use those towards
6 compliance in getting credit from one source category to
7 another. That is our request. And if that is the case,
8 to make that clear in the resolution.

9 CHAIRPERSON NICHOLS: I don't think that's even
10 an issue. Maybe Cynthia, do you want to speak to this?

11 DEPUTY EXECUTIVE OFFICER TERRY: I assume that
12 relates to the earlier discussion about the SIP margin.
13 And because the 2014 SIPS did not include any reductions
14 from the agricultural equipment category, any early
15 reductions would be surplus in 2014. But going forward
16 past 2014, that's a different question. And to the extent
17 those were included in ozone SIPS and then next year as a
18 2.5 24-hour SIP is developed, we would expect those
19 reductions to be part of that plan.

20 So I think the point was in the year 2014 when
21 there was a question of a margin, there are some early
22 reductions that from an air quality perspective would
23 provide a margin for the breathers that are not required
24 in the current SIP.

25 BOARD MEMBER BERG: Madam Chair, I think the

1 question had to do with retrofits that are being paid for
2 through the incentive program and specifically can
3 accompany that, has retrofits paid by for incentive money
4 be used for early credits. And my understanding is no,
5 they cannot. And I see all these heads nodding.

6 MR. SADREDIN: The bubble concept is something
7 that your staff is introducing today in the resolution to
8 make the change in the 15-day time line.

9 BOARD MEMBER BERG: To clarify that --

10 MR. SADREDIN: If you do something that's on-road
11 or off-road that was paid by incentives, you cannot take
12 those credits and do less than this other towards
13 compliance with it paid for.

14 CHAIRPERSON NICHOLS: Thank you.

15 Henry.

16 MR. HOGO: Good morning, Madam Chair, members of
17 the Board.

18 Henry Hogo, Assistant Deputy Executive Officer at
19 South Coast AQMD.

20 As Seyed mentioned, we probably set a precedent
21 having a co-signed letter between our Executive Officers
22 asking for consideration of re-assurance that if there are
23 any deficits or shortfalls with the proposed amendments
24 relative to the SIP that they be made up. And we urge you
25 to take our language and put some dates certain in there

1 relative to time line. Because that time frame from 2012,
2 2014 is very short. We thought that similar to what you
3 have done with the -- like the railroad commitment letter
4 concept that we set a date certain they come back with
5 some actions that could achieve further reductions in
6 2014. So we urge you to consider some of the
7 recommendations in our resolution language as you move
8 forward.

9 We do appreciate the language that you have
10 provided. And we appreciate all the hard work staff has
11 put in on the emissions inventory updates and look forward
12 to continuing to work with staff and enhance the
13 inventories.

14 CHAIRPERSON NICHOLS: We're up to number 37,
15 DePaul Nguon and Michael Graboski and Chuck White.

16 MS. RATNER: Excuse me, Chairman Nichols and
17 members of the Board. My name is Jill Ratner, and there
18 is a group of students here. DePaul is the first of them.
19 And we were hoping that we might be able to go together.
20 We got a little bit scattered, but the bulk of the group
21 is after the next two speakers.

22 I'm wondering if maybe we could defer until after
23 lunch so we could go together and clump everyone together.

24 CHAIRPERSON NICHOLS: Sure. Just tell us which
25 numbers. Tell the clerk and we'll group them all

1 together. Sorry you got separated.

2 Michael Graboski and Chuck White.

3 MR. MC CLELLAN: Madam Chairman, I'm John
4 McClellan. I'm Vice President for Government Affairs at
5 the American Rental Association.

6 Dr. Graboski is my colleague and is going to
7 speak on our LSI comments, so I will take his slot here if
8 you don't mind and then he's already talked with the clerk
9 about what time he'll speak.

10 So thank you so much for holding this hearing
11 today. I'm John McClellan, Vice President for Government
12 Affairs at the American Rental Association. We represent
13 the equipment rental industry here in California, our
14 affiliate, the area of California represents our members
15 in this state.

16 ARA wants to support the proposed modifications
17 in the off-road and on-road rules. And I want to just
18 quickly mention that we are also working with staff on
19 some outstanding issues in the LSI rule that we hope to
20 resolve here. Dr. Graboski will speak about that in just
21 a few minutes.

22 We certainly were happy to see the modifications
23 in the rule because the construction industry, which is
24 where a lot of our equipment goes has been badly hit by
25 the economy. So the modifications that are being made in

1 the rule are going to allow my members to use the
2 averaging provisions which we advocated very strongly for
3 at the beginning of this process almost six years ago as
4 they continue to rebuild their fleets and bring new and
5 clean equipment.

6 And I think I'd like to add that the rental fleet
7 is probably the cleanest fleet in California. So this is
8 something that is very good for my members.

9 With respect to the trucks, moving and basically
10 exempting for sometime the trucks that are 126,000 pounds
11 in gross vehicle weight rating is probably going to exempt
12 about 90 percent of the trucks in our industry from
13 compliance in the near future. And we think that that
14 leeway is going to allow our folks to focus on upgrading
15 their heavy-duty trucks. So we think that that's going to
16 be a very workable rule.

17 Thank you very much for your time. We appreciate
18 it.

19 CHAIRPERSON NICHOLS: Thank you.

20 Chuck White. Welcome back.

21 MR. WHITE: It's always a pleasure to spend two
22 days with you. I'm with Waste Management. I really
23 appreciate the opportunity to briefly comment on the
24 on-road and off-road rules.

25 Waste Management continues to support the Air

1 Resource Board emission reduction goals and ongoing effort
2 to balance economic and environmental concerns. We're
3 basically 99.99 percent happy with the two rules that you
4 adjusted here.

5 With respect to the off-road regulation, you may
6 recall Waste Management -- was one of the fleets that
7 wasn't prepared to be in full compliance back in March and
8 then got delayed. We do appreciate you giving us the
9 additional one-year extension for compliance past 2014
10 because of our early compliance with these rules.

11 The one major area that we have concerns about is
12 the availability of a reliable robust on-line compliance
13 tool that really is going to help us understand our
14 compliance of our large off-road fleet going forward as
15 well as any potential opportunities to get funding from
16 air districts through Carl Moyer and other kinds of
17 programs. So we relatively request there be effort put
18 into develop a robust on-line reporting tool by April at
19 the latest so we can make sure that your fully
20 understanding the exact details of our compliance and
21 opportunities for additional funding.

22 Secondly, with respect to the on-road
23 regulations, we basically appreciate the changes you've
24 made to delay compliance. Our refuse fleet has basically
25 been in compliance with the previous rule.

1 We were a little concerned about the fact you
2 eliminated the compliance credits for alternative-fueled
3 vehicles, but we think the delay might provide additional
4 opportunities for us to get the funding through Carl Moyer
5 and other types of programs.

6 We are aware that you're in the process of also
7 revising Carl Moyer programs, so we urge you to encourage
8 staff to make sure we can secure maximum funding and
9 surplus emission credit opportunities through that
10 program.

11 One final minor point is that we noted that the
12 current version of the on-road regulation seems to
13 eliminate compliance credits for alternative fuels and
14 HTPI vehicles after January 1. We've been told this is a
15 typographical error and this is going to be fixed in the
16 15-day notice change.

17 CHAIRPERSON NICHOLS: Yes. I'm seeing nodding
18 from the staff.

19 MR. WHITE: We hope that's the case, and we look
20 forward to seeing those changes and reviewing those
21 changes to make sure we are in accordance with them.

22 Thank you very much.

23 CHAIRPERSON NICHOLS: Great. Thank you.

24 Okay. Randal Friedman.

25 MR. FRIEDMAN: Good morning, Madam Chair, Board

1 members. Randal Friedman on behalf of Navy Region
2 Southwest.

3 We're in support of the proposed changes. My
4 staff is appreciative of all the work they put into this.

5 We still do differ on for the off-road rule
6 whether or not we should be considered as one large fleet
7 statewide. We think the additional time though resolves
8 those issues by dealing with the complexities of trying to
9 consolidate all of our operations within the state and
10 within an individual base all the tenants and all the
11 various activities that go on a major Navy base.

12 This does represent a major investment. For the
13 Navy alone, it's going to be over \$100 million to comply
14 with all these rules. So there are going to be challenges
15 ahead in terms of Congressional funding and making sure
16 that all of that gets line up. It is something we're
17 committed to work on. But again, I hope you understand
18 that we are subject to that federal procurement process.

19 I would point out just as an interesting aside
20 that when we looked at the total cost of the program with
21 the amendments, it actually only goes down about three
22 percent. The big difference for us is all that money is
23 now going to buy new vehicles instead of the prior one,
24 which is retrofits, new vehicles after the retrofits. So
25 I think in the end, we're certainly getting a much better

1 fleet out of this because we're going to get a fleet
2 that's clean in California, that's new vehicles. And we
3 certainly appreciate all the work that you and the staff
4 have put into this. Thank you.

5 CHAIRPERSON NICHOLS: Thank you.

6 Chris Cannon is next, Dan Souza and Tracey
7 Norberg.

8 MR. CANNON: Good morning, Chairman Nichols and
9 members of the Board.

10 My name is Chris Cannon. I'm the Director of the
11 Environmental Management Division of the Port of Los
12 Angeles. I'm here to offer support or express our support
13 for two of the changes that you're going to make.

14 The first is the expansion of the regulation of
15 drayage trucks to cover not just the truck that picks up
16 or delivers a container, but the rest of the trucks that
17 handle it in its journey. We believe this will help with
18 dray-offs. And we actually -- our Board yesterday
19 approved a measure very similar to this based on -- it was
20 modeled after yours. We worked with your staff closely as
21 often as we can.

22 The problem though for us is our jurisdiction
23 ends at the edge of our property. And so we actually like
24 being able to work with you and are glad that you're doing
25 this, because this allows this issue to be handled

1 extending beyond our property and it's very important.

2 And our Board actually asked me to bring you
3 something today. We received testimony yesterday at our
4 Board, a flier that is being passed out in the port of Los
5 Angeles and Long Beach area and has a thinly veiled
6 reference to dray-offs. It says, "Clean trucks." I'll
7 leave it here. And in parentheses (casual work for dirty
8 trucks.) Amazing they would actually put that on a flier.
9 It has a phone number and you can be sure we'll be calling
10 it.

11 The second thing we're interested in is Class 7
12 regulation that you're doing. Very glad you're doing
13 that. It's been an explosion of Class 7 operations in the
14 port of Los Angeles. At this time last year, it was only
15 28 trucks registered in our drayage truck registry. Now
16 it's approaching 600. And the difference is these are
17 unregulated vehicles. So now if you add them to the
18 drayage truck rule and we have now yesterday added them to
19 our clean truck program, they immediately -- well within
20 six --

21 CHAIRPERSON NICHOLS: Finish up.

22 MR. CANNON: Within six months, July 1, 2011,
23 they'll be subject to our progressive bans. That's the
24 one thing we'd like to hear differently from you.

25 Your change to regulate Class 7s would not make

1 these vehicles subject to any kind of progressive bans for
2 three years. So what happened -- and uncontrolled until
3 2014. What would happen is we've got an opportunity for a
4 Class 7 dray-off. You've got a port compliant truck
5 coming out of our gates and immediately leaving a chassis
6 or something for completely uncontrolled Class 7 truck.

7 CHAIRPERSON NICHOLS: So that would be a
8 loophole.

9 MR. CANNON: Yes. And perhaps if you can
10 regulate them within a year, some sort of transition
11 period. I leave that to you to decide. We certainly
12 would appreciate your help there.

13 Other than that, we are very pleased with the
14 things you're doing and appreciate working with your
15 staff.

16 CHAIRPERSON NICHOLS: Thank you very much for
17 coming and for the good work you're doing.

18 Dan Souza, and then Tracey Norberg and Richard
19 Polanco.

20 MR. BLEVINS: Actually, Madam Chair, it's James
21 Blevins with Mountain Valley Express. Dan Souza is also
22 with our company. I'm speaking in his place, if that's
23 okay.

24 President and owner of Mountain Valley Express
25 California-based LTL carrier providing 435 jobs in the

1 state of California, mainly Arizona and Nevada. We've
2 been intimately involved in this regulation obvious
3 because it does adversely affect our operation and the
4 financial aspects of that with alternate retrofits,
5 purchasing of new equipment, so on.

6 I want to first and foremost touch on the
7 workshops that have been provided for information sharing.
8 That is invaluable information that your staff has
9 provided to the industry as a whole. But I think -- and
10 we can stand up here and preach all day about the good
11 things that have gone on in regards to implementation --
12 final implementation of the regulation.

13 But I need to speak more in regards to the
14 adverse effects of the regulation to industry, business,
15 jobs here in California. And that is the number one
16 political agenda right now is job creation. In part, this
17 regulation definitely will eliminate a fair amount of jobs
18 here in California I think as we all recognize by what's
19 been said today.

20 Secondly is the durability and the independent
21 ability of the technology. We went out and did the same
22 thing, early compliance. We want to be compliant. We
23 want to be compliant. We have to be compliant to operate
24 in California, the most highly regulated state in our
25 nation, by the way. We went out and bought 07-08

1 technology trucks. They are the most frequently towed
2 vehicle in our fleet. My 1998, they run all day long.
3 They run all day long without all the emission standards
4 that are required of the new technology.

5 There's a lot of issues on durability and
6 dependability with retrofit devices, new OEM equipment.
7 We are pursuing a lemon law through the State Legislature
8 to apply to heavy-duty diesels, OEM to put some burden
9 back on the manufacturer for dependability of the
10 technology. You folks need to recognize that and
11 hopefully address that as well.

12 Last, but not least, if I may, Madam Chair, is
13 the BACT schedule. Eric, whether or not you gave into
14 consideration to moving the 05-06 model year out to 16 to
15 give us a couple more years of relief on the ultimate --
16 because our ultimate date has thought changed in 14. We
17 still have to be 100 percent at least PM trapped. And we
18 thank you for that consideration -- not NOx, the way I
19 understand it -- but PM. And there is a different big
20 cost in investment that has to occur between '12 to '14.
21 Those two years is still a major hit for us. I would just
22 ask if there is any consideration that's been given to
23 moving that BACT to 16 on that 05-06.

24 Thank you very much.

25 CHAIRPERSON NICHOLS: Thank you.

1 Tracey Norberg and then Mr. Polanco and Adam
2 Harper.

3 MS. NORBERG: Thank you, Madam Chair and members
4 of the Board. I appreciate the opportunity to speak with
5 you this morning.

6 My name is Tracey Norberg, and I represent the
7 Rubber Manufacturers Association. We represent the major
8 manufacturers of tires in the United States. We have
9 eight member companies who supply tires to the fleets here
10 in California.

11 First of all, I wanted to take a minute to thank
12 the staff for its willingness to work with us, the tire
13 industry looking at the regulation and adopting or
14 recommending some changes to the regulation for the
15 tractor-trailer greenhouse gas regs, particularly with
16 regard to retreaded tires.

17 Retreaded tires are a major components of the
18 tires that are on the fleets in California today. And
19 retreads by their nature are environmentally friendly.
20 They help reduce the generation of scrap tire in the state
21 and reduce use of raw materials in the manufacture of
22 tires.

23 The regulation currently specifies that SmartWay
24 tires must be used on vehicles on fleets, and currently
25 there is no retread components of the SmartWay program.

1 The amended changes would recognize this and allow
2 additional time for EPA to develop a SmartWay component
3 for retreaded tires.

4 The tire industry is committed to working with
5 EPA and other stakeholders and including ARB staff to
6 develop a retreaded tire component to the SmartWay
7 Program. And we believe this additional time will allow
8 that program to proceed.

9 I'd like to just make one note though. The
10 program is -- within SmartWay, the retread program is
11 still under development. And so we would just ask that
12 staff continue to be involved and in touch as this
13 proceeds. Because as with my multi-stakeholder program,
14 it's sort of we are all optimist it can be completed
15 quickly. One never knows, so it's important to stay in
16 touch as this proceeds. Thank you.

17 CHAIRPERSON NICHOLS: I'm sure they will. Thank
18 you.

19 Senator Polanco and then Adam Harper and Dave
20 Norris.

21 SENATOR POLANCO: Good morning, Madam Chair and
22 members of the Board.

23 I'm here today to read into the record on behalf
24 of the Chair of the Latino Caucus Assembly member Tony
25 Mendoza. So Madam Chair, if I may, let me begin.

1 "As Chairman of the Latino Legislative Caucus,
2 I'm requesting that CARB not adopt the proposed change
3 pertaining to the in-use off-road vehicle PM regulation.
4 Many of our 23 members represent Assembly and Senate
5 districts where the issue of air pollution is
6 disproportionately impacted.

7 In 1998, California identified diesel exhaust
8 particulate matter as a toxic air contaminant. Diesel is
9 also a leading contributor of particular PM pollution.
10 The proposed rule change will allow approximately 250
11 diesel equipment with a life span of 30 years to pollute
12 our air and will go unregulated until 2017 or longer. I'm
13 particularly concerned about this because although I
14 understand the economic recession has negatively impacted
15 some of the industry, completely allowing this equipment
16 to go unregulated for seven years is unreasonable amount
17 of time.

18 I also want to acknowledge the ARB Board for its
19 foresight and environmental leadership for so many years
20 and for adopting regulations that clean the air and create
21 new jobs. However, the proposed change goes in the wrong
22 direction. I strongly believe that we should advocate to
23 protect people from the harmful diesel pollution. We
24 should protect and create green jobs and advocate for a
25 fair clean air policy that benefits the greater good and

1 not just one industry at the expense of another.

2 As Chairman of the Latino Legislative Caucus, I
3 am requesting that you not move forward with the proposed
4 rule change to the proposed regulation and that a
5 legislative hearing be held on this issue. I join
6 Assembly member Warren Furutani, Chairman of the Asian
7 Pacific Islander Legislative Caucus, and other legislators
8 opposing the proposed change."

9 I wish to submit that and just acknowledge Warren
10 Furutani did send his letter in. There is opposition also
11 from Senator, Assembly member Mike Eng, along with others,
12 for the record.

13 CHAIRPERSON NICHOLS: Thank you. We do have
14 those it is. Thanks for coming.

15 Adam Harper.

16 MR. HARPER: Madam Chair, members, Adam Harper
17 with the California Construction and Industrial Materials
18 Association.

19 I'm here today in support of the modification to
20 the off-road rule. I realize we have two minutes.

21 I want to thank staff. We've worked long and
22 hard with them since about 2004 on this rule. It's seen a
23 lot of changes. There's been a lot of disagreements. I'm
24 very personally grateful that they were able to take the
25 information that was gained out of the 2007 adoption and

1 really improve the inventory. I know some people have
2 kind of spun that as a change in health benefits.

3 I wanted to point out that in the modified
4 inventory with the changes that the real total emissions
5 targets have been achieved for significant compliance
6 dates, both PM and 2015 lower on the total PM emissions.
7 NOx is already below where it was going to be I believe it
8 was 2023 or 2025. We submitted these in our comments. We
9 think that is a very important indication of the extreme
10 changes that occurred in the off-road inventory that
11 absolutely justify these type of changes that are
12 occurring.

13 In terms of some specific comments, we were and
14 look forward to reviewing the bubble concept that was
15 announced this morning. We know that's important,
16 particularly for some of the larger more complex fleets
17 that are looking at the potential to trade some
18 advancements they made in the off-road over the on-road.
19 We thank you for including that concept, and we'll review
20 it.

21 One potential weakness we notes is in the
22 retirement credits it reduced fleet horsepower. As we are
23 reading those sections, one, it seems to categorize
24 modifications that large fleets would have made in the
25 compliance period between March 1st of 2009 and the 2010

1 compliance date and modify those backwards to the half
2 credit versus recognizing those were potential surplus.

3 And then also there seems to be a window between
4 I believe it's February of 2012 where if someone was just
5 reducing their fleet horsepower, they wouldn't be reducing
6 credits. And they would essentially end up in that
7 window, hold on to the equipment until you're in
8 compliance to retire it and get credit for turnover.
9 There's almost the scenario that led to AB 28x in some
10 ways and we think there should be a way to recognize pure
11 fleet horsepower reductions for credit.

12 Thank you.

13 CHAIRPERSON NICHOLS: Thank you. Thank you.

14 Staff, you want to comment on that? Eric.

15 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

16 ASSISTANT DIVISION CHIEF WHITE: Yeah. As we originally
17 set out in looking at a amendments to the off-road
18 regulation, we were looking at it across the board
19 two-year delay. As we went through the process and worked
20 with the industry and ended up settling on a four-year
21 delay, one of the things we did to make sure we remain
22 whole on the SIP and we got all the reductions we needed
23 in 2014. One way we did that was to ensure that that
24 large amount of credit that had been amassed from all the
25 vehicles retirements we had seen didn't suddenly get

1 cashed in that first year. So one way to deal with
2 that was to discount them and then delay their initial
3 use. We wanted to continue to provide fleets credit for
4 further actions they were taking. And so that's why we
5 are still keeping the full credit for future retirements
6 that they do. And we think on balance then that's going
7 to make sure we meet our SIP obligations and continue to
8 provide relief but get some reduction in 2014 when we need
9 them.

10 CHAIRPERSON NICHOLS: Okay.

11 Dave Norris.

12 MR. NORRIS: Yes, I'm with Lakeport Unified
13 School District. We are a full attainment air district.

14 I recently received our grant to retrofit our
15 school buses and will be underway at the beginning of
16 January doing that. However, it is the wish of all of the
17 schools in Lake County that we were able to take -- if we
18 could take our 1.9 million that came into Lake County Air
19 District and apply it to replacing pre-87 school buses.
20 We all feel it would be most advantageous for all of us.
21 The main thing is that all of those buses, the minute they
22 hit the yards, will be underway with children in those
23 buses and will longevity wise will last us a long time.

24 And also in regards to maintenance, the newer
25 buses that come with the devices have been far more

1 successful than applying retrofits. Many of my school
2 buses to be retrofitted are 20 years old. And to put a
3 \$15,000 retrofit on a 20-year-old bus, like some of the
4 other guys were saying, is extending the buses out beyond
5 their useful years. I'd like to see if some changes could
6 be made specifically for full attainment air districts to
7 allow us to replace pre-87 buses that the regulation
8 initially wanted to address. So if you could take some
9 consideration, we'd appreciate it. Thank you.

10 CHAIRPERSON NICHOLS: Okay. Thanks.

11 Kyle Reams and then David Chidester.

12 I'm going to make an announcement now. I
13 apparently didn't give a time earlier, but at 1:30 we will
14 cut off any further sign-ups for oral testimony. Okay.

15 MR. REAMS: Good morning. Thank you for letting
16 me speak.

17 I would just like to talk about one factor today.
18 I would like to talk about the retrofit exhaust filters.
19 We've heard a little bit about the problems about the
20 exhaust retrofits, and I would like to tell you about some
21 firsthand experiences that I have experienced at my
22 transportation yard.

23 When I have buses that go out on trips or I have
24 buses that come into my school district that have the
25 exhaust retrofits on them, there are times when those

1 buses are in limp mode or de-power zone basically where
2 they are unable to drive safely with students on board.
3 That requires either to find a facility that has an
4 exhaust retrofit kit where they can recharge or burn off
5 their filter or, by any chance, if that is not available,
6 they have to drive in a limp mode sometimes at low
7 excessive speeds with students on board to a safe spot
8 where we can get a mechanic out there to replace a filter
9 so they can get back safely. I would like you to please
10 look at this and just think about very carefully what
11 you're doing for the safety of our students.

12 Thank you so much.

13 CHAIRPERSON NICHOLS: Thank you.

14 Is this David Chidester?

15 MR. CHIDESTER: Good afternoon. My name is Dave
16 Chidester. I'm President of Central Cal Transportation.
17 We're a drayage company.

18 Unlike a lot of the others here, we have no
19 options. We had to comply by 2010. After complying with
20 January of 2010 and all through 2009 when we bought or
21 leased 66 brand-new trucks, everybody got an extension.
22 So I had to compete head to head that with people that had
23 done nothing for four months. Then there's another
24 extension. Now we are finally getting around to plugging
25 some of the gaps that Chris Cannon exposed from L.A. I've

1 been fighting for these forever. That's the dirty little
2 secret in drayage, that we're competing head to head with
3 people that will run up and down the state with
4 non-compliant trucks and pay somebody else to put it in.

5 You still have one unaddressed dirty little
6 secret out there, and that's exempt trucks operating in
7 the ports. The exemption status was supposed to be for
8 people that had PTOs that ran in bottom dumps and tanker
9 units. If you're hooked onto an ocean container or rail
10 container, you have options. There's no reason that you
11 ought to be exempt. If you're pulling an ocean container,
12 you ought to comply.

13 I'd really like somehow to be made whole through
14 this. We supported you and complied with all the
15 regulations. I notice one little sentence in the agenda
16 that says, "and we'll give credit to fleets that have
17 already taken action to comply with the regulations." I'm
18 hoping there is something that can be done to us.

19 Sometimes I feel like Charlie Brown laying on the
20 ground looking up at Lucy. I'm just looking for somebody
21 to stop jerking the ball away. I can't keep adapting --
22 yes, last night, in the middle of the night, Congress
23 passed their budget for the extension of the Bush taxes
24 cuts. I'm just looking for consistency.

25 CHAIRPERSON NICHOLS: Thank you.

1 Question for you.

2 BOARD MEMBER D'ADAMO: A question for staff.

3 What can be done to provide credit? I don't know if there
4 are any in this position that have completely complied
5 where providing credit would even do any good.

6 ASSISTANT DIVISION CHIEF MARVIN: This is really
7 limited to the drayage truck rule at this point. And for
8 those folks who made the investment in model year '07 and
9 greater trucks, as Mr. Chidester and his firm did, the
10 benefits are the availability of funds -- public funds
11 that were available. Unfortunately, his company could not
12 largely take advantage of that. We figured out a way that
13 he can moving into the future.

14 There is a difficulty in trying to provide credit
15 for that in the same way that the truck and bus rule will
16 since the entire drayage industry needs to have PM control
17 by 2014. So there's just not a lot of opportunity to
18 create a new averaging or credit program for the PM
19 control. The extension ability that we have on drayage is
20 for the second phase, the upgrades that get the additional
21 NOx reductions. We don't see an opportunity to do what
22 he's suggesting.

23 CHAIRPERSON NICHOLS: The best thing you could do
24 is make their competitors have to do the same thing,
25 right?

1 ASSISTANT DIVISION CHIEF MARVIN: Yes. And
2 that's what the current rule requires.

3 MR. CHIDESTER: The NOx suspension is what made
4 my decision in retrospect horrible. When I looked at a
5 \$25,000 PM filter and then in '12 a 30 to \$40,000 NOx
6 filter put on the \$10,000 truck, the new trucks were the
7 way to go. But now that the NOx is out of the mix and we
8 can keep running to 2020 in retrospect, I wish I would
9 have had a clear crystal ball.

10 CHAIRPERSON NICHOLS: Okay. Thank you.

11 Don Anair and then Ron Cancilla and Eric
12 Carleson.

13 MR. ANAIR: Good afternoon. I'm Don Anair,
14 Senior Engineer with the Union of Concerned Scientists.

15 I'm testifying today in strong support of
16 continuing ARB programs to reduce emissions from
17 diesel-powered engines.

18 We acknowledge the need to adjust the rules, but
19 we also acknowledge that reductions in diesel emissions,
20 especially direct diesel PM emissions, localized air toxic
21 will be slower as a result of these changes.

22 I would like to focus on one particular
23 recommendation I believe will reduce local toxic risks
24 from off-road equipment without increasing near-term cost
25 of fleets.

1 As proposed, the low-use exemption would allow
2 any equipment operating less than 200 hours per year to be
3 permanently exempt from any cleanup requirements.
4 Two-hundred hours, according to the inventory attached to
5 the rule, is equal to about 40 percent of normal annual
6 operating hours of off-road equipment, meaning a piece of
7 equipment operated for nearly half the year is considered
8 low use under the proposal. This creates a significant
9 loophole as it may cost much less to designate older high
10 polluting pieces of equipment in use rather than cleaning
11 it up.

12 A piece of equipment manufactured as late as 1996
13 operating 200 hours per year emits more than 20 times the
14 filter equipped model operating in a full year. Under the
15 proposal, the equipment could be turn-over credit being
16 designated low use but continue to operate indefinitely.

17 The following recommendations would retain the
18 intent of the low-use exemption, prevent the accumulation
19 of high-polluting equipment in fleets, and reduce risks to
20 communities with toxic PM emissions. The three
21 recommendations are to allow ten percent of fleets to be
22 low use. This would prevent unlimited numbers of
23 equipment. Current reporting to seven percent of the
24 equipment is designated as low use. This would increase
25 the current levels; sunseting the exemption for the older

1 equipment, and communities deserve the protection from
2 this. By 2023, this equipment will be at least 20 years
3 old. There is no reason for this equipment to be
4 operating.

5 And finally, eliminate the turnover credits
6 because of low-use piece of equipment is still actually
7 polluting. There shouldn't be turnover credits for that
8 equipment.

9 Thank you.

10 BOARD MEMBER BALMES: Could I ask staff to
11 respond to this?

12 ON-ROAD CONTROL REGULATIONS BRANCH CHIEF

13 KITOWSKI: I think there's two issues intertwined here.

14 One is the emission benefits associated with the
15 low use, and the other is whether there is a loophole here
16 that maybe staff didn't anticipate.

17 I have to say that to quickly address the first
18 part, the emission benefits and the loss of emission
19 benefits is something we considered when we carefully
20 crafted the pros and cons of different options and we
21 thought that was worthwhile. The loophole wasn't
22 something that we considered as we are developing this.

23 I would guess there is a greater risk when you do
24 increase the hours. At this point, we didn't think it was
25 insurmountable. We would certainly -- we have the data to

1 monitor it very closely. We would certainly actively
2 monitor that. And if it were a serious concern, we would
3 recommend coming back to the Board. But whether or not
4 that is a risk that was beyond what we anticipated, it's
5 difficult to put our own crystal ball into that.

6 CHAIRPERSON NICHOLS: Okay. Thank you.

7 Ron Cancilla and than Eric Carleson and Katherine
8 Garoupa.

9 MR. CANCELLA: Good afternoon. I'm Ron Cancilla
10 with Impact Transportation from the Port of Oakland.

11 I had a few things written up here that I would
12 was going to address, but then I continued to see this
13 slide pop up of one individual's truck who I know very
14 well. So if you can pull up the slide with the pictures
15 of the trucks, please.

16 The reason I ask for that is this individual just
17 happened to come up to me yesterday afternoon and showed
18 some great gratitude and thanks for our help in helping
19 him finance the retrofits that were installed upon the red
20 truck with the Maersk. That truck belongs to a gentleman
21 by the name of Edwin Alfaro. The Alfaro family is a
22 typical example of the port draymen. The port draymen
23 are -- a vast majority of port drayman are independent
24 contractors. These guys have adhered to these rules that
25 either retrofitted or replaced a vast majority from

1 understanding of retrofits especially within our company.

2 So today we're here to support the amendments to
3 the drayage truck rule. I don't think I can go back to
4 the Port of Oakland and share any better news during the
5 holiday season than to tell my guys that, you know, they
6 don't have to worry about this for a few more years. It's
7 bad enough these guys are under attack right now by the
8 ports and by the laborers trying to make these independent
9 contractors extinct and get rid of them from the drayage
10 industry.

11 So, you know, I strongly urge you to go through
12 with these amendments to the drayage truck registry. Give
13 us some time so we can make proper decisions on where to
14 invest our moneys going forward.

15 Thank you.

16 CHAIRPERSON NICHOLS: Thank you.

17 Eric Carleson.

18 MR. CARLESON: I'm here. Eric Carleson,
19 Associated California Loggers. I'm here to speak
20 exclusively to the diesel truck amendments that our
21 industry retains a strong interest in all our rules. And
22 earlier speakers have spoken about maybe taking the
23 portable rule, which remains important to our members, and
24 giving some of those Tier 0s expiring in a short time.

25 I'm here to speak to two general topics and one

1 specific one.

2 General topic number one: Associated California
3 Loggers thanks the Chair, the Board members, and
4 particularly the staff for meetings we've been able to
5 hold with you over a two-year plus period on the diesel
6 truck rule. We also thank the staff for coming into the
7 woods to examine for closely the specific nature of how
8 and where our industry and our logging subset of the
9 industry works.

10 The amendments before you today give us more
11 time, somewhat more options, and more flexibility in
12 dealing with the rule. We're particularly supportive of
13 the log truck provision within the amendments and urge you
14 to adopt that provision.

15 General topic number two: While all of us worked
16 hard to meet various deadlines imposed by the federal
17 government and the state on reducing emissions
18 inventories, what do you know? The national economy, the
19 state economy, and of course our timber economy have
20 refused to meet any deadlines in terms of coming back to
21 the extent where we can deal with these rules, as at least
22 one of our members spoke to you about today, one of our
23 company members.

24 So whatever amendments pass today and we
25 appreciate them, no one's work is over yet. Not yours,

1 and not ours.

2 Hitting the main points in our comment letter
3 just skimming them, we suggest we all need to address the
4 following concerns. Educate business in 2011 and 2012 as
5 to exactly how these rules work. There be will a number
6 of workshops I know for industry in the coming year. Been
7 trying to tell our folks exactly what they need to do and
8 when has been an ongoing issue, and we know we want to
9 spend the next couple years refining it.

10 Acknowledge the devastated economy and adjust the
11 rule accordingly. I can hear the beeper going. I'm going
12 to go a little longer to get to the specific toping.

13 Given the limited time at the microphone, our
14 group split up issues today among the Forestry Task Force
15 members. I'm tasked the review specifically solvable
16 problems having to do with the NOx attainment district
17 boundaries and making them more uniformed and practical
18 for the trucks that drive within them. We submitted
19 boundaries ideas and stand ready to work with staff on
20 them. We don't see this as the end of the process. 2011
21 is only beginning, new Governor, new Legislature, new
22 Congress. And we look forward to working with you to make
23 these rules work within the economy. Thank you.

24 CHAIRPERSON NICHOLS: Okay. Thank you.

25 Catherine Garoupa.

1 MS. GAROUPA: Good afternoon.

2 I'm here this afternoon representing the Watch
3 Dog Committee of the Central Valley Air Quality Coalition.
4 CVAQC is a coalition of over 70 diverse organizations that
5 are unified in our commitment to work for clean air in the
6 San Joaquin Valley.

7 As you all know, we have a public health crisis
8 in the San Joaquin Valley due to our chronic air pollution
9 problem, which includes more than \$6 million in public
10 health costs and 2400 premature deaths in our region alone
11 due to air pollution.

12 We're particularly concerned about the delays for
13 the on-road rule. Many of our environmental justice
14 communities are living near roadways. These communities
15 are already impacted by pollution, and a delay means more
16 continued pollution in those areas and more health
17 impacts.

18 As was already mentioned, there is a zero margin
19 of error for the San Joaquin Valley for our State
20 Implementation Plans, and I wonder whether in those
21 calculations there was consideration for the fact that
22 when this rule was originally passed, there was a special
23 exception given to short haul ag trucks, which are going
24 to be disproportionately in our region well. Again,
25 minimizing the margin of error we have has already been

1 zero. Delays ultimately mean prolonging public health
2 impacts, and there are so many variables attached to this
3 rule, including the economy and the inventory.

4 The bottom line for us in the San Joaquin Valley
5 is we need all of the reductions that we can get from
6 wherever we can get them. The original rule saves more
7 lives and money than it's ultimately going to cost
8 industry. Research from U.S. EPA shows for a dollar in
9 pollution cleanup targeted at diesel pollution, there's
10 \$13 in health savings.

11 So today I'm here to urge you to stay the course
12 on the on-road rule. Thank you.

13 CHAIRPERSON NICHOLS: Thank you.

14 Michelle Garcia.

15 MS. GARCIA: Good afternoon.

16 Michelle Garcia with the Fresno-Madera Medical
17 Society.

18 I'm here representing the Air Quality
19 Subcommittee of the Fresno-Madera Medical Society, and we
20 would just like to express our appreciation for how you
21 have helped to make the rule a little bit more feasible
22 for truckers. We know that's not an easy task, especially
23 in light of these hard economic times.

24 We feel the rule is very important, especially as
25 it relates to the San Joaquin Valley. We have an

1 incredible health burden as you very well know. And we
2 are especially concerned with the zero margin that the San
3 Joaquin Valley will face.

4 So we just ask that you continue to look at that
5 and maybe revisit it or talk about it a little bit more
6 and figure out if there is some way to ensure that there
7 will be some safeguards for us.

8 Thank you.

9 CHAIRPERSON NICHOLS: Thank you.

10 Was Victoria Ramirez with the student group? I
11 think so. Okay.

12 Susan Seivright from Valley Power Systems, John
13 McClelland, Brandon Kitagawa.

14 MR. KITAGAWA: Good afternoon, Chairman and
15 Board.

16 My name is Brandon Kitagawa. I'm with Regional
17 Asthma Management and Prevention and also here on behalf
18 of the statewide network of asthma coalitions called
19 Community Action to Fight Asthma.

20 First, we want to thank you for making the
21 difficult decision a couple years ago to adopt these rules
22 knowing the economic uncertainty ahead. So we want to
23 thank you for adopting these rules, but also for showing
24 reasonable flexibility to modify the rules given on their
25 changing on-the-ground conditions.

1 But second, we want to remind people that what
2 was true when these rules was adopted is still true today.
3 Many of our asthma coalitions still deal with the effects
4 of diesel pollution every day. They see kids forced
5 indoors for recess, kids missing school, and parents
6 missing work because of asthma attacks. And we see
7 families spending money on preventable health care costs.

8 These rules still represent the best opportunity
9 for California to improve some of the dirtiest air in the
10 country. We know diesel trucks and buses are the single
11 largest source of diesel pollution in the state and
12 account for some 40 percent of the diesel soot. Curbing
13 these emissions is vital to meeting federal air quality
14 standards and removing the health and economic burdens to
15 many families.

16 So RAMP and the COFA coalitions urge you to
17 continue to protect the people's health by making key
18 changes to the proposed amendments. They were outlined in
19 the letter submitted by Camille Kustin from public health,
20 environmental, and communities groups. Those changes
21 would provide near-term relief to impacted communities,
22 eliminate loopholes, and create a margin of error for the
23 SIP.

24 Thank you.

25 CHAIRPERSON NICHOLS: Thank you.

1 Charles Rea, followed by Reginal McAfee and Bill
2 Magavern, and that will be the last before we take our
3 lunch break.

4 MR. REA: Hi. Charlie Rea with the California
5 Construction Industrial Materials Association here
6 speaking about the on-road rule.

7 Our primary vehicles affected by this rule
8 already-mixed concrete trucks and construction and service
9 trucks like water trucks and lube trucks, so on. Mainly
10 just want to encourage the adoption of the amendments
11 today. We think these will be a big step forward in
12 helping with the difficulties of complying. Particularly
13 appreciative of the 15-day amendments to address specific
14 issues with construction trucks, early replacement of
15 trucks, and the bubble concept. Want to thank everyone
16 very much.

17 CHAIRPERSON NICHOLS: Thank you, sir.

18 Reginal McAfee.

19 MR. MC AFEE: I'm Reginal McAfee. I don't
20 represent anybody other than myself. I'm a member of the
21 CDTOA Dump Truck Owners Association.

22 The only reason I'm here is I've been paying
23 attention to this stuff for about five years now. And
24 every time something comes up, they say call this number
25 and we'll help you get a truck. And I call and they tell

1 me I don't quality. Have a '90 Peterbult three axel.

2 I've heard all this talk. Not heard anybody
3 address the dump truck industry. So I think that either
4 you guys don't know about us or don't care about us. I
5 know you know about us because you talk to the people with
6 the CDTOA that I send my check to and they make the
7 decisions. But how do we get funded? How do we get
8 money? How do we get attention of somebody? It's a
9 question. Anybody can answer it. It's a question.

10 CHAIRPERSON NICHOLS: I understand that not
11 everybody who could use assistance qualifies, but can
12 staff address the question specifically?

13 ON-ROAD CONTROL REGULATIONS BRANCH CHIEF ROWLAND:
14 Scott Rowland.

15 The various incentive programs have different
16 requirements. And without knowing the gentleman's
17 particular circumstances, I can't really comment as to
18 exactly why he was told that he did not qualify. However,
19 I can assure you that my staff will follow up with him and
20 try to figure out if indeed he does qualify. And if not,
21 at least explain exactly what the requirements are and
22 why.

23 CHAIRPERSON NICHOLS: Okay. I think that's about
24 the best we can do right now, at least get you an answer.

25 MR. MC AFEE: That's better than what I got

1 before he answered it.

2 CHAIRPERSON NICHOLS: Okay. Thank you. I'm
3 sorry that you haven't been able to get an answer up until
4 now.

5 I apparently called a person who was here but was
6 in the other room, that was Susan Seivright, South Coast
7 AQMD. If you want to testify now, that's fine.

8 MS. SEIVRIGHT: Thank you. Good morning.

9 My name is Susan Seivright. I'm Manager of
10 Regulatory Affairs and Compliance. Our company
11 distributes heavy-duty engines, after treatment, other
12 SmartWay-approved technologies for multiple applications
13 that relate to all of the rules you are talking about
14 today. And we paid close attention to California SIP
15 requirements, and we've been identifying the technologies
16 of our products we sell, which ones do we need to evolve
17 just to correlate with your regulations. And we work very
18 closely with our manufacturers to verify we have products
19 available to be sold in California.

20 The current state of our economy seems to
21 represent a type of crisis points between two paradigms in
22 the United States. As a result, our company has had to
23 change the way we do business completely, which has been
24 expensive and incredibly stressful on various levels, and
25 the end users we serve have also had to change the way we

1 do business.

2 Chair Nichols, your team has done an incredible
3 job by modifying these regulations and re-evaluation of
4 the data and outreaching and listening to the effected
5 industry. I'd like to request that your staff continue
6 their endeavors to implement outreach as diligently as
7 they have done for the modifications.

8 Regarding compliance schedules, credits, and
9 grant funding opportunities, that primarily focus on end
10 users on how they can crack the code and make this system
11 as retained or developed work for them.

12 Taking advantage of credits and funding
13 opportunities is expensive typically the first year.
14 However, it's cost effective in the long run and will get
15 reductions ahead of schedule.

16 Additionally, I'd like to request that your staff
17 dedicate ample time to re-evaluate the effectiveness of
18 the Cal Cap Program, which provides a tremendous amount of
19 relief to fleets that are affected by these rules as well
20 that may have already missed their window to qualify for
21 grant programs.

22 So, finally, I'd like to Encourage the CARB
23 Governing Board to adopt amendments that are before you
24 today. And thank you for all of the time.

25 CHAIRPERSON NICHOLS: Thank you.

1 Is Bill Magavern here? No, he's not. But Tim
2 Carmichael is here.

3 MR. CARMICHAEL: Bill may have had his math
4 wrong. He thought he'd be called right after lunch. So
5 he went back to his office. He still wants to speak.

6 CHAIRPERSON NICHOLS: Okay. Then we will be on
7 break until about five passed 1:00.

8 (Thereupon a lunch recess was taken.)

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1 pollution in their communities.

2 I'm proud of the decision that the Board made
3 that day and honored to have participated in the process.
4 I understand the concern about jobs and I sympathize with
5 those who struggling in this economy. What I was growing
6 up, my father often did not have a job and there were even
7 times when we were homeless, so I do understand the issues
8 of economic depression and struggling families.

9 But if you change the off-road rule to protect
10 jobs, please make sure that you maintain the health
11 protections that you can be proud of having adopted in
12 July of 2007. In particular, please do not increase the
13 low-use exemption threshold to 200 hours per year. Since
14 most equipment is used 400 hours per year, this increase
15 could allow two pieces of old dirty equipment to be used
16 instead of retrofitting or replacing one piece of
17 equipment.

18 In addition, please make sure that the exemption
19 ends at some point -- the sooner, the better -- so that
20 all equipment is eventually retrofitted or replaced to
21 protect public health.

22 Speaking to you in 2007 was not easy for any of
23 the students who came here to Sacramento to speak to you,
24 the Board, about diesel in our communities. But the
25 careful attention that you paid to our concerns played a

1 big role in my decision to pursue environmental studies
2 and biology. I hope your willingness to listen and your
3 concern for public health has the same effect on the high
4 school students we have to speak here today.

5 In closing, I'd like to submit to the members of
6 the Board these 54 index card statements from students
7 from my high school, Oakland High, who are concerned about
8 this rule.

9 CHAIRPERSON NICHOLS: Okay. Thank you.

10 MR. NGUON: Good afternoon, Board members.

11 My name is DePaul Nguon. I attend McClymonds
12 High School in the small tight-knit community. My high
13 school is surrounded by truck routes. There is a major
14 truck route two blocks down from the school. There are
15 two more truck routes close by, one five blocks to the
16 west and one five blocks to the east.

17 So along with being located close to the port of
18 Oakland, my high school is smack dab in the middle of a
19 rectangle defined by diesel trucks and the particulate
20 matter they emit.

21 Diesel pollution has real consequences for us at
22 McClymonds High School. My jaw dropped when I find out
23 that every single one of my classmates in my legal studies
24 class either had asthma or has someone in their family
25 with asthma. Nearly a quarter in that class either

1 carries an inhaler or uses one at home.

2 Sometimes I wonder where my friends are when they
3 aren't showing up at school for a couple days, only to
4 find out they had to miss out on school from the harmful
5 effects of asthma.

6 Because I live in West Oakland, I'm particularly
7 concerned about trucks around the port. So I'm very happy
8 the staff is recommending an end of dray-off loophole and
9 recommending including more trucks in the program. But we
10 still need to get the older dirtier trucks off the road
11 with a second phase for port trucks. And we can't wait
12 until 2023 to finally get the goal of reducing diesel
13 particulate by 75 percent from on-road trucks.

14 I recognize how important jobs are. I have
15 friends whose parents work at the Port of Oakland. But at
16 the same time, I really hope that the Board does not back
17 down on protecting our health. Thank you.

18 CHAIRPERSON NICHOLS: Thank you.

19 MR. MATTEO: Good afternoon, Chairman Nichols,
20 members of the Board.

21 My name is Salvador Matteo. I am a senior at
22 Mandela High School Law and Public Service Academy.

23 As you can see from the map in front of you,
24 truck routes run right along one side of my school just
25 outside the fence around our football field.

1 My house is also close to the truck route, four
2 blocks to the nearest one.

3 But I'm really more concerned about an impact of
4 diesel pollution might have on my little sister than I am
5 more about the impact it's having on me. My little sister
6 is 14-years-old. So her lungs are still growing.

7 I know you understand that children who are
8 exposed to diesel exhaust are more likely to have asthma,
9 and they also have reduced lung function. I also know
10 that you care about these things, because you have been
11 working on this problem for a long time.

12 When the Board adopted the California's Diesel
13 Risk Reduction Plan in 2000, my little sister was
14 four-years-old. The plan set a goal of reducing diesel
15 pollution by 75 percent by 2010. Of course, we haven't
16 yet reached that goal. Then in 2007 and 2008, the Board
17 adopted some important rules for trucks and buses and
18 construction equipment. Those rules were going to reduce
19 diesel particulate pollution by 75 percent by 2014 and
20 then the recession hit.

21 I agree there have been some changes to help
22 truckers and construction workers in these hard times, but
23 the proposal in front of you won't get us to 75 percent
24 reduction on diesel pollution until 2023. By that time,
25 my little sister will be 25-years-old. Her lungs will

1 have stopped growing. She will have lost any chance to
2 grow up with clean air.

3 I'm here to say respectfully, please don't wait
4 that long. You need to fix the proposal so that old
5 trucks, old or new, have diesel filters by 2017. And old
6 equipment needs to be retired faster. All the loopholes
7 need to be closed.

8 Thank you for your time and for paying attention
9 to our concerns. We are counting on you. My little
10 sister is counting on you.

11 MR. BALOGUN: Good afternoon, ladies and
12 gentlemen and Chairman.

13 My name is Segun Balogun. I live in Oakland, and
14 I attend Mandela High School. I'm here because there are
15 truck routes close to my school and my community and, of
16 course, my house.

17 Diesel trucks and tractors are coming in my
18 community and they effect people. For example, the asthma
19 hospitalization rate in my community is high. The asthma
20 hospitalization rate for children in the ZIP code where I
21 live is much higher than the rest for children in
22 California in general.

23 People in my community are effected by trucks
24 diesel pollution, but they are not getting much of the
25 economy benefit from the freight of those trucks coming

1 through the neighborhoods. The people who make the most
2 money from the trucks live someplace else. If the
3 companies that make a lot of money from shipping and
4 selling the products that come into the port of Oakland
5 could pay a little bit of money for every container that
6 comes to Port of Oakland, then that could help my
7 community and they could clean up the diesel trucks.

8 I know this is an idea that Board has heard
9 before. I think this should be recommended as an idea to the
10 Governor and the Legislature.

11 Also, I think it should be on the ballot for
12 election of 2012. Suppose that every container that comes
13 through Port of Oakland the shipping company paid
14 something like \$30, that the money would be used to clean
15 up the trucks. And this would really help my community
16 because less pollution and less asthma in my community.
17 Thank you.

18 MS. OROZCO: Good afternoon. My name is Jessica
19 Orozco. I'm currently attending Richmond High School.
20 And I'm a junior in the Health Academy.

21 First of all, I would like to show you the map of
22 where our school is. Like, all the highlighted parts are
23 the truck routes. And as you can see, there's, like, a
24 lot of them around our school.

25 The reason I'm here today is because I wanted to

1 talk to you about diesel exhaust and how it is affecting
2 everyone around us. As you know, diesel exhaust is a
3 problem because it contains more than 40 toxic air
4 contaminants. Diesel is widely used throughout our
5 society. It is used to power bus, agricultural equipment,
6 back-up generators and, of course, trucks.

7 Imagine trucks passing by your house every day
8 leaving particles and gases in the air that are just
9 waiting for the moment so you with breathe them in. At
10 that moment, they may not affect you, but sooner or later
11 they make you sick when you least expect it. Every time
12 we breath the toxic gases, they are drawing into our
13 lungs.

14 One truck route runs through 23rd Street, runs
15 right in front of my school. Around my school there are
16 two more trucks routes. And around Richmond, there are
17 many more. Wouldn't you be worried if you and your
18 family were breathing toxins that could be killing you
19 slowly?

20 I would like to ask you to not wait any longer to
21 make the changes that we have known for so long that we
22 need to make. It is the difficult to start, but it's not
23 impossible. Nothing should stop us from pursuing just
24 this.

25 Thank you.

1 MS. GUTIERREZ: Good afternoon, everyone.

2 My name is Neli Gutierrez, and I'm a junior at
3 Richmond High School. I'm also a member in the Health
4 Academy. I live in the Richmond community two blocks from
5 one truck route and two blocks from another truck route.

6 I stand here today because I'm concerned in how
7 diesel exhaust is becoming a harm to the children's
8 health. The children who are exposed to diesel exhaust
9 have a higher risk of having asthma because their defenses
10 are not fully developed.

11 As you all probably know that Richmond's asthma
12 hospitalization rate is three times the state average.

13 I, myself, suffered of asthma as a child. I once
14 had to go to the emergency room because I was having
15 trouble breathing.

16 My seven-year-old sister has asthma now. She
17 sometimes has to use a machine that helps her take the
18 medicine she needs. This medicine helping here by opening
19 the pores to her lungs.

20 I have two cousins who also live in Richmond and
21 also suffer of asthma.

22 In your mission, you mention that you want to
23 promote and protect the public health. And all of us who
24 are suffering this diesel impact want to see you do as you
25 say. Thank you for your time.

1 MS. RAMIREZ: Good morning -- good afternoon. My
2 name is Victoria Ramirez. I'm currently enrolled as a
3 student in the Health Academy at Richmond High School.

4 I've been living in Richmond since birth. I'm
5 here to talk you about the diesel problem in our
6 community. One of the diesel problem in our community is
7 the trucks that pass close by us. There are more than
8 four routes that pass near our school, especially the one
9 that passed right in front of my school. There are two
10 routes around my house.

11 This problem is actually affecting us, the
12 citizens. It is affecting our health. The percentage of
13 kids from Richmond that are hospitalized for asthma is
14 three times the percentage of kids in California.

15 I understand that we have to be concerned about
16 the jobs that are going to be effected by this rule. But
17 on the other hand, the percentage of kids hospitalized is
18 going to decrease by a lot.

19 I know it's not easy finding a job now since the
20 economy has gone bad. But the delay that are being
21 proposed means more kids are going to be affected and get
22 sicker. Thank you.

23 MS. ROGUE: Hello. My name is Marisol Rogue.
24 I'm a senior in Mandela High.

25 I'm here, because I really want to tell you guys

1 that I'm glad that you guys -- this amendment, because I
2 have four little brothers, and they are little. I don't
3 want them to get asthma. I want them to grow healthy.

4 And also because right next where I play soccer
5 where they play football, right there is a diesel truck
6 route. And it's not fair how we have to live under
7 environmental racism and how other people -- often rich
8 people don't have to.

9 And I think that if you had -- I know that it's
10 hard right now to look for jobs. And I understand all the
11 people that are they don't support this amendment, but I
12 think it has to be stop being selfish and also care about
13 the people that live under this environmental racism.
14 Like, the world is not all about money. It's also about
15 the health of other people and especially the people
16 that -- especially little kids, which they are the future
17 for this country. And that's all I have to say.

18 MS. BAKER: Hi. My name is Kami Baker. I grew
19 in various locations in California's Bay Area. I have
20 been raised in low-income environments and middle-class
21 neighborhoods. Unfortunately, I have acquired chronic
22 bronchitis because of the air quality of my environments.

23 For the majority of my childhood, I lived in the
24 Bay View Hunters Point neighborhood of San Francisco.
25 The area is now home to an extinct shipyard that the major

1 cause of poor air quality is diesel truck traffic. Diesel
2 fueled trucks and buses would drive past my house
3 constantly. Almost every child in my school either had
4 asthma or bronchitis.

5 Afterwards, my family relocated to the Silicon
6 Valley where the air quality was much better. When I was
7 at School, I did not see children with inhalers or
8 stopping breathing efficiently. The sight of buses and
9 bucks were no longer daily life. I never saw one drive
10 down my block.

11 Even so, one day, I started coughing
12 uncontrollably. I could not breathe well, and the cough
13 contained a lot of mucus. I went to the doctor. They
14 diagnosed me with chronic bronchitis.

15 Due to financial circumstances, we moved to
16 Richmond to a congested area full of trucks, buses and
17 trains. Like Bay View Hunter's Point, there is an extinct
18 shipyard and many truck routes run throughout the city.
19 Because of the large amount of exhaust and pollutants in
20 the air, my bronchitis bouts have increased from yearly to
21 bimonthly.

22 Low-income families cannot afford to live on
23 hills where trucks cannot drive or pay the high property
24 taxes to live in the Silicon Valley. Because of their
25 income, they must live wherever is cheaper. Since areas

1 with multiple truck routes tend to be cheaper, families
2 reside there, exposing young children to pollution with
3 life-long effects. More children are being diagnosed with
4 asthma and bronchial diseases. Policies should be made
5 that benefit all people, and I believe that re-routing of
6 trucks will help lower the asthma-related hospital visits
7 and low-incomes families that reside in those areas.

8 The diesel filters should be mandatory on all
9 trucks. I believe my community will benefit greatly from
10 the diesel filter. There should be an earmark to the
11 amendment that, like tax breaks or people who comply with
12 the filter, they should be guaranteed grants, like mom and
13 pop truck companies. And there should be just an earmark
14 that helps the economy as well.

15 Thank you.

16 MS. RATNER: Thank you very much for hearing the
17 students. Could the other student just state their names?

18 CHAIRPERSON NICHOLS: Yes, of course. Everybody
19 who's part of the group, if you didn't speak, come and
20 state your name.

21 MR. AIRE: My name is Tomas Aire. I go to
22 Fremont High School.

23 MR. FISHER: Hi. Name is Julian Fisher. I
24 attend Mandela High School.

25 MS. AYALA: My name is Cecilia Ayala. I attend

1 Mandela High School.

2 MS. FLORES: My name is Anabel Flores. I attend
3 Mandela High School.

4 MS. HONG: Hi. My name is Sheila, and I attend
5 Fremont.

6 CHAIRPERSON NICHOLS: Well, thank you. Thanks
7 very much. And Merry Christmas and Happy New Years to all
8 of you. I hope this is a project that you get credit for
9 in school. But if not, you get credit with us anyway. We
10 really appreciate that you come and that you are willing
11 to focus some of your time and attention on our issues.

12 Okay. Right before lunch we had called for Bill
13 Magavern and here he is.

14 MR. MAGAVERN: I want to thank you for taking my
15 testimony now.

16 I'm Bill Magavern, Director of Sierra Club
17 California.

18 Also want to thank the students for being here
19 and hope that you'll continue to speak out.

20 My own children are also in high school and also
21 growing up virtually in the Shadow of two freeways
22 actually.

23 I know these rules have been very difficult for a
24 lot of people here and that we all sympathize both with
25 people who are hurt by the recession and also people who

1 are hurt by illnesses caused by air pollution. And I know
2 that you as Board members are trying to strike a balance
3 here, and it's not an easy thing to do.

4 I think it's also essential that you operate with
5 the best possible data that is up to date with taking into
6 account the effects of the recession and also correcting
7 the errors that have been made in the inventory. So
8 clearly there does need to be a course correction. In
9 doing that, we think it's important to also remember that
10 diesel soot is not distributed evenly, as you've heard
11 from the students. And the health impacts are also not
12 distributed evenly.

13 So we suggest some amendments that we think would
14 particularly help to reduce some of the localized impacts
15 as you've heard. So I won't go into great detail.

16 With the off-road regulation, we think it should
17 sunset the low-use threshold and return it to 100 hours
18 per year where it was before, require all equipment to
19 employ a PM filter by the final compliance date. And for
20 the on-road rule, require the '94 to 2000 vehicles to
21 install PM filters in the next two years, replace all the
22 vehicles more than 20 years old beginning in 2012 and
23 require all the trucks under 26,000 pounds also retrofit,
24 retire, or upgrade to a newer vehicle when they hit 15
25 years of age. And we also especially want you to preserve

1 the school bus cleanup provisions, since that's where our
2 kids are very frequently exposed.

3 Thank you.

4 CHAIRPERSON NICHOLS: Thank you.

5 During the lunch break, we had a chance to sort
6 of talk a little bit with some of the staff about a couple
7 issues that came up during the morning. And one of which
8 was the whole question about the filters and the extreme
9 disparity of views I guess you would say in terms of how
10 effective they are and how troublesome they may be for
11 some people who obviously feel very strongly that they
12 don't like retrofit solutions.

13 And, Eric, you indicated that there was somebody
14 who would like to at least take a couple of minutes to
15 address that issue or how you might resolve the issue, the
16 question.

17 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH
18 ASSISTANT DIVISION CHIEF WHITE: I think there is a couple
19 Board members that asked about failure rates and
20 observations with their individual products. And
21 certainly as we look at retrofits, our program already has
22 an ability where we get annual warrantee reports and we
23 look at those and we evaluate what is failing, if there
24 are problems and how can we correct those and take
25 corrective actions. But Brad Edgar with Cleaire had

1 offered to may be take a moment or two and talk about some
2 of their experiences with it, especially as it relates to
3 school buses, which has certainly been a hot topic today
4 about how filters work on in those applications.

5 CHAIRPERSON NICHOLS: I recall personally going
6 to an event in San Diego with Supervisor Roberts where we
7 were looking at an installation of a filter that was paid
8 for with some bond money, or at least a portion of it was,
9 and it was a big deal for the school district. It was a
10 big deal for the community and so forth. So I guess we'd
11 like to know a little bit more directly what you can add
12 to this discussion.

13 MR. EDGAR: Thank you, Chair Nichols, for asking
14 me back. I actually cut a little bit of the testimony out
15 to try to meet the two-minute time frames. And one of the
16 points I was going to make if there were issues about
17 school buses that in the rare cases there are issues, they
18 have always been related to the condition of the engine.
19 When an engine is out of tune or consuming excessive
20 amounts of oil, there's extra material coming out of the
21 tailpipe end of the filter.

22 One of the remarkable things about the
23 particulate filters is they filter out 99-plus percent of
24 the particulate matter coming into them. However, some of
25 that particulate matter is inorganic. It's ash from the

1 lubricating oil, and inorganic material can't be burned.
2 So if there's excessive oil consumption, the filter
3 catches all that, but you can't regenerate it or burn it
4 over. And over time the filter loads up and back pressure
5 goes up.

6 And that's the cause at least of frequent
7 regenerations and concern about not getting the acceptable
8 range. So our experience is we've have had -- to your
9 question, Dr. Telles. We've had almost zero failures, but
10 we have had issues ultimately route cause back to the
11 condition of the engine.

12 Our dealer network is very skilled in dealing
13 with engines and now able to diagnose these on the front
14 end and take corrective action. There are a number of
15 things you can do to make sure they are in tune.

16 CHAIRPERSON NICHOLS: So you have to take some
17 extra steps to make sure that the bus is suitable for the
18 filter, not just stick it on no matter what.

19 MR. EDGAR: Correct. And the buses that aren't
20 suitable for retrofit frankly aren't gross emitters.
21 They're emitting at multiple times the levels when they
22 were certified by CARB or EPA. So they're well out of
23 speck. In some sense, we are doing a benefit by
24 identifying gross emitters and correcting them on the
25 front end so they can be compatible with the retrofits.

1 And one other point to make is there was a
2 comment made about a limp mode. To our knowledge, the
3 pre-2007 engines, there are no defeat devices. There is
4 no way for the engine to sense that there is a filter
5 issue that would cause it to de-rate and lose power. So I
6 think that's a misstatement about how the engines work.

7 CHAIRPERSON NICHOLS: It's an issue on the 2010s
8 or just --

9 MR. EDGAR: The 2007 and 2010 engines may have
10 sensors in their exhaust systems that notify the engine
11 and the driver of their back pressure issues, but there
12 was nothing in the world of retrofit like that.

13 CHAIRPERSON NICHOLS: Okay. Well, I thought that
14 might be helpful at least to give people some background.
15 Thank you. Appreciate it.

16 Julian Imes, Bob Ramorino, Diane Bailey.

17 MR. IMES: Good afternoon.

18 My name is Julian Imes. I'm Director of Advanced
19 Technology for Donaldson Company.

20 Donaldson is headquartered in Minneapolis,
21 Minnesota. We have ARB and EPA verified technologies and
22 we are a leading supplier for both diesel reduction
23 programs.

24 We also continue significant effort to gain
25 additional verifications, both for PM control and NOx

1 control.

2 We do wish to offer a few comments on ARB's
3 proposed amendments and the impacts on Donaldson. We do
4 understand the need for industry economic relief,
5 certainly. We also fully support the MECA recommended
6 changes. We are a MECA member to the proposal. These
7 seek to identify additional emission reduction
8 opportunities and also to identify the need for economic
9 relief consideration for retrofit manufacturers.

10 I want to emphasize that in support of ARB's
11 diesel programs, we also have an ongoing business
12 assessment to be done and business investments to do. So
13 we need to continue to address that.

14 We do wish to add comments specifically to that
15 end that emphasize process improvement potentials on
16 verification and end use compliance procedures. We
17 request Board support of near-term reviews with ARB staff,
18 those have started, and ARB interim policy guidance
19 approaches that would: One, provide economic relief; and
20 two, ensure that verified technologies are available and
21 needed.

22 We believe that more can be done to increase ARB
23 cooperative effort to: One, harmonize the verification
24 process with EPA; and two, to better achieve true
25 reciprocity between EPA and ARB. That exists somewhat

1 today, but quite frankly I think there's improvements that
2 could be had.

3 We also believe that a more streamlined cost
4 effective ARB verification procedure and end use testing
5 procedures are desired and possible.

6 And in summary, we urge the Board to consider the
7 changes that have identified and request these near-term
8 policy guidance adjustments. And that concludes my
9 presentation. And my time is up. Thank you for your
10 attention.

11 CHAIRPERSON NICHOLS: Thank you.

12 Mr. Ramorino.

13 MR. RAMORINO: Good morning, Madam Chair, Board
14 members, and staff. I'm Bob Ramorini, President of a
15 third-generation trucking company based in Hayward. Our
16 company submitted full financials for I believe four years
17 to the staff. I hope they were revealing and either
18 interesting or boring to you.

19 But just want to talk about the economics and the
20 marketing.

21 I'm on board with the clean air thing.

22 We have done nothing -- we've been hanging by a
23 thread for the last year-and-a-half, two years. We do
24 nothing but try to pay wages, fuel, and repairs. Our
25 capital expenditures are near zero. In normal times over

1 the last three years, we would purchased nine brand-new
2 trucks to replace older equipment. We have one that we
3 purchased in the last few years. So our fleet has gotten
4 older.

5 For the first time in our history, we borrowed
6 against a credit line. And thank God we were still able
7 to qualify for one. But our time is running out on how
8 long we can continue to draw on that. All of our 45 or so
9 employees have taken pay cuts, including that of the
10 president. We've reduced expenses everywhere we can.

11 In short, the turnaround has not come for our
12 company yet, as I suspect, many truckers and some of them
13 have spoken here. It's not just limited to the one- and
14 two-truck operators. In my circumstances, it's 30 or 40.
15 But I have the same issues they do.

16 Maybe I'm just weary about it, but I complement
17 the good work of the staff. I support the amendments.
18 Whatever you do, vote on it and then don't change it,
19 because one of the hardest things we've had to do is deal
20 with the constant back and forth.

21 Now, the proposed amendments, I have a couple
22 wins. My 05-06 equipment I get to run another year or so.
23 However, my 2000 equipment, which I have 15, has to be
24 dealt with in the next 12 months.

25 Probably one of the largest things I'm going to

1 have to do is maybe reduce my fleet size by 25 vehicles if
2 I can't find a way to finance it. And I will tell you
3 it's just a question of being able to finance the
4 equipment.

5 So again, I support the goals. Move ahead. I
6 think a lot of us have just tired of the back and forth.
7 I think the staff has done just about the best job they
8 could in trying to find some fairness and give us a little
9 breathing room. It's not going to be enough.

10 So I'll take my lumps and see what we can do.
11 Hopefully, we can protect jobs before we get into a growth
12 mode again.

13 And I thank you for your time.

14 CHAIRPERSON NICHOLS: Thank you, sir.

15 Diane Bailey and Rob Michaelson and Laura Fultz
16 Stout.

17 MS. BAILEY: Good afternoon, Chair Nichols,
18 members of the Board, and staff. Thank you for the
19 opportunity to comment.

20 My name is Diane Bailey. I'm a Senior Scientist
21 at the Natural Resources Defense Council. I'm here today
22 in very strong support of the diesel regulations that this
23 agency has passed. We are deeply appreciative of all the
24 efforts this agency has made to reduce toxic diesel
25 emission over the years. And no doubt, tens of thousands

1 of lives have been saved.

2 We are concerned, however, with the latest
3 proposal that sort of weakens the health protections of
4 these diesel regs.

5 Before I comment further, I just want to thank
6 staff for all of their hard work on these regs. I know
7 it's been a tough slug. We're very appreciative in
8 particular for the effort in working with communities to
9 address the dray-off problems that were undermining the
10 port drayage truck regulation. So thank you for those
11 fixes.

12 While we understand that there is a strong need
13 for economic relief and nearly everyone has been impacted
14 by this recession, including my own family, at the same
15 time, so many communities continue to suffer from truck
16 pollution. And it really remains high, despite reduced
17 activity of the recession. The current proposal will
18 significantly delay diesel cleanup over the next few
19 years.

20 We took a look at what the difference in health
21 benefits would be considering the existing regulations as
22 they are on the books versus the new proposal under
23 consideration today. We use the latest U.S. EPA and CARB
24 methods, and we accounted for the recession and the
25 emissions inventory updates. And we found that there is

1 actually a significant loss in health benefits, about
2 50 percent for the year 2014. So in the near term, we're
3 looking at some pretty big differences, pretty large gap
4 in health benefits.

5 And on off-road, we see even bigger differences,
6 a 90 percent loss of health benefits in 2014. And still,
7 in 2017, we have a gap in health benefits. We're very
8 concerned about these near-term losses in health
9 protections.

10 So we decided to take a look at who is most
11 impacted. And the answer is obvious. I think you're all
12 aware that families living near high-traffic roadways are
13 the most impacted by diesel pollution. And we've heard a
14 lot of very compelling testimony today.

15 I thought the stories from the students were very
16 compelling. And these maps that we put together just put
17 the demographic data together to show what the disparities
18 look like. They show a very striking disparity that
19 supports the fact that the poorest, the lowest income
20 communities, and those that are more likely to be minority
21 are also the most likely to live in the highest
22 traffic areas. And that's true on average throughout the
23 state. That's true even more so in southern California,
24 and that's true in these three areas where we did some
25 mapping.

1 That was Commerce. This is Richmond, California,
2 where a lot of the students came from. You can see a very
3 striking disparity when it comes to who's living closest
4 to the freeways. They are more likely to be minority and
5 low income.

6 And of those living near freeways, we found that
7 there are a lot of children; 50,000 in southeast Los
8 Angeles; 10,000 in this area right here, Richmond area.

9 And in Fresno, the disparity persists as well.
10 So we wanted to bring these disparities to your attention,
11 and we're asking you to consider some amendments that
12 would offer some relief to these impacted communities and
13 move up some of the cleanup for the very oldest trucks
14 that tend to operate in these communities the most.

15 I thank you for your consideration. I thank
16 staff for their hard work.

17 EXECUTIVE OFFICER GOLDSTENE: Could staff have an
18 opportunity to put some of what Diane talked about in
19 context quickly? I think there's some different ways to
20 look at the numbers, and we'd like just a moment to
21 respond.

22 CHAIRPERSON NICHOLS: Okay.

23 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: This is
24 Todd Sax. I'm at the kids' table.

25 So I guess the first thing, what Diane I think is

1 saying, is that under the currently adopted rule, with the
2 recession in place, what she's saying is we would, in
3 theory, achieve additional benefits. I think that's
4 relative to what our proposal is today. And I think
5 that's true if you believe that people could comply with
6 the regulation. But I think the reality of why we're here
7 is that when you look at what the currently adopted rule
8 requires us, requires the industry to do is something that
9 we don't believe everyone can comply with. So at the end
10 of the day, what we've tried to do is develop a proposal
11 that people can comply, and in the process, generate the
12 emission reductions that we need to achieve.

13 And when you're looking at the risk of nearby
14 roadways, for example, that is an important area in how
15 people are exposed. But there is a big difference between
16 what emissions are going to be like in 2014 without the
17 rule and what emissions are going to be like under the
18 proposed amendments. And we think that the proposal will
19 provide substantial benefits because what we've done is
20 targeted the rule to focus on ensuring early PM reductions
21 in vehicles that travel the most miles.

22 So when you're looking at freeways, we're
23 maximizing the amount of miles traveled by filtered
24 vehicles on freeways. That doesn't help necessarily
25 everywhere evenly, but it provides the maximum amount of

1 benefits we can while still ensuring we provide the
2 economic relief necessary given the recession.

3 CHAIRPERSON NICHOLS: So what you're saying is
4 you tried to configure the rule so that the trucks that
5 are the ones that are on the roads closest to the people
6 who are the most impacted are the ones that are most
7 likely to get cleaned up?

8 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: That's
9 correct.

10 CHAIRPERSON NICHOLS: And the other thing is I
11 guess, you know, forgive me if I'm being simplistic about
12 this, but by definition, the people that live the closest
13 to the roads are going to be most impacted by whatever
14 amount of pollution there is coming from trucks. So
15 anything that we do that cleans up trucks is
16 disproportionately going to effect in a positive way
17 people who live near the places where the trucks are. So
18 the poorer you are and therefore the more likely you are
19 to be a minority person, the more likely you are to be
20 having adverse effects from the pollution that's out there
21 now, and the more likely you are to be getting a benefit
22 from whenever we can do to clean it up.

23 So by doing less, if we are doing less than we
24 could have done at any given point, we are automatically
25 sacrificing some of the benefit that we could have gotten

1 from the rule if we had been able to achieve the ultimate
2 amount that we could have imagined. But if that wasn't
3 going to happen, we're still getting very substantial
4 benefits, and they are targeted automatically at the
5 people who need it the most.

6 What you're saying is you've gone further in
7 trying to push to get those benefits in the places where
8 they're the most needed.

9 DEPUTY EXECUTIVE OFFICER TERRY: Chairman
10 Nichols, in terms of the numbers, I did ask our health
11 staff to calculate in addition to the 3900 avoided
12 premature deaths as a result of the rule, there is an
13 additional 3,000 premature deaths avoided because of the
14 reduced emissions as a result of a recession. So those
15 numbers provided added context for the incremental
16 differences that have been discussed today. They're
17 substantially fewer emissions in the area, which has a
18 quantifiable public health benefit.

19 CHAIRPERSON NICHOLS: If we were to ask our
20 friends at the Health Department about the health impacts
21 of the recession overall, even assuming that they agree --
22 and I assume they do -- with these avoided deaths due to
23 air pollution, they would be quick to point out other
24 health impacts that are negative that are also occurring
25 because of the recession.

1 BOARD MEMBER BALMES: But just to be fair, there
2 are deaths that will occur because we're pulling back on
3 the regulation.

4 CHAIRPERSON NICHOLS: That might not have
5 occurred.

6 BOARD MEMBER BALMES: So just like we talked
7 about trade-offs between carbon and other factors --
8 environmental factors yesterday, just to be clear, the
9 decision we're making is between health and economic
10 costs.

11 BOARD MEMBER BERG: But to put it into further
12 context, if we were writing the regulation today for the
13 first time, you would not be writing a regulation like it
14 was two or three years ago. We always have to balance the
15 health effects and the economics. And we are dictated to
16 by statute. So if we were to keep the existing rule on
17 today's economics figures, we would be way over the cost
18 effectiveness set by statute. Isn't that true?

19 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX:
20 Certainly, cost effectiveness would be a lot higher. Cost
21 effectiveness would be worse because vehicles are driven a
22 lot less during the recession.

23 BOARD MEMBER BERG: And also the cost of the rule
24 versus the amount of tons that are being saved today
25 versus where it was. I remember on both the off-road rule

1 and the truck rule, we were very close to that ten percent
2 cutoff. So if we were to leave in place what we have had
3 today, it would have to well be into double digit numbers.

4 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH
5 ASSISTANT DIVISION CHIEF WHITE: Ms. Berg, I think you're
6 correct in that if we were writing the rule for the first
7 time today, it would look a little bit different. It's
8 not necessarily the cost effectiveness because the
9 benefits and the costs may not change a whole lot from
10 what we thought we were going to get two years ago. It's
11 the economic ability of fleets to comply and meet that
12 obligation, which is what would be significantly different
13 today.

14 BOARD MEMBER BERG: Thank you for helping me
15 explain that.

16 CHAIRPERSON NICHOLS: So it's an issue both of
17 cost per ton or whatever pollutant and also of
18 feasibility, which is an economic related issue, but it
19 also has an element in it of is there going to be a
20 company around or a truck around to put the filter on in
21 the first place or to buy the new truck. Those are sort
22 of two related but not identical concepts.

23 So thank you, Dr. Balmes, for reminding us. We
24 would not be here and doing this at all but for the fact
25 that we are facing very severe changes in the economy, and

1 that's true. And it's not something we're doing because
2 we are happy about it.

3 So if anybody thinks that we are here because we
4 take pleasure in relaxing or delaying a rule, I would be
5 sadly mistaken. And we're doing our best to do it in a
6 way that is as tailored and as careful as possible, but
7 still also in light of all the testimony we've heard that
8 doesn't keep jerking people around every year depending on
9 some slight changes. Set some certainty for a period of
10 time so people can plan and go about their business.

11 Thank you for that.

12 Next we will hear from Rod Michaelson.

13 MR. MICHAELSON: Good afternoon.

14 I'm Rod Michaelson. I've been working with
15 several of you for the last four years, and I'm glad to
16 see that a simple look or simplicity did come with the
17 off-road rule. And thank you for that.

18 On the way in from the Bay Area, I heard a talk
19 show host saying after yesterday's meeting, if you have a
20 business in California, leave now. When I listen to the
21 kids from Oakland talk about the trucks going down the
22 road and reading that in northern Mexico China is helping
23 building the largest intermodal facility so they can go
24 around California, there will be less trucks on the road.
25 There will be less jobs. So we will get -- the air is

1 going to be cleaner, and you will all probably get kudos
2 for doing that. I think it just happens.

3 So our California economy Margaret Thatcher
4 talked about running out of people's money. But we're
5 there. We don't have money.

6 I listened to quite a few people come up and they
7 don't say we'd like more tax money, but they use
8 euphemisms for that. We don't have more to give them.
9 Let the free market system work and get out of the way.
10 The air will clean up. At this point, you've done a good
11 job up to this point.

12 I grew up in Riverside where you couldn't see
13 down the street. I went down there last summer. It's
14 much better. So Mr. Loveridge, your city is much cleaner
15 than when I left it in 1969. So that's good.

16 So try to keep the businesses that are in the
17 California in California. The large, big, national
18 corporations that run construction companies that would
19 love to do our roads and our bridges don't need to be in
20 California. They don't mind seeing California businesses
21 go out because they can just come in when they need to.

22 There's my red light. Good night.

23 CHAIRPERSON NICHOLS: Good bye and good night.

24 Laura Fultz Stout and Steve Weitekamp.

25 MS. FULTZ: Good afternoon, Chair Nichols and

1 Board members.

2 My name is Laura Fultz Stout, and I'm a member of
3 the Central Valley Air Quality Coalition, although I've
4 recently moved to the East Bay. I've from San Leandro.

5 I'm speaking today on behalf of myself, family,
6 and friends in the San Joaquin Valley and those living
7 near the transportation corridor areas, which I'm between
8 580 and 880 and 238 in the East Bay.

9 First, thank you, Board and staff, for all your
10 work, your endless hours on the diesel rules through this
11 decade. I want to recognize the clean tech retrofit and
12 clean engine companies for assisting the diesel vehicle
13 industry on adoption of those technologies. And most
14 importantly, for those early adopters, the truck companies
15 who have retrofitted their trucks and began turning over
16 their fleets.

17 If you've been behind a dirty diesel truck or
18 bus, you know breathing one dirty diesel vehicle fume is
19 too much.

20 My concern on the rule proposed today is that it
21 does not safeguard with enough margin of certainty for
22 those most affected by PM and NOx pollution, especially
23 those in the San Joaquin Valley and in the corridors of
24 highway 101, I-5, 99, 880.

25 I'm here today to urge the Board to include an

1 early 2012 emission review to see if the tons of pollution
2 reduced are on target and build in the 20 percent 2014 SIP
3 margin on the emission reductions.

4 Although I've moved to the East Bay where
5 supposedly it's cleaner, my lungs of 30 years living in
6 Fresno are damaged. But for my five nephews, it's not too
7 late. They're relying on you and the staff to get it
8 right. So we know you can do that. You'll get us to blue
9 skies sooner rather than later.

10 CHAIRPERSON NICHOLS: Thank you.

11 Mr. Weitekamp.

12 MR. WEITEKAMP: Good afternoon. Steve Weitekamp,
13 California Moving and Storage Association.

14 As members of the vocational trucking industry,
15 we continue to have deep concerns with the implementation
16 and impact of the truck and bus regulation. The
17 amendments to the regulation proposed this morning provide
18 insufficient relief for the moving industry who continue
19 to be negatively impacted by the dramatic economic slides
20 of home sales and construction.

21 While CSMA is appreciative of the willingness of
22 ARB staff to listen to our proposal for additional relief
23 for fleets with vocational trucks, their proposed
24 modifications fall short.

25 My time is brief, so as I've mentioned in

1 previous hearings and workshops, members of our industry
2 rarely qualify for any grants or money and have no source
3 of relief.

4 Is there any help for our industry?

5 My three asks are: I ask the Board to direct
6 staff to amend the 15-day changes to broaden the two-year
7 deferral of lower use trucks to include CPUC permitted
8 carriers and movers, and on the greenhouse gas regulation
9 to exempt trailers belly boxes. Sean Edgar for will speak
10 more to this. And also to amend the opportunity for
11 grants or other forms of aid to allow low mileage industry
12 to participate in relief.

13 I want to thank you for including a slide about
14 moving companies. Unfortunately, you know, even though
15 there's been some relief here, all these costs are front
16 loaded. And our industry can't really bare it. If you
17 say the economy is down 30 percent for the moving and
18 storage industry, I can tell you I get calls on a regular
19 basis from small and medium-size operators that with a 30
20 percent reduction they're unable to take salaries for
21 themselves. They've taken out loans on their homes to
22 finance their business.

23 Thank you very much.

24 CHAIRPERSON NICHOLS: Thank you.

25 We're making notes, and I'm sure somebody is

1 going to ask your question at the end when we get into the
2 discussion.

3 Chris Torres, Skip Brown, Jay McKeeman.

4 Skip Brown.

5 MR. BROWN: Before I start my time, if I'd like
6 to clear up a misconception that's been bantered about
7 here. Off-road equipment usage averages 400 hours a year;
8 that is not correct at all. In northern California, it
9 averages 12 to 1500 hours where we have about an
10 eight-month season. In southern California, it runs 1500
11 to 2,000 hours a year. So a 200-hour low use is
12 equivalent to just a few weeks of that year is reasonable.

13 So my comments here: Who paid for this building?
14 I did. What I mean is the business people and employees
15 in businesses who pay the taxes of the state of California
16 paid for this building and salaries of every person in
17 here. But I won't be paying any more income taxes because
18 my salary has been nonexistent for the last two-and-a-half
19 years. My employees I have left have taken a 40 percent
20 decrease in pay to keep their jobs, which at this point
21 are precarious, while at the same time, Chair Nichols,
22 your salary has increased 127 percent. You are benefiting
23 while the private employers are going broke. That will
24 not continue.

25 Private building has ceased. The cities and

1 counties and the State of California are essentially
2 bankrupt.

3 I stood in this building in August of 2007 and
4 explained to us this Board we are going into a recession,
5 that now is not the time for increased regulation. Now
6 California has to borrow \$40 million a day to pay for
7 unemployment benefits. Unemployment, caused in large part
8 by this very Board all for unproven -- and I mean unproven
9 supposed lethal effects. By the way, where is that pesky
10 Tran report that was supposed to be done on California
11 specific environment, not national?

12 So I cut three paragraphs out in order to try to
13 make the two minutes.

14 My employees are not only losing their jobs but
15 their health insurance, which will probably be followed by
16 their houses and eventually the very health you are
17 purporting to protect. Lack of income has a proven direct
18 effect on health. With that go their taxes which are
19 necessary to support the government and the very agency
20 that you direct.

21 The jobs in this building will cease to exist,
22 because there will not be tax money coming in from the
23 private industries you regulate to pay for them.

24 So you have a Hobson's choice: Should you grant
25 relief? Only if you want to keep yours and your staff as

1 jobs. Not only to the construction and trucking industry,
2 but all industries you are currently regulating out of
3 business, including the portables. If not, just plow
4 ahead. In due course, I will sell your empty building
5 along with mine. Maybe the Chinese will buy it.

6 CHAIRPERSON NICHOLS: Just while your friends are
7 applauding out there and just for the sake of the record,
8 I need to tell you I took a pay cut to take this job. And
9 that I have a 15 percent furlough like every other State
10 worker does. The pay cut was because the Governor asked
11 for it. The 15 percent was the furlough that every State
12 employee had to take.

13 I'm not feeling sorry for myself. I still do
14 very well, and I'm grateful for that.

15 Should also say this building wasn't built by the
16 State. It was built by a private developer and the State
17 rents. They pay rent for it. But actually they didn't
18 build it.

19 MR. BROWN: The private industry --

20 CHAIRPERSON NICHOLS: It's a beautiful
21 building --

22 MR. BROWN: You're taking your 15 percent. I
23 thank you for that. But you still have 85 percent of
24 yours. I have zero.

25 CHAIRPERSON NICHOLS: I said I'm grateful for

1 that. Thank you.

2 Jay McKeeman and Kathy Turner and Matt Schrap.

3 MR. MC KEEMAN: Madam Chairman, Board members,
4 I'm Jay McKeeman with the California Independent Oil
5 Marketers Association.

6 We remain opposed to the mutually expensive
7 emission control requirements. While staff has made
8 significant adjustments to the regulatory package, there
9 will remain a very significant burden on California-based
10 trucking operations. Out-of-state and interstate trucking
11 operations are able to manipulate their fleets so that
12 newer trucks will be based for California deliveries,
13 while older trucks will remain in active duty at least to
14 the other 48 states. In-state operators do not have that
15 luxury.

16 We believe this will put a competitive
17 disadvantage to our members and likely increase the demise
18 of independent small businesses in the state. With that
19 demise, California public will experience higher costs and
20 less convenience in the product delivery options. CARB
21 need only examine the in-state gasoline regulations to
22 understand the cost impacts of this.

23 California gasoline is typically 25 to 50 cents a
24 gallon higher than other states, and that's largely due to
25 the loss of small independent refiners in the state.

1 We question the regulation necessity. There is
2 ample evidence in the record for you, as Board members, to
3 question the public health benefit of this program. And
4 that's been entered several times over the last
5 year-and-a-half.

6 There was a question of whether there is a
7 correlation between fine particulates and adverse health
8 benefits when you use California-only data.

9 There is also a problem in terms of emission
10 calculations that your staff has had.

11 We believe that, with all this new information,
12 the right thing to do is to step back from the regulation
13 and make sure you have the best information available. We
14 urge you to take that step.

15 CHAIRPERSON NICHOLS: Okay. Kathy Turner and
16 than Matt Schrap and John Cloud.

17 MS. TURNER: Hi. My name is Kathy Turner with
18 Enterprise Holdings. In addition to operating our three
19 rental brands, Enterprise, Alamo, and National, we have a
20 car sharing and ride sharing business, a commercial truck
21 rental, as well as selling our cars in a fleet management.
22 We have 10,000 commercial trucks in the United States,
23 3,000 in California.

24 Five years ago, our company decided to really
25 focus our commitment on the environment. And in doing so,

1 we're embarking on things like retrofitting our
2 facilitates, reducing our energy by 20 percent. Our
3 airport have biodiesel fuel. Most importantly, we are
4 introducing alternative fuel vehicles to the public as
5 part of our rental fleet. We are going to be taking 500
6 Nissan Leaf electric vehicles shortly.

7 We introduce these alternative fuel vehicles to
8 the consumers, and we promote fleet modernization by
9 purchasing a very large number of vehicles and reselling
10 the discarded vehicles. But these are still newer
11 vehicles.

12 We see the commercial truck rental business as a
13 growing market, and we will be purchasing thousands of
14 these diesel trucks each year and in turn, reselling the
15 older one to five-year vehicles into the secondary market.

16 We believe it's critical that the regulatory
17 standards be fixed and predictable so our purchasing and
18 re-selling decisions can be made with some degree of
19 certainty.

20 We support the proposed revisions, and we commit
21 to working with you in any manner possible to fully
22 integrate our company's practices with your clean air and
23 the greenhouse gas reduction rules.

24 Thank you very much.

25 CHAIRPERSON NICHOLS: Thank you.

1 Matt Schrap, John Cloud, Kathy Fitzgerald.

2 MR. SCHRAP: Good afternoon. Thank you, Chairman
3 Nichols and Board members, for allowing the opportunity to
4 testify before you today. We're very pleased to see the
5 credit for the new purchases of 2007 vehicles. The
6 amendments are welcome relief. And, in fact, for many in
7 our segment of the industry, the light at the end of the
8 tunnel is no longer a train headed right for us. And it's
9 positive also that with potential expansion of funding
10 criteria for Cal Cap and for 1B many fleets all over the
11 state, we afforded the opportunity to purchase compliance
12 equipment with public assistance.

13 However, these rules are not without their
14 challenges. Specifically, the proposed amendments to the
15 greenhouse gas regulation or the tractor-trailer
16 regulation do not go far enough. Although we are wholly
17 supportive of the provisions which expand the large fleet
18 phrase-in requirements as well as the storage trailer
19 definitions and the extended time line for tire
20 installation on trailers, the short haul average air
21 radius mile standards are still too restrictive.

22 We respectfully request that you direct staff to
23 investigate an extended air radius mile exemption up to
24 150 air radius miles. The reasons for this are simple.
25 Staff assumptions about saving percentages are not based

1 on any rational facts that California fleets have been
2 dealing with. Nowhere has staff given an indication that
3 California-based fleets were approached to survey average
4 speeds, of which in California, I might remind everyone,
5 is a posted 55. Further, most California-based fleets
6 govern their tractors at 58 miles an hour or less.

7 Now, they did call fleets in Canada, which is
8 helpful to find out how a California regulation would pan
9 out. But, in fact, when you're in a controlled
10 environment, there is serious payback on the aerodynamic
11 equipment, as indicated by the standards at which these
12 assumptions are based upon, which the testing was done for
13 these aerodynamic devices at 62-and-a-half miles per hour.
14 For us, it's not penciling out.

15 If I could just add a couple more points.

16 For anyone that's traveling in the greater L.A.
17 area, you know this sustained operation at 62 miles an
18 hour or 55 is something that would be very welcomed. I
19 think that it's not necessary to ask the patrol man to
20 come up here and talk about speed enforcement policy in
21 California. If it says 55, that's the speed limit.

22 We really need to take a second look at how this
23 air radius miles is being applied. And we respectfully
24 request that you ask the staff to re-investigate that to
25 something up to 150-mile air radius miles.

1 We ask that you adopt these limits for the
2 on-road rule and drayage rule, and we look forward to
3 having this finalized and remain an active partner with
4 you in order to ensure a level playing field for
5 California-based carriers.

6 Thank you.

7 CHAIRPERSON NICHOLS: Thank you.

8 John Cloud.

9 MR. CLOUD: Madam Chair, Board members, I had to
10 modify my comments because you switched it to two minutes,
11 and I also promised my father I would be civil today.

12 In March of 1869, the following words were
13 pinned: "Laws, like sausages, cease to inspire respect
14 and proportion as we know they are made."

15 I want to read that again.

16 "Laws, like sausage, cease to inspire respect and
17 proportion as we know they are made," John Godfrey Saxe,
18 American poet, 1869. He would be floored if he were here
19 today.

20 This proposal and my disapproval for it are well
21 documented as is my near total utter disdain for your
22 staff. However, that notwithstanding, I'm here today to
23 support these proposed changes. They are far better than
24 what we have been dealing with, even just four months ago,
25 let alone a year ago.

1 It's been touched upon earlier -- and I think
2 it's worth touching on again -- that the amendment to this
3 rule is really not backsliding on any of the health
4 benefits. The reason being for those on the environmental
5 side, is the health benefits that were discussed
6 six months ago, let alone two years ago, were pure
7 fantasy. They weren't based off any real actual numbers.
8 Today, we have a far better baseline to deal with. And
9 the proposed health benefits are going forward from that
10 baseline. And that's what this is needed all alone.

11 And thinking of being civil, the only other think
12 I want to state, Ms. Nichols, I believe next month your
13 staff has a workshop scheduled on false statements. When
14 you have that workshop, I would just like to add when it
15 comes to false statements, I think it should be reciprocal
16 and it should be retroactive, and your staff should be
17 prepared to be the first ones in the state to write checks
18 for fines and penalties. Thank you.

19 CHAIRPERSON NICHOLS: Thank you.

20 Kathy Fitzgerald and then Elizabeth Jonasson and
21 Shirley Batchman.

22 MS. FITZGERALD: I'm Kathy Fitzgerald.

23 Hello, Madam Chair, Board, and staff. I'm the
24 dealer principle of Fitzgerald Truck Sales in Oakland,
25 California. I've been selling trucks in that area for

1 more than 25 years, and I'm based out of the Port of
2 Oakland.

3 I support your amendments. First, I support the
4 change in the drayage rule to give the useful life to the
5 trucks longer after they retrofit. And I would
6 respectfully ask that the engines that are 2004, 2005,
7 2006, that you give more time -- one more year for them to
8 get the retrofits. These guys are already paying \$30,000
9 for the trucks. To add another \$20,000 retrofit on top is
10 just astronomical. I ask that you make that change,
11 consider that.

12 Secondly, I support the truck and bus rule
13 eliminating the under 26,000 pounds from the PM. That was
14 a great, great move.

15 The last things I want to say is let's get the
16 money into the hands of these people. We've been talking
17 about all these grants that are available. We rarely have
18 seen the people actually get the money. So whatever you
19 can do to facilitate getting the money out on the street,
20 my customers are going to appreciate. I'm going to
21 appreciate it. The industry is going to appreciate it.
22 Let's get the money out.

23 And finally, make a decision. We've been going
24 for a long time with this. What are they going to do?
25 What are they going to do? What are they going to do?

1 Very hard to do business when we don't have a decision.

2 That's the last thing I want to say is make good
3 decisions. And thank you.

4 CHAIRPERSON NICHOLS: Thank you.

5 Elizabeth Jonasson.

6 MS. JONASSON: I'm Elizabeth Jonasson, the
7 Coalition for Clean Air in the San Joaquin Valley.

8 Thank you very much for your time this afternoon
9 and for the opportunity to speak and for your continued
10 SIP commitment.

11 We are particularly concerned about how these
12 amendments to both diesel rules will affect our home in
13 the short and long term, as these sources represent a
14 considerable amount of PM and NOx emissions. Even though
15 we are, of course, sensitive to the economic situation and
16 the current times that we are living in, of course, the
17 localized impacts will continue. These especially effect
18 low-income communities of color a lot, which are located
19 in the San Joaquin Valley. These people will have little
20 or no access to health care. And they will not be getting
21 relief in their health or their health care bill.

22 People don't feel the difference in the changes
23 in modeling or inventory. They feel the changes in how
24 they breathe and how well they can breathe.

25 These rules play a significant role also in our

1 SIP attainment. The economy, of course, is a very
2 difficult thing to predict, and I know staff has spent
3 tireless hours working on that. However, in terms of
4 health, a slightly faster economic recovery would put us
5 out of SIP compliance. And since we have no margin of
6 error, as other people have mentioned, this is a serious
7 concern.

8 Some specific steps are mentioned in a comment
9 letter that we signed onto, but in sum, we respectfully
10 ask some changes be made to these amendments to minimize
11 the localized impacts and give us at least a 20 percent
12 SIP margin.

13 Thank you very much for your time.

14 CHAIRPERSON NICHOLS: Shirley Batchman, Bruce
15 Wick and Brent Newell.

16 MS. BATCHMAN: Madam Chair and members of the
17 Board, I'm Shirley Batchman with California Citrus Mutual.

18 And you know, this has been a really long and
19 challenging time for agriculture. And I think staff would
20 agree when they have had negotiations with us. But I want
21 to tell you, I'm pleased today to tell you that we do
22 support the amendments that have been put forth for the
23 agricultural component of the rule.

24 But I do want that little caveat that Roger had
25 at the very beginning of today. My industry, if they

1 thought I was supporting the whole rule wholeheartedly, I
2 would be with Roger on the unemployment line. Just need
3 that caveat in there.

4 But secondly, the citrus industry, a high
5 percentage of our trucks do not qualify for the ag
6 component of the rule, because we are an industry that
7 pretty much operates ten months a year. So with the
8 amendments that have been put forward in the main part of
9 the rule today, they will have benefit for a great
10 percentage of the citrus industry. So I do thank you for
11 taking a look at the economy, because the profit margins
12 that you've heard many times today are very, very thin.

13 My last comment is -- and I hear this frequently
14 from the people that are affected by this rule and my
15 industry -- they are looking for certainty. They make a
16 plan. The rule changes. They make another plan. We
17 really appreciate what you've done for the economy. But
18 at some point, they've got to know so they can plan going
19 forward.

20 So with that, thank you.

21 CHAIRPERSON NICHOLS: Thank you.

22 Bruce Wick.

23 MR. WICK: Good afternoon.

24 Bruce Wick. I'm Director of Risk Management for
25 CalPAS Specialty Contractor Association, 300 members in

1 California.

2 I do want to first thank staff for the work
3 they've done with the Cal/OSHA Standards Board. And,
4 hopefully, in February, we're going to have an effective
5 regulation regarding the safe installation of retrofits.
6 That's been an important thing for us, and I appreciate
7 the efforts and work.

8 Also like to thank the Board for directing staff
9 on the on-road and off-road diesel regs to contemplate the
10 economy. And I thank staff for the enormous amount of
11 work, to take that information and come up with the
12 amendments that are proposed today. Support the
13 amendments. Again, don't support the regulation, but do
14 support the amendments as they are.

15 For construction, two really important concepts
16 are the bubble concept, because dual regs are hurting
17 construction a lot. And the low mileage on-road regs for
18 construction, because we do have a lot of equipment that
19 does have very little mileage, but does go over the
20 thousand miles a year.

21 I do want to reiterate Skip Brown's comment about
22 480 hours average equipment usage. That is
23 misinformation. It's much, much higher than that.

24 And a point I would just like to make is
25 construction is not in recovery yet. We get estimates

1 that will start in 2012 or maybe 2017 or somewhere in
2 between. But the experts do say when recovery begins, it
3 will be very gradual. So I think emissions from
4 construction equipment is going to be very low,
5 unfortunately, for quite a while.

6 Thank you.

7 CHAIRPERSON NICHOLS: Thank you.

8 Brent Newell and Don Watson and Al Nunes.

9 MR. NEWELL: Good afternoon, members of the
10 Board. My name is Brent Newell, Center on Race, Poverty,
11 and the Environment.

12 Today, I want to make two points. First, I want
13 to talk about honoring past resolutions. And second, I
14 want to talk about environmental justice.

15 In 2008, this Board adopted this version of the
16 rule that you are proposing to amend. When you adopted
17 it, your resolution called for a risk assessment to be
18 done within a year of the adoption in order to calculate
19 the cancer risk and other health effects that would have
20 happened as a result of the agricultural exemption that
21 was inserted in that rule. You recall that ag trucks
22 received special treatment under this current rule. That
23 risk assessment has never been done. Staff confirmed to
24 me last month that the risk assessment was not done.

25 In 2003, this Board adopted a resolution that

1 committed itself to adopting significant mobile source
2 reductions, including diesel reductions, in order to meet
3 the one-hour ozone standard. The deadline for which was
4 just over a month ago, November 15th of 2010. The South
5 Coast air basin and the San Joaquin Valley have failed
6 miserably to meet that one-hour ozone standard. The
7 primary reason they failed to meet that one-hour ozone
8 standard is because this Board, this agency, did not
9 deliver on the reductions that it adopted and committed to
10 do in that 2003 resolution.

11 The failure to meet that one-hour standard
12 triggers Section 185 of the Clean Air Act, which imposes a
13 fee -- \$10,000 per ton fee on stationary sources. The
14 Clean Air Act says it goes to stationary sources. So
15 stationary sources are paying a penalty in the South Coast
16 air basin and in the San Joaquin Valley because primarily
17 as a result this Board did not adopt those mobile source
18 reductions that it promised to do in 2003.

19 Ironically, in the valley, the San Joaquin Valley
20 Air District, want to, instead of charging the fee to the
21 stationary sources, they want to charge it to passenger
22 vehicle owners through their DMV registrations, as if they
23 had anything to do with the not adopted rules.

24 So my point is don't adopt these amendments. The
25 San Joaquin Valley and the South Coast need these

1 reductions, these extra reductions that you're going to
2 backslide on to meet the one-hour standard. You still
3 have to meet the one-hour standard. We've been talking
4 about the PM2.5 standard and the eight-hour ozone
5 standard. You still need to meet the one-hour standard.

6 Very quickly, civil rights and environmental
7 justice. NRDC introduced those maps. The environmental
8 justice screen method that's been pioneered at USC
9 demonstrate the adverse and disparate impacts that will
10 occur as a result of these amendments.

11 There is some talking back and forth about
12 whether there was an effect or was not. The bottom line
13 is that the current rule requires a significant amount of
14 reductions to occur earlier. This amendment reduces the
15 reductions and pushes them off. Near-highway communities
16 that are predominantly low income and communities of color
17 will bare an adverse and disparate impact. Title 6 of the
18 Civil Rights Act says a federally funded agency like yours
19 may not discriminate on the basis of race. Therefore,
20 there will be a Title 6 complaint in your future.

21 Thank you.

22 CHAIRPERSON NICHOLS: Okay.

23 Mr. Watson and then Al Nunes and Barbara Lee.

24 MR. WATSON: Chairman Nichols, Board, and staff,
25 thank you for the opportunity to speak today.

1 I'm an owner-operator of one ten-wheel dump
2 truck. Let me explain briefly how I get my work. I call
3 brokers, many of which are here today. And when their
4 trucks are out, they give me a call back and tell me I
5 have some work. When their trucks don't get out and
6 they're not, then I don't have any work.

7 So this recession, like everybody else, has hit
8 me very, very hard. I'm down over 50 percent in what I'm
9 taking in a year.

10 I have a 1990 Kenworth. And I talked to Peter
11 earlier this morning, and he said that there might be some
12 relief on the way as far as a particulate matter filter or
13 something I might be able to do for my truck. Without
14 some kind of relief like that, with this recession, you're
15 going to find another 60-year-old man in the unemployment
16 line, because I just won't be able to purchase any truck.
17 It's just not in the cards.

18 Again, thank you for this opportunity to speak.
19 And whatever you can do for us, I would really appreciate.

20 CHAIRPERSON NICHOLS: Thank you.

21 Mr. Nunes?

22 Ms. Lee.

23 MS. LEE: Good afternoon, Madam Chair and members
24 of the Board.

25 I'm Barbara Lee, the Air Pollution Control

1 Officer in Northern Sonoma.

2 I want to start by congratulating this Board and
3 staff on your leadership in protecting air quality and
4 public health and especially the tremendous job you've
5 done steering your program to some great successes through
6 some really difficult economic times.

7 Second, I would like to add my support to the
8 comments that were submitted by the California Air
9 Pollution Control Officer's Association recognizing the
10 needs of the areas in California that have dirtier air
11 than Northern Sonoma does, and especially urging ARB to
12 align your guidelines for your grant programs with the
13 changes you're making to these rules as quickly as
14 possible so the programs work well together.

15 My main purpose in appearing today is fairly
16 specific. I would like to ask your consideration for
17 adding the Northern Sonoma Air District area to the NOx
18 exempt area list in Section 2449(c)(6) and 2449.1(a) of
19 your rules.

20 As you know, last March, ARB classified Northern
21 Sonoma as attainment for all federal and state ambient air
22 quality standards. Only one other area in the state has
23 achieved this status. And in northern Sonoma, we will
24 maintain, regardless of the level at which the EPA sets
25 its new ozone standard.

1 Our highest ozone level in 2010 was .036 PPM,
2 which is I think below background for most of the state.

3 I'm giving you that information by way of
4 underscoring that allowing NOx-exempt status in northern
5 Sonoma would have no adverse impact on our air quality,
6 but it would provide some really important relief and
7 compliance alternatives for the regulated community there.

8 I appreciate the opportunity to speak.

9 CHAIRPERSON NICHOLS: Thanks.

10 Hank de Carbonel, Eric Eisenhammer and Nick
11 Pfeifer.

12 MR. DE CARBONEL: Good afternoon.

13 I'm with the Concrete Pumpers of California.

14 Little perspective. In our industry, five, six
15 years ago, over 1,000 new concrete pump boom trucks were
16 sold in the United States of America. One year ago, for
17 which the accurate records exist, there were less than 35
18 for the United States. And in California, that's probably
19 down to about two or three trucks as far as I could find
20 out. So, yeah, we've had a little bit of a downturn in
21 our economy.

22 The California Legislative Analysts Office says
23 the overall California economy won't recover start to
24 recover until 2013. And as some of the previous people
25 have mentioned, construction in homes won't probably go

1 for another -- until another five or six years. So our
2 guys are going to stay busy doing nothing.

3 Your amended rules to give us 15,000 miles of
4 travel does nothing for us should business come back. And
5 I base that on taking 12,000 miles or 15,000 divided by
6 each month. Divide each month by 20 working days, and you
7 get a working radius of about 30 miles. Or that means we
8 could travel maybe from Oakland to San Francisco should
9 there be a job. The numbers just don't work out for us.

10 The last thing I'll mention, we talked about
11 saving lives here and the dangers of particulate matter
12 and now it's gone to particulate matter is even worse than
13 vapor the ether. I want to point out to you that
14 according to the National Safety Council each year, 371
15 people die getting in and out of their bathtub in the
16 United States. If you take the current numbers and you
17 relate to what the responsibility of diesel is for the
18 supposed maybe could be deaths from particulate matter,
19 it's less than that. If we spend \$14 billion to save
20 people from falling in and out of their bathtub every
21 year, people would think we're insane. Thank you.

22 CHAIRPERSON NICHOLS: Thank you.

23 Eric Eisenhammer. No.

24 Nick Pfeifer.

25 MR. PFEIFER: Good afternoon. I'm Nick Pfeifer

1 with Granite Construction.

2 Granite currently owns a fleet of approximately
3 800 pieces of off-road diesel equipment and 800 diesel
4 trucks in California.

5 Since 2006, Granite's business is off more than
6 50 percent in the state of California. And we actually
7 did the math, and our emissions are off more than 75
8 percent. That reduction in emissions is obviously for two
9 reasons. The economy is one driver, but we also took a
10 number of proactive steps to comply primarily with the
11 off-road rule, and there are reductions to show for that.

12 So I'm here for the most part in support of the
13 amendments and do appreciate staff working with us. The
14 light truck relief provision is particularly helpful. But
15 I would like to stress the importance of one of the 15-day
16 changes that was mentioned, and that's the bubble or
17 credit exchange concept. For proactive fleets, this
18 concept, especially to be able to move credit from the
19 off-road rule to the on-road rule, is very helpful. It
20 allows us to "cash in" some of our actions that we took
21 early. And it really does give us some breathing room on
22 the on-road rules for things that we did to comply with
23 the off-road rule early. So again I appreciate staff
24 including that.

25 And would also just like to ask that a look be

1 given at giving full retirement credit in the off-road
2 rule from the original baseline date of March 1st, 2009.

3 With that, I thank you for the opportunity and
4 look forward to working with staff for the 15-day changes.

5 CHAIRPERSON NICHOLS: Thank you very much. And
6 thanks for all that your company has already done.

7 Gordon Downs, are you here, Mr. Downs? Yes.
8 Followed by Joy Williams and Nidia Bautista.

9 MR. DOWNS: Good afternoon, Board members. Good
10 afternoon, staff.

11 My name is Gordon Downs. I own Downs Equipment
12 Rentals in Bakersfield.

13 CHAIRPERSON NICHOLS: I'd like to say you're one
14 of the more memorable characters that we've had. Good to
15 see you again.

16 MR. DOWNS: Thank you. Good to see you.

17 We have about 250 diesel heavy earth-moving
18 equipment -- pieces of earth-moving equipment in our
19 company. So we're looked at very closely by the
20 California Air Resources Board. To let you know, we are
21 in support of the proposed amendments. I'd like to make a
22 couple of points.

23 First of all, staff estimates that the cost
24 reduction is about 60 percent with the amendments. And
25 also included in that I suppose is the delay until 2014.

1 The first point I'd like to make is that all of
2 the costs of complying with this rule, for a business --
3 they're not -- these costs are not made to improve a
4 business. They're just -- it's just wasted money. You
5 just may as well take the money that it costs to meet
6 compliance and throw it down the drain. That's point
7 number one. As far as strictly business.

8 Am I already -- do I already have a warning here?

9 Point number two, I'll try to hurry up.

10 CHAIRPERSON NICHOLS: I took some of your time.

11 MR. DOWNS: We have 30 employees now. We had 50
12 several years ago. But these 30 employees have gone three
13 years now without a pay raise. Now, most of these people
14 are raising children. Their costs have gone up. The
15 point is, their standard of living over the last three
16 years have gone down within our company. They have gone
17 done.

18 By 2014 now, we are going to be facing the costs
19 of this regulation as it starts to go into effect. And
20 that will be like putting our company into another
21 recession. If you think about it, since we had to spend
22 money for no good reason and it just takes money away from
23 our employees, this is very harmful to employees. So in a
24 sense, if you would think about it, we're sort of
25 exchanging one health problem for another. Because we've

1 all agree that if your income goes down, you can't
2 maintain as healthy a lifestyle.

3 That's the point I would like to make. Thank
4 you.

5 CHAIRPERSON NICHOLS: Thank you.

6 Joy Williams and then Nidia Bautista and Andy
7 Katz.

8 MS. WILLIAMS: Hi. I'm Joy Williams. I'm here
9 from the Environmental Health Coalition in San Diego.

10 Environmental Health Coalition did sign onto the
11 Environmental Coalition letter, and we're in agreement
12 with those recommendations.

13 So I'll give you two minutes of perspective on
14 what's going on in San Diego and why we're especially
15 concerned about the on-road rule deadline roll-backs in
16 our region.

17 For one thing, it's not that clear to me that our
18 communities have gotten any reprieve in particulate
19 pollution due to the recession. Looking at levels of
20 PM2.5 at the air monitor that's located in one of our
21 environmental justice communities, Barrio Logan, we have
22 not seen any consistent decreases between 2006 and 2009 in
23 the annual average levels. So questioning whether that
24 highly-impacted community is really getting a break from
25 pollution during the last three years.

1 That community has also been working hard to
2 finalize a new land use community plan which would allow
3 water-front industries and residential communities to
4 exist side-by-side in order to keep those jobs and make
5 sure that air quality has improved for those residents.
6 We need to make sure that every truck going through that
7 truck or traveling through or visiting the port is as
8 clean as possible in its emissions.

9 Looking further south, the cargo terminal in
10 National City receives mostly car cargos, so the trucks
11 visiting that terminal are car carriers, which are exempt
12 from the drayage truck rule. The only relief that
13 community will see from truck particulate matter is from
14 the on-road rule. So again, we're looking to that rule to
15 help air quality in that community.

16 And then looking way down at the border area, the
17 area of our region with the most consistently high
18 particulate levels is the Otay Mesa area where the
19 Mexico/U.S. border crossings are. And although those are
20 ports of entry, they're not subject to the emission --
21 drayage truck rules. So we need the on-road rule to help
22 that community.

23 Finally, I want to remind you, you've gotten a
24 letter from the Port of San Diego expressing level playing
25 field concerns between the drayage truck rule and the

1 on-road rule.

2 Thank you.

3 CHAIRPERSON NICHOLS: Nidia and then Andy Katz.

4 MS. BAUTISTA: Thank you. Good afternoon, Chair
5 and members of the Board.

6 I'm Nidia Bautista, Policy Director at the
7 Coalition for Clean Air. We're a statewide air quality
8 advocacy organization with offices in Los Angeles, Fresno,
9 and Sacramento. And we're committed to ensuring clean air
10 for all Californians.

11 I want to acknowledge the efforts of CARB staff
12 and Board for over the last few years continuing to engage
13 with us in dialogue and really spending time with us going
14 over the inventory. I know it's a tough task before you
15 in terms of getting things as best as we can with the
16 latest data. So we do appreciate your efforts there.

17 I also want to acknowledge the work of the TRAC
18 and the outreach that ARB has committed itself to do on
19 diesel rules. I think these efforts want to continue to
20 support those and ensure they continue.

21 Certainly in terms of the regulation, we
22 appreciate the efforts to address the dray-off issue.

23 That said, I think we have some major concerns
24 with the proposal before us today. While we acknowledge
25 certainly a need for and have consistently acknowledged

1 with the downturn of the economy there would be a need for
2 some modification to these rules, we are concerned by the
3 level of the modifications both in terms of the fact that
4 we are unfortunately trading off some of the near-term
5 benefits that we would otherwise have experienced,
6 particularly in localized communities, as well as our
7 level of comfort with the SIP margin is just not at a
8 place where we'd like to be.

9 So as the joint coalition letter shared, we would
10 really appreciate having a 20 percent margin there,
11 particularly considering the South Coast emissions
12 inventory analysis showed the potential for 20 to 30
13 percent of the emissions being off. So we don't want to
14 get to a place where we're at 2014 and actually short.

15 And though I know that the staff is committed to
16 reviewing this rule, if the economy changes down the line,
17 I'm concerned that's going to be too late to really make
18 any fundamental changes we might need to do to shore up
19 that SIP.

20 That said, in our letter, we did include some --
21 those are the umbrella requests. We included some
22 specific suggestions where staff can explore making these
23 changes, and we really encourage the Board to ask staff
24 directly about some of those changes, but also to ensure
25 to see if they can explore any others that might be able

1 to meet the request we're making today.

2 Thank you.

3 CHAIRPERSON NICHOLS: Thank you.

4 Andy Katz and then Jocelyn Vivar, and Isella
5 Ramirez.

6 MR. KATZ: Good afternoon, Chair Nichols and
7 Board members.

8 Andy Katz from Breathe California. Want to thank
9 the Board for advancing clean air and public health
10 through cleaning up diesel equipment. I understand that
11 taking reasonable efforts to relax the rule due to fewer
12 emissions and slower economy is what the Board is prepared
13 to do.

14 But due to the absence of updated air quality
15 monitoring and modeling and specific reasons for
16 uncertainty, these proposed amendments risk missing the
17 mark and falling short on SIP requirements and public
18 health goals to prevent cancer, asthma, and other health
19 effects due to diesel pollution.

20 That SIP requirements and public health goals
21 to -- some of the reasons for uncertainty, some of the
22 specific reasons for uncertainty are, number one, the
23 credit provisions for early PM retrofits. I think that
24 those are good provisions that can help encourage early
25 compliance and early health reductions. But there's some

1 uncertainly in how they're going to progress. The trend
2 in the economy indicating that truck miles could outpace
3 expectations in the economy, that's an uncertainty. And
4 the methodology changes to off-road equipment. While this
5 adjustment to the inventory is reasonable, this does not
6 mean there's a linear relationship with SIP requirements.
7 This is because the 2007 SIP commitment were projected
8 assuming 15 percent more tons of emissions than were
9 actually occurring.

10 So there is a lot of uncertainty in the modeling,
11 and I do hope that ARB will follow through and make sure
12 when the SIP occurs in April 2011 that there will be an
13 adequate margin or contingency measures. I encourage the
14 Board to have a 20 percent margin to make sure that there
15 will not be falling short of the SIP commitments and there
16 will be a compliance with the Clean Air Act.

17 Thank you.

18 CHAIRPERSON NICHOLS: Thank you.

19 Jocelyn and then Isella Ramirez and Tim
20 Carmichael.

21 MS. VIVAR: Hi. Good afternoon, members of the
22 Board.

23 My name is Jocelyn Vivar. I'm with East Yard
24 Communities for Environmental Justice. We are an
25 environmental health and justice organization in the city

1 of Commerce where our communities are heavily impacted by
2 activity from the goods movement industry.

3 There is a real impact in our communities because
4 of the place that where they live and work is a diesel hot
5 spot. With two major freeways, one of which is the I-710
6 super highway, a major arterial road, and four rail yards.
7 They are suffering from asthma, cancer and other
8 respiratory illnesses due to the cumulative impacts from
9 all of these sources, which some are mobile smoke stacks
10 just driving by constantly through our community.

11 It is really unfortunate that instead of children
12 carrying backpacks full of toys, they are carrying
13 backpacks with respiratory machines. And there's children
14 that their backyard is rail yards or their backyard is the
15 freeway or other highways where their quality of air is
16 heavily impacted.

17 And we do appreciate the fact that the staff and
18 the Board are working towards improving the quality of
19 air, but we do recognize that the economy is not ideal
20 right now. Not for some of the industry and not for our
21 community. And these rules as they are important because
22 they will cut down on costs, medications, and also health
23 risk for the families that are heavily impacted. The
24 human cost is heavy, and the proposed changes go beyond
25 what is necessary. And the near-term health risks in 2014

1 and 2017 would be cut short.

2 Our impacted communities need near-term relief
3 now. We ask that staff provide near-term benefits through
4 upgrades on the oldest dirtiest trucks beginning in 2014.

5 If I could just add a few more seconds.

6 CHAIRPERSON NICHOLS: We are really losing ground
7 here. So just wrap up.

8 MS. VIVAR: So we would ask that the staff
9 provide near-term benefits starting in 2012 from the
10 dirtiest trucks, including a higher SIP margin and also a
11 monitor program.

12 And thank you for the drayage rules that you are
13 working on.

14 CHAIRPERSON NICHOLS: Thank you.

15 Isella Ramirez, Tim Carmichael, John Yandell.

16 MS. RAMIREZ: Good afternoon. My name is Isella
17 Ramirez. I'm also with East Yard Communities for
18 Environmental Justice.

19 And today, I come here to recommend that as we --
20 or you consider offering some economic relief to the small
21 and large businesses that you don't forget about the
22 communities that are also having to content with an
23 economic crisis, while having to contend with the negative
24 impacts on their health caused by toxic diesel pollution
25 as Senator Polanco detailed earlier.

1 In particulate, East Yard EJ recommends that you
2 require all 1994 to 2000 year heavy-duty vehicles to
3 install these much needed filters by 2012. Waiting until
4 2017, as staff proposes, is inconceivable, given our
5 communities are already overburdened with diesel
6 pollution.

7 We also request that you replace all heavy-duty
8 vehicles that are more than 20 years old beginning in
9 2012. We cannot allow for these uncontrolled pre-1994
10 model year trucks to continue to park near our schools,
11 drive past our parks, and exhaust in our lungs.

12 I work in the city of Commerce where I grew up
13 and where all my family still lives. This may -- my need
14 niece and three-year-old -- I promised myself I wouldn't
15 cry -- was diagnosed with a very aggressive type of
16 cancer. And she's been a warrior and been battling. And
17 even though I've gone through a lot of challenges in my
18 own life, seeing her fight for every breath at the ICU
19 this last month has really been the hardest thing I've
20 ever had to experience.

21 And so today I ask that you consider the children
22 and the communities that are most negatively impacted both
23 by the economic crisis but also from these dirty
24 businesses.

25 Thank you for your time.

1 CHAIRPERSON NICHOLS: Of course.

2 MR. CARMICHAEL: Good afternoon, Chairman
3 Nichols, members of the Board.

4 Tim Carmichael with the California Natural Gas
5 Vehicle Coalition. Very much share the concerns that have
6 been raised about health impacts and about the inventory
7 and the lack of a margin for error. But I want to use my
8 time to discuss something that I don't think has been
9 discussed today.

10 A few weeks from now, in early January, the L.A.
11 County Metropolitan Transportation Authority is going to
12 retire its last diesel bus. It's going to retire its last
13 diesel bus. That's an effort I was involved with back in
14 the 1992. It's taken them 18 years, but they're going to
15 retire their last diesel bus.

16 I raise this, because it highlights what these
17 heavy-duty rules don't accomplish. They don't reduce our
18 dependence on petroleum. And they don't really do much
19 for reducing greenhouse gases.

20 In 2006 and 2007, the Air Board worked with the
21 CEC to develop an AB 1007 alternative fuels plan for the
22 state. This Board adopted that plan. That plan -- the
23 moderate growth scenario in that plan calls for 26 percent
24 alternative fuels by 2022; 26 percent alternative fuels
25 for the transportation sector in California by 2022.

1 I have two specific requests for the Board. I
2 raised this one before back in 2009. As I recall, several
3 of you from the dias agreed and thought it was a good
4 idea. Starting now with every regulation that this staff
5 brings to you, including amendments to regulations that
6 you've already adopted, not only should they report on the
7 economic impacts, not only should they report on the
8 health/SIP/criteria pollutant impacts, but also be
9 reporting to you on what are the greenhouse gas impacts of
10 these changes or this new reg, as well as how does this
11 play into our petroleum reduction goals that we've adopted
12 as a state? That was not part of the presentation today,
13 and it should be part of every presentation that staff
14 makes to you with any regulation or an amendment to a
15 regulation.

16 Quickly, the second request is looking even
17 beyond 2022, we've done so much work as a state in
18 clarifying and developing our strategy for the light-duty
19 vehicle sector. Where do we need to be by 2050 and how
20 are we going to get there? We have not done the work with
21 the heavy-duty sector.

22 My request is that the Board direct staff to
23 accomplish this in 201. Work with interested parties and
24 develop that equivalent plan for the heavy-duty sector in
25 California. Where do we need to be and how are we going

1 to get there? Today, I submit even those that work on
2 this reg can't lay that out for you. And they should be
3 able to.

4 Thank you very much.

5 CHAIRPERSON NICHOLS: Thank you.

6 John Yandell, Sean Edgar, Daniel Massolo.

7 MR. YANDALL: Good afternoon, Madam Chair, Board
8 and staff.

9 My name is John Yandell. My family has been in
10 the trucking warehousing business doing business solely in
11 the state of California of 65 years and would like to
12 continue to do so.

13 At this time, as we've heard, there are a lot of
14 different groups here today, a lot of different
15 regulations we and others in the room have to deal with
16 and get compliance concurrently, we do, with three
17 different regulations. Number one is the on-road rule.
18 Number two is the greenhouse gas regulation because when
19 we are out in business, we are having to replace all of
20 our forklifts. A challenge in these economic times.

21 I here to speak on today and again I'll try to
22 stay within my two minutes that the American Trucking
23 Association and California Trucking Association has asked
24 the Board to direct staff on their greenhouse gas
25 regulations to change the short haul exemption from 100

1 miles to 150 miles. I'd like you to support that.
2 Certainly in our environment and others, in short haul
3 transportation, we have not just one trailer and one
4 truck. Actually, our situation is we have three trailers
5 per one power unit. Sometimes these are not turning over
6 more than three to five just in time deliveries. The
7 return on investment for us to invest at this time in
8 aerodynamics with two rules at this time is just not
9 economically feasible. And I would ask that the Board
10 would again ask staff to please support that change in the
11 short haul exemption.

12 Thank you.

13 CHAIRPERSON NICHOLS: Thank you.

14 Sean Edgar and then Daniel Massolo.

15 MR. EDGAR: Chair Nichols and Board members, good
16 afternoon.

17 I'm Sean Edgar, Executive Director for the Clean
18 Fleets Coalition. In my ten years of appearing in front
19 of your Board, I know 120 seconds goes very quickly. So I
20 will be referencing two documents that on the Clean Fleets
21 Coalition letterhead I'll be buzzing through to ask for
22 your consideration of some critical technical amendments.

23 Primarily, the first item that you've heard from
24 Trucking Association as well as others that the 2007 to
25 2009 engine credit is something that is very important to

1 them. The Board allows that for VDEX or aftermarket
2 installation. So we'd like to give equal consideration to
3 folks that actually put down -- give money to buy new
4 equipment, because recognizing you also get a NOx benefit
5 with that decision. I know folks have been gearing up to
6 be prepared for the rule. That's first item we'd like to
7 ask, equity with regard to early action.

8 Secondly, there is early action -- there is
9 currently a pre-payment requirement -- I use that
10 terminology, because Board staff has a requirement that
11 filters with need to be paid for prior to completion of
12 the work. And that's something that we have concern about
13 and should be the same language as the items that
14 correspond to the VDEX manufacturer delay in terms of
15 having deposit or contractual obligation.

16 Lastly, I'll skip over engine family, because we
17 can't supply data that's not available on the engine. You
18 should allow gasoline hybrid electric vehicles. I have an
19 explicit statement request for switching compliance paths
20 if fleets goes from one path to another. We ask for a
21 explicit statement as long as the fleet is in compliance
22 in one schedule, to be compliant on the other schedule and
23 that's not intuitive but not explicit.

24 Lastly, I'll reference very quickly an item on
25 belly boxes. I have a one-page handout that contains a

1 belly box amendment that I can speak to.

2 And lastly, I provided a picture set of the
3 lettuce truck harvesting set that Mr. Dan Massolo is going
4 to speak about.

5 Thank you for your time. Happy to the answer
6 questions you may have.

7 CHAIRPERSON NICHOLS: Thank you.

8 Daniel Massolo, Allen Faris, Jill Gayaldo.

9 MR. MASSOLO: Daniel Massolo with Massolo
10 Brothers, Inc.

11 And we have a vehicle that we are requesting that
12 you would place in the specialty agriculture category.
13 Our vehicle is a vehicle that can't be bought. They're
14 not made anymore. They're a short wheel base for sharp
15 turning in the field. They have 80-inch track. They're
16 wider than a regular truck so that the tire doesn't fit in
17 the lettuce furrow. And they also have a self-loading bed
18 on them that they pack up to the harvesting machine, the
19 load is transferred off the harvesting machine onto our
20 truck and taken to a processing plant.

21 So we're a family business. We can't find a
22 truck to replace this in a short amount of time that
23 you're giving us. If you can get into the specialty ag
24 category, they will give us the time to start either
25 manufacturing our own trucks or finding a manufacturer

1 that would do it for us. Thank you very much for your
2 time.

3 CHAIRPERSON NICHOLS: Thank you.

4 MR. FARIS: Good afternoon. My name is Allen
5 Faris. I've been hauling rock, sand, and gravel in
6 Sacramento for over 45 years.

7 My position on this hasn't changed one bit.
8 Everybody wants the cleanest air possible. They want the
9 latest technology and everything else, and there is nobody
10 in their right mind that wouldn't like to own a brand-new
11 state-of-the-art truck or any company. I'm down to the
12 small fleet, three truck operator right now because of
13 taking advantage of the complying element with your
14 original rules.

15 Due to the economics, our business is down
16 probably like 90 percent today. It depends on how you
17 look at the figures. Fortunately, almost all of our
18 equipment is paid for. And I would hate to think if I had
19 a couple thousand dollar a month payment on a new truck,
20 even though a large percentage of it was granted money
21 from one place or another, we could not meet that
22 liability. We would not be able to meet the terms and
23 conditions of that. I am quite sure there are a lot of
24 people that have already lost the Carl Moyer trucks, all
25 the stuff.

1 I really want you to take a good look at how down
2 the economy is right now. And when it comes back, it's
3 going to be hard to borrow money to meet the new
4 technology in the state-of-art vehicles. Even if you have
5 some grants because you won't be able to borrow any money
6 if you can't state some income, have some jobs. There's
7 just no work in the construction industry in Sacramento,
8 northern California right now to speak of.

9 And our entity is probably in good times we put
10 45,000 miles on our truck because it's all pretty local.
11 We're not in that category where we're gross emitter. And
12 there's a lot more people. There's thousands of people
13 with one, two, three truck, swimming pool diggers or
14 whatever that due to the economy, one thing, cannot afford
15 any more cash outlays. Please be sensitive to where our
16 economy is right now and where it's going to be for the
17 next ten years.

18 CHAIRPERSON NICHOLS: Thank you.

19 Is Jill Gayaldo here?

20 MS. GAYALDO: Everybody still awake?

21 My name is Jill Gayaldo. I'm the Director of
22 Transportation for the Elk Grove Unified School District
23 here in Sacramento County. We are third in Sacramento
24 County. Cover 320 square miles. Of our 64,000 kids, less
25 than 10,000 now qualify for a rid every day due to the

1 cuts in transportation.

2 We traveled 2.5 million miles last year. I know
3 your desensitized to the message that everything the world
4 is going to fall apart and businesses are going to close.
5 But the reality are we have districts that are going under
6 State control now in our county. We have massive cuts to
7 education, and we are absolutely a target when it comes to
8 that.

9 We have been the leader in clean fuel for this
10 county. I'm very proud of that. I have 25 compressed
11 natural gas buses, and I put traps on 58 of my buses long
12 before you ever asked for them. We were the guinea pigs,
13 and we tried to work out the bugs for our neighboring
14 districts. Please know there are bugs. We were able to
15 accommodate that with our regular ed students on big buses
16 due to the size of our fleet. I could handle the
17 breakdowns. That cannot be the case for special needs
18 buses. The smaller buses are for medically fragile
19 students. They cannot sit by the side of the road in heat
20 and cold while we have wait to get another driver to them.
21 They're emotionally disturbed and they get too shook. So
22 I do encourage you to look at those special ed buses and
23 follow through with what you're recommending.

24 Last year, there was a proposal to eliminate all
25 seven through 12th grade bussing through our district. It

1 came down to -- our employees were great. They took
2 furlough days, and we cut five school days out of our
3 school year to save that service.

4 As you all heard from our incoming Governor this
5 week, he told us to fasten our seatbelts. It's back on
6 the table as of yesterday.

7 And I need to tell Ms. Nichols, I need to clarify
8 what you mentioned earlier what that really means. And
9 I'm going to use Pleasant Grove High School as an example.
10 I transport 1100 students every day on 18 buses. It's
11 incredibly efficient clean equipment. Putting those kids
12 on the roads means 1100 cars. We are the public bus.
13 There is no public bus coming down Jackson highway, and
14 it's 16 miles to school. I don't think anyone expects
15 them to walk.

16 I have 25 buses that are 25 years and older. I
17 want them to be clean and I want them replaced. Help us
18 get there. I can't put a trap on a 25-year-old bus that's
19 going to be reliable. Please, let's not spend 15,000 to
20 put on a bus that's worth five. Let's be good stewards of
21 this money and replace the equipment. It's the reasonable
22 way to do it. We want to do it with you.

23 Last, but not least, the voters voted three years
24 ago, and we had Prop. 1B and we were going to replace old
25 school buses. We get safer buses that were clean. It's

1 been three years. I haven't seen a dime. That's a
2 failure to our kids and a failure to our community.

3 Thank you.

4 MR. HAMMOND: Good afternoon, members of the
5 Board, Chairman, and members of staff.

6 I actually feel special. Nobody is up here today
7 except for me representing the endangered species, the
8 mobile crane. I've spoken to you in the past about the
9 mobile crane, and you've actually given us some help. And
10 we appreciate staff's effort and the things that you have
11 done for us.

12 There is a couple of things, however, that need
13 to be addressed, and the on-road rule is one of them.
14 These endangered species that I speak about, the mobile
15 crane, which is very imperative to keep our society moving
16 because we need it not only for building new buildings but
17 we need it for maintaining and for emergency services when
18 we have things like the tanker truck that exploded on the
19 Oakland Bridge.

20 These mobile cranes require trucks to haul
21 auxiliary equipment, counterweights, boom sections and
22 jigs. So it's very imperative that we be able to carry
23 that stuff. And these trucks get very low use.

24 We have submitted a letter to the workshop down
25 in El Monte. I think it was in May of last year. I think

1 I talked to Tony about it. And we would like to ask your
2 consideration for including low use equipment of these
3 trucks that haul these counterweights into a low use
4 equipment.

5 Currently, the letter that I submitted asked for
6 a 20,000 mile use for low equipment. There's other pieces
7 of low use equipment that should be considered in that
8 request. But for our main source of work is the equipment
9 that hauls these auxiliary parts for our cranes.

10 So if you could help us with that, we think that
11 would be a big help. And we actually also would like the
12 idea -- I'll end my comments. Thank you.

13 CHAIRPERSON NICHOLS: Thank you.

14 Seth Hammond, Betty Plowman, Clayton Miller.

15 Betty Plowman.

16 MS. PLOWMAN: Thank you, Chairman Nichols. Good
17 afternoon, Board.

18 I have something that might surprise all of you
19 and this comes from after listening to the children.

20 I'm also from Richmond, California. Escaped in
21 1977. Grew up next to Interstate 80. I have one child
22 with asthma, which he developed while we moved to our
23 farmland in Vacaville and he was allergic to the walnut
24 trees.

25 Thanks for some of your considerations. I know

1 that this is all about the economy. Unfortunately, the
2 amendments for the 15,000 mile won't do much for our
3 members. That is because we are dedicated dump trucks.
4 And that's our only business. And this may help some of
5 the contractors who use trucks that are incidental to
6 their contracting business. But for people who use these
7 full time, 15,000 is just a little short, even to help a
8 group of our single trucks, our ten wheelers. And perhaps
9 after talking with Peter outside on the Moyer thing,
10 perhaps we should have moved these trucks at some point
11 into the off-road rule, because these are not the trucks
12 that are on the highway moving material. These are
13 on-site trucks, which means when construction is down,
14 these trucks aren't moving either. Maybe too late for
15 that. Just a thought.

16 And the reason that our folks can't -- and I know
17 you've heard it today from some of the others. But here's
18 the problem. We have no income for very little income.
19 We have no credit or very little credit. And then if you
20 do get the funding and the Peterbilt and Kenworth right
21 here in down have several -- quite a few of the units
22 actually when incentive funding was given and the trucks
23 were repossessed.

24 So we're in dyer straights. 20,000 miles would
25 help some of us. Actually, if those guys could be put in

1 those trucks again, maybe perhaps into the off-road rule
2 if you could at all. Our guys are going to need 35,000
3 miles to even be able to stay in business, our larger
4 trucks.

5 Thank you very much.

6 CHAIRPERSON NICHOLS: Thank you.

7 Clayton Miller.

8 MR. MILLER: Good afternoon, Chairman Nichols,
9 members of the Board.

10 My name is Clayton Miller. I represent the
11 Construction Industry Air Quality Coalition. And CIAQC
12 supports the efforts that your staff has made to
13 re-evaluate the impacts of the economic downturn on the
14 emissions from the off-road equipment and the on-road
15 truck. It's the trucks that support the construction
16 industry. Certainly the changes before you today will
17 provide a measure of relief at a time when it is sorely
18 needed.

19 I think it's also important to recognize that the
20 construction industry has equipment and on-road vehicles
21 or trucks that fall under various regulations. There's
22 two here today. And with that, the construction industry
23 has developed a proposal that it sent to your staff for
24 consideration, which is a 15,000 mile lower use exemption
25 for construction trucks or the trucks that are used to

1 support the construction industry. We certainly hope that
2 this is something your staff can consider during the
3 15-day changes. We think there might be two ways to look
4 at developing how it would apply. One could be to come up
5 with a prescriptive list of trucks limiting who could
6 participate. The other would be maybe to take a look at
7 an overall number of trucks and allow the industry to
8 through reporting participate in that.

9 So I would just hope or I ask that you could
10 direct your staff to take a look at those two options
11 today and move forward through the process. And hopefully
12 we can come up with something that's workable and helps
13 everybody on both sides.

14 Thank you.

15 CHAIRPERSON NICHOLS: Thank you.

16 MR. DAVIS: You can hear the crescendo building.

17 CHAIRPERSON NICHOLS: The excitement is building.

18 MR. DAVIS: We certainly hope so.

19 Good afternoon, Chairman Nichols and members of
20 the Board and your staff.

21 We want to wish all of you and your families a
22 very happy holiday. It's a wonderful time for reflection
23 and joy, and we all need a little of that these days.

24 We'll start our comments today with a paraphrase
25 from our old friend, William Shakespeare, for which I hope

1 you will forgive me if we meet in that great pub in the
2 sky. I come not today not to bury your staff, but to
3 praise them.

4 CHAIRPERSON NICHOLS: Ominous.

5 MR. DAVIS: They have followed your direction and
6 suggestions for industry in the off-road rule and we
7 appreciate those changes.

8 Regarding the on-road rule, as my beloved Roberta
9 would say, we would be a little bit happier. We have
10 provided staff with a simple one-page proposal providing a
11 small bit of additional relief through increasing low use
12 exemption for construction trucks. Just in case you
13 didn't hear, Clayton. We believe this exemption will
14 actually not affect your emissions on any significant way.

15 Today, we and your staff find ourselves in
16 substantial agreement of the size of the construction
17 fleet. We, however, have differing estimates of potential
18 low-use activity. We propose we use the two-year relief
19 in the amendments through registration and reporting,
20 substitute real data for estimates, models, and
21 inventories. At that point, we'll all know if additional
22 relief from our low-use proposal will add to your
23 environmental emissions envelope, subtract from it, or as
24 we believe, be emissions neutral.

25 Please direct staff to implement this request.

1 As always, we stand ready to assist in this process in any
2 way. Then I, like the Harold in Shakespeare's Henry the
3 5th will say, "Farewell, gracious king. Though shall
4 Harold no more."

5 CHAIRPERSON NICHOLS: Well done. Well done.

6 MR. LEWIS: Notice he didn't hear him say we are
7 not going to hear Bill anymore.

8 CHAIRPERSON NICHOLS: Good point.

9 MR. LEWIS: Thank you, Madam Chairman and members
10 of the Board.

11 Mike Lewis from the Construction Industry Air
12 Quality Coalition.

13 First and foremost, I want to talk about the
14 emissions inventory and the cushion. We believe that you
15 have a much bigger cushion built into your assumptions
16 than you probably do, in part because we think your
17 assumption of fuel consumption is still hi. Two
18 independent studies looked at that model both had 50 to 70
19 million gallons less or lower in fuel consumption. We
20 think that the low use equipment is indicative of two
21 things. One, it's going to be low use if it as used at
22 all. And number two, it's probably on its way out of the
23 fleet. You're going to see further shrinkage in the
24 fleet, which gives you more cushion I think than you
25 planned on.

1 I'm here today to support the proposed
2 amendments, including to the bubble, and to call a couple
3 of items to your attention.

4 First, we think or hope two-thirds of the
5 contractors have complied with this rule so far by
6 shrinking their fleets. And those are good-paying jobs
7 that probably aren't coming back. What we're trying to do
8 is stop the shrinkage and hope we don't have to do that
9 anymore. And we think these amendments will get us there.

10 But a couple of clean up matters. First one is
11 the addition of the additional sticker to the equipment.
12 That's a multi-million dollar cost to this industry. If
13 it was important enough to have it done, it would have
14 been nice if you asked us to do it when we first the first
15 sticker on. This I think is just ripe for problems with
16 people sticking the wrong number on the other side of the
17 equipment so it has two different numbers. There's the
18 cost of going out to do it. It's probably going to be an
19 opportunity for violation notices. And I would suggest to
20 fix that you could require the addition of a second
21 sticker at the time they add a new piece of equipment to
22 fleet.

23 Secondly, we'd like to suggest that the engines
24 less than 50 horsepower be exempted from the rule. This
25 would be consistent with the portable rule. These engines

1 are less than five percent of the horsepower. They're
2 just not worth the trouble, frankly. It takes as much
3 energy and effort to track those thousand horsepower ones.
4 And we think you get a bigger bang for the buck focusing
5 on those and not the smaller ones.

6 Thank you.

7 CHAIRPERSON NICHOLS: Thank you.

8 Cynthia Corey, Michael Kennedy. I apologize.

9 MR. KENNEDY: Thank you, Madam Chair.

10 Mike Kennedy, General Counsel for the Associated
11 General Contractors of America.

12 I spent the last several weeks trying to think
13 about what I would say today. And when I found out I had
14 two minutes, I realized can't clear my throat in that
15 amount of time. But if I use too much of it, so be it.

16 I'm going to begin by doing what has repeatedly
17 come back to my mind, and that is to thank. Above all, I
18 think need to thank you, Supervisor Roberts and Ms. Berg,
19 Dr. Telles and Dr. Balmes, Chairman Nichols, Ms. D'Adamo,
20 Dr. Sperling, Mrs. Riordan, Supervisor Yeager, and Mayor
21 Loveridge.

22 I want to thank each of you personally for doing
23 something that I don't have to do. And that is make
24 decisions. It's easy to be an advocate. It's easy to get
25 out there on one side and push as hard as you can. It's

1 much harder to decide where to draw the line.

2 I hope that we've been respectful of the line
3 that you drew back in 2007. From the beginning, we've
4 tried to make it clear that we were not trying to second
5 guess your judgment as to the level of emissions that were
6 acceptable within the state. We've not tried to second
7 guess your judgment on the medical science, about the
8 dangers surrounding particulate matter, and other
9 pollutants.

10 We simply have been trying to demonstrate that
11 within those constraints and given the policy judgment
12 that you made, we hope we can find some room to give
13 relief to the construction industry.

14 I also want to thank the CARB staff. It's hard
15 to take a position. It's much harder to change it in
16 public. That begins with you, Mr. Goldstene, and the
17 hearing that you held. Tom Cackette, with whom I've had
18 interesting conversations. Michael Terris has been there.
19 Eric, Eric White has been integral to this process, as has
20 Kim Heroy-Rogalski -- I pronounced that, I hope. Todd
21 Sax, thank you, sir. You've set a fine examples for the
22 country. And Nicole Dolney who was much involved in this
23 process.

24 It has been a good process. And I commend this
25 organization. It's very difficult to let the data drive

1 the decision. We all come to all of this with many
2 preconceptions about where it's going to come out. Where
3 it should come out. When we find that the realities are
4 not lining up with our preconceptions, it can be hard to
5 acknowledge that and even harder to change the course.

6 It took a great deal of fortitude for the staff
7 to re-examine your emissions inventory. At the end of the
8 day, I don't believe that my organization agrees with
9 everything that you've developed. But I'm here to tell
10 you and everyone else it was a serious good faith effort
11 and certainly within the realm of the reasonable.

12 I think it sets a good example for the rest of
13 the country. Too much today, we see ourselves with lots
14 of divisions. I think the search for hard data, for
15 objective science, for transparency is the only way we're
16 going to resolve the kinds of differences we see. I think
17 there is a lot of integrity that's been added to this
18 process. A lot of transparency. I thank you for setting
19 a good example of what good government looks like. I do
20 appreciate that.

21 I think the process needs to continue. I would
22 love nothing more than to see a great reservoir of trust
23 built up between this organization and all of the
24 industries that you regulate. I think it would be to
25 industries' benefit and to your own and to the benefit of

1 California.

2 Turning to the outcome, the specific proposals
3 that are here on the table, I'm a lawyer. I want to
4 debate everything I've heard today. I'm sure, if nothing
5 else, you're ready to let me let that go.

6 I just point out a few things. First, there's
7 been much concern from the environmental community. I
8 hear you. We hear you. We understand your concerns.
9 AGC's construction contractors have wives, children,
10 husbands. They have families here in California. And
11 they share the concern about California's air quality and
12 the environment.

13 We would note that there's been much discussion
14 of a January 1, 2014, start date. Actually, the start
15 date is January 1, 2013. January 1, 2014 is the deadline
16 by which we have committed to make changes. Compliance
17 efforts will start one year earlier. Compliance targets
18 that are in this rule are actually lower than the NOx
19 targets that are in the rule that it replaces. Those
20 targets have been set over a ten-year schedule, not an
21 eleven-year schedule. There's actually a compression in
22 the rate, a compression in the timetable, and an increase
23 in the rate of decline that will take place particularly
24 in the later years.

25 We hear your concern about action in early years.

1 Our concern is that the economy won't recover. And we, in
2 supporting this rule and coming out and saying that the
3 industry will stand beside you, we are taking the risk it
4 will not.

5 But having said that, we also believe that if the
6 economy does not recover, the emissions will remain low
7 and year 2014 goals will be met. If it increases, if it
8 picks up faster than expected, I do think the contractors
9 will reasonably look at their opportunities for early
10 credits. You have early credits for repowers and
11 rebuilds. You have early credits for replacement of Tier
12 0 and Tier 1 equipment. You have double credits for early
13 retrofits. Looking over the life span of this rule
14 running out to 2023 and knowing they can accumulate
15 credits and carry credits forward, contractors will act in
16 the early years if the economy permits them to do so.

17 There are also early restrictions on adding new
18 vehicles. The ban on the addition of Tier 0 equipment
19 takes effect the day this rule is approved by the U.S.
20 Environmental Protection Agency. The restrictions on the
21 addition of Tier 1 equipment. It becomes an absolute ban
22 in 2013. And there is a ban on Tier 2. Actually, the
23 deadline for banning Tier 2 equipment moved up in the
24 final rule. It is closer than it was before. It will now
25 move up to 2018.

1 There was a discussion earlier today about low
2 use equipment. Low use equipment is not exempt from the
3 ban on the addition of Tier 0 and Tier 1 equipment. It
4 will also be banned whether it's low use or not.

5 CHAIRPERSON NICHOLS: Mr. Kennedy, I know you
6 weren't going to debate the entire rule, but you're making
7 your way through it. And I'd appreciate if you could wrap
8 it up.

9 MR. KENNEDY: I'm done. Well, I just want to say
10 that the construction industry is still suffering. And I
11 thank you for understanding that nationwide we've lost 2.1
12 million jobs. 450,000 of those jobs have been in
13 California. Nationwide, the unemployment rate remains
14 18.8 percent. It's still far higher out here.
15 California's construction industry lost 45,000 jobs in the
16 last year.

17 I've overstayed my welcome. But I thank you for
18 having me, and I wish you the best of luck.

19 CHAIRPERSON NICHOLS: Thank you. We appreciate
20 the fact that you have come out from D.C. and also that
21 you've worked with us to try to turn the issue around, to
22 make it one that was -- that we could address, as you've
23 said, in the way that was focused on the data and the
24 facts. And overall to make the rhetoric constructive and
25 to be into a more trusting relationship between the

1 industry and the Air Resources Board.

2 I came in 2007 here when we were just on the
3 verge of adopting these rules. So I'm very appreciative
4 of the fact that the tone of the discussion has changed
5 and improved a lot since we started. I do think the rules
6 are also -- not just because they we've adapted to the
7 economic conditions, but because we did improve the
8 inventory and learned more about the uses of the equipment
9 and the nature of the very complicated industries that
10 we're dealing with. I think they are simpler and better
11 in a number of respects than they were when we started.
12 So it has been in many respects a very positive journey.

13 BOARD MEMBER BERG: I believe we have the LSI
14 people, and we'll have to excuse ourselves.

15 CHAIRPERSON NICHOLS: I'm sorry. I have not seen
16 that extra list.

17 BOARD MEMBE BERG: I don't think there's very
18 many people.

19 CHIEF COUNSEL PETER: We need to close the
20 hearing, except for 1048 which will be held after.

21 CHAIRPERSON NICHOLS: Are you are here on LSI?

22 MS. COREY: I'm on the truck rule.

23 CHAIRPERSON NICHOLS: Okay. So we'll finish up
24 and then close the record.

25 MS. COREY: Chairman Nichols and Board, I'm

1 sorry. I didn't mean to be the last person on the truck
2 rule. I just wanted to make sure we heard from all sides.

3 While I was sitting here, I heard the "E" word a
4 couple times, and that also always makes my hair stand on
5 end, which is exempt. As you know, I know the Chairwoman
6 knows, and I know the Board knows and I know the staff
7 knows that ag is not exempt from the truck rule. And
8 we've been complying for the last year. We're going to
9 continue to comply.

10 But we just wanted to make sure that you knew we
11 appreciated that. And we also appreciate the changes that
12 you've made for the folks that could not take advantage of
13 the mileage provisions for the agriculture community.
14 Because there's many folks in the agriculture communities
15 that harvest several times a year and can't stay under the
16 low mileage provisions, and these new changes will be
17 helpful to them. I appreciate the staff already helping
18 us get the word out and doing the workshopping.

19 I just wanted to make sure that you heard from
20 all sides on that and you appreciate the staff and the
21 Board and happy holiday.

22 CHAIRPERSON NICHOLS: Thank you very much.

23 So are you here on the truck and bus rule?

24 MR. GRABOWSKI: I'm here on the LSI rule.

25 CHAIRPERSON NICHOLS: Hang on. I'm going to

1 close the other record.

2 We have now closed the record on the first four
3 rules.

4 CHIEF COUNSEL PETER: Madam Chair, if you do it
5 by resolution number, that might be easier.

6 CHAIRPERSON NICHOLS: It would be nice if I had
7 the resolution in front of me.

8 CHIEF COUNSEL PETER: The Resolutions that we
9 just heard testimony on are: Resolution 10-44, which is
10 truck and bus; 10-45 drayage truck; 10-46 truck and
11 trailer, greenhouse gas; and Resolution 10-47, off-road.
12 Those are what we just --

13 CHAIRPERSON NICHOLS: These are the ones that we
14 closed.

15 We are now going to open testimony on 10-48,
16 which is the large spark ignition. And two of our Board
17 members will excuse themselves for that portion of the
18 discussion.

19 (Whereupon Ms. Berg and Ms. D'Adamo exited the
20 proceedings.)

21 CHAIRPERSON NICHOLS: Ms. Berg and Ms. D'Adamo
22 are exiting the room. Okay.

23 Now who else besides you is here to testify on
24 the LSI rule? Do we have a list? You're it. Great. You
25 can have an hour.

1 MR. GRABOWSKI: I don't want an hour. I've got
2 to get to the airport.

3 My name is Mike Grabowski. I'm here representing
4 American Rental Association. We've been working with the
5 LSI staff in order to address an issue that's related to
6 rental businesses.

7 The principle issue is that under the proposal
8 and under the current regulation, it turns out that our
9 members could be subject to the operator definition, even
10 though they are rental fleets. The rule was originally
11 carved out so that rental fleets weren't operative; they
12 rented equipment to companies who were then classified as
13 operators. But because we use some forklifts and a
14 moderate amount of forklift times in our yards, it would
15 mean that equipment that's principally rented or equipment
16 that's dedicated rented in the rental industry could
17 basically become operator equipment if that equipment is
18 used load, pumps, or tools or whatever within the yard.

19 When we look at the total number of pieces of
20 equipment we're talking about, it's less than 500. And in
21 comparison, we rent industry-wide thousands of forklifts a
22 year. And a maximum number of hours we're talking about
23 from a survey we just conducted and provided staff is
24 about 170 hours a year of use per yard in doing service
25 work. Now, that's less than the 200 hours that's going to

1 be allowed as a low threshold. But the problem is that
2 declaring our units as, let's say, low use units is not a
3 universe tool solution because the business in the yard
4 can't be limited based on satisfying a regulatory
5 threshold.

6 So we provided staff with a number of possible
7 solutions, but I would want to stay -- if I can have
8 another minute, since I've been waiting a long time --
9 that the real issue is that our guys will do whatever they
10 need to do to comply with the rules. And what they don't
11 want to do is be classified as operators, because for 500
12 forklifts total, that means they're going to have to
13 comply with another reg, and they're going to have to be
14 associated with the costs and the training involved.

15 And so what happens then is that some of our guys
16 already and others in the future have indicated that if
17 they can't get some relief under the LPG LSI forklift
18 rule, they're going to want to use diesel forklifts in the
19 yard, which we don't want them to do because that goes
20 against the Diesel Risk Reduction Plan.

21 So all we're asking for is in the 15-day period
22 that we be able to work out some kind of an equitable
23 arrangement with staff. Like I said, we provide some
24 ideas to them. And if we can do that and protect the
25 environment and reduce the regulatory burden for 500

1 units, that's what we'd like to do. So we'd like you to
2 direct staff to just work with us and trying to get it
3 resolved.

4 CHAIRPERSON NICHOLS: Okay. Staff want to
5 comment on this at this point or --

6 ON-ROAD CONTROL REGULATIONS BRANCH CHIEF
7 KITOWSKI: Yes. We actually agree with comments that he's
8 made that the operator definition that we have in the
9 staff report really didn't work completely. So we
10 appreciate him bringing this comment up.

11 The proposals came in on Wednesday. We think
12 there needs to be a little back and forth, but we're in
13 the ballpark. So we look forward to resolving in the
14 15-day process

15 CHAIRPERSON NICHOLS: Directing you to resolve
16 this would not be a problem then. So your day was not
17 wasted.

18 MR. GRABOWSKI: My day is never wasted here. I'm
19 an engineer, so I have a low standard. But this is
20 sometimes the most entertaining times I have.

21 CHAIRPERSON NICHOLS: We live to serve. Okay.

22 We will close the record now then on Resolution
23 10-48, and now we can bring this back to the Board for
24 discussion. But I think we should -- we can just resolve
25 this one while the two are out of the room. Why not.

1 Okay. Any other questions or comments from --

2 BOARD MEMBER RIORDAN: I would make a motion to
3 adopt staff recommendation with the direction to continue
4 to work on this issue that the last speaker brought up.

5 BOARD MEMBER LOVERIDGE: Second.

6 CHAIRPERSON NICHOLS: Any further discussion?
7 If not, all in favor say aye.

8 (Ayes)

9 CHAIRPERSON NICHOLS: Any opposed?

10 All right. It carries.

11 Now we can ask our two missing Board members to
12 come back, please.

13 BOARD MEMBER LOVERIDGE: Maybe you can use the
14 same procedure that you did last night.

15 CHAIRPERSON NICHOLS: Yes. We will ask people to
16 file their ex parte communications in writing on this one
17 also before we proceed to discussion.

18 EXECUTIVE OFFICER GOLDSTENE: The ex parte filing
19 would apply to the LSI as well.

20 CHAIRPERSON NICHOLS: Yes. That one was easy.
21 You should have picked something else to recuse yourself
22 on. You should have bought cement mixers instead of
23 forklifts.

24 All joking aside, we're back to the truck and
25 bus, drayage, tractor-trailer, and off-road rules now.

1 And maybe we should just discuss them in order in terms of
2 changes or modifications that any Board members want to
3 see discussed or any questions that you may have.

4 BOARD MEMBER RIORDAN: I do have a couple of
5 questions, Madam Chair.

6 Before I do that, let me just congratulate the
7 staff and those of you who participated in much of the
8 effort that is culminating today.

9 And also let me just share with you I think our
10 outreach -- I noticed it today more than ever. And I want
11 to thank the staff, particularly because as people
12 commented and particularly those single owner-owned truck
13 owners, you know, it's very helpful for guidance. They
14 don't have staff. They don't have the capability to
15 understand sometimes some very technical issues that we
16 have placed before them. So I notice that. I appreciate
17 that. And I believe that we need to do more and more.
18 And I know I have a commitment from staff that they will
19 once we get this behind us.

20 I was a little concerned Mr. Massolo left. You
21 couldn't even capture him for a moment. But I wanted to
22 ask about his lettuce vehicle truck. And I do know those
23 are very specific. Can we do some work on that so that we
24 could understand a little bit better what it is? I mean,
25 I've seen those trucks in the field. I don't know. I

1 can't believe they're going that far to the processing
2 facility. But maybe they are. I just don't know. I
3 think it's worth exploring with him. And I'm sorry he
4 took off.

5 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF
6 BRASIL: I can say we are familiar with that type of
7 truck, and it is a unique design. I believe we can
8 accommodate it within the construct of the rule and simply
9 include it.

10 BOARD MEMBER RIORDAN: And then my second
11 question would be going to I think the testimony of the
12 last few speakers, the low use construction trucks. Is
13 there an opportunity to work with them on something there
14 that might make sense not to cause us to raise emission
15 levels, but to work with them, especially if they're low
16 usage?

17 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH
18 ASSISTANT DIVISION CHIEF WHITE: Yeah. As it relates to
19 the vocational trucks, we have tried to focus in on those
20 on-road trucks that are used in the construction industry.
21 As I think was noted, there is two ways to
22 approach it. Could specify the vehicles are very
23 prescriptive or cap the number of vehicles, which is what
24 we've done with the specialty off-road ag vehicles so that
25 you assure that you don't exceed the number of vehicles

1 that are going to go over the emissions budget you've
2 established for that. So we can certainly look at either
3 way and have further discussions with them about what
4 would make the most sense, recognizing that we have other
5 changes we made to ensure that we would still stay within
6 our margin. And whatever we do needs to -- all the
7 additional relief we've provided as the 15-day changes
8 falls within that emission margin. Additional emission
9 margin we tried to free up for that.

10 BOARD MEMBER RIORDAN: With that, Madam Chair,
11 I'm very comfortable with the staff recommendations. And
12 thank you for all your work.

13 BOARD MEMBER ROBERTS: Is that the less than
14 15,000 miles a year?

15 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

16 ASSISTANT DIVISION CHIEF WHITE: Yes.

17 BOARD MEMBER ROBERTS: That would cut across all
18 the categories?

19 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

20 ASSISTANT DIVISION CHIEF WHITE: We are specifically
21 focusing on multiple vehicle types that are used in the
22 construction industry, but limited to the construction
23 industry.

24 BOARD MEMBER ROBERTS: You put a cap on number of
25 those --

1 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

2 ASSISTANT DIVISION CHIEF WHITE: That would be one way,
3 yes. We heard suggestions from industry that that would
4 be the preferred way to do that. We'll look at that.

5 CHAIRPERSON NICHOLS: Okay. I'm going to go next
6 to Dr. Telles.

7 BOARD MEMBER TELLES: Thank you.

8 There was mention of the cross-over issue between
9 the construction and trucking. I believe that was --
10 recommendation was probably not initially in the rule and
11 it was taken up by some of the workshops. I remember that
12 being an issue in the Fresno workshop when I went there,
13 and it seemed like that issue was -- staff listened to the
14 request to have the cross-over as part of where a truck in
15 the construction industry and trucking industry could
16 maybe cross over. And I was just wondering, is there a
17 reason -- sounds like it applies to just new trucks. And
18 is there a reason why it's not for retrofits as well as
19 fleet reduction also? Was that an oversight or is there
20 a --

21 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

22 ASSISTANT DIVISION CHIEF WHITE: May need a little bit
23 more clarification could help us get you an answer to
24 that.

25 BOARD MEMBER TELLES: I wasn't clear myself,

1 because it was in testimony today that one of the
2 commentators mentioned that there is a relief -- a
3 cross-over relief for purchase of new trucks, but not a
4 relief for purchase of retrofits or fleet reduction.

5 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF
6 BRASIL: If I understand the issue, I think it was the
7 opposite. In the staff proposal, we said if you install a
8 retrofit device before July of next year that you could
9 treat another vehicle as exempt until 2017. But we did
10 not have an analogous or comparable advantage if you
11 purchased 2007 or newer engines, since you wouldn't get
12 this extra credit for having upgraded the whole truck.
13 We've introduced that in the 15-day change to provide
14 credit for that.

15 BOARD MEMBER TELLES: Probably my biggest issue
16 in this is coming from the San Joaquin is that the margins
17 can be very, very close. And I think that the request of
18 the two air districts, the San Joaquin and South Coast,
19 it's probably a reasonable request to put their languages
20 into the resolution. I think everybody has probably read
21 that. And I would hope that we include that language in
22 there, which briefly, CARB accepts responsibility for
23 mitigation should we not get our SIP, closer monitoring,
24 and have a date somewhere around 2012 and partner together
25 with the three agencies to improve the local and regional

1 inventories and to help expedite the moving out of
2 incentives.

3 CHAIRPERSON NICHOLS: There was also a monitoring
4 request --

5 BOARD MEMBER TELLES: Yeah.

6 CHAIRPERSON NICHOLS: -- on a specified schedule.

7 I would have no objection to that if we can just
8 incorporate that into the resolution.

9 BOARD MEMBER TELLES: And one other issue is the
10 greenhouse gas smart truck issue. Moving it out to 150
11 miles seems reasonable to me, especially given that the
12 trucks which are -- health benefits for that rule is
13 really minimal or nonexistent. And the trucks that are
14 involved in that rule are often it's their third or fourth
15 regulation -- trucking regulation that they might be
16 participating in. It seems like a Reasonable thing to do.

17 ON-ROAD HEAVY-DUTY DIESEL SECTION MANAGER
18 LEMIEUX: There is a few good reasons why -- Stephan
19 Lemieux with the On-Road Heavy-Duty Diesel Section. I'm
20 responsible for developing the heavy-duty greenhouse gas
21 requirements for the tractor-trailer greenhouse gas
22 regulation.

23 There are a few good reasons why the 150 mile
24 doesn't really work in this instance. For one, we did
25 workshop a lot with the industry on establishing what is a

1 local haul and long haul. And the US DOT has a definition
2 for commercial driver's license that they require that if
3 you operate less than 100 miles, you're not -- you don't
4 need to have the hours of service. It's kind of a mark
5 point for the industry breaking out between what a local
6 haul is and what a long haul begin is about 100-mile
7 radius of operation. And so also the insurance companies
8 when they determine whether you're long haul or local haul
9 and insurance rate changes is based on 100 mile radius.
10 So we had some precedence in place to establish that. We
11 had to make a cut point.

12 The other issue is -- I have a slide you might
13 want to go to. But basically when you look at 150 mile
14 radius, you can get from the bordering states into the Los
15 Angeles or Oakland area. So it would add a mechanism
16 where fleets would be able to register a local haul, but
17 we would have a difficult time enforcing it because it can
18 get out of the state where it's not enforceable and back
19 into the state.

20 As you can see here, I took Victorville as an
21 example and probably a lot of other cities that would fall
22 in this situation. 150-mile radius -- you're thinking
23 about it's 300 miles from one end of the radius to the
24 other. And in order to even operate in this region,
25 you're spending quite a bit of time on the highways as

1 well on 15 or the 99 or the 5. And so if we allow for
2 this, you can see that you're going -- you're able to
3 spend quite a bit of time on the highways. So you would
4 benefit from the technologies and at the same time you
5 have a big opportunity to circumvent our requirement and
6 request the local haul exemption and get away with being
7 able to come in and out of the state without ever being
8 caught.

9 BOARD MEMBER BERG: Could you just follow up on
10 that though about the mileage and the fact that the smart
11 trucks benefit at 62 miles an hour and the law requires
12 them to go 55 miles an hour?

13 ON-ROAD HEAVY-DUTY DIESEL SECTION MANAGER

14 LEMIEUX: When we did our estimates, we based it on the
15 highway speeds. We actually provided no benefits for
16 aerodynamics at lower speeds. But in reality, when you
17 look at the physics and what happens with aerodynamics,
18 you actually get some benefits at lower speeds. And it's
19 a function of the speed. So speed does have a big impact
20 on the forces on the vehicle, but less so at lower speeds.

21 And so operators are getting benefits even at 40
22 miles per hour. That was thrown out as an average speed.
23 The only thing I would let the Board know is average speed
24 is not as good a metric because trucks often spend a lot
25 of time at very low speeds and idling, and then they spend

1 most of their time -- a good portion of their time for
2 long hauling at a highway cruise speed. So you can't
3 really use the average speeds in this case.

4 And so at 55 miles per hour, you are getting a
5 majority of the benefits. Less than the SmartWay
6 identified benefits, which are usually done at 62 miles
7 per hour. But you're not talking about -- you're talking
8 about probably anywhere -- you're going to range anywhere
9 from three to five percent, in that range.

10 A lot of the technologies that are coming onto
11 the marketplace now are actually verified even in the
12 seven percent range. So what that means is that even at
13 lower speeds, you're getting substantial benefits down.
14 You're running at 50 miles per hour, you're getting
15 significant benefit with those technologies.

16 And also if you've driven on the freeways, even
17 though you do have the 55 mile per hour speed limit, it's
18 not 100 percent the case out there unfortunately. They
19 all have governed speeds, it would be great. But they're
20 oftentimes at 65, 70. I spend quite a lot of time going
21 to Arizona. It's my hobby. And you'll see them out there
22 cruising quite fast.

23 BOARD MEMBER TELLES: I think you answered the
24 question. Thank you. Very well.

25 CHAIRPERSON NICHOLS: Is that it?

1 BOARD MEMBER TELLES: Yeah.

2 CHAIRPERSON NICHOLS: Okay. Ms. D'Adamo.

3 BOARD MEMBER D'ADAMO: I have a question on the
4 bus rule. I don't know that I'm totally comfortable on
5 the school bus provision. Concerned about exposure to
6 children. So maybe if staff could walk through their
7 thinking on that.

8 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

9 ASSISTANT DIVISION CHIEF WHITE: Well, as we looked at the
10 school bus provision in the existing regulation, I think
11 what we found is what we heard today is not only are
12 private companies struggling with this current financial
13 time, so are school districts. And as we've surveyed
14 school districts, while many of them have indicated that
15 they are, in fact, cutting transportation services, most
16 of that is not happening because of our regulation; it's
17 just because it's a reality of the budget times.

18 So we looked to see where we could maximize the
19 benefit we were getting while still trying to provide some
20 relief. So consistent with how we were looking at trucks,
21 that cut point really was the segregation of about 88
22 percent of the buses fell into the larger size and about
23 12 percent or them fell into the smaller size. We found
24 they're newer than the larger buses and replaced more
25 often and typically driven fewer miles.

1 So as we look at opportunities to try to provide
2 some relief to the school districts, in our opinion, that
3 made the most sense in terms of how to try to structure
4 that. Keeping in mind, we did want to keep the existing
5 date for larger buses consistent with what we have right
6 now in 2014. That was our rationale as we were walking
7 through how best to address school buses to provide
8 some relief.

9 BOARD MEMBER D'ADAMO: I understand the need.
10 I'm one wondering about the vulnerable population. Do you
11 have any information on how many kids are in those buses?
12 Are they typically full? How long the trips are? Pretty
13 much similar to the regular school bus, or are they used
14 in a different way.

15 ON-ROAD CONTROL REGULATIONS BRANCH CHIEF ROWLAND:
16 Well, out of approximately 1500 school buses below the
17 26,000 gross vehicle weight level, only about 400 are
18 actually non-compliant at this point.

19 I don't think that we have good estimates for the
20 actual number of students that are carried. But obviously
21 the smaller buses carry fewer students.

22 I think as you heard today, they do tend to be
23 the special needs children. So obviously they're not
24 going to be packed with 60 children like the larger buses
25 are.

1 CHAIRPERSON NICHOLS: Dr. Balmes wanted to
2 comment on this particular issue, and I do, too.

3 BOARD MEMBER BALMES: One of the commentators
4 from one of the school districts -- think it was Elk
5 Grove -- made the point that these are disabled kids
6 often. And she didn't want to see them sitting in an
7 idling situation because the vehicle broke down because of
8 the filter.

9 But I guess I would turn that around. These are
10 disabled kids already. And I don't know why disabled kids
11 should be breathing more diesel emissions than
12 non-disabled kids.

13 And, you know, I -- in favor of what we are doing
14 in general today about relaxing the diesel regulations
15 because of the economic need and because we can do that
16 with the fact there is decreased emission from the
17 recession, but my role on the Board is to be concerned
18 about public health. And again, while I'm supporting in
19 general what we are doing today, I think on the school bus
20 issue that's where I would draw a line a little bit
21 myself. I know it's hard on the school districts
22 currently with the fiscal situation. But I think that,
23 again, protecting the most vulnerable kids in the smaller
24 buses is something we should do.

25 CHAIRPERSON NICHOLS: Well, I agree with you on

1 that point, but I would also add unlike other things that
2 are in that category, 100 percent of the money that is
3 being spent on fixing these things or replacing them is
4 public money. It's either coming from the federal
5 government or the state government. And we are in the
6 process of changing them over. And we put a lot of money
7 out to the districts. The districts chose for, you know,
8 reasonable basis to try to get everybody new buses because
9 there are advantages to that.

10 But the reality is that it is the kids who are
11 riding the buses today who are breathing that pollution.
12 And if they had chosen to do differently, there would have
13 been enough money to give every single bus a filter. They
14 didn't do that. But there's still enough money now to put
15 filters on the ones that aren't controlled. So I just
16 think we do have an obligation to see that that gets done
17 sooner rather than later. So if I don't see any
18 objection, I'd like to propose that we make that change
19 and in the truck and bus rule to bring the smaller school
20 buses back.

21 BOARD MEMBER BERG: Madam Chairman?

22 CHAIRPERSON NICHOLS: Yes.

23 BOARD MEMBER BERG: That would be me, Sandy.

24 I also concur, but I also would really appreciate
25 if staff would take on a project for the school districts

1 to try to resolve this issue about retrofits and not
2 working. We hear this time after time, and we hear one
3 thing from the retrofit manufacturers and one thing from
4 the school districts. I really would like to challenge
5 the retrofit manufacturers to get with staff, let's get
6 together with the school bus district in a room, lock the
7 doors, and not let anybody out until we figure out what's
8 going on.

9 CHAIRPERSON NICHOLS: Well, and fix it whatever
10 it is.

11 BOARD MEMBER BERG: Yes.

12 CHAIRPERSON NICHOLS: Because a lot of them do
13 have filters. And if they're not working properly, they
14 need to work.

15 BOARD MEMBER BERG: Let's find out, and let's be
16 the people that resolve that.

17 CHAIRPERSON NICHOLS: Good amendment.

18 Other comments, questions, additions on the truck
19 and bus rule? Let's move onto the drayage --

20 BOARD MEMBER BERG: I do have some. We want to
21 clarify that retrofits that are purchased with incentive
22 funding will be surplus and not go toward the early
23 credit. Also, there was a question on the 15-day change
24 on the alternative vehicle credit. That was something
25 that was inadvertently left out. That was proposed by

1 waste management.

2 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH CHIEF

3 BRASIL: We had two conflicting dates of the changes. I
4 think we already addressed it in the 15-day change.

5 BOARD MEMBER BERG: And also we had a request
6 from Northern Sonoma County to be added to the attainment
7 list and therefore NOx exempt. Are we comfortable with
8 that?

9 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

10 ASSISTANT DIVISION CHIEF WHITE: It would certainly be our
11 preference to keep the existing list on a whole county
12 basis, but I think we can entertain that change. And it
13 would include both not just the truck and bus rule, but
14 the off-road rule as well, which has a similar list of
15 counties.

16 BOARD MEMBER BERG: Thank you very much.

17 Thank you, Madam Chairman

18 CHAIRPERSON NICHOLS: Okay. I think we're
19 probably going to be able to take up all of these at once.
20 I'm just working through the different resolutions.

21 What about drayage trucks? I had concerns.

22 BOARD MEMBER BALMES: Perhaps this is same
23 concern, but I was persuaded by some of the testimony
24 about trying to do something for the early compliers. It
25 seems to be appropriate for people that spent a lot of

1 money and invested a lot of money with a certain
2 expectation about what our rules were. Now we've changed
3 the playing field. Again, I think appropriately. But it
4 seems like we should be trying to do something for those
5 folks. And I don't know if staff has any ideas.

6 CHAIRPERSON NICHOLS: I think they do.

7 BOARD MEMBER BERG: I really would like to jump
8 in on this as well, because I do think this is a fairness
9 issue. We are looking at something that has already been
10 implemented and we are trying to accommodate between two
11 separate groups. But the fact is that the group that
12 still has to comply, I think we have some opportunity for
13 some incentive funding and to assist them. And I would
14 like to suggest that we would leave the drayage truck rule
15 as is with the 2007 and newer buy the 2014. And if that
16 isn't acceptable, that we would look at something that was
17 not out to 2020, maybe 2016 if we felt like giving the
18 other individuals with the retrofits an additional
19 two years. But my first choice would be to leave the rule
20 as it is.

21 CHAIRPERSON NICHOLS: It was changed, I take it,
22 just to make it parallel to other rules. There was no
23 other particular reason for that.

24 ASSISTANT DIVISION CHIEF MARVIN: The staff's
25 proposal to defer the Phase 2 requirement, which was

1 essentially the upgrade to '07 trucks, was based on parody
2 or consistency with the changes being made to the
3 statewide truck and bus rule. But if it's the Board's
4 interest to keep this rule consistent so the direction
5 sent to businesses who already made compliance choices, we
6 would recommend you leave that deadline at 2014.

7 CHAIRPERSON NICHOLS: The thing is for L.A./Long
8 Beach where the ports themselves imposed a ban on trucks
9 coming in that didn't meet the standard, there is no
10 impact at all. So I think that that covers a substantial
11 portion right there of drayage trucks in the state. But
12 for others, there is a real potential -- I don't know how
13 large it is. There is some real potential for some health
14 benefit that we would keep some health benefits that might
15 otherwise be lost.

16 Yes?

17 BOARD MEMBER D'ADAMO: You make a good point
18 about L.A./Long Beach. So could staff provide some
19 information what are the numbers and where are those
20 trucks located? Do you have a sense? Because a couple of
21 the companies that came in, we know where they're located.
22 But, you know, not everyone was here to provide us with
23 information as far as compliance. And those that are not
24 in compliance, are they concentrated in a certain area?

25 ASSISTANT DIVISION CHIEF MARVIN: More than half

1 of the drayage trucks are already compliant with the Phase
2 II requirement. They're already 2007, '08, '09, '10
3 trucks. That's is largely as a result of the action by
4 the Ports of L.A. and Long Beach and the gate fees they
5 impose on older trucks. Incredible economic driver.

6 The issues we're talking about are fundamentally
7 trucks that serve the Port of Oakland. And, really, it's
8 roughly 1700 trucks that serve the Port of Oakland that
9 put on retrofits to comply with the rule and roughly 500
10 trucks in Southern California that retrofit in order to
11 serve the rail yards exclusively down there.

12 So the population of trucks we are talking about
13 is 2200 trucks. We estimate that the NOx benefits of
14 going to that second phase, that upgrade, are roughly
15 seven tons per day statewide, with the bulk of those being
16 on the table in Northern California and a smaller
17 proportion in Southern California. So if the Board opted
18 to simply stay with the existing requirement, those are
19 NOx reductions that would be achieved by 2014.

20 BOARD MEMBER D'ADAMO: Do you have information on
21 what it would do to the margin in the valley? Because I
22 know there's some transport that occurs, and I guess some
23 of those trips are between the two districts.

24 ASSISTANT DIVISION CHIEF MARVIN: Certainly, it
25 would help with the margin in the San Joaquin Valley. We

1 know that much of the drayage traffic -- I don't have a
2 statistic, but my sense is probably half of the trucks
3 that are serving the Port of Oakland are making trips back
4 and forth between the port and the San Joaquin Valley.

5 The biggest activity at the Port of Oakland is
6 exports from San Joaquin Valley, ag exports. And those
7 are the ones that we read in the paper are going up
8 tremendously and really are a bright spot in the economy.
9 So we expect that to continue. So clearly there would be
10 San Joaquin Valley NOx benefits from retaining this
11 requirement.

12 BOARD MEMBER BERG: Cynthia, could you give the
13 number of trucks that are, in fact, compliant with the
14 Phase 2 in the Oakland area? Isn't that around 1,400
15 trucks?

16 ASSISTANT DIVISION CHIEF MARVIN: Yes, ma'am.
17 Exactly.

18 BOARD MEMBER RIORDAN: Madam Chair, may I just
19 ask a question about the owner of one truck? If we
20 retained the rule as is, how does that effect that single
21 owner?

22 ASSISTANT DIVISION CHIEF MARVIN: In the drayage
23 rule, unlike the truck and bus rule, all owners and fleets
24 are treated the same. Doesn't matter if you have one or
25 20. The compliance deadlines are the same. However, in

1 our outreach on the grant programs, we and particularly
2 the Bay Area District really made an extensive effort to
3 provide all the assistance that we could, especially to
4 smaller fleets. And we would maintain the commitment to
5 do that to the trucks that would need to make the second
6 upgrade.

7 CHAIRPERSON NICHOLS: That was based on the fact
8 that the observation, a very large proportion of the
9 drayage trucks are these independent owner-operator.

10 BOARD MEMBER RIORDAN: I remember the testimony
11 of the gentleman. They're having a hard time getting the
12 loads.

13 ASSISTANT DIVISION CHIEF MARVIN: The encouraging
14 news more recently is when you look at activity in the
15 last few months compared to the last year, it's definitely
16 picked up in the port business. And certainly ag exports
17 from the valley are higher than they've been since
18 pre-2005.

19 BOARD MEMBER RIORDAN: That's good news.

20 CHAIRPERSON NICHOLS: The ports have been putting
21 out press releases on this that are quite encouraging
22 actually, quite positive.

23 This doesn't mean that we don't need this rule
24 amendment though to fix the other issues.

25 BOARD MEMBER BERG: Yeah, with the dray-off. We

1 need the rule for the dray-off. And also there was
2 another testimony by the Port of Los Angeles to close the
3 loophole on the Class 7 trucks.

4 CHAIRPERSON NICHOLS: Right.

5 ASSISTANT DIVISION CHIEF MARVIN: We would
6 certainly recommend that the Board consider the addition
7 of the Class 7 trucks with an additional provision that
8 trucks operating in the South Coast air basin, Class 7
9 trucks, be subject to the regulation and PM controls as of
10 January 1st of 2012, which would be the soonest that we
11 can do it. Would respond to the port of L.A's concerns.
12 And fundamentally, it would mean that Class 7 trucks that
13 came into drayage less than a year ago would simply leave
14 the drayage business. Not all business. They simply
15 would defer their loads back to the --

16 CHAIRPERSON NICHOLS: Would you like to see
17 changes?

18 BOARD MEMBER D'ADAMO: I just have one more
19 question. I'm 99 percent comfortable with where we're
20 headed.

21 But with respect to availability of ag trucks
22 because I've heard anecdotally -- and maybe Dr. Telles can
23 chime in here -- that there has been some challenges, if
24 you will, shippers locating trucks. And I just as assumed
25 what we were doing was headed in the right direction so I

1 didn't look into it any further.

2 But in light of what we're just about to do here
3 on drayage, I'm wondering if staff has any input or maybe,
4 John, if you have some knowledge of that.

5 BOARD MEMBER TELLES: I think the information to
6 me is anecdotal, too, in the sense that many of the grower
7 organizations in our area are concerned about perhaps the
8 lack of availability of trucks or the increased costs of
9 moving the product to the port.

10 BOARD MEMBER BERG: Is the issue that they're
11 looking for a low cost trucks versus --

12 BOARD MEMBER D'ADAMO: Compliance.

13 BOARD MEMBER BERG: -- trucks that aren't in
14 compliance?

15 BOARD MEMBER D'ADAMO: I think we're headed in
16 right direction anyway.

17 BOARD MEMBER TELLES: What happened about a
18 year-and-a-half ago, the concern was that because of the
19 economic downturn that no trucks would being able to
20 comply because of the lack of the economics of it. And
21 when that was happening, it became apparent that maybe
22 wasn't going to be enough trucks for this purpose.

23 Things have changed slightly, perhaps because
24 there has been some delay of this. And I get the feeling
25 that there's probably trucks available, and that fear is

1 probably not as justified as it was a year-and-a-half ago.

2 ASSISTANT DIVISION CHIEF MARVIN: Certainly, this
3 was the certain we heard extensively at the end of last
4 year. The Port of Oakland at that time estimated roughly
5 2,000 trucks making frequent visits would be sufficient to
6 handle their cargo. So even if there are increases,
7 there's currently an over 5800 trucks serving the Port of
8 Oakland that currently comply with the rule. So we
9 absolutely would not expect a supply problem.

10 I would also note the Class 7 trucks, part of the
11 reason that we suggest that the acceleration on those
12 trucks happen in the South Coast air basin is that there
13 are a number of trucks that just fall into this category
14 that have been in operation serving the ag industry and
15 smaller ports throughout the valley, like the Port of
16 Stockton. So those would be able to continue operating.
17 We still need to put on filters, but by 2014.

18 CHAIRPERSON NICHOLS: So we're proposing three
19 changes then to the rule that was in front of us or to the
20 resolution. One is to deal with the Class 7 trucks at the
21 Port of L.A./Long Beach. The drayage is in already. So
22 the other change is just to eliminate the time extension.

23 ASSISTANT DIVISION CHIEF MARVIN: The actual
24 changes to the existing rule would be to incorporate the
25 secondary trucks that eliminate dray-off, to include the

1 Class 7 trucks with the special provision that those
2 operating in the South Coast would be subject to PM
3 requirements in 2012. Those operating elsewhere in the
4 state would be subject to those PM requirement.

5 CHAIRPERSON NICHOLS: Sorry. I was looking at it
6 from the point of view of the resolution in front of us
7 and what we had to do to it to fix it. Okay. I think we
8 understand what needs to be done.

9 Yes, Mr. Loveridge.

10 BOARD MEMBER LOVERIDGE: Where's the 2007 versus
11 2008? What happened to that discussion?

12 CHAIRPERSON NICHOLS: 2007?

13 BOARD MEMBER BERG: We didn't hear you because
14 you weren't on the microphone, Mayor Loveridge.

15 BOARD MEMBER LOVERIDGE: I said you raised the
16 question of 2007, staying with the current or changed it
17 2008. What happened to that discussion I just wanted to
18 know?

19 BOARD MEMBER BERG: We're staying with the Phase
20 2 2007 trucks in place by 2014.

21 BOARD MEMBER TELLES: I think one reason why this
22 drayage truck thing works is because of Cynthia. If I
23 recall, last Christmas, she spent her Christmas holidays
24 in the Port of Oakland and New Years and probably Easter.
25 I would like to personally thank her for making this work.

1 I think it's going to be helpful for our area.

2 CHAIRPERSON NICHOLS: Second that.

3 This time we'll send you a bottle of champaign to
4 whatever port you're at.

5 Tractor-trailer, greenhouse gas rule, we are okay
6 with that?

7 BOARD MEMBER BERG: The only thing I wanted to
8 add to the greenhouse gas was to ask staff about the drop
9 frame trailer, the belly box trailer that they were
10 talking about.

11 CHAIRPERSON NICHOLS: Right here.

12 BOARD MEMBER BERG: It seems to have a skirt
13 built in. So should that be on the exempt list?

14 ON-ROAD HEAVY-DUTY DIESEL SECTION MANAGER

15 LEMIEUX: This is Stephan Lemieux.

16 The reason why we exempted the drop frame
17 trailers is there was no technology available at the time,
18 and there's actually still remains no technology available
19 either on the rear of the trailers or on the skirting of
20 the trailer.

21 However, for a standard van that has a box on the
22 bottom, you can put a tail device that complies. There is
23 ways of complying with the regulation.

24 And we've also added a new provision where we
25 allow Executive Officer for approval for modified SmartWay

1 technology. So if they test like in a wind tunnel with
2 the skirting that's been modified to be cut around the
3 boxes, they can comply that way if they test and show that
4 it's equivalent. So we do have a few options for them to
5 be able to comply under the proposed amendments.

6 BOARD MEMBER BERG: Thank you.

7 CHAIRPERSON NICHOLS: All right. And now we come
8 to the off-road rule.

9 ASSISTANT DIVISION CHIEF MARVIN: Madam Chair,
10 before we go on to that, if I might on the advice of our
11 attorney.

12 On the discussion of drayage trucks, I just want
13 to be clear that with these changes that the Board was
14 just discussing, the net effect would be Class 7 trucks in
15 the South Coast would have to put on filters by 2012. By
16 2014, those Class 7 trucks would have to comply with the
17 Phase 2 requirement. So it's both PM control and NOx
18 control, like every other drayage truck.

19 BOARD MEMBER BERG: There isn't a provision that
20 allows them a period of time? I mean, two years useful
21 life on a retrofit seems a tad short.

22 ASSISTANT DIVISION CHIEF MARVIN: Certainly, the
23 trucks in Southern California -- as I said, the Class 7
24 trucks were not doing drayage in Southern California until
25 a year ago. It's unlikely that someone would choose to

1 invest in a filter and keep sending the Class 7 truck into
2 these facilitates. Instead, they will go back to the
3 traditional Class 8 to serve the ports.

4 CHAIRPERSON NICHOLS: Okay.

5 BOARD MEMBER BERG: I'm okay with that.

6 CHAIRPERSON NICHOLS: That makes sense. All
7 right. So just moving last now to the off-road rule, I
8 frankly think we've done as much with that one as we can
9 do.

10 BOARD MEMBER BERG: Could we just address the
11 additional sticker though on the --

12 CHAIRPERSON NICHOLS: The sticker.

13 BOARD MEMBER BERG: We're down to the sticker.

14 CHAIRPERSON NICHOLS: What about that sticker?

15 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH

16 ASSISTANT DIVISION CHIEF WHITE: The sticker, as we've
17 gone around -- and I'm sure everyone has started to notice
18 the red labels on the side of the equipment. And it is a
19 very valuable tool for us to know whether or not the
20 vehicle is in there.

21 What we have found -- it was suggested all we
22 have to do is get out and walk around. A lot of times
23 we're driving by. And what we really have found is that
24 it would be greatly beneficial I think to everybody to be
25 able to look at either side of a vehicle and know whether

1 or not fairly quickly it's been reported or not.

2 The time frame in which we plan to do this is to
3 provide two years to get the other label on. And it's at
4 the time in which we expected that initial label to
5 probably have worn. I think we heard many of them are
6 turning pink where they're going to have to replace one
7 anyway. At that time they just put one on both sides of a
8 vehicle.

9 It seems a reasonable way to get better labeling
10 on these vehicles. If you look at the trucks, we do
11 require labels on both sides of the trucks for the ag
12 exemptions and some of the other things. So it seemed to
13 us to be a very good idea and relatively inexpensive
14 relative to everything else we've been talking about.

15 CHAIRPERSON NICHOLS: I think we should change in
16 the requirement that the label should be pink to begin
17 with. Soften it up. never mind. Okay.

18 BOARD MEMBER BERG: There could be no big fines
19 on that, I would hope.

20 The last thing I really would like to talk about
21 before we really lose all sense of sensibility here is on
22 the retrofit request. I would like if the Board was
23 agreeable to ask staff to, in fact, meet with the retrofit
24 companies and review our verification processes, our
25 costs, and to see what type of relief that we can provide

1 maintaining the quality of our verification process. But
2 it is very expensive. It's very time consuming. And it
3 does take a long time. And I think wherever we can assist
4 in reducing those costs, I'd really be a huge advocate of
5 that.

6 HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH
7 ASSISTANT DIVISION CHIEF WHITE: Let me take that even a
8 step further.

9 We already have plans with the Board to make
10 amendments to the program in the fall of next year and
11 have already begun discussions with them about the
12 comments they have raised. And we'll work with them to
13 find some changes we can implement administratively in the
14 near term and bring some long-term changes to that.
15 Because we do recognize -- I think we've talked a lot
16 about the need for relief for effected industry. We do
17 need to recognize it is a substantial investment these
18 companies have made in California and look for ways in
19 which we can reduce costs for them, while not Sacrificing
20 the protections and the demonstrations of durability that
21 we currently have in there.

22 CHAIRPERSON NICHOLS: This is line on the
23 off-road, but it obviously has a life of its own as well.
24 Fair enough.

25 There was one additional point that was raised

1 here today I also wanted to pick up on, and that was the
2 request to staff to do a more comprehensive look at
3 greenhouse gas emissions from the freight transport sector
4 as a whole.

5 I'm going to make it bigger than just the trucks
6 and to suggest that the point that Tim Carmichael brought
7 to us obviously representing the natural gas industry, but
8 there's other reasons why as we move forward with our
9 implementation of AB 32. While we congratulate ourselves
10 on the great work the Board has done in implementing the
11 Scoping Plan, the fact is there still are a lot of
12 emissions out there in the state that we are not capturing
13 in any other way and the need to think in a more holistic
14 manner to 2020 and beyond 2020 about what we're going to
15 do to address the overriding issues of transforming to a
16 lower carbon economy and the jobs that we all hope will
17 come along with that.

18 So I think it would be helpful if Mr. Goldstene
19 would get you and the staff to agree that this is
20 something that we would add to our thinking about the
21 agenda for next year.

22 EXECUTIVE OFFICER GOLDSTENE: We're happy to do
23 that.

24 CHAIRPERSON NICHOLS: All right. Any other final
25 parting words by anybody?

1 If not, I think it's probably time to bring this
2 to a vote. So I'm going to suggest that we vote on 10-44,
3 45, 46 and 47 as a group and entertain a motion.

4 BOARD MEMBER LOVERIDGE: So moved.

5 BOARD MEMBER BALMES: Second.

6 BOARD MEMBER ROBERTS: Second.

7 CHAIRPERSON NICHOLS: All those in favor, please
8 signify by saying aye.

9 (Ayes)

10 CHAIRPERSON NICHOLS: Any opposed?

11 Very good. They pass unanimously.

12 Do we have anybody who signed up for public
13 comment? Good.

14 (Thereupon the California Air Resources
15 Board meeting adjourned at 4:24 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

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

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 31st day of December, 2010.

15

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