

MEETING

STATE OF CALIFORNIA

AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

BYRON SHER AUDITORIUM, SECOND FLOOR

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9:00 A.M.

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## APPEARANCES

### BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Doreene D'Adamo

Ms. Lydia H. Kennard

Mr. Ronald O. Loveridge

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John Telles

Mr. Ken Yeager

### STAFF

Mr. James Goldstene, Executive Officer

Ms. La Ronda Bowen, Ombudsman

Mr. Tom Cackette, Chief Deputy Executive Officer

Mr. Bob Fletcher, Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Ms. Lynn Terry, Deputy Executive Officer

Ms. Lori Andreoni, Board Clerk

APPEARANCES CONTINUED

STAFF

Ms. Marcella Nystrom, Starr Air Pollution Specialist, Air Quality Analysis Section, Air Quality Data Branch, Planning and Technical Support Division

Ms. Lisa Williams, Air Pollution Specialist, Control Strategies Section, Stationary Source Division

ALSO PRESENT

Ms. Diane Bailey, NRDC

Mr. Tim Carmichael, California Natural Gas Vehicle Coalition

Mr. Hank de Carbonel

Mr. Michael Gibbs, Deputy Secretary for Climate Change, CalEPA

Mr. Greg Knapp, Lehigh Hanson, Inc.

Mr. Derrick Walker, Environmental Defense Fund

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08:44:03 1

## PROCEEDINGS

09:12:08 2

CHAIRPERSON NICHOLS: Good morning, ladies and

09:12:10 3

gentlemen. Welcome to the July 22nd public meeting of the

09:12:16 4

Air Resources Board.

09:12:17 5

The meeting will please come to order, and we

09:12:20 6

will begin the meeting by reciting the Pledge of

09:12:24 7

Allegiance to the flag.

09:12:25 8

(Thereupon the Pledge of Allegiance was

09:12:25 9

Recited in unison.)

09:12:50 10

CHAIRPERSON NICHOLS: Thank you.

09:12:51 11

The clerk will please call the roll.

09:12:54 12

BOARD CLERK ANDREONI: Dr. Balmes?

09:12:55 13

BOARD MEMBER BALMES: Here.

09:12:56 14

BOARD CLERK ANDREONI: Ms. Berg?

09:12:57 15

BOARD MEMBER BERG: Here.

09:12:58 16

BOARD CLERK ANDREONI: Ms. D'Adamo?

09:12:58 17

BOARD MEMBER D'ADAMO: Here.

09:12:59 18

BOARD CLERK ANDREONI: Ms. Kennard?

09:13:00 19

BOARD MEMBER KENNARD: Here.

09:13:00 20

BOARD CLERK ANDREONI: Mayor Loveridge?

09:13:01 21

BOARD MEMBER LOVERIDGE: Here.

09:13:02 22

BOARD CLERK ANDREONI: Mrs. Riordan?

09:13:03 23

BOARD MEMBER RIORDAN: Here.

09:13:04 24

BOARD CLERK ANDREONI: Supervisor Roberts?

09:13:05 25

BOARD MEMBER ROBERTS: Here.

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09:13:06 1 BOARD CLERK ANDREONI: Professor Sperling?

09:13:07 2 BOARD MEMBER SPERLING: Here.

09:13:09 3 BOARD CLERK ANDREONI: Dr. Telles?

09:13:10 4 BOARD MEMBER TELLES: Present.

09:13:11 5 BOARD CLERK ANDREONI: Supervisor Yeager?

09:13:13 6 BOARD MEMBER YEAGER: Here.

09:13:14 7 BOARD CLERK ANDREONI: Chairman Nichols?

09:13:16 8 CHAIRPERSON NICHOLS: Here.

09:13:17 9 BOARD CLERK ANDREONI: Madam Chair, we have a

09:13:18 10 quorum.

09:13:19 11 CHAIRPERSON NICHOLS: Thank you very much.

09:13:21 12 And welcome all, especially to those who have

09:13:23 13 descended from the mountaintop to be with us, otherwise

09:13:27 14 come back from vacation. It's great to have you all here.

09:13:32 15 A couple of brief announcements.

09:13:34 16 I think most of the people I see in the audience

09:13:36 17 are regulars here, but we are required to give you a

09:13:41 18 couple of notices.

09:13:42 19 If you want to testify, we appreciate it if you

09:13:44 20 fill out a speaker card in advance. And the Board will

09:13:46 21 impose a three-minute limit. And we appreciate it if you

09:13:50 22 submit your written testimony and just give us your

09:13:52 23 comments in your own words without reading from your

09:13:56 24 written remarks.

09:13:57 25 And we also want to make sure that everybody

09:13:59 1 knows where the exits are. They are at the back of the  
09:14:02 2 room here. If there is a fire drill or a fire alarm that  
09:14:07 3 we hear, we need to evacuate the room, go down the stairs,  
09:14:12 4 and out of the building until we get the all-clear signal.

09:14:15 5 We have a short meeting this morning, but a  
09:14:17 6 couple of really important items. So I'd like to get  
09:14:21 7 started.

09:14:22 8 And we will begin with the status report on new  
09:14:28 9 U.S. EPA requirements for monitoring near roadways. This  
09:14:31 10 is just an informational item, but it's something that I  
09:14:35 11 think the Board members need to be aware of.

09:14:38 12 And then we'll hear the proposed regulation for  
09:14:44 13 energy efficiency and co-benefits assessment at large  
09:14:47 14 industrial facilities, followed by an update on the  
09:14:51 15 Western Climate Initiative and comments from Board members  
09:14:53 16 as well as public comment. And then we will adjourn for  
09:14:57 17 lunch. Okay.

09:14:59 18 So we'll start with the status report on the EPA  
09:15:03 19 requirements for monitoring. And our Executive Officer  
09:15:06 20 will introduce this item.

09:15:08 21 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman  
09:15:09 22 Nichols.

09:15:12 23 U.S. EPA is in the process of reviewing the  
09:15:14 24 adequacy of all federal air quality standards. In January  
09:15:17 25 this year, they issued a revised NO2 standard. In this

09:15:21 1 presentation, staff will provide an update on revisions to  
09:15:24 2 the NO2 standard as well as first time requirements for  
09:15:26 3 near-roadway monitoring.

09:15:28 4 I'd like to turn this over now to Marcy Nystrom  
09:15:30 5 of the Planning and Technical Support Division to make the  
09:15:34 6 presentation. Marcy.

09:15:39 7 (Thereupon an overhead presentation was  
09:15:39 8 presented as follows.)

09:15:39 9 STAFF AIR POLLUTION SPECIALIST NYSTROM: Good  
09:15:39 10 morning, Chairman Nichols and members of the Board.

09:15:41 11 Today, I'll be talking about the new federal  
09:15:44 12 nitrogen dioxide standard. As Mr. Goldstene said, U.S.  
09:15:47 13 EPA adopted the standard earlier this year along with  
09:15:49 14 first time requirements for near-roadway monitoring.

09:15:52 15 --o0o--

09:15:52 16 STAFF AIR POLLUTION SPECIALIST NYSTROM: In the  
09:15:53 17 first part of the presentation, I'll provide some  
09:15:56 18 background information on the revised standard.

09:15:58 19 I'll also talk about the studies used to set the  
09:16:00 20 levels.

09:16:02 21 Next, I'll discuss the new monitoring  
09:16:04 22 requirements that ARB and the districts will implement  
09:16:06 23 over the next several years.

09:16:09 24 Finally, I'll outline some of the implications of  
09:16:11 25 the new requirements for California.



09:16:14 1 --o0o--

09:16:14 2 STAFF AIR POLLUTION SPECIALIST NYSTROM: EPA

09:16:15 3 finalized the new NO2 standard in January of this year.

09:16:18 4 They established a new one-hour standard of 100 parts per

09:16:22 5 billion and retained the existing annual standard of 53

09:16:25 6 parts per billion.

09:16:27 7 The need for a short-term one-hour standard was

09:16:30 8 prompted by an assessment of newer health studies. These

09:16:33 9 studies show impacts at lower levels and shorter exposures

09:16:37 10 than previously indicated. EPA's proposal was peer

09:16:40 11 reviewed by the Clean Air Scientific Advisory Committee,

09:16:43 12 or CASAC, which advises EPA on setting standards.

09:16:53 13 --o0o--

09:16:53 14 STAFF AIR POLLUTION SPECIALIST NYSTROM: In their

09:16:53 15 previous review of the standard, EPA found that long-term

09:16:56 16 NO2 exposure was associated with an increase in

09:16:59 17 respiratory illness among children. At that time, only

09:17:02 18 limited data were available on short-term exposure, and

09:17:07 19 EPA did not believe the studies were robust enough to

09:17:10 20 support a short-term standard.

09:17:15 21 Since then, the body of evidence has grown

09:17:15 22 substantially. More current studies confirm and expand on

09:17:18 23 the previous health findings.

09:17:20 24 As part of their recent review, EPA looked at

09:17:23 25 dozens of studies showing associations between short-term

09:17:27 1 exposure and respiratory symptoms. These toxicological  
09:17:30 2 human exposure and indoor exposure studies confirm the  
09:17:32 3 association between short-term exposure and adverse  
09:17:35 4 impacts, particularly in children.

09:17:38 5 --o0o--

09:17:38 6 STAFF AIR POLLUTION SPECIALIST NYSTROM: Overall,  
09:17:38 7 the health findings show that long-term exposure is  
09:17:43 8 primarily associated with respiratory illness in children.  
09:17:46 9 It's also associated with the decrease in their lung  
09:17:49 10 function growth. The annual standard is designed to  
09:17:51 11 protect against these long-term effects.

09:17:55 12 Short-term impacts include respiratory symptoms,  
09:17:57 13 an increase in emergency room visits and hospitalizations,  
09:18:00 14 and an increased airway response in asthmatics. Based on  
09:18:05 15 these associations, EPA added the one-hour standard which  
09:18:10 16 protects against acute exposures.

09:18:15 17 --o0o--

09:18:15 18 STAFF AIR POLLUTION SPECIALIST NYSTROM: With  
09:18:15 19 this background in mind, I'd like to move on to the  
09:18:18 20 monitoring requirements that go along with the new NO2  
09:18:21 21 standard.

09:18:22 22 --o0o--

09:18:22 23 STAFF AIR POLLUTION SPECIALIST NYSTROM: EPA  
09:18:22 24 established the new requirements as part of the standard  
09:18:26 25 setting process. They're focused on monitoring near



09:19:45 1 Control programs aimed at reducing near-roadway  
09:19:48 2 exposures will also reduce community-wide concentrations.  
09:19:52 3 --o0o--  
09:19:52 4 STAFF AIR POLLUTION SPECIALIST NYSTROM: In  
09:19:52 5 recent years, EPA has made a fundamental change in how it  
09:19:56 6 evaluates risk. Historically, the federal standards were  
09:19:58 7 based on community-wide exposure. Because of this focus,  
09:20:01 8 the current monitoring network was established to reflect  
09:20:05 9 equivalent community-wide concentrations.  
09:20:07 10 In contrast, the new one-hour standard focuses on  
09:20:10 11 high, short-term exposures in areas near NO2 sources.  
09:20:16 12 This is a similar approach that EPA took in revising the  
09:20:19 13 federal lead standard.  
09:20:22 14 --o0o--  
09:20:22 15 STAFF AIR POLLUTION SPECIALIST NYSTROM: The  
09:20:23 16 majority of CASAC members supported EPA's addition of  
09:20:29 17 near-roadway monitors. However, some members expressed  
09:20:33 18 concerns with using data from these monitors to determine  
09:20:36 19 compliance with the standard.  
09:20:37 20 In addition, some members expressed concerns with  
09:20:39 21 using health studies based on community-wide data to  
09:20:43 22 establish a level of a short-term near-roadway standard.  
09:20:46 23 This is because there is a variable relationship between  
09:20:48 24 concentrations measured at near-roadway sites and at  
09:20:51 25 community-wide sites. This variability increases the

09:20:55 1 uncertainty of using community-wide concentrations to  
09:20:57 2 establish a short-term standard based on peak exposure.

09:21:04 3 --o0o--

09:21:04 4 STAFF AIR POLLUTION SPECIALIST NYSTROM: The last  
09:21:05 5 topic I'd like to cover is the implications of the new  
09:21:07 6 monitoring requirements for California.

09:21:09 7 --o0o--

09:21:09 8 STAFF AIR POLLUTION SPECIALIST NYSTROM: While  
09:21:09 9 our existing network will satisfy the community-wide  
09:21:12 10 requirements, none of our current monitors satisfy the  
09:21:15 11 near-roadway requirements. As a result, ARB and the  
09:21:18 12 districts will need to establish a total of 16 new  
09:21:21 13 monitors.

09:21:22 14 As shown here, the greatest number of monitors  
09:21:28 15 will be in those districts with the highest population and  
09:21:31 16 traffic volumes. These include the South Coast, the San  
09:21:34 17 Joaquin Valley, and the Bay Area. A smaller number of  
09:21:39 18 monitors will be required in Sacramento, San Diego, and  
09:21:43 19 Ventura.

09:21:47 20 --o0o--

09:21:47 21 STAFF AIR POLLUTION SPECIALIST NYSTROM: The  
09:21:47 22 near-roadway monitors must be deployed by January 2013.  
09:21:49 23 Under EPA rules, the monitors must be sited to measure the  
09:21:53 24 highest expected concentrations.

09:21:54 25 The first step in identifying potential sites

09:21:57 1 will be to determine the road segments with the highest  
09:22:01 2 average daily traffic counts. In addition to the traffic  
09:22:03 3 count, we also need to consider other factors, such as the  
09:22:07 4 amount of congestion, the different types of vehicles on  
09:22:12 5 the roadway, and the local roadway design. The optimal  
09:22:16 6 locations will no doubt be along California's most heavily  
09:22:19 7 traveled freeways and freeway interchanges.

09:22:22 8 --o0o--

09:22:22 9 STAFF AIR POLLUTION SPECIALIST NYSTROM: This  
09:22:22 10 slide gives some examples of road segments with the  
09:22:25 11 highest traffic counts in several different areas. I  
09:22:28 12 expect you'll recognize the ones in your local area.

09:22:32 13 Although traffic volume will be a major factor in  
09:22:40 14 determining where to locate the near-roadway monitors, as  
09:22:43 15 I mentioned previously, we'll also be considering other  
09:22:46 16 factors.

09:22:47 17 --o0o--

09:22:47 18 STAFF AIR POLLUTION SPECIALIST NYSTROM: There  
09:22:47 19 are a number of issues associated with establishing a  
09:22:50 20 near-roadway monitoring network. These will need to be  
09:22:53 21 resolved over the next several years. In addition to  
09:22:55 22 cost, there are logistical issues and safety concerns as  
09:22:59 23 well as the need to address variable road conditions.

09:23:02 24 --o0o--

09:23:02 25 STAFF AIR POLLUTION SPECIALIST NYSTROM: Because

09:23:02 1 none of our current monitoring sites meet the near-roadway  
09:23:08 2 requirements, each new site must be established from  
09:23:10 3 scratch. This comes with a substantial cost. EPA  
09:23:14 4 estimates an initial set-up cost of about \$100,000 per  
09:23:18 5 site. However, the cost will vary, depending on where the  
09:23:22 6 site is located. Although we expect EPA will provide  
09:23:25 7 partial funding for establishing the new sites, no funding  
09:23:29 8 has been identified for ongoing site operation.

09:23:35 9 --o0o--

09:23:35 10 STAFF AIR POLLUTION SPECIALIST NYSTROM: In  
09:23:35 11 addition to cost, there are potential logistical issues  
09:23:39 12 and safety concerns. In many urban areas, there may be  
09:23:42 13 limited space for locating a monitoring station at the  
09:23:45 14 side of a freeway. And it may be difficult to obtain  
09:23:49 15 right-of-way and access permission.

09:23:51 16 In addition, ARB and the local districts will  
09:23:53 17 need to coordinate with other local agencies to provide  
09:23:56 18 electricity and obtain the necessary operating permits.

09:24:03 19 Finally, these sites may have a greater potential  
09:24:07 20 for vandalism because of their roadway location.

09:24:10 21 --o0o--

09:24:10 22 STAFF AIR POLLUTION SPECIALIST NYSTROM: The  
09:24:11 23 variability of road conditions is another concern, because  
09:24:13 24 it can impact resulting concentrations. These factors  
09:24:16 25 include the mix of vehicles traveling on the particular

09:24:19 1 roadway segment, the level of congestion, and whether the  
09:24:24 2 roadway is sunken, elevated, or at ground level.

09:24:28 3 We'll also have to consider the presence or  
09:24:30 4 absence of a sound wall, which could act as a barrier to  
09:24:33 5 air flow and influence concentrations.

09:24:36 6 Finally, we'll need to consider the predominant  
09:24:39 7 wind direction to ensure that we capture the highest  
09:24:42 8 concentrations.

09:24:43 9 --o0o--

09:24:43 10 STAFF AIR POLLUTION SPECIALIST NYSTROM: To  
09:24:44 11 provide some real-world experience with near-roadway  
09:24:46 12 monitoring, EPA is providing equipment funding for an  
09:24:50 13 early implementation study. Several California agencies  
09:24:54 14 may participate in this effort. The results could provide  
09:24:57 15 us with a better understanding of the factors we need to  
09:25:00 16 consider in establishing a more permanent network.

09:25:05 17 The pilot program may also provide an opportunity  
09:25:07 18 to collect data for additional pollutants, such as PM2.5  
09:25:11 19 and carbon monoxide. These data will improve our  
09:25:15 20 understanding of near-roadway exposure for these other  
09:25:19 21 pollutants as well.

09:25:25 22 --o0o--

09:25:25 23 STAFF AIR POLLUTION SPECIALIST NYSTROM: Despite  
09:25:25 24 the current lack of data from a near-roadway monitoring  
09:25:28 25 network, EPA plans to proceed with the NO2 designation





09:26:45 1 Advisory Committee for NO2 that reviewed this issue. And  
09:26:50 2 as you indicated, there was a fair amount of controversy  
09:26:54 3 on the part of CASAC members. And I added to that  
09:26:58 4 controversy.

09:26:59 5 I had no problem with having near-roadway  
09:27:02 6 monitors, something we haven't done before. And that was  
09:27:07 7 part of the reason I wanted the Board to pay attention to  
09:27:10 8 this item, because it is potentially going to cause us in  
09:27:15 9 California to be out of attainment for NO2, something we  
09:27:18 10 haven't been for a long time, if ever. And that's number  
09:27:23 11 one.

09:27:26 12 And I was one of the people who wasn't sure that  
09:27:28 13 we were ready to apply enforcement regulations to  
09:27:36 14 near-roadway monitoring data, because all of the health  
09:27:41 15 effects data from epidemiological studies were based on  
09:27:47 16 community monitors in this country. Though in Europe,  
09:27:50 17 they have been doing near-roadway monitoring for a while.  
09:27:56 18 So it's going to change the game. And that's what I  
09:28:01 19 really wanted people to be aware of.

09:28:04 20 And it also gives us an opportunity to measure  
09:28:07 21 other pollutants near roadways. I haven't been following  
09:28:10 22 the PM CASAC deliberations as closely as I might have, but  
09:28:19 23 I don't know if they're going to be asking for  
09:28:21 24 near-roadway monitoring for PM2.5. Maybe somebody knows  
09:28:27 25 about that.

09:28:29 1 DEPUTY EXECUTIVE OFFICER TERRY: We have been  
09:28:29 2 working with the districts. And at least, at this point,  
09:28:32 3 we know that the Bay Air district is planning to add PM  
09:28:35 4 monitoring as well.

09:28:36 5 BOARD MEMBER BALMES: But the U.S. EPA might be  
09:28:39 6 asking for that as well when they come up with a new PM  
09:28:42 7 standard.

09:28:43 8 So basically there is a new ball game in town,  
09:28:46 9 and I wanted the other Board members to be aware of that.

09:28:51 10 And I think it's a good idea to do near-roadway  
09:28:54 11 monitoring. I'm upset there's not necessarily funding for  
09:28:57 12 it. It's another one of the unfunded mandates that  
09:29:01 13 Washington is passing down. But I guess there's going to  
09:29:04 14 be some money for assistance for this pilot program. We  
09:29:07 15 should take advantage of that.

09:29:09 16 But since we have to do near-roadway monitoring,  
09:29:11 17 I think it would be good to do PM2.5 and carbon monoxide  
09:29:15 18 as well.

09:29:17 19 BOARD MEMBER LOVERIDGE: Can you comment on what  
09:29:18 20 you mean by new ball game?

09:29:23 21 BOARD MEMBER BALMES: Well, as I tried to say  
09:29:28 22 perhaps not clearly and I didn't have my microphone  
09:29:28 23 pushed, was we've not been out of attainment for NO2 for  
09:29:33 24 the annual standard anywhere in California for as long as  
09:29:36 25 I've been involved with air pollution issues. But with

09:29:40 1 the near-roadway monitoring, concentrations get high near  
09:29:44 2 measured freeways -- congested freeways with a lot of  
09:29:49 3 stuck traffic especially. So we may be out of attainment  
09:29:52 4 for the new short-term standard.

09:29:56 5 BOARD MEMBER LOVERIDGE: The consequences of  
09:29:57 6 that?

09:29:58 7 BOARD MEMBER BALMES: Well, then we're going to  
09:30:00 8 have to get tougher with our regulations, which are  
09:30:02 9 already pretty tough.

09:30:05 10 CHAIRPERSON NICHOLS: It is -- actually, my  
09:30:06 11 recollection is that California was in violation of the  
09:30:09 12 NO2 standard back in the 70s and 80s.

09:30:13 13 BOARD MEMBER BALMES: Before my time.

09:30:14 14 CHAIRPERSON NICHOLS: Olden days, for some of us  
09:30:19 15 anyway.

09:30:22 16 But we have to do the full implementation plan  
09:30:24 17 process and show that you've got regulations in place that  
09:30:28 18 will prevent those violations from occurring and that  
09:30:30 19 you're meeting the standard.

09:30:35 20 BOARD MEMBER BALMES: Just to finish my response  
09:30:36 21 to Mayor Loveridge, I think most of the NO2 comes from  
09:30:41 22 motor vehicles. We're just going to have to have cleaner  
09:30:44 23 vehicles.

09:30:46 24 CHAIRPERSON NICHOLS: Or fewer of them or  
09:30:47 25 barriers or -- I mean, there are other methods. But yeah,

09:30:51 1 there is a limited selection of possible things that one  
09:30:54 2 could do. And none of them seem particularly appealing.  
09:30:58 3           So, I mean, we feel like we're doing everything  
09:31:01 4 we know how to do at the moment in terms of emissions  
09:31:04 5 control. It's a matter of whether you can demonstrate  
09:31:09 6 that changing the fleet will get you there in time or  
09:31:12 7 whether more drastic measures are required. But it  
09:31:15 8 definitely raises the issue and raises the ante, so to  
09:31:20 9 speak. And it will give people information, tools they  
09:31:23 10 can use to think about things, like where they want to  
09:31:26 11 site -- where they would like to put things that might be  
09:31:30 12 closer to roadways, too.

09:31:31 13           This whole issue, which I know that has come up  
09:31:34 14 with the Board before about locations, zoning, land use  
09:31:39 15 related to transportation is a big issue. And it's going  
09:31:44 16 to continue to, as this shows, I think to be very  
09:31:49 17 controversial.

09:31:50 18           Other questions/comments, Board members?

09:31:53 19           Did we have anyone who signed up to speak on this  
09:31:56 20 item? No.

09:31:58 21           Okay. Well, so thank you very much.

09:32:13 22           While the next team is assembling, the next item  
09:32:16 23 on our agenda is a regulatory item. And it's proposed  
09:32:22 24 under AB 32. It's a regulation that focuses on  
09:32:29 25 co-benefits. That is the air pollution benefits as well

09:32:32 1 as the benefits in terms of greenhouse gas emissions from  
09:32:38 2 improving energy efficiency at large industrial  
09:32:41 3 facilities.

09:32:42 4           This is a proposal that's gotten a lot of  
09:32:45 5 attention and a lot of interest I think from environmental  
09:32:50 6 and environmental justice organizations as well as from  
09:32:53 7 the regulated community. It's an interesting approach.  
09:32:58 8 It provides the Board with information as well as, of  
09:33:03 9 course, those who are subject to the rule. But it's a way  
09:33:05 10 of providing information about opportunities for reducing  
09:33:09 11 emissions of greenhouse gases as well as criteria  
09:33:13 12 pollutants and toxic air contaminants.

09:33:16 13           And I'm now going to turn this item over to the  
09:33:19 14 staff. Mr. Goldstene.

09:33:21 15           EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman  
09:33:22 16 Nichols.

09:33:23 17           Today, we're proposing for your consideration a  
09:33:25 18 regulation that will require the largest stationary  
09:33:28 19 greenhouse gas sources in the state to conduct a one-time  
09:33:31 20 energy efficiency assessment. The purpose of this  
09:33:35 21 assessment is to determine potential opportunities for  
09:33:38 22 improving energy efficiency and to identify potential  
09:33:41 23 emission reduction opportunities for greenhouse gases,  
09:33:44 24 criteria pollutants, and toxic air contaminants.

09:33:48 25           As you know, AB 32 requires ARB to create and

09:33:50 1 implement measures needed to reduce current greenhouse gas  
09:33:55 2 emissions to 1990 levels by 2020. The information  
09:33:58 3 gathered from implementation of the proposed regulation  
09:34:01 4 will be a valuable resource to inform industry, regulatory  
09:34:06 5 agencies, and the public on what greenhouse gas emission  
09:34:09 6 reduction opportunities are available from these large  
09:34:11 7 industrial facilities, as well as what criteria pollutants  
09:34:15 8 and toxic air contaminant emission co-benefits might be  
09:34:20 9 realized.

09:34:20 10 This information will also help California's  
09:34:22 11 largest stationary sources of greenhouse gas emissions to  
09:34:25 12 consider potential co-benefits when deciding on actions to  
09:34:30 13 comply with other greenhouse gas programs, like the Cap  
09:34:34 14 and Trade Program.

09:34:35 15 I'd like have to Lisa Williams of the Stationary  
09:34:37 16 Source Division present the proposal. Lisa.

09:34:41 17 (Thereupon an overhead presentation was  
09:34:41 18 presented as follows.)

09:34:42 19 AIR POLLUTION SPECIALIST WILLIAMS: Thank you,  
09:34:42 20 Mr. Goldstene.

09:34:42 21 Good morning, Madam Chairman and members of the  
09:34:44 22 Board.

09:34:45 23 Today, I'll be presenting staff's proposed  
09:34:46 24 regulation for energy efficiency and co-benefits  
09:34:49 25 assessment of large industrial facilities.

09:34:57 1 --o0o--

09:34:57 2 AIR POLLUTION SPECIALIST WILLIAMS: This slide  
09:34:58 3 includes the topics I'll be discussing in my presentation.

09:35:04 4 --o0o--

09:35:04 5 AIR POLLUTION SPECIALIST WILLIAMS: The proposed  
09:35:05 6 regulation that we will present to you today is one of the  
09:35:08 7 numerous measures outlined in the Scoping Plan approved by  
09:35:10 8 the Board to comply with the California's Global Warming  
09:35:12 9 Solutions Act.

09:35:13 10 --o0o--

09:35:13 11 AIR POLLUTION SPECIALIST WILLIAMS: As envisioned  
09:35:14 12 in the Scoping Plan, this measure would collect  
09:35:17 13 information on the largest industrial sources of GHG  
09:35:19 14 emissions in the state, identify energy efficiency  
09:35:23 15 improvement opportunities which would provide greenhouse  
09:35:25 16 gas emission reductions, and identify co-benefits for  
09:35:27 17 other pollutants which could result from these  
09:35:27 18 improvements. This would be achieved in a one-time  
09:35:29 19 facility-wide assessment.

09:35:33 20 --o0o--

09:35:33 21 AIR POLLUTION SPECIALIST WILLIAMS: Our goals in  
09:35:34 22 developing the proposed regulation mirror the intent of  
09:35:37 23 the Scoping Plan measure. We wanted to develop a  
09:35:39 24 regulation that would determine potential opportunities  
09:35:43 25 available for improving energy efficiency that could



09:35:45 1 result in reducing emissions from the largest stationary  
09:35:48 2 sources in the state and provide information that will  
09:35:50 3 help us identify the future actions for obtaining emission  
09:35:53 4 reductions.

09:35:54 5 --o0o--

09:35:54 6 AIR POLLUTION SPECIALIST WILLIAMS: We think the  
09:35:55 7 information collected will be extremely useful in  
09:35:57 8 informing ARB's emission reduction programs. It will help  
09:36:00 9 us to determine which projects might be implemented to  
09:36:04 10 achieve greenhouse gas emissions reductions while  
09:36:07 11 maximizing co-benefits and the best approach in making  
09:36:09 12 that happen.

09:36:15 13 --o0o--

09:36:15 14 AIR POLLUTION SPECIALIST WILLIAMS: As part of  
09:36:16 15 developing the proposal, we held three public workshops  
09:36:19 16 where we provided draft regulatory concepts and language  
09:36:21 17 and solicited public input. All of the workshops were  
09:36:25 18 broadcast online, helping provide access to the affected  
09:36:29 19 stakeholders and the public.

09:36:30 20 We also met with various stakeholders through  
09:36:32 21 multiple site visits, teleconferences, and in-person  
09:36:35 22 meetings.

09:36:37 23 --o0o--

09:36:37 24 AIR POLLUTION SPECIALIST WILLIAMS: Now I'll  
09:36:38 25 summarize the proposed regulation.

09:36:42 1 --o0o--

09:36:42 2 AIR POLLUTION SPECIALIST WILLIAMS: The proposed  
09:36:43 3 regulation would affect facilities in California with at  
09:36:45 4 least one half million metric tons of carbon dioxide, or  
09:36:50 5 CO2, equivalent emissions annually based on the 2009  
09:36:55 6 calendar year mandatory greenhouse gas reporting. The  
09:36:58 7 total CO2 equivalent emissions include emissions from both  
09:37:02 8 biogenic and anthropogenic sources. We expect about 60  
09:37:05 9 facilities will meet the applicability threshold and be  
09:37:08 10 subject to the proposed regulation.

09:37:10 11 The facility types that meet this threshold are  
09:37:12 12 among the largest industrial facilities in the state, and  
09:37:15 13 the sectors are shown here.

09:37:17 14 The proposed requirements would also apply to  
09:37:20 15 transportation fuel refineries and cement plants at an  
09:37:24 16 applicability threshold of a quarter million metric tons  
09:37:27 17 of CO2 equivalent emissions.

09:37:29 18 The requirements focus strictly on stationary  
09:37:31 19 sources and do not include portable equipment or mobile  
09:37:36 20 combustion sources.

09:37:37 21 --o0o--

09:37:37 22 AIR POLLUTION SPECIALIST WILLIAMS: The proposed  
09:37:38 23 regulation has three elements.

09:37:42 24 The first is an analysis of the facility energy  
09:37:44 25 consumption and emission sources to help identify the



09:38:56 1 AIR POLLUTION SPECIALIST WILLIAMS: The second  
09:38:57 2 element is the energy efficiency improvement analysis.  
09:39:02 3 This is the primary focus of the proposed regulation. For  
09:39:05 4 this element, facilities would identify all potential  
09:39:09 5 opportunities to improve efficiency. It requires each  
09:39:12 6 facility operator to provide information on the whole  
09:39:15 7 range of projects, including those with relatively low  
09:39:19 8 costs that can be implemented quickly, to those requiring  
09:39:22 9 large amounts of capital that would take years to  
09:39:25 10 implement, or those projects that would likely not be  
09:39:28 11 considered as currently cost effective because the payback  
09:39:33 12 period would be too long.

09:39:35 13 For each project identified, the facility would  
09:39:37 14 assess the impacts associated with implementation,  
09:39:39 15 including project costs, potential emission reductions for  
09:39:42 16 greenhouse gas and co-pollutants, permit requirements, and  
09:39:46 17 other associated impacts.

09:39:47 18 The assessment is intended to provide preliminary  
09:39:50 19 information at a budgetary level versus a detailed  
09:39:54 20 engineering analysis. The assessment can either be  
09:39:56 21 conducted by the facility or by a third-party assessor.

09:40:04 22 --o0o--

09:40:04 23 AIR POLLUTION SPECIALIST WILLIAMS: ARB staff who  
09:40:05 24 are most familiar with the industrial sector will be  
09:40:09 25 assigned to work closely with the facilities throughout

09:40:11 1 the assessment process to address implementation questions  
09:40:14 2 and concerns as they arise and to streamline compliance  
09:40:19 3 with the requirements.

09:40:21 4 The third element occurs once the assessment is  
09:40:23 5 complete. Each facility would submit an assessment report  
09:40:26 6 to ARB by December 15, 2011. A 90-day compliance  
09:40:31 7 extension is available for facilities who can demonstrate  
09:40:35 8 they are unable to meet the required deadline.

09:40:38 9 The assessment report will include the energy  
09:40:40 10 consumption and emissions analysis, the comprehensive  
09:40:42 11 energy efficiency improvement assessment, and any  
09:40:46 12 additional supporting documentation.

09:40:48 13 ARB staff will review submitted reports for  
09:40:52 14 completeness and request additional information from the  
09:40:55 15 facilities, if necessary.

09:40:57 16 If staff determines that the assessment report is  
09:40:59 17 unacceptable, there are provisions in the regulation for  
09:41:03 18 staff to require an independent third-party assessment.

09:41:06 19 Additionally, we plan to select a sampling of the  
09:41:08 20 reports for a third-party review. ARB will contract with  
09:41:12 21 the Department of Energy certified energy experts for the  
09:41:19 22 review.

09:41:19 23 --o0o--

09:41:19 24 AIR POLLUTION SPECIALIST WILLIAMS: The proposed  
09:41:20 25 regulation includes a requirement to make the facility



09:42:32 1 AIR POLLUTION SPECIALIST WILLIAMS: Overall,  
09:42:32 2 we've been able to work through most of the concerns that  
09:42:35 3 have been raised.

09:42:35 4 One of the concerns relates to confidentiality.  
09:42:37 5 Some stakeholders have expressed concerns that the data  
09:42:40 6 provided may be confidential. As I mentioned, our goal  
09:42:43 7 was to require information that would provide sufficient  
09:42:45 8 detail about energy efficiency improvement projects, yet  
09:42:50 9 not reveal confidential information about the facility.  
09:42:53 10 As such, we expect the majority of information received  
09:42:56 11 will not be confidential.

09:42:58 12 In addition, we will work closely with the  
09:43:00 13 facility operators as they develop their reports to  
09:43:03 14 address any confidentiality concerns. Nevertheless, in  
09:43:06 15 the event an operator identifies information as  
09:43:10 16 confidential, we will handle that data in accordance with  
09:43:13 17 state law that governs confidential data submittals.

09:43:17 18 Another concern raised involves the applicability  
09:43:21 19 threshold that is based on total CO2 equivalent emissions,  
09:43:24 20 both biogenic and anthropogenic sources. This results in  
09:43:29 21 about four biomass facilities being subject to the  
09:43:32 22 proposed regulation. We believe that for this regulation,  
09:43:36 23 total CO2 is the appropriate surrogate for triggering the  
09:43:40 24 assessment. It will identify large facilities in  
09:43:42 25 California for the purpose of exploring opportunities for

09:43:47 1 energy efficiency improvements that could result in  
09:43:50 2 greenhouse gas emission reductions as well as reduction in  
09:43:53 3 criteria air pollutants and toxic air contaminants.

09:43:58 4 --o0o--

09:43:58 5 AIR POLLUTION SPECIALIST WILLIAMS: Next I'll  
09:43:59 6 discuss the impacts of the proposal.

09:44:04 7 --o0o--

09:44:04 8 AIR POLLUTION SPECIALIST WILLIAMS: The  
09:44:04 9 approximately 60 facilities that we expect to be subject  
09:44:07 10 to the proposed regulation are identified here on this  
09:44:08 11 map.

09:44:10 12 In 2008, these facilities were responsible for  
09:44:12 13 about 70 million metric tons of CO2 equivalent emissions,  
09:44:18 14 which is about 45 percent of the total statewide  
09:44:21 15 greenhouse gas emissions from the industrial sector.

09:44:25 16 --o0o--

09:44:25 17 AIR POLLUTION SPECIALIST WILLIAMS: Staff  
09:44:25 18 estimates the total cost to the affected facilities will  
09:44:29 19 be about \$14 million for a 16- to 18-month period. The  
09:44:33 20 estimated individual facilities costs will vary, depending  
09:44:36 21 on the type and complexity of the facility.

09:44:40 22 Electricity-generating facilities and hydrogen  
09:44:42 23 plants are expected to have the lowest costs, while  
09:44:46 24 refineries and oil and gas extraction and transmission  
09:44:49 25 facilities are expected to have the highest costs.



09:44:53 1 CHAIRPERSON NICHOLS: Just to clarify, these are  
09:44:55 2 the costs of doing the audits?  
09:44:56 3 AIR POLLUTION SPECIALIST WILLIAMS: Correct.  
09:44:57 4 CHAIRPERSON NICHOLS: Not of any action that  
09:44:58 5 might be taken?  
09:45:00 6 AIR POLLUTION SPECIALIST WILLIAMS: That's  
09:45:00 7 correct.  
09:45:03 8 --o0o--  
09:45:03 9 AIR POLLUTION SPECIALIST WILLIAMS: Staff  
09:45:03 10 believes the benefits of the proposed regulation outweigh  
09:45:05 11 the one-time facility costs associated with conducting the  
09:45:08 12 assessment.  
09:45:10 13 The information gathered from the facility  
09:45:12 14 assessments will provide valuable data which ARB, local  
09:45:16 15 districts, and the public can use to inform greenhouse  
09:45:19 16 gas, criteria pollutants, and toxic air contaminant  
09:45:23 17 emission control program development and implementation.  
09:45:25 18 This will ensure that resources are directed towards the  
09:45:28 19 greatest emission reduction opportunities.  
09:45:32 20 Facilities also stand to benefit as they will  
09:45:35 21 likely discover efficiency improvements that can reduce  
09:45:38 22 their costs. A similar program is in place in Australia.  
09:45:41 23 The government released a status report this year that  
09:45:45 24 indicates facilities found opportunities that would save  
09:45:47 25 about 70 percent of their total energy consumption and





09:48:11 1 worldwide. And I would hope that we could work with them.

09:48:18 2           There's a very fine balance between a trade

09:48:21 3 secret and the public's right to know of certain things

09:48:25 4 and obviously our right to know. I don't think there's

09:48:30 5 any issue between the industry and confidentiality with

09:48:35 6 the staff, because I think we've always done a very good

09:48:39 7 job of working with businesses to retain confidentiality.

09:48:44 8 But it's that fine line that we have to walk between what

09:48:47 9 is open and giving such information that somebody can

09:48:56 10 derive some economic benefit from that by just simply

09:49:00 11 reading it.

09:49:01 12           So I want to underscore that and my concern for

09:49:05 13 that, because obviously in the area that I serve, those

09:49:11 14 cement plants are located. And so I think it's important

09:49:16 15 for us to work through that. And it's going to take some

09:49:21 16 time and effort on staff's part.

09:49:24 17           And Madam Chair, I think it's one of those things

09:49:26 18 we need to do and do it right. So if I might put an

09:49:31 19 underline there and say we just need to be very careful

09:49:34 20 about how we do this.

09:49:36 21           CHAIRPERSON NICHOLS: Thank you.

09:49:37 22           Dr. Telles, did you have your hand up?

09:49:40 23           BOARD MEMBER TELLES: Just a question.

09:49:43 24           In the report, it mentions there's minimum cost

09:49:47 25 incurred in administrating this. How much does it cost to

09:49:51 1 administrate this? What does ARB have to pay to

09:49:55 2 administrate this?

09:50:05 3 TECHNICAL ANALYSIS SECTION MANAGER TARICCO: We

09:50:07 4 expect to cover this with the existing resources with the

09:50:09 5 staff we have.

09:50:10 6 BOARD MEMBER TELLES: But you have to direct some

09:50:10 7 resources there. There has to be a budget. Just out of

09:50:11 8 curiosity.

09:50:15 9 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE: Dan

09:50:16 10 Donohoue.

09:50:17 11 During the initial phase right now, most of the

09:50:21 12 work associated with that post adoption would be the

09:50:25 13 normal rulemaking process. And that's probably going to

09:50:28 14 require an additional PY to do that.

09:50:32 15 During the initial phases of working with the

09:50:38 16 companies on their development of the thing, we anticipate

09:50:43 17 there's probably going to be two to three PYs with respect

09:50:47 18 to that phase. And the next phase as we go out with

09:50:52 19 workshops on the results on that, there's probably going

09:50:54 20 to be an additional two PY associated with that.

09:50:57 21 I would point out that a number of the resources

09:50:59 22 associated with that, particularly with the people who

09:51:01 23 would be working with the sectors, there are other

09:51:05 24 programs and other expectations of us to bring forward

09:51:11 25 additional emission reductions for criteria and greenhouse

09:51:15 1 gas emission reductions. So actually many of these people  
09:51:18 2 are doing that type of work as it is. And this will be  
09:51:22 3 part of that process in providing them that information.

09:51:29 4 CHAIRPERSON NICHOLS: I think the interesting  
09:51:30 5 point that your question raises is as we transition from  
09:51:35 6 essentially the planning stages for AB 32 into  
09:51:38 7 implementation, I know that our Executive Officer and  
09:51:42 8 senior management are looking at some of the issues about  
09:51:47 9 consolidation and organization of staff. Because the  
09:51:50 10 distinction between what is climate change and what is  
09:51:54 11 other pollutants gets smaller and smaller, as we realize  
09:51:58 12 many of these measures -- hopefully most of them -- are  
09:52:01 13 measures that really are things that really we're doing  
09:52:05 14 for both purposes. So there's quite a bit of thinking  
09:52:08 15 going on about how that's going to work in the future.

09:52:12 16 But for the moment we have to kind of try to  
09:52:15 17 separately budget everything, especially because of the  
09:52:19 18 requirement ultimately for being able to pay for this  
09:52:22 19 program through fees. So it's interesting recordkeeping  
09:52:27 20 questions that are being thrown at us.

09:52:31 21 Yes, Ms. D'Adamo.

09:52:33 22 BOARD MEMBER D'ADAMO: Just a couple of  
09:52:34 23 questions.

09:52:34 24 I, too, am a little concerned about public  
09:52:37 25 disclosure of trade secrets and would like staff to just

09:52:41 1 walk us through a hypothetical situation. In the event a  
09:52:46 2 company believes that information that ARB is requesting,  
09:52:53 3 they would like to guard that, what would the process be?  
09:52:57 4 Would they not provide it and just flag that there's  
09:53:00 5 information they are choosing not to submit or would they  
09:53:03 6 submit it, flag it to you, and then -- what process would  
09:53:08 7 you go through in order to determine whether or not the  
09:53:11 8 information would need to be disclosed?

09:53:17 9 AIR POLLUTION SPECIALIST WILLIAMS: First of all,  
09:53:18 10 like I mentioned in the presentation, we think we designed  
09:53:20 11 the requirements so they don't have to provide the  
09:53:23 12 confidential information. And we do plan to work with  
09:53:24 13 them through that process. So as they're developing their  
09:53:28 14 assessments, if they come up with stuff they think is  
09:53:30 15 trade secret, we'll discuss it with them. We'll try to  
09:53:33 16 address it at that point so they're not providing us with  
09:53:36 17 confidential information. We think it should be general  
09:53:38 18 they're not having to go to any detail that would be trade  
09:53:41 19 secret.

09:53:42 20 But if in the end when they submit their report  
09:53:44 21 to us they do still feel some of the information is  
09:53:47 22 confidential, they still submit it to us, but they  
09:53:50 23 identify it as confidential, and then we treat it as  
09:53:54 24 confidential, do not release to the public at that point.  
09:53:57 25 There may be additional legal process after that, but

09:54:00 1 that's the process that happens with them and us.

09:54:05 2 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE:

09:54:05 3 Aron, could you respond to the next step?

09:54:08 4 SENIOR STAFF COUNSEL LIVINGSTON: This is Aron

09:54:08 5 Livingston, staff counsel.

09:54:10 6 The next step would be that whoever -- if there

09:54:13 7 is a Public Records Act request for that information, then

09:54:18 8 the person who gave us the information would have to

09:54:21 9 justify the need for the confidentiality. And ARB staff

09:54:26 10 would then either except that or not. And if we did and

09:54:32 11 the requester still wants the information, it would go

09:54:35 12 through a court process and an in camera review in court.

09:54:39 13 But it seldom gets to that point.

09:54:45 14 STATIONARY SOURCE DIVISION CHIEF COREY: This

09:54:47 15 Richard Corey.

09:54:48 16 Before it gets to the level Aron described, as

09:54:49 17 Lisa, said if we've gotten to the back and forth, some of

09:54:52 18 the issues raised by the cement, one of the things we'd

09:54:55 19 look at is aggregation. Is there an opportunity to do

09:54:58 20 some level of aggregation and still have useful

09:55:00 21 information that's informative, that deals and speaks with

09:55:03 22 some of the confidentiality? So we're clearly sensitive

09:55:06 23 to this, this balance Mrs. Riordan pointed out, but think

09:55:11 24 that we can get to a comfortable place working with the

09:55:16 25 industry.



09:55:17 1 BOARD MEMBER D'ADAMO: Okay. And then I'm glad  
09:55:21 2 to see the random audit, but there's not much information  
09:55:23 3 in what you presented. How many?  
09:55:29 4 AIR POLLUTION SPECIALIST WILLIAMS: We were  
09:55:30 5 looking at ten percent or one facility from each sector.  
09:55:32 6 So some of the larger sectors would have two or three.  
09:55:35 7 BOARD MEMBER D'ADAMO: Did you consider a  
09:55:36 8 periodic update?  
09:55:43 9 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE: This  
09:55:43 10 is Dan Donohoue.  
09:55:44 11 The Scoping Plan specified this as a one-time  
09:55:46 12 requirement. So we have not. It's one time based on 2009  
09:55:52 13 emissions inventory. And we have not done anything in  
09:55:56 14 here for anything other than the one time.  
09:55:59 15 BOARD MEMBER D'ADAMO: It just seems to me -- I  
09:56:00 16 don't know enough about these sectors. But as costs come  
09:56:04 17 down with implementation across California of the energy  
09:56:11 18 efficiency improvements, it just seems that a periodic  
09:56:15 19 update might perhaps give us better news about more  
09:56:18 20 cost-effective measures.  
09:56:22 21 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE: One  
09:56:23 22 thing I think is important to note I think most of these  
09:56:27 23 facilities are going to fall under other requirements,  
09:56:32 24 including the Cap and Trade Program. So they are going to  
09:56:32 25 have to be being looking at and continuing to make ongoing

09:56:34 1 efforts there. The refining facilities will come under  
09:56:38 2 RES. Unfortunately, they're not here today. And there is  
09:56:44 3 a lot of other requirements that is going to necessitate  
09:56:50 4 action. So there is going to be ongoing effort, ongoing  
09:56:55 5 improvement.

09:56:57 6 STATIONARY SOURCE DIVISION CHIEF COREY: Again,  
09:56:58 7 Richard Corey.

09:56:58 8 The point I would add to that is we would have  
09:57:00 9 the opportunity through the implementation of reporting  
09:57:05 10 the information that comes out of this program post  
09:57:09 11 implementation of cap and trade as well as other climate  
09:57:11 12 measures really to report back to the Board in terms of  
09:57:14 13 here's the experience. Here's what we learned from the  
09:57:16 14 effort. Here's the actions that were ultimately  
09:57:18 15 implemented. And that may inform whether it would be  
09:57:20 16 useful to have subsequent steps.

09:57:28 17 DEPUTY EXECUTIVE OFFICER FLETCHER: Just to pile  
09:57:29 18 on here, the other consideration is these facilities don't  
09:57:30 19 change very much from year to year, and we will have all  
09:57:32 20 the information we need. As costs come down, we can  
09:57:36 21 re-evaluate what those measures look like.

09:57:39 22 But I think we'll have all of the information  
09:57:41 23 that we would need coupled with the mandatory reporting to  
09:57:45 24 make that ongoing adjustment

09:57:48 25 CHAIRPERSON NICHOLS: I guess the point is

09:57:48 1 they'll have the information, too. And the key to this  
09:57:51 2 whole regulation really is that we have reason to  
09:57:54 3 believe -- and I think what we'll obviously find out, but  
09:57:58 4 we certainly have I think solid information that there are  
09:58:03 5 cost-effective measures that could be used to reduce  
09:58:06 6 energy consumption that aren't being -- people are not  
09:58:10 7 availing themselves of simply because they're not aware of  
09:58:14 8 what those opportunities are. So this is a way of  
09:58:16 9 bringing that information to the floor.

09:58:18 10           It's maybe surprising, given how expensive  
09:58:23 11 electricity is, that people aren't doing absolutely  
09:58:26 12 everything they can. But they don't know what's available  
09:58:30 13 or haven't thought about what could be done in a  
09:58:33 14 cost-effective way.

09:58:35 15           So I think it's going to be -- we are going to  
09:58:37 16 gain a lot of useful information from this, but I hope  
09:58:40 17 that this is one of those regulations that really is a  
09:58:43 18 win-win for those who are going to be part of this effort  
09:58:47 19 as well.

09:58:48 20           Okay, if there are no questions or comments,  
09:58:52 21 we'll go to the public.

09:58:53 22           Our first witness is Greg Knapp.

09:59:00 23           Mr. KNAPP: Good morning, Chairman Nichols,  
09:59:13 24 members of the Board.

09:59:14 25           My name is Greg Knapp from Lehigh Hanson, a

09:59:16 1 California cement manufacturer and also part of the  
09:59:20 2 Coalition of Cement Manufacturers this has been working  
09:59:23 3 actively with ARB and staff on many issues of AB 32. We  
09:59:29 4 appreciate that interaction we've had. We think it's been  
09:59:31 5 very beneficial.

09:59:33 6 Just a couple of comments this morning on this  
09:59:35 7 rule. Again, we as an industry have submitted comments  
09:59:39 8 and feel that they speak pretty clearly of what our  
09:59:42 9 concerns are.

09:59:44 10 Fundamentally, we essentially support the goals  
09:59:46 11 of this regulation. Improving energy efficiency is  
09:59:51 12 something that our plants and the industry constantly do.  
09:59:54 13 It's a key motivator for us certainly.

09:59:58 14 We do have concerns though with the  
09:59:59 15 confidentiality of some of the data that are required. We  
10:00:05 16 appreciate the concern expressed by Board Members Riordan  
10:00:07 17 and D'Adamo this morning. I could not express our  
10:00:11 18 concerns better than Board Member Riordan did just  
10:00:14 19 previously.

10:00:16 20 I just would like to punctuate that with the  
10:00:19 21 concept or the idea that some of this information that  
10:00:21 22 would be required, we, as members, of the industry, are  
10:00:26 23 not allowed to discuss or disclose due to federal  
10:00:30 24 anti-trust laws. And obviously that is a very sensitive  
10:00:33 25 situation, and we pay very close attention to that.

10:00:38 1 As we move through this process with ARB staff,  
10:00:40 2 we will identify those types of information and hope that  
10:00:43 3 we can certainly come to a way to meet the intent of the  
10:00:46 4 law and the regulation, but also protect the sensitive  
10:00:52 5 information.

10:00:53 6 That's all I have.

10:00:54 7 CHAIRPERSON NICHOLS: Dr. Balmes.

10:00:57 8 BOARD MEMBER BALMES: So sir, if I may. I'm just  
10:00:59 9 trying to get a sense of how -- obviously, you've  
10:01:03 10 expressed concern about releasing confidential  
10:01:06 11 information. I'm trying to get a sense of the type of  
10:01:08 12 information that you're concerned about disclosing.

10:01:14 13 MR. KNAPP: Generally anything that deals with  
10:01:16 14 cost and competitiveness is sensitive.

10:01:18 15 CHAIRPERSON NICHOLS: The cement industry has a  
10:01:20 16 long history of having faced federal anti-trust lawsuits  
10:01:26 17 for practices of many years ago where certainly I think  
10:01:29 18 it's fair to say that companies used to get together and  
10:01:32 19 talk about what things cost and focused at least under  
10:01:39 20 court orders about not sharing that kind of information,  
10:01:41 21 because it was seen as being anti-competitive. They have  
10:01:45 22 a lot of sensitivity about cost information.

10:01:49 23 BOARD MEMBER BALMES: Okay. Because I was -- in  
10:01:51 24 terms of emissions and chemicals, didn't seem like there  
10:01:55 25 was an obvious concern. Now I understand.

10:01:59 1 CHAIRPERSON NICHOLS: I hope that was a fair  
10:02:01 2 characterization of the situation. It was ancient history  
10:02:04 3 of course.

10:02:06 4 MR. KNAPP: Definitely before my time. Thanks.

10:02:08 5 CHAIRPERSON NICHOLS: Thank you.

10:02:11 6 Diane Bailey of NRDC.

10:02:15 7 MS. BAILEY: Good morning, Chairman Nichols,  
10:02:23 8 members of the Board, and staff.

10:02:25 9 My name is Diane Bailey. I'm a senior scientist  
10:02:28 10 with the Natural Resources Defense Council. And I'm here  
10:02:30 11 today in strong support of this measure with some of the  
10:02:33 12 improvements that staff presented.

10:02:35 13 We really appreciate the hard work of staff on  
10:02:37 14 this measure. The industrial sector, including its power  
10:02:40 15 use, is responsible for fully one-third of the greenhouse  
10:02:43 16 gas emissions in California. So we commend ARB for moving  
10:02:48 17 forward with this audit measure to reign in the global  
10:02:51 18 warming pollution from one of the very largest sectors in  
10:02:54 19 the state. This is a really important step forward for  
10:02:56 20 the implementation of AB 32.

10:02:59 21 I want to highlight some of the important aspects  
10:03:01 22 of the measure that we strongly support. We support the  
10:03:06 23 inclusion of all of the major refineries and cement kilns,  
10:03:11 24 as well as the other major industrial facilities, over  
10:03:11 25 half a million metric tons of CO2 equivalence. And we

10:03:15 1 believe that the focus on these very largest facilities is  
10:03:18 2 appropriate given their contribution to almost half of the  
10:03:23 3 emissions from this large sector.

10:03:26 4 We strongly support the requirement to track and  
10:03:28 5 report criteria and air toxic pollutant emissions  
10:03:32 6 alongside of the greenhouse gas emissions and the  
10:03:34 7 opportunities to reduce these pollutants. This is  
10:03:38 8 paramount in a sector where the largest greenhouse gas  
10:03:42 9 emitters also have tremendous impacts on air quality and  
10:03:45 10 community health throughout the state.

10:03:47 11 We appreciate the discussion that's gone on this  
10:03:50 12 morning about CBI, the confidential information, and  
10:03:54 13 trying to maintain public access to the data and keep the  
10:03:57 14 measure transparent. That's important to us.

10:04:00 15 We strongly recommend and support the  
10:04:02 16 improvements to the measure on oversight, namely efforts  
10:04:07 17 to institute random re-audits on some of the reports to  
10:04:10 18 ARB. And this will go a very long way to assure that the  
10:04:15 19 data is accurate.

10:04:17 20 Finally, I want to echo and state strong support  
10:04:19 21 for the intent in the presentation encouraging facilities  
10:04:23 22 to act upon the measures identified by their audits. I  
10:04:27 23 think it's very important for the facilities to make every  
10:04:30 24 effort to move forward with all of the cost-effective  
10:04:33 25 measures identified by their audits.

10:04:35 1 So thank you very much for the efforts on this  
10:04:36 2 measure. And we look forward to working with staff.  
10:04:41 3 CHAIRPERSON NICHOLS: Thank you, Ms. Bailey.  
10:04:45 4 Hank de Carbonel.  
10:04:49 5 MR. DE CARBONEL: Good morning, Board and staff.  
10:05:02 6 My name is Hank de Carbonel. I am with the  
10:05:04 7 concrete pumpers. And I'm here to say that I, no  
10:05:10 8 surprise, don't support AGW in any way, shape, or form. I  
10:05:14 9 think it's a fraud. It makes Mr. Madoff's efforts look  
10:05:17 10 piddly by comparison.  
10:05:19 11 I'd like to read a little couple of sentences  
10:05:21 12 from a fellow named Dr. Ivory. He's a UN senior staffer  
10:05:26 13 of scientists and a former university professor. On the  
10:05:31 14 subject of AGW, "The claim to so-called greenhouse gases  
10:05:38 15 chiefly the" -- "the claim to so-called greenhouse gases,  
10:05:43 16 chiefly the natural biological products of carbon dioxide  
10:05:47 17 methane, and nitrous oxide are the cause of global warming  
10:05:50 18 is only a theory. It is not a factor unequivocal truth.  
10:05:56 19 Even though the proportions of the theory -- the  
10:05:59 20 proponents of the theory would want to claim the science  
10:06:02 21 behind their theory is beyond debate and supported by an  
10:06:06 22 overwhelming majority of scientists."  
10:06:09 23 He also goes on to say, "however, the most  
10:06:12 24 damning evidence against greenhouse gas induced global  
10:06:15 25 warming is the fact there was a significant global cooling



10:06:18 1 between about 1940 and 1975 --" there were a lot of  
10:06:23 2 troubles in the world during that time, which would be  
10:06:27 3 contrary to the so-called facts -- "associated with the  
10:06:30 4 decreasing radiation levels, even though there was a  
10:06:34 5 three-fold increase in burning of that fossil fuels and  
10:06:37 6 the greenhouse gas emissions during this period."

10:06:41 7           So we're talking about World War II and a number  
10:06:44 8 of other disturbances. And somehow it got cooler.

10:06:49 9           The bottom line is that there was no unequivocal  
10:06:52 10 scientific evidence that global warming is caused by  
10:06:56 11 greenhouse gases. And to continue to pursue this  
10:07:01 12 enormously expensive and costly in terms of people's  
10:07:04 13 livelihood and their very lives at a time when real  
10:07:08 14 scientists have real issues with real things that could be  
10:07:11 15 done to improve the lives of everybody in California as  
10:07:14 16 well as this country and the world to me is just  
10:07:17 17 absolutely obscene.

10:07:19 18           Thank you.

10:07:20 19           CHAIRPERSON NICHOLS: Okay. I can't resist not  
10:07:26 20 responding to that comment because it was not germane to  
10:07:29 21 the issues before us, but I had meant to do this at  
10:07:33 22 another time.

10:07:35 23           I would encourage not only Mr. de Carbonel but  
10:07:38 24 anybody in the audience who's interested in the issue of  
10:07:42 25 the science of global warming to read the obituary that

10:07:47 1 was in the New York Times yesterday for Dr. Steven  
10:07:55 2 Schneider, Professor at Stanford, who passed away in  
10:07:57 3 London quite unexpectedly. He was one of the leading  
10:08:03 4 climate scientists. He was indefatigable in his travels  
10:08:09 5 and his efforts.

10:08:10 6 I encountered him when I was at UCLA and he was  
10:08:14 7 at Stanford and we served on a panel for the National  
10:08:18 8 Academy of Sciences together. But what's interesting  
10:08:21 9 about the obituary -- and there are many of them now  
10:08:25 10 online that can be pursued -- is that, you know, this was  
10:08:28 11 a scientist who was one of the people who could very well  
10:08:35 12 have spent his life in comfort just writing books and not  
10:08:39 13 having to get out and engage in the public. And the fact  
10:08:41 14 that he died while in pursuit of his mission of continuing  
10:08:45 15 to educate people about it without any efforts to shy away  
10:08:51 16 from the uncertainties or the difficulties of science but  
10:08:54 17 still to be out there in the public sector taking these  
10:08:58 18 issues on was something really admirable.

10:09:02 19 And so I'd just like to raise that issue for the  
10:09:07 20 Board members, because the kind of comment that we just  
10:09:12 21 heard is, as I think we all know, it's part of the  
10:09:16 22 process. And we have to keep engaging in it. It's just  
10:09:19 23 very -- it's tough I think to be involved in making policy  
10:09:25 24 in an area where the science continues to evolve.

10:09:29 25 But I think those of us who are here and part of

10:09:32 1 this administration and obligated to administer AB 32 by  
10:09:37 2 the oath of office that we take have to continue to be  
10:09:41 3 aware of the science and following its development. But  
10:09:45 4 we also have an obligation to recognize that the science  
10:09:48 5 on this issue has now been resolved by the Legislature and  
10:09:53 6 we have a law to carry out. And that's what we're doing.

10:09:56 7 All right. Are there any other witnesses who  
10:09:58 8 wish to appear on this item? That was the list that I  
10:10:01 9 had.

10:10:03 10 If not, I think we close the record at this point  
10:10:07 11 and go back to the staff if there is any additional  
10:10:12 12 comments.

10:10:14 13 EXECUTIVE OFFICER GOLDSTONE: No.

10:10:15 14 CHAIRPERSON NICHOLS: Okay. Yes, Ms. Berg.

10:10:19 15 BOARD MEMBER BERG: I just have one clarifying  
10:10:21 16 question.

10:10:23 17 I believe I heard when you were talking about the  
10:10:25 18 facilities that this is applicable to that there would be  
10:10:28 19 a group of people that would be participating at a quarter  
10:10:34 20 of a million metric tons.

10:10:38 21 AIR POLLUTION SPECIALIST WILLIAMS: Correct.

10:10:38 22 That's transportation fuel refineries, so petroleum  
10:10:41 23 refineries that release transportation fuels into commerce  
10:10:43 24 and cement plants.

10:10:45 25 BOARD MEMBER BERG: So all the cement plants are

10:10:48 1 about that level?

10:10:50 2 AIR POLLUTION SPECIALIST WILLIAMS: Yeah.

10:10:51 3 There's correct. They're above that level.

10:10:53 4 BOARD MEMBER BERG: Okay. Thank you.

10:10:55 5 CHAIRPERSON NICHOLS: Other Board comments?

10:10:57 6 Yes, Mayor Loveridge.

10:11:00 7 BOARD MEMBER LOVERIDGE: This is more a question

10:11:01 8 than a comment. But it is somewhat startling given what

10:11:04 9 is before us that only two people -- three people here to

10:11:07 10 testify today.

10:11:10 11 I guess I would ask staff why is it? This is

10:11:13 12 important. I know it's summer. And is this going to come

10:11:23 13 back in a more difficult way to the Board? But it is --

10:11:27 14 given the discussion, it is interesting only there's two

10:11:30 15 people here today.

10:11:32 16 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE:

10:11:32 17 We've actually worked on this for two years. I think a

10:11:35 18 lot of credit also goes to the regulated community and to

10:11:39 19 the environmental community. Nobody got quite what they

10:11:41 20 wanted in this regulation. There were long hours done

10:11:47 21 going out and looking at the facilities and understanding

10:11:51 22 what's happening there. There was a lot of conversation

10:11:55 23 done on various elements. There were compromises made on

10:12:00 24 all parts. It was a long process.

10:12:02 25 I can show you a couple of the whip marks, but I

10:12:05 1 won't.

10:12:06 2                   So I think it's really a complement to the  
10:12:09 3 regulated community, to the environmental community for  
10:12:12 4 working with us on it, and to the staff who put this  
10:12:17 5 together.

10:12:20 6                   BOARD MEMBER LOVERIDGE: Let me just offer my  
10:12:22 7 kudos to the three.

10:12:26 8                   CHAIRPERSON NICHOLS: Thank you.

10:12:28 9                   Yes, Dr. Balmes.

10:12:30 10                  BOARD MEMBER BALMES: Well, going back to our  
10:12:33 11 discussions prior to adopting the Scoping Plan, we don't  
10:12:38 12 have a target for the industrial sector, as I recall. And  
10:12:43 13 Ms. Bailey's comments that 30 percent of the greenhouse  
10:12:46 14 gas emissions come from the industrial sector I've always  
10:12:50 15 wondered why we don't. And maybe somebody from the staff  
10:12:53 16 could explain that to me, because we could actually tie  
10:12:58 17 results from these audits to a target for the industrial  
10:13:03 18 sector in terms of metric tons.

10:13:09 19                  STATIONARY SOURCE DIVISION CHIEF COREY: I'll go  
10:13:11 20 to part of that.

10:13:12 21                  One, back to the point the very large businesses  
10:13:16 22 that are subject to the programs, many under the Cap and  
10:13:21 23 Trade Program. So that ultimate reg in terms of  
10:13:23 24 continuing to lower emissions for that sector, that's one  
10:13:25 25 element. There have been some focused targeted

10:13:29 1 regulations at the sector as well that have gotten to  
10:13:33 2 opportunities for further reductions.

10:13:36 3           So the way I look at this is this effort is  
10:13:39 4 complementary, particularly complementary to the cap and  
10:13:42 5 trade effort to further discover additional opportunities  
10:13:45 6 for reductions. The characterization is that they're not  
10:13:48 7 on the hopeful reductions. They're under the cap and  
10:13:52 8 there's focused measures. So they are part of the  
10:13:55 9 solution. They've been called out accordingly.

10:13:58 10           EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE: Dan  
10:13:58 11 Donohoue.

10:13:58 12           I just wanted to add a thing on that. As we went  
10:14:01 13 through the process and we looked at this, we looked at  
10:14:04 14 the opportunities. Is there a possibility to establish  
10:14:06 15 some requirement those things that were cost effective  
10:14:08 16 would immediately be implemented should we have some  
10:14:12 17 overall cap?

10:14:13 18           The problem we kept coming up with is we couldn't  
10:14:16 19 do that until we got this data. So now we have a process  
10:14:20 20 where we're getting that data and we're going to be able  
10:14:22 21 to much better not arbitrarily establish what those things  
10:14:27 22 should be and make sure their cost effectiveness, but that  
10:14:30 23 they're not out there and subject us to the potential for  
10:14:34 24 litigation and all that.

10:14:36 25           So we've got the first step in the process

10:14:38 1 getting this information to figure out exactly what we  
10:14:40 2 need to do to follow up on your step.

10:14:45 3 BOARD MEMBER BALMES: I bet more people would  
10:14:46 4 show up if this --

10:14:51 5 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE: We  
10:14:52 6 can get more.

10:14:55 7 CHAIRPERSON NICHOLS: Okay. Could I have a  
10:14:57 8 motion to approve this measure?

10:15:00 9 Dr. Telles.

10:15:03 10 BOARD MEMBER TELLES: I just have a little  
10:15:05 11 uneasiness.

10:15:06 12 CHAIRPERSON NICHOLS: Oh, that wasn't a motion.  
10:15:07 13 All right. Okay.

10:15:09 14 BOARD MEMBER LOVERIDGE: So moved.

10:15:10 15 BOARD MEMBER YEAGER: Second.

10:15:10 16 CHAIRPERSON NICHOLS: We have a motion and a  
10:15:11 17 second. Okay. Thank you. Go ahead.

10:15:15 18 BOARD MEMBER TELLES: About this process, it  
10:15:17 19 seems to me that some of this is to ask industry to come  
10:15:24 20 up with ideas on how to reduce greenhouse gas emissions,  
10:15:30 21 which is a good goal. That's what we're here for.

10:15:33 22 But I don't see the benefits of having them jump  
10:15:36 23 through hoops and to kind of write a report and give it to  
10:15:42 24 you, because it's going to be driven primarily by the  
10:15:45 25 other regulations and cap and trade thing which are

10:15:49 1 driving it more so than this.

10:15:52 2           And this seems to me government asking industry  
10:15:57 3 to do things which are really not necessary because  
10:16:00 4 they're going to do them anyway because of other things  
10:16:03 5 which are coming down the line, especially the cap and  
10:16:07 6 trade thing. And I would think that the industry knows  
10:16:11 7 their business better than the staff. And there's going  
10:16:15 8 to be some processes coming up which will be probably new  
10:16:19 9 and be patented and don't even exist yet. I don't think  
10:16:24 10 industry is going to be putting those in a report, because  
10:16:27 11 it's proprietary information isn't even out there yet. I  
10:16:31 12 just have a hard time seeing what the real benefit of this  
10:16:35 13 is. I don't know if the rest of you on the Board are  
10:16:38 14 feeling anything about government is stepping on a little  
10:16:42 15 bit too bureaucratic here.

10:16:47 16           DEPUTY EXECUTIVE OFFICER FLETCHER: Well, I'll  
10:16:48 17 take a crack at that.

10:16:49 18           One of the questions you asked earlier was the  
10:16:52 19 resources it was going to take us to implement this  
10:16:55 20 measure. And I think one of our considerations here is  
10:16:59 21 that as part of our work under AB 32, we have staff that  
10:17:03 22 are dedicated to each of these sectors. So we do know a  
10:17:07 23 lot about these sectors. We are in a position to be able  
10:17:11 24 to evaluate the plans when they come in. We do track new  
10:17:14 25 and innovative technologies as well as the industry. So



10:17:20 1 in the past, many of our regulations have been technology  
10:17:22 2 forcing because we have been on top of the technologies.  
10:17:27 3 But I think that it is a good business practice  
10:17:29 4 what they're doing, which is I think one of the reasons  
10:17:33 5 why we haven't gotten a lot of comments. These are things  
10:17:37 6 the industries ought to be looking at for any number of  
10:17:40 7 reasons.  
10:17:41 8 We do have some responsibility under AB 32 to  
10:17:44 9 make a determination of what are the co-benefits of the  
10:17:46 10 actions that are taken and to look at the local community  
10:17:49 11 impacts. So one of the reasons that we're doing this is  
10:17:52 12 to really generate that sort of local data.  
10:17:57 13 In the Cap and Trade Program with trading and  
10:17:58 14 things of that nature, it's possible that the businesses  
10:18:02 15 would find -- that they may find that participating in the  
10:18:06 16 market program is somewhat less expensive than taking  
10:18:11 17 actions at their own facilities and that we have the  
10:18:15 18 potential to forgo any localized criteria and toxic  
10:18:19 19 benefits from actions that would be taken on site.  
10:18:22 20 So we're hoping through this measure to get  
10:18:23 21 enough information to be able to really, as we said  
10:18:27 22 before, have the facilities realize that there are  
10:18:29 23 cost-effective reductions that maybe they hadn't thought  
10:18:33 24 about in the past as well as to provide us with  
10:18:36 25 information that would look at the potential criteria

10:18:40 1 toxic benefits that would have local community impacts,  
10:18:44 2 whereas GHG is more of a regional consideration. So  
10:18:48 3 that's why we think it's an important measure to take  
10:18:51 4 here.

10:18:52 5 CHAIRPERSON NICHOLS: Dr. Balmes.

10:18:53 6 BOARD MEMBER BALMES: Well, I believe I had a  
10:18:55 7 little bit of a role in even having this rule in the  
10:19:00 8 Scoping Plan, because I was expressing concern to staff as  
10:19:05 9 they were briefing me prior to our adopting the Scoping  
10:19:09 10 Plan about co-benefits in terms of reducing toxic  
10:19:13 11 pollutants and criteria pollutant emissions. And I felt  
10:19:16 12 much more reassured about adopting the Scoping Plan after  
10:19:20 13 this proposed rule was put into the Scoping Plan.

10:19:26 14 So Dr. Telles, I agree on the efficiency side of  
10:19:29 15 things that maybe we don't have to be telling industry  
10:19:33 16 what's the best thing for them to be doing. But on the  
10:19:38 17 potential co-benefits in terms of toxic and criteria  
10:19:40 18 pollutants, I'm not so sure that's the case.

10:19:43 19 CHAIRPERSON NICHOLS: If there is no further  
10:19:44 20 questions or comments, I think we can call the question.  
10:19:47 21 We do have a motion from Mayor Loveridge and a second Mr.  
10:19:52 22 Supervisor Yeager. All in favor, please say aye.

10:19:55 23 (Ayes)

10:19:55 24 CHAIRPERSON NICHOLS: Any opposed?

10:20:00 25 Abstentions?

10:20:00 1 All right. Thank you very much.

10:20:12 2 We have a report on what's going on at the

10:20:13 3 Western Climate Initiative, another AB 32 related item.

10:20:19 4 This is a very interesting project. It's not a new

10:20:30 5 governmental entity. It is an interesting process in

10:20:33 6 which a number of states and Canadian provinces have been

10:20:36 7 sharing information, collaborating on analyses, and trying

10:20:38 8 to develop policy initiatives together, sharing

10:20:42 9 information about how best to reduce greenhouse gas

10:20:46 10 emissions.

10:20:47 11 And our lead on this effort has been Michael

10:20:52 12 Gibbs from Cal/EPA and his support here, his wingman is

10:21:02 13 Kevin Kennedy, the head of our Office of Climate Change.

10:21:07 14 And the two of them are going to give us an update on

10:21:10 15 what's going on at the Western Climate Initiative. So

10:21:13 16 welcome.

10:21:20 17 Do you want to introduce this item?

10:21:22 18 EXECUTIVE OFFICER GOLDSTENE: Well, you did such

10:21:23 19 a good job.

10:21:26 20 By working as a region, the WCI hopes to develop

10:21:29 21 and demonstrate effective strategies to achieve greenhouse

10:21:32 22 gas emission reductions.

10:21:34 23 Since 2007, members of ARB staff have

10:21:37 24 participated in this highly valuable regional

10:21:40 25 collaboration alongside staff from the California Public

10:21:42 1 Utilities Commission, Energy Commission, and the Attorney  
10:21:46 2 General's Office.

10:21:48 3           Throughout, the California Environmental  
10:21:49 4 Protection Agency has led California's input to this  
10:21:52 5 effort and coordinated the work of California's  
10:21:56 6 representatives.

10:21:58 7           Michael Gibbs, Deputy Secretary for Climate  
10:22:00 8 Change at Cal/EPA, is here today to update the Board on  
10:22:03 9 efforts of the WCI. He is the lead deputy for Cal/EPA's  
10:22:09 10 climate change initiatives and serves currently as  
10:22:11 11 co-chair of the WCI.

10:22:13 12           Michael.

10:22:16 13           (Thereupon an overhead presentation was  
10:22:16 14 presented as follows.)

10:22:17 15           DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Thank  
10:22:17 16 you very much.

10:22:17 17           And good morning, Madam Chairman and members of  
10:22:19 18 the Board.

10:22:20 19           It's my pleasure to be here this morning to give  
10:22:23 20 you an update on the Western Climate Initiative. I do  
10:22:27 21 have a brief presentation, and then I'll be happy to take  
10:22:30 22 any questions and comments.

10:22:32 23           It has been my privilege to help represent  
10:22:35 24 California to the Western Climate Initiative, or WCI.  
10:22:39 25 California is also represented by Dr. Kennedy here from



10:23:58 1 Arizona and their participation. Their Governor's  
10:24:02 2 Executive Order directed them to stay in the Western  
10:24:05 3 Climate Initiative. And they have done that and they  
10:24:08 4 remain actively engaged in the discussions, although they  
10:24:11 5 have said they will not be starting a Cap and Trade  
10:24:14 6 Program in 2012. I'll speak more about cap and trade in a  
10:24:18 7 moment.

10:24:19 8 --o0o--

10:24:19 9 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On  
10:24:19 10 the next slide, we just have a map here. The partners are  
10:24:23 11 in green and the observers are in blue.

10:24:26 12 And on the left-hand side of the chart here, we  
10:24:29 13 see some statistics about the seven states and four  
10:24:31 14 partners and the portion of the population and economy  
10:24:36 15 that is covered by these partners in their respective  
10:24:40 16 countries of the United States and Canada.

10:24:43 17 I think one of the things of note here is that  
10:24:44 18 the four Canada provinces, in fact, represent more than  
10:24:49 19 three-quarters of the population and economy in country of  
10:24:55 20 Canada. As a consequence, represents the overwhelming  
10:25:00 21 majority of Canada.

10:25:03 22 --o0o--

10:25:03 23 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On  
10:25:03 24 the next slide, I include a quote here, some material from  
10:25:07 25 the Global Warming Solutions Act, AB 32, which directs

10:25:12 1 international and regional work. This section includes  
10:25:16 2 direction to -- and I'll quote here from the last part,  
10:25:19 3 "to facilitate the development of integrated and  
10:25:22 4 cost-effective regional, national, and international  
10:25:25 5 greenhouse gas reduction programs." So the WCI is one of  
10:25:29 6 the activities that is underway in support of this  
10:25:33 7 requirement of AB 32.

10:25:37 8 --o0o--

10:25:37 9 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: The  
10:25:38 10 Memorandum of Understanding specifies the scope of the  
10:25:41 11 initiative specifically defined in the MOU to identify,  
10:25:46 12 evaluate, and implement ways to reduce greenhouse gas  
10:25:51 13 emissions collectively and to achieve related co-benefits.  
10:25:54 14 The specific outputs or deliverables from the Initiative  
10:25:58 15 include: Setting a regional emissions reduction goal  
10:26:00 16 which has been done; join a multi-state greenhouse gas  
10:26:06 17 registry, which has been completed; and to design a  
10:26:09 18 regional multi-sector market-based mechanism, which has  
10:26:13 19 taken the form of recommendations for a Cap and Trade  
10:26:16 20 Program.

10:26:19 21 In addition to those outputs, the Memorandum  
10:26:21 22 specifies the group to work jointly to promote clean and  
10:26:25 23 renewable energy, increase energy efficiency, advocate for  
10:26:29 24 regional and national climate policies, and to identify  
10:26:32 25 measures to adapt the climate changes. These activities

10:26:35 1 are currently ongoing in the WCI.

10:26:38 2 --o0o--

10:26:38 3 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On

10:26:39 4 the next slide, I list several of the benefits of

10:26:41 5 collaboration which I think have borne out to be true as

10:26:45 6 we've worked through this project.

10:26:47 7 Developing a regional Cap and Trade Program

10:26:50 8 results in larger total emissions reductions, reduces

10:26:54 9 overall cost to the program, and reduces the risk of

10:26:57 10 leakage of jobs and emissions by creating a larger region.

10:27:02 11 Coordinating on the broader climate program

10:27:04 12 creates a larger marketplace for low carbon technologies.

10:27:08 13 And finally, I listed here increased influence on

10:27:10 14 federal and international efforts. I think this is

10:27:12 15 particularly noteworthy because the initiative as a group

10:27:16 16 has shared perspectives with our federal governments in

10:27:20 17 the United States and Canada, including commenting on U.S.

10:27:25 18 EPA proposed regulations, commenting on legislative

10:27:27 19 proposals in Congress, and including briefing Congress on

10:27:30 20 the hill last year. So when we are able to speak as a

10:27:34 21 group from such a diverse set of states, it enhances our

10:27:38 22 influence on our federal governments.

10:27:42 23 A few of the outputs as I've mentioned on the

10:27:44 24 next slide --

10:27:45 25 --o0o--



10:27:45 1 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: The  
10:27:46 2 goal is 15 percent reduction below 2005 levels by 2020.  
10:27:53 3 This is the sum of the WCI partners' individual goals  
10:27:55 4 which each has adopted the goals economy wide and is to be  
10:28:00 5 achieved not solely by cap and trade, but cap and trade  
10:28:03 6 with other policies similar to approach that's been taking  
10:28:06 7 here in the Scoping Plan.

10:28:08 8 The goal realizes the need for greater long-term  
10:28:11 9 reductions. The goal that's been adopted in WCI is  
10:28:14 10 approximately the same as included in the California's AB  
10:28:17 11 32 2020 emissions target, which is to return to 1990  
10:28:22 12 levels. Turns out when you do the math, a 15 percent  
10:28:24 13 reduction below 2005 levels for the WCI partners is a  
10:28:29 14 return to approximately 1990 levels. So they're quite  
10:28:32 15 consistent.

10:28:34 16 --o0o--

10:28:34 17 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On  
10:28:34 18 next slide, I report on the status of the work on the Cap  
10:28:39 19 and Trade Program design. Through a very open and  
10:28:40 20 transparent process, the WCI has held public meetings,  
10:28:44 21 written white papers, developed recommendations that were  
10:28:48 22 in draft, and then final recommendations, held stakeholder  
10:28:52 23 meetings and conference calls, all creating a literature  
10:28:57 24 on the issues and perspectives necessary to develop a set  
10:29:00 25 of recommendations for Cap and Trade Program.

10:29:04 1 All this work is informed by the ARB staff  
10:29:07 2 deliberations who worked on various aspects, along with  
10:29:11 3 the staff of the other agencies that Executive Officer  
10:29:15 4 Goldstene mentioned.

10:29:17 5 And in September of 2008, there was a milestone  
10:29:20 6 achieved in WCI when it released a set of policy  
10:29:25 7 recommendations for the program outlining the broad  
10:29:29 8 objectives and the policy outlines for how the program  
10:29:32 9 would come into being. And just this month in about a  
10:29:35 10 week or so, the initiative will be releasing a more  
10:29:39 11 detailed set of recommendations addressing the topics that  
10:29:42 12 are listed here in bullet form.

10:29:45 13 These recommendations will form a road map really  
10:29:48 14 for the jurisdictions to use in developing our individual  
10:29:51 15 programs. The recommendations from the WCI are then able  
10:29:59 16 to be used by each of the jurisdictions to look at what  
10:30:02 17 works best for them and to adopt the program individually  
10:30:08 18 in each of the jurisdictions.

10:30:10 19 There's five partners currently using their  
10:30:12 20 authority to write regulations to move forward with the  
10:30:15 21 program. The five partners represent about 70 percent of  
10:30:22 22 the emissions in WCI. So although the actual adoption of  
10:30:25 23 the program in each of the jurisdictions may vary slightly  
10:30:28 24 from the actual details that are put forward by WCI, the  
10:30:33 25 expectation is that we'll be able to stay with the core

10:30:36 1 principles of the program and enable the individual  
10:30:38 2 programs and the jurisdictions to link together to create  
10:30:41 3 a link to regional programs.

10:30:44 4 One of the recent milestones also achieved in WCI  
10:30:47 5 on the next slide --

10:30:49 6 --o0o--

10:30:49 7 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: --  
10:30:49 8 was the release of an updated economic analysis of the  
10:30:52 9 program. The original economic analysis was produced in  
10:30:56 10 2008. The update incorporates a variety of improvements  
10:30:59 11 and updates that were recommended by stakeholders. And  
10:31:02 12 the results continue to show that the WCI program can  
10:31:06 13 reduce emissions with very modest savings to the economy.  
10:31:10 14 The savings were estimated at two-tenths of one percent of  
10:31:14 15 GDP. Basically, a wash in terms of what the costs and  
10:31:18 16 savings may be.

10:31:21 17 A variety of sensitivity analysis was performed.  
10:31:23 18 In some cases, the costs are a little higher. In some  
10:31:26 19 cases, the savings were higher. But overall, the impacts  
10:31:29 20 are quite modest.

10:31:31 21 The analysis includes policies that are  
10:31:33 22 implemented with cap and trade and show they help reduce  
10:31:39 23 emissions and limit cost. And overall, the study has  
10:31:42 24 results that are similar to the ARB study that was  
10:31:44 25 presented to the Board here in March. And a couple of

10:31:48 1 those conclusions or findings include that complementary  
10:31:52 2 policies are important. They help reduce emissions and  
10:31:55 3 reduce costs. That compliance flexibility is important.  
10:31:59 4 In particular, the banking of allowances or the ability to  
10:32:05 5 save allowances and use them in the future, as well as a  
10:32:06 6 limited number of offsets used for compliance.

10:32:11 7 --o0o--

10:32:11 8 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: There  
10:32:12 9 is a graph that shows the reference case of emissions in  
10:32:15 10 terms of percent change from 2005. The reductions in  
10:32:18 11 emissions that are estimated due to the program, including  
10:32:22 12 breaking out those reductions in terms of reductions from  
10:32:24 13 capped sectors and emissions reductions from offsets. You  
10:32:29 14 recall I said that the emissions reduction goal was a 15  
10:32:31 15 percent reduction, and you'll see here that we don't quite  
10:32:34 16 get there in this graph. On the next page --

10:32:37 17 --o0o--

10:32:37 18 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: -- I  
10:32:38 19 explained what that is. That is there's extra early  
10:32:41 20 compliance in the program which enables allowances to be  
10:32:45 21 saved early and then used later. So that gives us faster  
10:32:47 22 emission reductions early and a little bit less emissions  
10:32:52 23 reductions later.

10:32:53 24 On this slide, the blue line shows what the  
10:32:55 25 program cap would actually require in terms of emissions.

10:32:57 1 And the red line shows what the analysis estimated in  
10:33:01 2 terms of how the industries would respond. And you see  
10:33:04 3 that early on the emissions are less than what's required.  
10:33:07 4 So there's extra reductions over compliance. And then  
10:33:11 5 those allowances are saved for later, and there is a  
10:33:14 6 little bit less reduction later. This basic flexibility  
10:33:18 7 reduces the cost of complying with the program.

10:33:23 8 --o0o--

10:33:23 9 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: The  
10:33:24 10 next slide shows a pie chart showing the emissions  
10:33:27 11 reductions achieved in each of the sectors. These are the  
10:33:30 12 emissions reductions relative to the reference case.

10:33:34 13 Some might ask why there's relatively modest  
10:33:35 14 emissions reductions in the passenger vehicle section  
10:33:39 15 you'll see here. That's because the vehicle standards,  
10:33:42 16 the so-called Pavley requirements, are included in the  
10:33:45 17 reference case. So those are already included. And these  
10:33:47 18 are additional emissions reductions below that, so we  
10:33:51 19 don't double count them here. Those are already included  
10:33:53 20 in the reference case.

10:33:56 21 --o0o--

10:33:56 22 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On  
10:33:56 23 the next slide, I just wanted to emphasize a couple of  
10:33:59 24 findings of the analysis and again say that allowance  
10:34:02 25 banking and offsets are important flexibility mechanisms



10:35:23 1 already issued a paper together on offset quality which we  
10:35:28 2 find is gaining some traction and influence in the  
10:35:33 3 national debate on how to develop an offset program.

10:35:37 4 Finally, the WCI remains in discussions with our  
10:35:42 5 federal governments, both the U.S. EPA and Environment  
10:35:45 6 Canada. Both USA and Environment Canada participate in  
10:35:51 7 our WCI meetings as well.

10:35:53 8 --o0o--

10:35:53 9 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: So on  
10:35:54 10 the last slide, just for more information, of course, WCI  
10:35:57 11 has a website at which we can see all the WCI partner  
10:36:01 12 representative information, all the documents and  
10:36:04 13 stakeholders comments and a list serve that's available  
10:36:07 14 for announcements.

10:36:10 15 So I'm happy to take any questions or comments at  
10:36:11 16 this time. Thank you.

10:36:12 17 CHAIRPERSON NICHOLS: Thank you very much.

10:36:13 18 I just wanted to comment, because this is a  
10:36:16 19 somewhat unusual process. I guess I had some experience  
10:36:21 20 with it when I was at U.S. EPA and groups of states would  
10:36:24 21 get together at the regional level without any specific  
10:36:27 22 mandate to do so, but with the common agreement that they  
10:36:31 23 wanted to work together on a project.

10:36:35 24 WCI doesn't have any legal status. The people  
10:36:38 25 who participate are there voluntarily. They are high

10:36:41 1 level political appointees, such as yourself, or very  
10:36:46 2 senior technical staff in the agencies that are involved.  
10:36:50 3 And clearly, they have continued in this effort over time,  
10:36:55 4 because they share a common concern about trying to  
10:36:59 5 develop really strong and viable climate protection  
10:37:05 6 programs. And they're now at the point where they're  
10:37:08 7 putting forth some very specific recommendations and  
10:37:10 8 hoping to get some reaction from their government entities  
10:37:17 9 and to try to move the process forward.

10:37:21 10           If we are successful at the level of the  
10:37:25 11 United States government in producing a climate program,  
10:37:30 12 it will be very largely due to the efforts of the states  
10:37:34 13 like WCI and RGGI and the other groups that have come  
10:37:39 14 together and just done so much of the raw work that has to  
10:37:44 15 be done to develop these kinds of complicated programs.

10:37:49 16           So I'm just really impressed by what WCI has been  
10:37:55 17 able to produce so far and the level of thinking and the  
10:37:59 18 level of agreement that has been hammered out. These are  
10:38:03 19 not easy things to bring together. And so it's going to  
10:38:08 20 be very interesting to see if it precedes on to the next  
10:38:11 21 step, given the fact that, you know, there is elections  
10:38:14 22 going on, certainly in this country. And there will be  
10:38:17 23 changes at the top of all states, including this one, you  
10:38:22 24 know, whether something like this can proceed. But it  
10:38:26 25 seems there's a lot of weight behind it. And I think



10:38:32 1 whatever happens, the products that they're putting out  
10:38:36 2 are going to get serious attention and have influence  
10:38:40 3 going forward.

10:38:42 4           So I just thought it could be interesting for the  
10:38:46 5 Board members to get a glimpse of all of this that we're  
10:38:48 6 helping to support with our staff.

10:38:53 7           I guess the question of resources always comes up  
10:38:55 8 in situations like this. How has this effort been funded?  
10:38:59 9 Because there's obviously been a lot of work that's gone  
10:39:02 10 into it.

10:39:06 11           DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Sure.  
10:39:07 12 Thank you for the question.

10:39:08 13           There's a couple different aspects of the work of  
10:39:11 14 WCI that require resources. Most of the actual technical  
10:39:14 15 work is done by staff from the different states and  
10:39:18 16 provinces.

10:39:21 17           In California, as we mentioned, we've had staff  
10:39:23 18 from the Air Resources Board, the Public Utilities  
10:39:26 19 Commission, the Energy Commission, and the Attorney  
10:39:28 20 General's Office all providing their expertise as part of  
10:39:32 21 the work.

10:39:35 22           And I would say that's the majority of the  
10:39:38 23 resources that go into the effort is the technical  
10:39:40 24 expertise from the staffs from all the states and  
10:39:43 25 provinces, each of which seem to bring their own unique

10:39:47 1 capabilities and contributions to that discussion.

10:39:52 2           In addition, we have had some consultants and  
10:39:55 3 experts brought on under contract through our project  
10:39:59 4 manager who happens to reside at the Western Governors  
10:40:03 5 Association. So the funding for that comes in part from  
10:40:09 6 voluntary funding that comes from again each of the states  
10:40:12 7 and provinces that have put money essentially into that  
10:40:15 8 pot to enable to fund those things. But also from some  
10:40:20 9 foundations that have funded specific projects and  
10:40:23 10 specific things that we've done, including I would say the  
10:40:26 11 most significant pot of funding coming to support the  
10:40:31 12 economic analysis, which was not surprisingly a large  
10:40:34 13 technical piece of work that we used a contractor for that  
10:40:39 14 had some models that we're able to apply here. And that  
10:40:42 15 money came from foundations.

10:40:44 16           So it's been a variety of sources. And we really  
10:40:46 17 appreciate all the support that has gone into that and  
10:40:50 18 enabled the work to proceed.

10:40:52 19           CHAIRPERSON NICHOLS: Thank you.

10:40:53 20           We do have one person who signed up to speak to  
10:40:56 21 us on this item, and that's Derrick Walker from the  
10:41:00 22 Environmental Defense Fund.

10:41:06 23           Good morning, Derrick.

10:41:08 24           MR. WALKER: Good morning, Chair Nichols and  
10:41:09 25 members of the Board.

10:41:10 1 I couldn't say it any better than the Chair just  
10:41:12 2 said about the importance of the WCI. But I wanted to  
10:41:15 3 reinforce it as a stakeholder that's been working on WCI  
10:41:19 4 issues with Michael, Kevin and others since the very  
10:41:22 5 beginning back in 2008. This is a quintessential example  
10:41:26 6 of California's leadership magnifying itself across the  
10:41:29 7 region and having an impact on the discussions that are  
10:41:32 8 occurring nationally here in the U.S. and in Canada, as  
10:41:36 9 well as I've been with some of the members of the  
10:41:38 10 administration at some of the international meetings the  
10:41:42 11 UN meetings, and the WCI is a topic of interest there.

10:41:46 12 I think there's great economies of scale. I  
10:41:48 13 think there's great opportunities to share knowledge and  
10:41:51 14 technology, especially on things like the electricity  
10:41:53 15 sector where we share a common transmission system with  
10:41:57 16 other western states. I think there is great synergies,  
10:42:00 17 and just both the dialogue and some of the commitments  
10:42:03 18 that have been discussed with the Western Climate  
10:42:05 19 Initiative are absolutely critical.

10:42:07 20 So I would urge the Board to remain attentive and  
10:42:10 21 supportive to this important program. And thank you for  
10:42:13 22 your attention.

10:42:14 23 CHAIRPERSON NICHOLS: Thank you very much.

10:42:17 24 Okay. Any other questions or comments by members  
10:42:20 25 of the Board? Yes.

10:42:31 1 BOARD MEMBER LOVERIDGE: One just very, very  
10:42:33 2 quick question.  
10:42:35 3 Slide 12, help me out on what the reference  
10:42:40 4 cases -- you mentioned it, but it has no reference. So I  
10:42:44 5 was trying to figure out what the --  
10:42:48 6 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Sure.  
10:42:48 7 Thank you very much, Mayor, for the question.  
10:42:51 8 The reference case -- actually, I think it's  
10:42:53 9 perhaps shown on the slides before. Backwards. Is that  
10:42:59 10 the reference case you're referring to?  
10:43:02 11 BOARD MEMBER LOVERIDGE: On slide 12, it says  
10:43:04 12 "share reductions below reference case."  
10:43:08 13 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: On  
10:43:08 14 the pie chart.  
10:43:09 15 These are all emissions reductions below what is  
10:43:13 16 called in this economic analysis type of modeling exercise  
10:43:16 17 a reference case, which is the case of what would happen  
10:43:19 18 without your policies in place. And the reference case in  
10:43:22 19 this example includes several policies that are considered  
10:43:27 20 settled, that they're in place. So they're part of the  
10:43:31 21 existing environment of policy you might say, and now  
10:43:34 22 we're looking at what we might do to go beyond that.  
10:43:38 23 So in this example, the Pavley regulations are  
10:43:40 24 considered part of the reference case. They're already in  
10:43:43 25 place, and all their impacts are already considered. So

10:43:46 1 these changes here that we see, for example, the ten  
10:43:49 2 percent reduction in passenger, does not reflect the  
10:43:53 3 emissions reductions associated with Pavley because those  
10:43:56 4 are already counted. So we would not count them again.

10:44:01 5 CHAIRPERSON NICHOLS: Question, Ms. D'Adamo and  
10:44:03 6 then Dr. Telles.

10:44:05 7 BOARD MEMBER D'ADAMO: If we could go to slide 3.  
10:44:08 8 I just want to get a sense of who's left out there. If we  
10:44:13 9 were to combine RGGI and WCI, what part of the country?  
10:44:24 10 Is it just the middle part of the country that's left out  
10:44:27 11 of the picture? And what's being done on east and west  
10:44:30 12 coast to expand membership so that the entire country is  
10:44:35 13 covered?

10:44:38 14 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS:  
10:44:38 15 Right. As I mentioned, there's three initiatives that are  
10:44:41 16 active in the United States -- well, in North America  
10:44:44 17 really. RGGI, which is the northeast has ten states, and  
10:44:47 18 they cover from Maine down to Maryland, not including  
10:44:52 19 Pennsylvania. I can list them if you'd like:  
10:44:55 20 Connecticut, Delaware, Maine, Maryland, Massachusetts, New  
10:45:00 21 Jersey, New York, New Hampshire, Rhode Island and Vermont.  
10:45:03 22 That covers the northeast.

10:45:06 23 The midwest has assembled a group to develop a  
10:45:08 24 proposed Cap and Trade Program. They're not starting  
10:45:12 25 their program right now, but have put out a specific set

10:45:17 1 of design recommendations. That includes six states and  
10:45:19 2 one Canadian province: Iowa, Illinois, Kansas, Michigan,  
10:45:26 3 Minnesota, and Wisconsin. And then Manitoba also  
10:45:30 4 participates there as well with WCI. So that is really  
10:45:32 5 the upper midwest.

10:45:33 6 What's not currently to the best of my knowledge  
10:45:37 7 included in a regional initiative of this type is the  
10:45:40 8 southeast and moving over into the south.

10:45:47 9 CHAIRPERSON NICHOLS: So at one point there was a  
10:45:49 10 group of southeastern governors that were talking about  
10:45:53 11 pulling together some form of regional initiative. But I  
10:45:56 12 think various distractions have taken away the energy  
10:46:00 13 behind that.

10:46:02 14 BOARD MEMBER D'ADAMO: Is there any effort by  
10:46:06 15 RGGI or the upper midwest to move into that territory,  
10:46:10 16 help organize them somehow?

10:46:13 17 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: Well,  
10:46:14 18 I can't speak about all the discussions and RGGI and the  
10:46:17 19 midwest.

10:46:18 20 What I can say is in the Western Climate  
10:46:21 21 Initiative, which although it's still called western, if  
10:46:24 22 we look at the map, we go all the way to eastern Canada.  
10:46:26 23 We have continued to reach out and to try to expand our  
10:46:30 24 membership, including into the midwest and south. And one  
10:46:36 25 of the things we're working on now is as we put out our

10:46:40 1 recommendations on cap and trade, focusing on other  
10:46:42 2 elements of our comprehensive program, particularly around  
10:46:45 3 the other policies, and trying to expand the partnership  
10:46:48 4 around those things, around energy efficiency, renewable  
10:46:53 5 energy, and other things that really help in a whole  
10:46:58 6 variety of ways. And we're hopeful we'd be able to expand  
10:47:02 7 the partnership. And that may be one avenue for expanding  
10:47:07 8 in that direction.

10:47:10 9 BOARD MEMBER D'ADAMO: Thank you.

10:47:11 10 CHAIRPERSON NICHOLS: Sorry. Dr. Telles.

10:47:12 11 BOARD MEMBER TELLES: Thank you.

10:47:14 12 I had a few questions about the goals. The WCI  
10:47:23 13 represents it looks like two-thirds of -- California  
10:47:29 14 representatives about two-thirds of the population in the  
10:47:33 15 Western Climate Initiative. What is the difference in  
10:47:39 16 goals set by each state?

10:47:41 17 When I was reviewing the renewable portfolio  
10:47:44 18 standard information, there was quite a bit of difference  
10:47:46 19 in renewable portfolio standards in the states which are  
10:47:49 20 members. And California has a certain goal. And what is  
10:47:55 21 the actual goals by the other states?

10:47:59 22 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS:

10:47:59 23 Thanks.

10:48:00 24 I don't actually know them all off the top of my  
10:48:02 25 head. Each of the states and provinces has adopted a

10:48:05 1 specific goal for the economy-wide emissions reductions by  
10:48:09 2 2020. Some are more stringent or significant than  
10:48:14 3 California has adopted. For example, the state of  
10:48:18 4 Washington has in their statute an emissions goal to  
10:48:22 5 reduce emissions by 2020 to 10 percent below 1990 levels,  
10:48:28 6 whereas our goal is to return to 1990 levels. So that's  
10:48:32 7 more stringent.

10:48:34 8 Similarly, British Columbia's goal I think is the  
10:48:36 9 most ambitious among the WCI partners, which is a 30  
10:48:40 10 percent reduction below 1990 levels. Plus, they have  
10:48:43 11 additional goals, such as carbon neutral government  
10:48:46 12 operations by 2012 I think it is. So there is a range.

10:48:53 13 New Mexico's goal, my recollection, is more  
10:48:55 14 similar to ours, 1990 -- return to 1990 emissions by 2020.  
10:49:02 15 So there is a range.

10:49:04 16 When we added them all up to create the regional  
10:49:08 17 goal, it turned out to be approximately California's goal  
10:49:11 18 in part because actually across all of WCI California is  
10:49:16 19 about 40 percent of the total in terms of emissions. So  
10:49:20 20 we were influential in that calculation, but nonetheless,  
10:49:25 21 some were more and some were less.

10:49:28 22 BOARD MEMBER TELLES: Another question. Do any  
10:49:29 23 of the other states have a Cap and Trade Program that's  
10:49:33 24 ready to launch?

10:49:35 25 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: As I



10:49:35 1 mentioned, there's five partners, including California,  
10:49:38 2 that are currently writing regulations to launch the  
10:49:41 3 program in 20120. These five are: Quebec, Ontario,  
10:49:45 4 British Columbia, and New Mexico -- New Mexico recently  
10:49:49 5 published their draft regulations similar to what we've  
10:49:51 6 done here in California for their Cap and Trade Program.  
10:49:55 7 Those five partners represent about 70 percent of the  
10:49:59 8 total emissions in WCI. Again, California being the  
10:50:02 9 largest among them.

10:50:04 10           And just to provide some perspective, those  
10:50:07 11 emissions of those five partners in a Cap and Trade  
10:50:11 12 Program would be about three times the size of RGGI. So  
10:50:15 13 the emissions that would be covered in those five partners  
10:50:18 14 would be about three times the size of the emissions  
10:50:20 15 covered in the RGGI program.

10:50:22 16           CHAIRPERSON NICHOLS: Michael, I think there is  
10:50:23 17 an update on British Columbia in terms of their moving  
10:50:26 18 forward. They did adopt a cap and trade requirement, but  
10:50:29 19 now they're about to do the regulations; is that correct?

10:50:35 20           DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS:  
10:50:35 21 That's correct. They actually adopted the Cap and Trade  
10:50:38 22 Program as policy and are now writing regulations in a  
10:50:41 23 manner similar to the process that we're going through  
10:50:43 24 here to write regulations and bring them forward for  
10:50:47 25 consideration.

10:50:48 1 CHAIRPERSON NICHOLS: And my understanding is  
10:50:49 2 that their cabinet is meeting next week to review the  
10:50:54 3 regulations. So they're at least as far as long as we  
10:50:57 4 are in the process.

10:50:59 5 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: I  
10:50:59 6 think they're actually the furthest along. And we  
10:51:02 7 actually here in California were the first to publish a  
10:51:05 8 draft reg, which was last fall. And now New Mexico has  
10:51:09 9 also published their draft regulation, and Ontario and  
10:51:12 10 Quebec are working very hard on theirs. We have a side  
10:51:16 11 working group who work on the regs from the different  
10:51:20 12 partner jurisdictions who have calls to talk about the  
10:51:23 13 status, the issues they're coming up with, how they're  
10:51:27 14 writing things. And this document we'll be releasing next  
10:51:31 15 week will represent a lot of that discussion and the  
10:51:33 16 recommendations that come out of WCI.

10:51:35 17 BOARD MEMBER TELLES: One final question is for  
10:51:36 18 the states and provinces that go out first, will there be  
10:51:40 19 any banking of credits? I mean, put their economy on the  
10:51:46 20 line first as far as trying to get to these goals. Is  
10:51:49 21 there any banking that's going to be recognized by the  
10:51:53 22 WCI?

10:51:55 23 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS: I'm  
10:51:55 24 not exactly sure what you mean by banking in this context.

10:52:01 25 BOARD MEMBER TELLES: They'll reduce their

10:52:02 1 emissions at a faster rate than some of the other members  
10:52:04 2 and probably faster rate than the rest of the  
10:52:07 3 United States. And whether it be some kind of credit for  
10:52:11 4 reducing your emissions earlier and the WCI and also, of  
10:52:19 5 course, there's no national program now. But is there a  
10:52:22 6 discussion at some kind of national level to get some  
10:52:26 7 credit for reducing their emissions earlier?

10:52:30 8 DEPUTY SECRETARY FOR CLIMATE CHANGE GIBBS:

10:52:30 9 Right. So I think there is a couple aspects to that  
10:52:33 10 question.

10:52:33 11 One is assuming we move forward in WCI and the  
10:52:39 12 five get started and others join later, what does it mean  
10:52:42 13 for others to be joining later? And the principle thing  
10:52:45 14 is they would still have their same emissions target to  
10:52:48 15 achieve by 2020, so their emissions ramp-down would be  
10:52:52 16 steeper if they start later. So in a sense, that makes it  
10:52:56 17 more difficult for them by delaying in their start. But  
10:53:00 18 we certainly welcome others to start and join with us as  
10:53:05 19 we go.

10:53:06 20 We're hopeful as those of us who are able to get  
10:53:10 21 started first can demonstrate how the program works and  
10:53:12 22 that it works well that others will join. I think that's  
10:53:17 23 something we want to encourage.

10:53:17 24 We also have in the United States, of course, the  
10:53:19 25 hope I would say and perhaps even expectations that at

10:53:22 1 some point there will be a comprehensive federal program  
10:53:25 2 and part of the discussion has been ensuring that any  
10:53:30 3 transition from a state or regional program into the  
10:53:34 4 federal program would not disadvantage those who went  
10:53:37 5 first, and in fact should advantage those who went first.

10:53:40 6           And part of that is the transition of the actual  
10:53:43 7 compliance instruments themselves, so-called emissions  
10:53:46 8 allowance and ensuring those who acquired them through the  
10:53:50 9 regional and state programs, in fact, continue to be  
10:53:53 10 recognized for those allowances and those compliance  
10:53:58 11 instruments. So that's been in the federal proposals.

10:54:01 12           Of course, RGGI is up and running and has paid  
10:54:03 13 very close attention to that element of a federal program  
10:54:06 14 and WCI also paid attention to that.

10:54:12 15           CHAIRPERSON NICHOLS: There's no action called on  
10:54:13 16 here, but hopefully it's been an opportunity for people to  
10:54:18 17 catch up with what's been going on in this very  
10:54:22 18 interesting project. And it will be relevant as we move  
10:54:25 19 forward this year on further discussions. So thank you.

10:54:29 20           Thanks very much, everybody. We have time on our  
10:54:34 21 agenda for Board members to raise issues as well as for  
10:54:37 22 general public comment. And I know that Supervisor  
10:54:42 23 Roberts had a question he wanted to raise.

10:54:46 24           BOARD MEMBER ROBERTS: Thank you, Madam Chair.

10:54:47 25           I was wondering if maybe the staff could share

10:54:49 1 with us just a brief status report of where we are with  
10:54:53 2 the diesel truck rules and schedule wise and programmatic  
10:55:01 3 wise what is going on there now.

10:55:03 4 EXECUTIVE OFFICER GOLDSTONE: Thank you,  
10:55:04 5 Supervisor Roberts.

10:55:06 6 As you know, we plan to come back to the Board in  
10:55:09 7 September with an update on the truck and off-road rules.  
10:55:12 8 And we're finding some challenges with being able to make  
10:55:14 9 that date. And I wanted to give Tom Cackette and Lynn  
10:55:18 10 Terry an opportunity to give you an update on where you  
10:55:21 11 are. Most likely, we're going to move the item to the  
10:55:24 12 November Board meeting.

10:55:27 13 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: When we  
10:55:29 14 discussed the status with you earlier this year, some of  
10:55:33 15 the challenges that we were working on was a major update  
10:55:37 16 to the emission inventory, because there had been a lot of  
10:55:40 17 new information presented both for on-road trucks and  
10:55:43 18 off-road trucks.

10:55:44 19 As you know, we've had the discussion about the  
10:55:47 20 sort of health risk of science that would support this.  
10:55:52 21 And we're producing a new report on that that we've  
10:55:56 22 discussed with you before. Both of those items are  
10:56:00 23 looking like they would be publicly available sometime  
10:56:04 24 next month. So that's a little too close to the September  
10:56:08 25 Board meeting for us. So that's why we need a little

10:56:11 1 extra time.

10:56:12 2 We did go out and have workshops in June and July  
10:56:17 3 with all the stakeholders. And one of the messages that  
10:56:20 4 came back strongly was they wanted some time after we put  
10:56:25 5 these documents or findings out to be able to comment on  
10:56:29 6 them before we use that information to inform the final  
10:56:34 7 regulations.

10:56:34 8 So we have shared regulatory concepts somewhat  
10:56:40 9 more developed than what we shared with you in the last  
10:56:43 10 year and early this year, but we do not have yet a actual  
10:56:48 11 draft regulation, because it will be to some degree --  
10:56:52 12 quite a bit of degree informed by the new inventory and  
10:56:55 13 the health data.

10:56:57 14 So when you put the sequence of events together,  
10:56:59 15 we'll get this work done probably in the August time  
10:57:03 16 frame. We'll have some public review time available to  
10:57:08 17 take inputs on the new scientific information and put the  
10:57:13 18 draft regulations together. It basically means November.

10:57:19 19 BOARD MEMBER RIORDAN: Madam Chair, if I may --  
10:57:21 20 excuse me.

10:57:22 21 BOARD MEMBER ROBERTS: Go ahead.

10:57:23 22 BOARD MEMBER RIORDAN: I have attended the two  
10:57:25 23 workshops in El Monte, and I can tell you there is great  
10:57:29 24 deal of interest. The attendance was excellent. People  
10:57:32 25 were there. Staff interacted very well with the attendees

10:57:37 1 and heard from them.

10:57:40 2 I think to have the extra month is a wise thing.

10:57:45 3 It may allow for some more interaction, more workshop

10:57:50 4 opportunities. In a workshop setting, you have people who

10:57:55 5 are very sophisticated who have been at our hearings

10:57:59 6 throughout the whole process. And then you have people

10:58:02 7 who have suddenly realized that yes, this is something

10:58:05 8 that's going to happen. I better get there. So the staff

10:58:08 9 has really had to educate in the process of the meeting

10:58:12 10 and the workshop. And so I think to have an extra month

10:58:16 11 is a wise, wise thing -- or two months.

10:58:21 12 CHAIRPERSON NICHOLS: Two months really.

10:58:23 13 So the concern obviously that we need to balance

10:58:27 14 with this is whether the industry is going to be so

10:58:33 15 anxious about what's happening since we've given them an

10:58:36 16 indication there was going to be some relief here, but

10:58:39 17 we're not telling them what it is, that this would put

10:58:42 18 them in an unfair position while we're perfecting the

10:58:46 19 regulation.

10:58:48 20 I agree that perfection is a goal, but we should

10:58:52 21 really be concerned about what kind of message we're

10:58:56 22 sending to the regulated community. And the staff has

10:58:58 23 assured me that at least at the level of the people that

10:59:01 24 attend the workshops that they would rather have us get it

10:59:05 25 right than the extra two months and that nobody is really

10:59:09 1 facing any penalties as a result of our taking more time.

10:59:13 2 But I think we'd like to have that said for the record if

10:59:17 3 at all possible.

10:59:18 4 Can you add something to that?

10:59:21 5 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: No.

10:59:22 6 There's exactly right. The overwhelming response I think

10:59:26 7 from the stakeholders was get it right. Let us -- I mean

10:59:31 8 the stakeholders -- look at what we've done and see if we

10:59:34 9 believe you've got it right and then go ahead with the

10:59:37 10 regulation.

10:59:37 11 And part of the reason why I think there's not a

10:59:40 12 great concern about the existing reg right now is that we

10:59:43 13 did indicate that even though some deadlines are looming,

10:59:46 14 like for the truck rule January 1 of 2011, that since we

10:59:52 15 had originally proposed we're going to make some changes

10:59:55 16 in March or April, that we would shift those deadlines

10:59:59 17 administratively -- in other words, would be enforce them

11:00:03 18 to reflect the longer time we're taking to resolve the

11:00:06 19 underlying science inventory and things like that.

11:00:08 20 So I think people know that and were committed to

11:00:11 21 do that. So those deadlines aren't really looming as

11:00:16 22 strong as one might think if you just read the reg.

11:00:20 23 CHAIRPERSON NICHOLS: Supervisor.

11:00:22 24 BOARD MEMBER ROBERTS: When do you participate

11:00:24 25 the draft rule will be available for review?



11:00:27 1 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: It's a  
11:00:27 2 regulation. It's the usual 45 days. So I believe it's  
11:00:30 3 just at the end of September for a November hearing. It's  
11:00:37 4 a little bit early because of Thanksgiving.

11:00:41 5 BOARD MEMBER ROBERTS: So sometime possibly late  
11:00:43 6 September we'll see something and people will have a  
11:00:46 7 chance to review that.

11:00:48 8 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: We'll  
11:00:48 9 have another workshop on some of the underlying facts  
11:00:50 10 again in August.

11:00:54 11 BOARD MEMBER ROBERTS: Okay.

11:00:58 12 CHAIRPERSON NICHOLS: I called on Dr. Balmes.

11:00:59 13 BOARD MEMBER BALMES: It's okay.

11:01:03 14 BOARD MEMBER RIORDAN: Such a nice gentleman.

11:01:05 15 Could you put that on your website and clearly  
11:01:09 16 sort of summarize what you just said so that people are  
11:01:13 17 really aware? I mean, you may have already done this, but  
11:01:16 18 I think that's a wonderful way to get the message out  
11:01:19 19 clearly about what to expect if you are a participant in  
11:01:25 20 this process.

11:01:26 21 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes, we  
11:01:27 22 plan to do that as sort of today the Board hears it,  
11:01:32 23 tomorrow the world.

11:01:34 24 BOARD MEMBER RIORDAN: Thank you, Dr. Balmes.

11:01:35 25 Now I'll be quiet.

11:01:37 1 BOARD MEMBER BALMES: I just wanted to clarify  
11:01:39 2 one point.  
11:01:39 3 First of all, I support taking some time to get  
11:01:43 4 it right. So I have no problem with the delay that you  
11:01:47 5 mentioned.  
11:01:49 6 And I also support releasing the PM mortality  
11:01:55 7 report. I think I was the one who moved that we redo the  
11:01:59 8 report.  
11:02:01 9 But just to be clear, we're adapting -- we have  
11:02:06 10 adapted diesel truck regulations to meet our SIP  
11:02:09 11 requirements with regard to PM2.5. The PM mortality  
11:02:15 12 document is a supporting document for that effort, and we  
11:02:18 13 would be dealing with the truck rule whether we had that  
11:02:21 14 report or not. Just to be clear.  
11:02:25 15 CHAIRPERSON NICHOLS: Say "yes," don't just nod.  
11:02:29 16 EXECUTIVE OFFICER GOLDSTONE: Yes.  
11:02:30 17 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes.  
11:02:36 18 CHAIRPERSON NICHOLS: I could see you nodding,  
11:02:38 19 but perhaps the audience couldn't. All right.  
11:02:43 20 Is that sufficient discussion for the moment  
11:02:45 21 then?  
11:02:46 22 BOARD MEMBER BERG: I would just like to make one  
11:02:48 23 comment.  
11:02:49 24 CHAIRPERSON NICHOLS: Ms. Berg.  
11:02:50 25 BOARD MEMBER BERG: We are still doing

11:02:51 1 implementation workshops, and there are other companies  
11:02:54 2 out there trying to help get the word out. I think it  
11:02:58 3 would be really helpful from -- and I did attend a meeting  
11:03:02 4 yesterday where there was 150 people at this meeting. And  
11:03:09 5 CARB did a great job in giving a presentation.

11:03:14 6 But I think it would be helpful in our  
11:03:17 7 presentations if we were to look at and to say this is  
11:03:20 8 exactly what you need to do now, whatever, the reporting,  
11:03:24 9 we are doing the idling, the things that we are enforcing.  
11:03:29 10 And then instead of doing the normal presentation, which  
11:03:34 11 is this is what the rule is, this is what we're looking to  
11:03:39 12 change because when people look at that, they leave as  
11:03:44 13 confused as when they came.

11:03:45 14 I think during this interim spot, as Mrs. Riordan  
11:03:50 15 suggested, we need to be very specific in what the  
11:03:54 16 regulated community needs to do, what is "on hold" and  
11:04:00 17 then what we're going to be addressing then in November.  
11:04:05 18 Does that make sense?

11:04:07 19 EXECUTIVE OFFICER GOLDSTENE: Yes. I'm nodding  
11:04:08 20 and I will say yes. Excellent idea. We'll try to  
11:04:13 21 incorporate as much as that --

11:04:14 22 CHAIRPERSON NICHOLS: It's nice to see that you  
11:04:16 23 respond so quickly.

11:04:18 24 EXECUTIVE OFFICER GOLDSTENE: I want to make sure  
11:04:19 25 Tiffany gets it in the record.

11:04:20 1 We'll try to be as clear as we can even in the  
11:04:23 2 announcement which we hope to put out tomorrow or early  
11:04:25 3 next week.

11:04:26 4 CHAIRPERSON NICHOLS: I think that's an important  
11:04:27 5 suggestion.

11:04:28 6 BOARD MEMBER ROBERTS: Where will the workshop be  
11:04:30 7 in August?

11:04:32 8 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: It'll  
11:04:32 9 be multiple ones again. I can't remember the exact  
11:04:37 10 number. I think it was four. We'll probably be doing  
11:04:41 11 something similar, southern, at least northern and  
11:04:44 12 possibly some other areas, valley.

11:04:47 13 CHAIRPERSON NICHOLS: Okay. And I hope you'll  
11:04:50 14 advise the Board members of the locations of those  
11:04:52 15 workshops. I gather several of them have been following  
11:04:55 16 them, but I think probably everybody would like to know.  
11:04:58 17 So if you could get that information out, that would be  
11:05:01 18 great.

11:05:02 19 Okay. If there are no other items that Board  
11:05:07 20 members want to put before us, we would go to public  
11:05:11 21 comment at this time. We have one person who signed up,  
11:05:16 22 Tim Carmichael representing CNGBC.

11:05:22 23 MR. CARMICHAEL: Good morning, Chairman Nichols,  
11:05:22 24 members of the Board.

11:05:22 25 Tim Carmichael with the California Natural Gas

11:05:25 1 Vehicle Coalition.

11:05:27 2 I just wanted to bring to your attention earlier  
11:05:29 3 this week, the Air Board with U.S. EPA hosted a workshop  
11:05:32 4 on heavy-duty diesel trucks at your El Monte facility  
11:05:36 5 focused on the SCR, selective catalytic reduction systems.  
11:05:42 6 I won't get into the background, but at that workshop,  
11:05:46 7 Navistar engine company presented their research on four  
11:05:48 8 new diesel engines running with SCR and showed to the  
11:05:55 9 audience that the systems do not de-rate, that is perform  
11:06:01 10 less than they should, when the SCR system runs out of the  
11:06:06 11 urea.

11:06:07 12 And, in fact, they also showed that you can put  
11:06:10 13 water in the system and continue to run it. And the truck  
11:06:14 14 thinks it's running on an emission reduction system and  
11:06:17 15 it's just running on water.

11:06:20 16 They tested the emissions and found that the  
11:06:21 17 emissions are 10 to 30 times higher when the SCR, the urea  
11:06:27 18 runs out.

11:06:29 19 So this is really serious. It's not an active,  
11:06:33 20 if you will, like the defeat device tampering that we saw  
11:06:37 21 a decade ago. But it's a passive non-compliance with the  
11:06:43 22 federal and State engine standards for 2010 heavy-duty  
11:06:47 23 engines.

11:06:49 24 So my request -- my first thing is I want to  
11:06:52 25 bring it to your attention, because we think this is

11:06:54 1 really serious. At that workshop, Coalition for Clean  
11:06:57 2 Air, Environment Now, and Navistar made a request of ARB  
11:07:01 3 and EPA staff to act on this. And the staff's response  
11:07:05 4 were we're not authorized to act on this. This is new  
11:07:07 5 information to us.

11:07:08 6 My request to the Board is that you ask staff to  
11:07:12 7 work expeditiously to confirm these results. And if they  
11:07:18 8 are, in fact, correct, that you immediately stop funding  
11:07:22 9 new diesel engines until this is corrected and that you  
11:07:26 10 initiate recall in conjunction with EPA of the -- I think  
11:07:30 11 it's 10- to 20,000 of these engines that are already out  
11:07:33 12 there. This is a big deal.

11:07:37 13 That's it.

11:07:38 14 CHAIRPERSON NICHOLS: Thank you.

11:07:40 15 This item came to my attention first as a result  
11:07:43 16 of some litigation where ARB was sued along with U.S. EPA  
11:07:50 17 by Navistar --

11:07:52 18 MR. CARMICHAEL: Real quickly on that, the  
11:07:54 19 workshop was a result of settling that litigation. In  
11:07:59 20 exchange for dropping the litigation, the agencies agreed  
11:08:03 21 to hold this workshop to hear out the concerns of one  
11:08:08 22 engine manufacturer that's using a different technology  
11:08:11 23 saying this is not fair, because you're allowing these  
11:08:13 24 engines to operate with this technology, and it's not  
11:08:17 25 working.

11:08:18 1 CHAIRPERSON NICHOLS: Right.

11:08:19 2 So, well, obviously holding a workshop was the  
11:08:22 3 required thing to do, but the information suggests there  
11:08:26 4 might be some further action called for.

11:08:29 5 Does the staff have any response at this time?  
11:08:32 6 Should I ask you to get back to us?

11:08:34 7 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes,  
11:08:35 8 let me know if more background is needed on how we got  
11:08:38 9 here. But I've not seen the video yet because of  
11:08:45 10 technical difficulties. I couldn't make my computer show  
11:08:47 11 it yesterday.

11:08:49 12 But I did talk to my staff about it, and I don't  
11:08:51 13 think that the video accurately portrays the performance  
11:08:54 14 of these vehicles. There was sort of an implication that  
11:09:01 15 one of the trucks was simply not complying with the rules,  
11:09:04 16 which have this detection capability to make sure that the  
11:09:08 17 urea that makes the SCR systems work is on board and being  
11:09:13 18 used by the vehicle.

11:09:14 19 And if that's the case -- I don't know that to be  
11:09:17 20 the case -- but we will certainly take enforcement action  
11:09:20 21 immediately as soon as we can confirm that.

11:09:23 22 I think the general sense of my staff's review of  
11:09:25 23 it is that the video part is a bit selective in what it's  
11:09:30 24 showing. And we are in the process right now of looking  
11:09:35 25 at it very carefully and trying to figure out.

11:09:37 1           You can imagine that all of the engine  
11:09:39 2 manufacturers other than Navistar who all use SCR had the  
11:09:45 3 hair up on the back of their neck saying, wait a minute.  
11:09:47 4 We don't agree with this. So we want to hear from both  
11:09:50 5 sides of the story here.

11:09:53 6           The context of all this is that when urea  
11:09:58 7 first -- SCR with urea first came out, we have a national  
11:10:06 8 uniform standard for heavy-duty trucks. We have it on our  
11:10:09 9 books, but the standards are the same as the federal  
11:10:12 10 government. And how the assurance of urea being on board  
11:10:16 11 and being used to make the SCR reduce NOx was an issue of  
11:10:20 12 debate. And EPA came out with some guidance. And because  
11:10:22 13 of the national aspect, we decided to go ahead and follow  
11:10:25 14 their guidance. And the Navistar lawsuit occurred because  
11:10:31 15 Navistar, the only one that doesn't use SCR, believed the  
11:10:36 16 guidance was too lax.

11:10:38 17           So we went through a debate of that. And I think  
11:10:40 18 the long-term intention was always to tighten it up over  
11:10:43 19 time. But the initial certain was, well, will the urea be  
11:10:48 20 available enough places so we needed to have some periods  
11:10:51 21 of time when if you run out you could perhaps keep  
11:10:53 22 operating your vehicle before they found the urea. That's  
11:10:57 23 rapidly being solved, because urea is at more and more  
11:11:01 24 truck stops. It was our plan anyway to tighten up on this  
11:11:05 25 action, but the lawsuit settlement is sort of accelerating



11:11:08 1 it.

11:11:09 2           That's what the workshop was about, how do we  
11:11:11 3 tighten this up a little bit so that there's a minimal  
11:11:15 4 amount of time when any one truck would be out of urea but  
11:11:18 5 still operating.

11:11:20 6           The video is much more of an attack on the  
11:11:23 7 fundamental effectiveness of SCR, and we remain convinced  
11:11:29 8 that that technology is a really good one and being used,  
11:11:33 9 like I said, on everybody but Navistar's engines. Used  
11:11:37 10 throughout Europe for years now. And if there is any  
11:11:40 11 indication that we've misjudged this, we'll certainly get  
11:11:44 12 to the bottom of it. But I think it's a matter of a  
11:11:47 13 transitory tightening up of the rules to make sure that  
11:11:51 14 it's non-functional for as few miles as possible.

11:11:55 15           CHAIRPERSON NICHOLS: Well, it's a good week for  
11:11:58 16 reminding ourselves about how videos can be selectively  
11:12:01 17 edit and misused. But I think the underlying point which  
11:12:07 18 is the apparent need to tighten up the rules is the key  
11:12:10 19 thing here. And I guess the question is do you have any  
11:12:15 20 time schedule in mind for this? I don't want to commit  
11:12:19 21 you to anything.

11:12:20 22           CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: No. We  
11:12:21 23 do, yes. And the settlement agreement essentially -- and  
11:12:25 24 we concurred in this. The settlement agreement basically  
11:12:29 25 says that the day after we do this workshop -- this was

11:12:32 1 sort of the trigger event -- that any 2011 certifications  
11:12:38 2 for heavy-duty diesel trucks will follow the guidance, the  
11:12:44 3 new guidance. And so that basically is the tightening up  
11:12:47 4 of the rules.

11:12:48 5 CHAIRPERSON NICHOLS: I see.

11:12:50 6 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: So  
11:12:50 7 everything that comes to us for approval from now on will  
11:12:53 8 have a much more stringent set of goals, which ultimately  
11:12:58 9 what it means is the truck when it is detected that  
11:13:05 10 there's not urea or false urea like water in the tank has  
11:13:10 11 enough operation, enough to get it to another station and  
11:13:13 12 get it off the road safely -- at that point, the truck  
11:13:16 13 won't go faster than five miles an hour. It essentially  
11:13:19 14 stops, and they have to put urea in it, and the systems  
11:13:23 15 are designed to detect it's urea. We're trying to tighten  
11:13:26 16 up on that.

11:13:28 17 There were examples under the original guidance  
11:13:30 18 where it could go 500 miles or even some circumstances a  
11:13:32 19 thousand miles before this de-rating of the engine would  
11:13:35 20 occur that would force the installation of a new tank of  
11:13:40 21 urea. And that was clearly too lax, especially given that  
11:13:47 22 the urea network is now quite substantial across the  
11:13:51 23 country. So you can get it at most truck stops.

11:13:55 24 CHAIRPERSON NICHOLS: Okay. If there no further  
11:13:57 25 comments on this item --

11:13:59 1 MR. CARMICHAEL: Can I just clarify one thing? I  
11:14:01 2 just want to make sure the Board understood.  
11:14:04 3 I was not here saying SCR doesn't work. I was  
11:14:07 4 saying that from this workshop there are concerns raised  
11:14:10 5 about systems where the SRC stops working and the vehicle  
11:14:14 6 keeps running and the emissions go way up, because the SCR  
11:14:18 7 system is not working, as Tom was elaborating on. I just  
11:14:22 8 want to clarify that distinction. I'm not here saying SCR  
11:14:26 9 doesn't work when it's working properly. These systems  
11:14:30 10 seem to be allowing the SCR system to stop working and the  
11:14:32 11 engine to keep running. That's not okay.  
11:14:35 12 CHAIRPERSON NICHOLS: Thank you.  
11:14:36 13 I have no other witnesses who signed up for  
11:14:37 14 public comment today. So I think it's time to entertain a  
11:14:42 15 motion to adjourn.  
11:14:43 16 BOARD MEMBER LOVERIDGE: So moved.  
11:14:46 17 BOARD MEMBER RIORDAN: So moved.  
11:14:47 18 CHAIRPERSON NICHOLS: And seconded. We will be  
11:14:50 19 adjourned.  
14:04:12 20 (Thereupon the Air Resources Board meeting  
14:04:12 21 adjourned at 11:14 a.m.)  
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14:04:12 1 CERTIFICATE OF REPORTER

14:04:12 2 I, TIFFANY C. KRAFT, a Certified Shorthand  
14:04:12 3 Reporter of the State of California, and Registered  
14:04:12 4 Professional Reporter, do hereby certify:

14:04:12 5 That I am a disinterested person herein; that the  
14:04:12 6 foregoing hearing was reported in shorthand by me,  
14:04:12 7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
14:04:12 8 State of California, and thereafter transcribed into  
14:04:12 9 typewriting.

14:04:12 10 I further certify that I am not of counsel or  
14:04:12 11 attorney for any of the parties to said hearing nor in any  
14:04:12 12 way interested in the outcome of said hearing.

14:04:12 13 IN WITNESS WHEREOF, I have hereunto set my hand  
14:04:12 14 this 4th day of August, 2010.

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