MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

CAL/EPA HEADQUARTERS
BYRON SHER AUDITORIUM
SECOND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA 95814

THURSDAY, SEPTEMBER 18, 2014
9:13 A.M.

TIFFANY C. KRAFT, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277
APPEARANCES

BOARD MEMBERS
Ms. Mary Nichols, Chairperson
Ms. Sandra Berg
Mr. Hector De La Torre
Mr. John Eisenhut
Supervisor John Gioia
Mayor Judy Mitchell
Mrs. Barbara Riordan
Supervisor Ron Roberts
Supervisor Phil Serna
Professor Daniel Sperling

STAFF
Dr. Alberto Ayala, Acting Executive Officer
Ms. Edie Chang, Deputy Executive Officer
Ms. Ellen Peter, Chief Counsel
Ms. La Ronda Bowen, Ombudsman
Ms. Mary Jane Coombs, Manager, Program Development Section, ISD
Ms. Monique Davis, Staff Air Pollution Specialist, Climate Investments Implementation Section, TTD
APPEARANCES (CONTINUED)

STAFF

Mr. Patrick Gaffney, Staff Air Pollution Specialist, Climate Change Program Data Section, ISD

Mr. Jason Gray, Manager, Market Monitoring Section

Ms. Cynthia Marvin, Chief, Transportation and Toxics Division

Ms. Rajinder Sahota, Chief, Climate Change Program Evaluation Branch

Mr. Jimmy Steele, Air Resources Engineer, Transportation and Toxics Division

Ms. Emily Wimberger, Air Pollution Specialist, ISD

ALSO PRESENT

Mr. Alan Abbs, Tehama County APCD

Mr. Steven Arita, Chevron Corporation

Ms. Susie Berlin, NCPA & MSR Public Power

Mr. Damian Breen, Bay Area AQMD

Mr. Tony Brunello, CE2 Carbon Capital

Ms. Colleen Cadwallader, Sacramento Tree Foundation

Mr. David Cox, Coalition for Renewable Natural Gas

Ms. Shasa Curl, City of Richmond

Mr. Steve Dutra, Tree Lodi

Ms. Veronica Garibay, Leadership Council

Mr. Frank Harris, Southern California Edison
APPEARANCES (CONTINUED)

ALSO PRESENT

Mr. Henry Hogo, South Coast AQMD
Ms. Bonnie Holmes-Gen, American Lung Association
Ms. Nancy Hughes, California Urban Forests Council
Mr. Tom Jordan, San Joaquin Valley APCD
Ms. Karen Lange, City of San Francisco
Mr. John Larrea, Cal League of Food Processors
Mr. Bob Lucas, CCEEB
Mr. Bill Magavern, Coalition for Clean Air
Mr. Matt Malorey, Metropolitan Transportation Commission
Mr. Paul Mason, Pacific Forest Trust
Mr. Chuck Mills, Cal ReLeaf, et al.
Ms. Erica Morehouse, EDF
Ms. Marybelle, N. Nzegwu, 535 Coalition
Ms. Amelia Oliver, California ReLeaf
Ms. Cindy Parsons, LADWP
Ms. Michelle Passero, TNC
Ms. Mary Pendleton, Western Chapter ISA
Ms. Michele Prichard, Liberty Hill Foundation
Ms. Tamara Rasberry, SDGE
Ms. Jill Ratner, New Voices, Ditching Dirty Diesel Collaborative
Ms. Erika Rincon, Policy Link
APPEARANCES (CONTINUED)

ALSO PRESENT

Mr. Matt Robinson, Cal Transit Association
Ms. Dorothy Rothrock, CMTA & Joint Industry Group
Ms. Monika Shankar, Physicians for Social Responsibility, LA
Ms. Julie Snyder, Housing California
Ms. Moira Topp, Orange County Transportation Authority
Mr. Kevin Townsend, Blue Source, LLC
Mr. Tim Tutt, SMUD
Ms. Maura Twomey, Central Coast Coalition
Mr. Nico Van Aelstyn, Blue Source, Finite Carbon, Eko
Mr. Michael Wang, WSPA
Mr. Doug Wildman, Friends of the Urban Forest
Mr. David Wilkinson, Woodland Tree Foundation
Supervisor Bob Williams, RCRC
Mr. Robert Willis, New Voices
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- **Acting Executive Officer Ayala**
- **Staff Presentation**
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- Mr. Van Aelstyn
- Ms. Rothrock
- Mr. Arita
- Mr. Harris
- Mr. Wang
- Mr. Brunello
- Mr. Larrea
- Mr. Mason
- Motion
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### Item 14-7-6
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- **Acting Executive Officer Ayala**
- **Staff Presentation**
- Mr. Van Aelstyn
- Mr. Wang
- Mr. Lucas
- Ms. Parsons
- Ms. Berlin
- Mr. Cox
- Mr. Tutt
- Ms. Rasberry
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CHAIRPERSON NICHOLS: Good morning, everyone. Welcome all to the September 18th, 2014, meeting of the Air Resources Board. And I don't need to ask you to come to order because you're already in order. Let's please rise and say the Pledge.

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

CHAIRPERSON NICHOLS: Madam Clerk, would you please call the roll?

BOARD CLERK JENSEN: Dr. Balmes?

Ms. Berg?

BOARD MEMBER BERG: Here.

BOARD CLERK JENSEN: Mr. De La Torre?

Mr. Eisenhut?

BOARD MEMBER EISENHUT: Here.

BOARD CLERK JENSEN: Supervisor Gioia?

BOARD MEMBER GIOIA: Here.

BOARD CLERK JENSEN: Mayor Mitchell?

BOARD MEMBER MITCHELL: Here.

BOARD CLERK JENSEN: Mrs. Riordan?

BOARD MEMBER RIORDAN: Here.

BOARD CLERK JENSEN: Supervisor Roberts?

BOARD MEMBER ROBERTS: Here.

BOARD CLERK JENSEN: Supervisor Serna?
BOARD MEMBER SERNA: Here.

BOARD CLERK JENSEN: Supervisor Sherriffs?

Professor Sperling?

BOARD MEMBER SPERLING: Here.

BOARD CLERK JENSEN: Chairman Nichols?

CHAIRPERSON NICHOLS: Here.

BOARD CLERK JENSEN: Madam Chairman, we have a quorum.

CHAIRMAN NICHOLS: Thank you.

I would note, our two physician members are both missing this morning for completely independent reasons. But I just want to make sure everybody realizes that you better stay well throughout the course of this meeting. We did once have to have them spring into action. That was a day I'll never forget.

A couple of announcements before we get started.

First of all, also missing today is Richard Corey, our Executive Officer, is in China. And so filling in for him is our Deputy Executive Officer, Alberto Ayala, who just recently returned from China. If that suggests to you that we're spending a lot of time on issues related to China, that would be correct. Under the MOU that we have with the National Development and Reform Commission in China, there is a lot of activity going on aimed at helping spread some of California's practices, including
zero emission investigations in China. So it's very exciting work.

Anyone who wishes to testify this morning should please fill out a request to speak card. They're available in the lobby or from the Clerk. And we very much appreciate it if you do that before the item comes up so that the Clerk can organize the speakers' list and we can proceed more efficiently.

We also impose a three-minute time limit on oral testimony, but you can submit anything you want in writing. And so hopefully people can find a way to summarize their testimony in three minutes.

All right. First item on our agenda this morning is a consent calendar addressing two research proposals for the Board's consideration. So before we can proceed to vote on these items, I need to ask the Clerk if anybody signed up to testify. No, they did not.

Are there any Board members who would like to remove this from consent and discuss? No.

Seeing none, then we can close the record on these items. They we are both good proposals. I believe you had an opportunity to review them.

BOARD MEMBER RIORDAN: Move approval, Madam Chair.

BOARD MEMBER SERNA: Second.
CHAIRPERSON NICHOLS: All in favor, please say aye.

(Seven aye votes)

CHAIRPERSON NICHOLS: Opposed?

Abstentions? One abstention from Dr. Sperling. Good.

Okay.

BOARD MEMBER BERG: I need to abstain.

CHAIRPERSON NICHOLS: Also from Ms. Berg.

(Two abstentions.)

CHAIRPERSON NICHOLS: The next item on the consent calendar is Item Number 14-7-2. This is the maintenance plan and redesignation request for Mammoth Lakes PM10.

Everybody knows PM10 is still a problem in some parts of our state. We're finally at the point where we can designate and put a plan in effect.

Is there anybody who signed up to testify on this item? No.

Any Board member who wishes to remove the item for discussion? Okay.

Then we can close this. And have you all had an opportunity to review this item? Yes. I see heads nodding.

Can somebody make a motion, please?
BOARD MEMBER BERG: So moved.

BOARD MEMBER GIOIA: Second.

CHAIRPERSON NICHOLS: All in favor, please say aye.

(Unanimous aye vote)

CHAIRPERSON NICHOLS: Opposed? None.
No abstentions on this one.

All right. The next item is the cap and trade auction proceeds interim guidance on investments. This one is not so quick a matter.

We have an opportunity here as a result of the State Legislature's action to make even greater strides towards reducing greenhouse gas emissions by funding smart projects that will pay long-term dividends. These projects will deliver environmental public health and economic benefits to the people of California, particularly to residents of our most impacted communities.

Governor Brown and the Legislature created the budget and administrative framework for spending the state's portion of the auction proceeds that come through our Cap and Trade Program, which are being now deposited which are held in the Greenhouse Gas Reduction Fund. This spending must be consistent with the three-year investment plan that this Board approved last year.
Senate Bill 535 by Senator now Pro Tem Kevin De Leon calls on the California Environmental Protection Agency to identify disadvantaged communities in California, a process that is now underway going on through the Secretary for Environmental Protection. It also requires that ten percent of the funds be invested in projects located within disadvantaged communities and 25 percent be invested in projects benefiting those communities.

ARB is also charged with developing funding guidelines for agencies that will implement programs that receive these greenhouse gas moneys, including guidance on maximizing the benefits to disadvantaged communities consistent with SB 535.

The budget includes appropriations for a dozen State agencies for programs and projects that reduce greenhouse gas emissions and further the other regulatory purposes of AB 32. It's important to recognize that each of the agencies receiving auction proceeds for investment, including ARB, is responsible for administering its own program. So this law does not change the administrative structure of State government or add any new programs. Everybody continues to be required to follow their own statutory direction and applicable ARB guidance.

The decisions about how to design programs,
select projects for funding, and implement projects rest
with each agency directed by its own priorities and
supported by its on staff's expertise. The Governor and
the Legislature have targeted the auction proceeds to
support State and local projects that both further the
purposes of AB 32 and yield the most significant benefits
for Californians as a whole.

Leveraging funds across programs and
collaboration among agencies obviously can multiply the
benefits of the disadvantaged communities. The interim
guidance that staff is presenting today is the first step
in establishing the Greenhouse Gas Reduction Fund
guidelines that will help to make sure that these
investments achieve the benefits that we're all hoping
for. But obviously, this is something new. It is a step
into the unknown. And there's a great deal of concern
among all the agencies and among the community groups that
are slated to benefit from these funds.

So without further ado, I will turn this item
over to the staff, Dr. Ayala.

ACTING EXECUTIVE OFFICER AYALA: Thank you. Good
morning, Chairman Nichols and Board members.

ARB staff is developing funding guidelines for
agencies administering greenhouse gas reduction funds over
the next year. In addition to addressing investments in
disadvantaged communities, these guidelines will include quantification methods for GHG reductions and co-benefits, tracking and reporting to provide robust accountability.

The item before you provides guidance on the SB 535 element now so agencies can move forward quickly to get projects underway and money flowing in California.

After passage of the State budget on the trailer bill that provided direction to ARB, the staff developed this proposal in consultation with Cal/EPA and the administering agencies. The interim guidance would provide direction on maximizing the benefits of investments to disadvantaged communities and establish criteria for determining those benefits.

On August 22nd this year, the staff released the draft guidance. We held joint public workshops in Fresno, Los Angeles, and Oakland with Cal/EPA and OEHHA. We discussed potential approaches to Cal/EPA's identification of disadvantaged communities and the draft guidance.

Staff is proposing some revisions in response to comments. With any Board amendments to the proposal and your approval today, we can finalize the guidance by the end of September.

The Cal/EPA Secretary will be making his final decision on identification of disadvantaged communities in the same time frame.
Monique Davis from the Transportation and Toxics Division will now begin the staff presentation.

(Thereupon an overhead presentation was presented as follows.)

STAFF AIR POLLUTION SPECIALIST DAVIS: Good morning, Chair Nichols and Board members.

In April 2013, the Board heard testimony on the Administration's first Cap and Trade Auction Proceeds Investment Plan. This plan identified priority investments that facilitate greenhouse gas reductions and further the purposes of AB 32.

At that hearing, the Board approved a Resolution which recognized that the plan provided a balanced approach to address the major sources of greenhouse gas emissions in California, while also supporting investments in disadvantaged communities and providing other important co-benefits.

In June of this year, the Legislature an the Governor enacted a budget which appropriated auction proceeds consistent with that investment plan.

Today, we are here to present draft interim guidance for the agencies that will be using auction proceeds to cut greenhouse gases and make investments in disadvantaged communities. Our goal is to provide a consistent approach to maximize benefits for those
communities and achieve the investment targets established by the Legislature.

STAFF AIR POLLUTION SPECIALIST DAVIS: First, some background.

STAFF AIR POLLUTION SPECIALIST DAVIS: The AB 32 Cap and Trade Program provides an incredible opportunity for directing resources to improve disadvantaged communities throughout the state, while also reducing greenhouse gases. In 2012, SB 535 made it clear that the Legislature wanted proceeds from the Cap and Trade Program to result in investments that benefit California's most disadvantaged communities.

STAFF AIR POLLUTION SPECIALIST DAVIS: Both the investment plan and the guidance that we're presenting today were developed under the framework of the implementing legislation shown here. There are two main themes. First, investments of auction proceeds must further the purposes of AB 32. And second, a portion of those investments must provide benefits to disadvantaged communities. To provide a consistent approach for meeting these statutory
requirements, the budget trailer bill SB 862 requires ARB to develop funding guidelines which apply to all State agencies that receive auction proceeds.

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STAFF AIR POLLUTION SPECIALIST DAVIS: In addition to developing funding guidelines, ARB has several roles and responsibilities established in the implementing legislation as shown here. These all require extensive coordination with other agencies and stakeholders to maintain a strong nexus to AB 32 and meet the goals for benefiting disadvantaged communities.

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STAFF AIR POLLUTION SPECIALIST DAVIS: ARB's funding guidelines will apply to all State agencies that receive budget appropriations from the greenhouse gas reduction fund to implement projects. This slide shows the State agencies that are currently administering programs with moneys from that fund. Each of these agencies has its own independent process and time line for administering its programs and will be responsible for identifying eligible projects.

As they design and implement their programs, agencies will need to incorporate ARB's overall guidance and the associated statutory requirements with greenhouse gas reductions as the primary driver. Agencies will also
need to incorporate ARB guidance on investments that benefit disadvantaged communities.

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STAFF AIR POLLUTION SPECIALIST DAVIS: The flow of funding begins with the proceeds from the quarterly cap and trade auctions and the State portion that is deposited in the Greenhouse Gas Reduction Fund.

Each fiscal year, the Legislature and Governor enact a budget that appropriates moneys from this fund to State agencies. All appropriations from this fund must further the purposes of AB 32 and support greenhouse gas reductions.

The agencies and programs that will receive this year's auction proceeds have already been decided in annual budget appropriations by the Legislature and Governor as shown here. In this year's Budget Act, they appropriated a total of $832 million for a mixture of transportation, energy, and natural resources projects.

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STAFF AIR POLLUTION SPECIALIST DAVIS: With so many agencies and programs, it is important that the public have a way to access information and become involved in the process. ARB's auction proceeds website is a central portal for program information, including workshops, funding opportunities, and links to other
agency's web sites.

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STAFF AIR POLLUTION SPECIALIST DAVIS: The requirement for ARB to develop funding guidelines and the budget appropriations were both enacted this June. This means there are some agencies ready to expand their existing programs and make investments in communities.

ARB staff are developing guidance in stages based on agency needs and priorities. First, we provided guidance on how agencies should prepare an expenditure record as required by Senate Bill 1018. I'll describe this record in a moment. And now, we are creating interim guidance for investments to benefit disadvantaged communities per SB 535.

Agencies need this guidance so they can design their programs to support investing a portion to provide direct, meaningful, and assured benefits to those communities. After this interim guidance is complete, staff will move onto developing the full funding guidelines in a public process and will return to the Board in mid 2015.

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STAFF AIR POLLUTION SPECIALIST DAVIS: As noted on the previous slide, the first stage of our interim guidance involved helping agencies prepare an expenditure
record. All agencies this receive appropriations from the Greenhouse Gas Reduction Fund must prepare this record prior to withdrawing money for projects.

This record is a critical first step in accountability, because it requires agencies to document how proposed investments will reduce greenhouse gas emissions and further the purposes of AB 32.

After working closely with agencies to prepare these records, ARB posts all expenditure records on the auction proceeds website where the public can access them, along with other information related to the use of these funds.

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STAFF AIR POLLUTION SPECIALIST DAVIS: The interim guidance being presented today will be followed by full funding guidelines next year. These guidelines will build onto the interim guidance and include several other elements focused on accountability and transparency.

We'll provide standard methodologies for robust, consistent quantification of greenhouse gas emission reductions and other co-benefits, such as criteria air pollutant reductions.

We'll also provide guidance on metrics that agencies can use to track projects and quantify benefits to disadvantaged communities.
The full funding guidelines will also contain requirements for reporting for agencies, including reporting on benefits to disadvantaged communities.

Per statute, the Department of Finance must submit an annual report to the Legislature on the status of projects funded and their outcomes. ARB will consult with Finance and other agencies to develop guidance to meet the requirement. We will also be developing an online project tracking system so the public can see what projects have been funded and the associated benefits from those projects.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Today, our draft interim guidance is focused on the requirements contained in SB 535.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Implementing SB 535 requires a coordinated effort involving multiple parties. The statute requires the Secretary for Environmental Protection to identify disadvantaged communities for the purpose of meeting SB 535 requirements. So Cal/EPA will be developing maps that define these communities and they plan to finalize their definitions by the end of this month.

In a parallel process, ARB is developing overall
guidance on maximizing benefits for disadvantaged communities. State agencies will then incorporate the defined communities and the guidance as they invest in projects that reduce greenhouse gases and the subset that benefits disadvantaged communities.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Cal/EPA is using CalEnviroScreen 2.0 as a tool for the identification of disadvantaged communities. This tool ranks all 8,000 census tracts in California based on a combination of indicators that reflect both pollution burdens and population characteristics, such as asthma rates and poverty.

Cal/EPA plans to finalize this identification by the end of September. For example, if they selected the top 20 percent of the census tracts, it would include roughly 1,600 census tracts that cover an area with about 20 percent of California's population.

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STAFF AIR POLLUTION SPECIALIST DAVIS: For the total money invested, AB 535 establishes targets. Ten percent of the money must be allocated to projects located within disadvantaged communities. Twenty-five percent must be allocated for projects that benefit those communities. These targets apply to the sum total of
investments. It is not required that each agency meet the targets individually.

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STAFF AIR POLLUTION SPECIALIST DAVIS: This slide shows how the budget targeted funding to a mixture of programs that are particularly suited to both reduce greenhouse gases and benefit disadvantaged communities.

As shown here, we are already expecting that investments benefiting communities will exceed the 25 percent target in SB 535.

While this slide highlights the key areas for SB 535 investments, there is an opportunity for all programs to provide benefits to disadvantaged communities. And the guidance we're presenting today has been designed to maximize those benefits wherever possible.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Let's move into the draft guidance.

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STAFF AIR POLLUTION SPECIALIST DAVIS: As noted earlier, we're starting with interim guidance to help agencies move forward quickly and start implementing projects. The interim guidance includes approaches that agencies need to incorporate into their programs to maximize benefits and criteria that agencies will use to
evaluate projects and determine if the project will provide benefits that are direct, meaningful, and assured.

ARB released draft interim guidance on August 22nd. And today, we are presenting proposed revisions based on comments received through our public process.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Statute requires ARB to develop guidelines that includes a component for how administering agencies should maximize benefits for disadvantaged communities. We developed the draft guidance to address maximizing both the amount of funding that is targeted in communities, as well as maximizing benefits from a given project.

The guidance includes both requirements and recommendations. For agencies with investments which may be located in and benefit disadvantaged communities, there are requirements for conducting outreach to engage the community. The document also includes recommendations to guide agencies in designing programs to address a common need or factor that contributes to disadvantaged communities status, such as PM2.5 concentrations or unemployment.

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STAFF AIR POLLUTION SPECIALIST DAVIS: To help agencies address community needs, the guidance document
includes examples of common needs in disadvantaged communities. The examples on this slide reflect input provided by both the SB 535 Coalition and the SB 535 workshop that was held earlier this year at the UCLA Luskin Center.

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STAFF AIR POLLUTION SPECIALIST DAVIS: To help agencies determine whether their projects provide direct, meaningful, and assured benefits to disadvantaged communities, the guidance describes a general process.

First, determine if the project meets basic eligibility requirements in statute and established by the agency, such as furthering the purposes of AB 32 and reducing greenhouse gases. If a project passes those basic eligibility requirements, agencies can then refer to the appendix in the document. It contains multiple tables with screening criteria for various project types, such as transit and urban forestry.

Each criteria table contains two sections with yes/no criteria to assess projects. The top section has criteria to determine if a project qualifies as located within a community and providing benefits. The bottom section has criteria for projects that are not necessarily located in communities, but could still provide direct benefits to communities.
If a project meets at least one of the criteria listed in the table, moneys for that project could be counted toward meeting the SB 535 targets. If a project does not meet any of the listed criteria, the agency may still fund that project, but it won't be credited toward the SB 535 targets.

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STAFF AIR POLLUTION SPECIALIST DAVIS: The top criteria that I mentioned for being located within is based on physical location being in a census tract. The bottom criteria for benefiting is generally based on being near a community and providing access to benefits for residents of a disadvantaged community.

For a project that's not entirely located within the boundaries of a defined census tract, it may still meet at least one of the criteria for benefiting a disadvantaged community.

Examples include projects that provide benefits near a community and are within walking distance or projects that reduce air pollution near communities.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Here are some proposed criteria for an ARB program that provides vouchers to purchase zero emission trucks and buses. For example, let's consider a project where a voucher is
provided to help purchase a zero emission bus. If that bus serves transit stations in a disadvantaged community census tract, that project would meet the criteria for located within.

If the bus didn't meet any of the criteria for located within, the project could still be considered to provide a benefit if the bus reduced air pollution in a ZIP code that contained a disadvantaged community census tract or if the bus operated primarily on an impacted corridor.

ARB staff are currently working on maps to illustrate the locations of impacted corridors which will include areas that substantially impact air quality in disadvantaged communities, such as major freight routes.

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STAFF AIR POLLUTION SPECIALIST DAVIS: This slide shows how the different criteria might be applied for different project types. For the purposes of illustration only, we've assumed this the top 20 percent of the census tracts would be identified as disadvantaged communities. The actual disadvantaged community boundaries will be decided by Cal/EPA.

The first dark purple, that represents the census tracts in the top 20 percent. Then we move out to the criteria that are based on being accessible by walking
within a half mile of a census tract. The cross hatched buffer covers the extended location that would count as providing a benefit. For criteria that are based on ZIP code that contains a census tract, the light purple area covers an even broader location for projects that could be considered to benefit disadvantaged communities.

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STAFF AIR POLLUTION SPECIALIST DAVIS: When developing the draft interim guidance, ARB coordinated with Cal/EPA, administering agencies, and stakeholders. Cal/EPA and ARB had three joint workshops throughout the State and both agencies participated in a community briefing in Meca. In total, these outreach events included more than 400 attendees. At all three workshops, we are fortunate to have the Strategic Growth Council join us and facilitate discussions on the Affordable Housing and Sustainable Communities Program.

Each workshop started with brief presentations to provide background. Then we spent the majority of the time in smaller break-out sessions that focused on a particular suggest area. Staff acted as facilitators to answer questions and encourage discussion, and all participants had the opportunity to share their ideas and speak directly with staff. In addition to the feedback we heard at these events, we also received more than 130
written comments.

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STAFF AIR POLLUTION SPECIALIST DAVIS: This slide summarizes some of the main comments we heard.

A lot of people wanted to know who has funding, how the dollars will be distributed, and how they can access funding. Some commentors requested a single source of information for all the programs, so we've pointed them to our ARB website which acts as a central portal. Some have also asked for single form that applicants could fill out to begin the application process for all of the agencies.

There were many requests for more outreach to disadvantaged communities and technical assistance to help those communities access funding. Some want active community involvement when agencies are developing guidelines and selecting projects. We received comments about the need for more coordination among agencies to collaborate on projects and provide more benefits in a given area.

There were lots of comments about documenting benefits reporting and accountability. How will people know that agencies actually achieved the benefits that they are claiming? For benefits that were based on geographic criteria, we received the full spectrum of
comments. Some wanted a broader area to be included, and
some wanted a narrower area to be included.

Similarly, we received a wide range of comments
on the stringency of the criteria to establish benefits.
For example, local transit agencies wanted more
flexibility and discretion to determine what constitutes a
benefit, while some community advocates urged a very
narrow approach to ensure that the benefits are truly felt
in those communities.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Based on
the feedback we've heard, we are proposing revisions to
the draft document that was released on August 22nd.
These revisions are shown in strike out underline in the
document we've provided today.

The key proposed revisions include higher
expectations for the activities that agencies would use to
engage disadvantaged communities, increased emphasis on
the concept that benefits need to be direct, meaningful,
and assured.

We've added criteria in the appendix to expand
which projects would count as providing a benefit. For
example, we've added text to clarify that benefits include
transit projects that offer alternative mobility options
to disadvantaged community residents, such as van pools
for agricultural workers or smart phone application-based ride sharing services.

We've also clarified that criteria based on a half mile distance from a disadvantaged community must be accessible by walking. In response to agency feedback, we clarified that agencies should use all of the tables in the appendix that are relevant to the project types they will fund.

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STAFF AIR POLLUTION SPECIALIST DAVIS: For our next steps, by the end of September, Cal/EPA expects to finalize its identification of disadvantaged communities and we will release the final interim guidance in accordance with the Board's direction. We will then turn our attention to developing the full funding guidelines for Board consideration in mid-2015.

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STAFF AIR POLLUTION SPECIALIST DAVIS: Staff recommends Board approval of Resolution 14-30 and the revised draft of the interim guidance on investments to benefit disadvantaged communities.

Thank you. And that concludes my presentation.

CHAIRPERSON NICHOLS: Thank you very much, Ms. Davis.

This is an item that I know of is of great
concern to every one of our Board members. I think it's fair to say there are few things in the world that are harder to do than to spend money well, but especially in the context of a new source of funds where there is so much public interest and public scrutiny.

Having said that, I've received a lot of feedback myself, personally, and had an opportunity to ask many questions. And I think it's a good idea to let our Board members have a chance to also get questions answered if they have some that are still pending at the moment before we hear from the audience.

So I'm going to start here with Supervisor Gioia.

BOARD MEMBER GIOIA: Thank you, Chair Nichols. First, we appreciate the presentation. And I know this is a really big deal. Because ultimately, it's going to set the parameters for potentially how billions of dollars over many years is spent throughout the state. So I had a couple process questions. I know we're going to hear from speakers.

These guidelines are interim. So one of the issues for me is I know you're making some suggested changes after the public comment period, which just closed a few days ago. Normally, I would say, well, we may need more time. And I want to understand sort of the role of these interim guidelines and how we can -- what
opportunities for change in these guidelines before permanent guidelines are adopted.

I understand you're saying there are some agencies that are going to be looking at expenditures pretty quickly. Others won't until next year. And because you want to get the guidelines out there for these agencies that are going to start spending money, you want to go with something. So talk about how there are opportunities for changing these guidelines in the future.

I have some other questions, but I think that's an important one to start with.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

Our intention was to have these guidelines address the expenditure of the fiscal year 14-15 funds. The full funding guidelines would address future years. So that's the first part.

One of the agencies, for example, that is lined up and poised to move forward is the Air Resources Board after the Board approved the funding plan in June. So ARB staff are ready to move forward on the vehicle incentive programs, are waiting for this guidance and the identification.

What we expect or what we intended to do was to be as simple, straight forward, and objective about the criteria in these interim guidelines as possible, look at
learning from the experience of implementing the programs, do further work with the agencies and stakeholders between now and the middle of next year, and then come to you with guidelines that not only include the benefits to disadvantaged communities, but include the very important metrics and reporting and accountability and quantification funds that could allow us to perhaps take a slightly more nuanced approach in the future.

BOARD MEMBER GIOIA: These interim guidelines will get used by agencies that are going to develop their own funding principles and guidelines as well. And they're going to -- so for example, the sustainable community strategy money that will come through the Strategic Growth Council and depending on what process they select, so there will be some specific funding guidelines.

What happens -- and this could be either to a local agency that's administering the funds, regional agency or State agency, if they don't fully incorporate our guidelines or implement them in the way that we intended. So what's the force of these guidelines versus -- because we have our layer of guidelines. Then we have the agencies that are going to develop their own guidelines tailored to their particular pot of money. What happens -- how do we provide any additional guidance
to ensure that they're going to implement them in the way we intended? Because there is a lot of room here.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Let me start out. Perhaps our legal folks would like to add.

But the authority we were given in the statute was to develop the guidelines. In terms of implementation mechanisms, I would say it's probably a combination of things. One, there is our relationship with those agencies. There is the Governor's office and the Department of Finance that have a fair amount of influence. The State agencies, that's another place if the statutes and the guidance are not being fully implemented.

We also are going to be drafting the report for the Department of Finance to the Legislature. And one of the questions that we'll need to address in that report is are the programs being implemented in accordance with both the statute and all of the applicable guidelines.

BOARD MEMBER GIOIA: What's the mechanism for us to collect the data to look at where the money is spent? So, clearly the statutory standard, the 25 percent, many categories it's going to be more than 25 percent. How is data going to be collected on the expenditures so we can track that statewide and say these are the communities
where the money is spent. Who's responsible for doing that?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Initially, we will be looking at the administering agencies to be providing data on projects they selected for funding to the Air Resources Board. We'll have to use some more informal tracking system for the first year or two. We are starting development of the online tracking system that Monique mentioned so that everyone would be able to look up and see what projects have been funded and what areas and what the reported benefits are.

BOARD MEMBER GIOIA: Do we have the ability to include in our guidelines that there needs to be some way or method to collect this information? I think the public, the agencies are all going to be looking to the track record. I mean, as I'm sure the Legislature will.

So how can we be more specific? Is that something we would put in our guidelines or is that another agency?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Right now, the interim guidelines before you have a notation that as the agencies are identifying projects that benefit disadvantaged communities, they need to have a mechanism to ensure that that happens. They need to have a mechanism to track what projects have actually been

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implemented and whether or not they're realizing the
benefits that led to the inclusion of those projects.

But the full funding guidelines that we'll be
developing between now and the middle of next year will
focus extensively on the accountability and the reporting
components.

One of the reasons that we're not doing that now,
besides the time issue, is that it's really critical that
we develop the consistent quantification or calculation
methods for both the greenhouse gas reductions and for the
co-benefits, like air pollution, like economic benefits,
such as jobs.

So when we have those methods out there, all
agencies are using the same methods. Those agencies will
be reporting that information to ARB. That's the
information that we will make public initially in reports
and ultimately in that online project system.

BOARD MEMBER GIOIA: It seems to me maybe at the
end of the day any suggestions we have, it seems to me
including some language that we're going to be specific
about developing reporting and accountability measures is
important so it's clear and on notice that's what we're
going to do. You said that's the intent for the permanent
guidelines?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Absolutely.

BOARD MEMBER GIOIA: The other point -- I've heard a lot from different agencies about -- and I sort of -- I think it's a good argument or an important point -- is that while these guidelines need to have flexibility, they also need to have -- they shouldn't be ambiguous. It's unclear sometimes how they're going to get implemented.

You showed a map, and I appreciate that, of the Bay Area in one example. To the extent that we or Cal/EPA produces maps that also show not just the disadvantaged communities but by category the communities covered under the benefit, right, because the benefit is a bit more expansive, either the ZIP code, the half a mile and some of the other standards that are used, so that agencies seeking to apply for funding and the agencies that are awarding the funding have some clear certainties about what's included and what's not.

I would like to see as we -- maybe if it's not in the interim -- I know it takes a while to develop this -- is for the permanent to develop maps that are really clear around the state so communities can tell whether they're in or out. And I understand there may be some flexibility because, I mean, this is a large pot of money. A lot of people are going to be expending effort to seek to be
funded. And awarding agencies also are going to be looking to what areas are included. So I think it's the flexibility without the ambiguity.

How would you suggest timing that if we want to include more specific maps? That will depend upon whatever EnviroScreen map is out. I understand that. What so whatever Cal/EPA does, our standards will get applied on top of those to expand those areas.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

One of our highest priorities is to deliver what you suggested. Once we have the specific map from Cal/EPA that will be down at a very detailed level, we are laying on top of that the half-mile boundary. And we are laying on top of that the ZIP codes that contain the communities if the Board supports those proposals today.

So we expect to be able to have those maps up in October. We'll probably need another month or two to develop the impacted corridors because there is a back and forth between the communities being identified looking at the major transit and freight corridors and which ones have a strong air quality impact from travel on those corridors effecting air pollution in disadvantaged communities. So we don't need to defer to next year. We're intending to deliver those maps. They're GIS-based maps. So they have every level of detail you could
possibly wish.

BOARD MEMBER GIOIA: My last point is -- and I'm sure we'll have other comments after the speakers -- is I appreciate, first -- I think it was there was a little more definition to add meaningful and assured on top of direct. To make sure there is direct, meaningful, and assured benefit. I'm sure that was a big issue. I think that's significant.

But one of the issues that's also been raised on the transit corridor -- and I know you've seen this in some of the comment letters. You know, people who live in any community, including disadvantaged communities -- I hate using that term. But that's the term that's out there -- that improvements to transit involve a corridor, not just a half a mile or within the ZIP code. And so there are some who will argue, well, maybe we should look at benefits to a transit corridor. And I know you're talking about impacted corridors. But this is a slightly different issue. And I'm sure we'll hear a bit about that issue. Why wasn't that approach taken? I mean, that's something I think we should continue to give some thought to about the corridor approach. Clearly, still within some boundaries. But you know, you have to get from home to work and home to doctor and home to wherever. So it's not just the improvements in the community itself. So
people who live in these communities, you know, need to get to locations and you need to improve the corridor.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: Certainly, we heard and understood the importance of the whole -- improving the whole transit line and the fact that when you improve transit, by definition, you're improving the mobility options particularly for lower income residents.

Our challenge was to figure out how do we relate that to the residents of specific census tracts? How do we correlate those benefits? So we were uncomfortable saying that all transit in the state had a direct, meaningful, and assured benefit to disadvantaged community residents.

BOARD MEMBER GIOIA: I'm not saying all transit. I'm saying what's the fine balance -- maybe we need to think about some standard that provides some balance. You don't want to open this up to all transit. Clearly, we want to have it be direct, meaningful, and assured. But what improvements are direct, meaningful, and assured within a corridor that we really benefits a disadvantaged community?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: That's certainly what we were shooting for with the proposal where if there is a transit line and it passes
through a disadvantaged community, has a stop either in
the community or within walking distance so that the
residents can access that transit line.

So there are other broader ways of looking at it.
But the challenge is then to figure out without having the
excessive documentation requirements about exactly who's
riding which line and where they live and tracking that --
so it was an attempt to balance what benefits can be
directly associated with the residence of those census
tracts and what's the reasonable implementation scenario
for the administering agency.

BOARD MEMBER GIOIA: So whether it's an
investment in capital or operations for transit -- because
the money can get used for either, transit or capital.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
There's two separate --

BOARD MEMBER GIOIA: Let me just take a situation
I'm familiar with. AC Transit has hydrogen fuel cell
buses. Let's say it's on a route, and you're funding
hydrogen fuel cell buses that go through a disadvantaged
community but also go through a longer corridor. So they
are eligible to use cap and trade funding potentially in
this category under the benefit category for hydrogen fuel
cell buses that travel a corridor that goes through the
disadvantaged community. Right?
TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
We would actually say they are eligible under low carbon
transportation and transit as a benefit within.

BOARD MEMBER GIOIA: In terms of operations -- if
they're funding the operations of a hydrogen fuel bus cell
line, let's say, they can fund that bus line.

You can't distinguish the bus line that's going
through the disadvantaged community versus the part that's
taking them to work outside the disadvantaged community.
It's hard to understand the intention of how you apply
some of these. So would that get -- that would be
eligible is how I would read it.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Right. What we chose to propose as the anchor was does
the line allow residents of any disadvantaged community to
readily access it. And so if it's got a stop in the
community or nearby, half a mile or within the ZIP code,
then that provides the direct access for residents from
their homes to be able to enter or --

BOARD MEMBER GIOIA: The operational cost of that
line can be funded, even when it goes --

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Yes.

CHAIRPERSON NICHOLS: Yes. It's not a pro rata
share that gets set aside. That's one of the key concepts
that you've pushed here is that this is not a set aside of separate funding. It's a way of looking at all the funding to see -- to assure that we're meeting these targets that the Legislature has set for us. And so we're not looking to exclude projects at this point. We're looking for ways to make sure that we have enough projects that meet these criteria.

But it's been challenging because of the geographical approach that is imbedded in the whole concept, really, of disadvantaged communities that many -- I've participated in some very interesting conversations myself about is it the person in the community or is it the actual community that we're talking about? And it's both. But there has to be that geographic base or it doesn't meet the statute.

Now, is this the best way to have done it? We'll find out. We're going to work with this and then we'll see what the experience is. And I suspect that the Legislature, not just the authors of this bill, but everyone is going to be very anxiously looking at how this all turns out in the first year or two and wanting to make adjustments as time goes on.

So anyway, excuse me for the interjection. I know we have a lot of people who want to testify. But if there are other questions Dr. Sperling, Ms. Mitchell,
Supervisor Roberts.

BOARD MEMBER SPERLING: I want to -- Supervisor Gioia, that was a wonderful tour of a lot of these issues. And I was just trying to keep up with him getting into some of the details of how these projects are run.

There's one aspect of it I really want to emphasize. I started to talk about it a little bit in terms of the SB 375 plans last time. When I started to come to appreciate that when people talk about transit -- and transit is a huge part of these programs here, they're mostly thinking in very conventional terms in terms of conventional transit, fixed route buses and rail. And I have great concern with that.

Two years ago, I wouldn't have said anything even though knowing that the actual -- the little dirty secret that exists is on average buses actually have higher emissions per passenger mile than cars do these days. And there is lots of nuances to it.

But just having a simple, blunt strategy to increase transit -- conventional transit, one doesn't necessarily lead to the goals we're interested in on the climate side, but also on the implied huge subsidies.

So I just met a couple weeks ago with the Executive Directors of the MPOs from the San Joaquin Valley. And they feel alarmed -- they are alarmed that
they have so much pressure put on them to just put the
money into conventional bus routes or even BRT. And they
know that's a hugely expensive strategy with relatively
small benefits of any sort to anyone. They talk about
some of these routes that they're putting in. It's $40
per passenger trip it's costing them. Now, there has to
be a better way of investing that money.

So what Supervisor Gioia was talking about, he's
focused more on the major urban areas. And there, the
conventional transit, you know, is much more -- is
compelling. But when you get out into the San Joaquin
area, even suburban areas in the Bay Area or the L.A.
area, we need to be thinking about this much smarter if we
really are concerned about the goals of this legislation
and if we want to spend the money wisely.

So I did spend some time with the staff, and they
wrote up some language here that I think is a big
improvement in terms of opening up the funding to advance
mobility options and being creative and giving a lot of
opportunity to do that.

So, one, I want to support the staff in doing
that. I'm not quite sure it's exactly right. So I want
to come back to that perhaps later. But that's getting
into the detail.

But I do want to make it very clear that we need
to be very explicit that we're not just going to do -- be following the same old, same old strategies. We have a lot have opportunities to do things a lot smarter and a lot better with all the information technology coming along. There is all kinds of innovative services being developed and companies. And this is particularly relevant and useful for low-income communities. There is a lot of opportunity to provide better service at less cost. But, you know, we're kind of on the cutting edge of this.

So I admire and support staff in moving this. But we really need this guidance. I want to emphasize this guidance is really critical. And some of the issues that Supervisor Gioia was talking about about how they're disseminated and how they're used, because I think what we're talking about here is not just for the disadvantaged communities. It should be for transit -- you know, for transit more generally. And I know this is being a little revolutionary and disruptive, but it's the --

CHAIRPERSON NICHOLS: Unlike AB 32, which was every day.

Ms. Mitchell.

BOARD MEMBER MITCHELL: There are a couple of concerns that I have on this, and it relates to accountability. There's actually, as I see it, two levels
of accountability.

One is that we need to be accountable that the money is spent in the 10 percent and 25 percent categories, that that actually occurs.

The other level of accountability is do we -- how much do we get in the way of benefits for the programs. Are we getting substantial reductions in greenhouse gases? Are we getting co-benefits with reductions of other kinds of air pollutants?

And I think that's important in the guidelines so everyone knows how that will be measured. We have a pretty good approach with respect to the 10 and 25 percent. But we need to be accountable to account for that.

Let me ask another question. You indicated that moneys could be spent in impacted freight corridors. And we have in the South Coast some very impacted freight corridors, as Cynthia Marvin well knows. How could money be spent in those corridors? Can it be spent on the highway projects or -- give me some examples of how we might see those disadvantaged communities, say, along the I-710, how they might be benefited through some of these programs.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: I would be delighted to, Supervisor Mitchell. Mayor
Mitchell. I apologize for that.

BOARD MEMBER MITCHELL: That's all right. It changes periodically.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
So the reason for the concept of the impacted corridors is really to get at the fact that with mobile sources, of course, you're not only in one area. You may have a disadvantaged community that is, for example, next to the 710 freeway. The 710 freeway may not be in that census tract, but you certainly want to clean up the sources that are traveling along that corridor that have direct pollution reduction benefits on that adjacent community.

Another example would be the ports of southern California are not in an impacted census tract. But certainly cleaning up the pollution at the ports has a direct real meaningful assured benefit again in those adjacent census tracts.

So what we're trying to do by looking at both a freight hub, like the port or a distribution center, and by looking at a corridor, primarily freeways, rail lines, transit lines, is recognized that the vehicles that are traveling along those lines have a direct benefit in terms of lower pollution levels for the adjacent census tracts. So it's basically just another way to get at the cause of some of the reasons why these communities have been
identified as disadvantaged. What are those pollution burdens? And make sure that it's creditable, the money that's invested in reducing those pollution burdens.

BOARD MEMBER MITCHELL: As we look across the state of California, we will find from the CalEnviroScreen that some areas are more impacted than areas. So is there within these guidelines a way to prioritize more impacted areas against less impacted areas? Is that going to be considered?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: In these guidelines, because they're broad, they apply to all agencies. They'll be defining the criteria for benefits. But, for example, on mobile sources of course with ARB running the low carbon transportation program, it is up to ARB to decide and this Board to decide how to prioritize between the competing projects.

And so whether it's low carbon transportation, whether it's affordable housing or transit, each of the agencies implementing the program have the ability to set their own priorities. So I believe that's how your suggestion is accommodated.

BOARD MEMBER MITCHELL: So our guidelines would not include a sort of point that the agencies -- the other agencies responsible should prioritize based on the most impacted areas. It would not include such a guidance? Is
that correct?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Right now, the guidance really just focuses on maximizing
the amount of money that goes into disadvantaged
communities and the money that benefits those
disadvantaged communities. It doesn't suggest how the
agencies prioritize within their project selection at the
more detailed level.

BOARD MEMBER MITCHELL: I see. Thank you.

CHAIRPERSON NICHOLS: Supervisor Roberts.

BOARD MEMBER ROBERTS: Thank you. I'm not sure
where to start. But let me -- I'm in agreement with some
of the comments that I heard on the corridor approach,
which seems deficient in the way we're looking at this.

But more than that, when I started I realize that
eight percent of the population of the state, we find
ourselves with less than two percent as far as this is
concerned. And while San Diego is probably a nice place,
we have our disadvantaged communities. And we have -- to
say that proportionally we only have a quarter of what the
state would have seems to me something was wrong here.

Maybe it's in the way we looked at defining our
low income communities as over 50 percent of the census
tract that is less than 200 percent of the federal poverty
rate. And that gives us a picture, which we work on.
On slide 14, you mentioned the border. And as I looked at the rating system, you virtually ignored the border. And I think part of that is occurring because of the EnviroScreen doesn't understand the border. I've got a map of what happens south of the border and all the industrial and everything else that get screened out. And I guess maybe that's what EnviroScreen does. It screens out stuff.

I think we know that if we look at the border from ocean and Imperial Beach all the way along the border in several miles to the city/county border everything gets nicer when you get all the way to the county border. It's all disadvantaged communities and virtually none of it is qualifying under these rules. And your model I think is partially what's accountable.

But when you mention border, then we don't have -- I'm surprised you'd mention border because you pick up so little a piece. And I know those areas well. And I'm not happy with this. And I respect all the speed with which you want to do things. But when I find that the basic model has some flaws in it, I think those things need to be adjusted and accounted for.

I've had SANDAG send you a letter. I didn't hear in your report any changes that were being made because of that. But I think there is some work to do here before I
will support it. In spite of the fact everybody wants to spend money, I would feel more comfortable if I knew we were spending the money in a more thoughtful way and in a fair way for disadvantaged communities throughout the state.

CHAIRPERSON NICHOLS: Thank you. Obviously, we're just getting out some issues here. There is going to be more time for discussion I think before we act on the guidelines and after we've heard from the public. Because we do have quite a number of people who have come a good ways to address us as well. But just to make sure that we've at least gotten out the initial concerns.

BOARD MEMBER GIOIA: One quick comment. I appreciate I think Supervisor Roberts has made an observation that was also made in the Bay Area, is that both the San Francisco Bay Area and the San Diego area are -- that there are a number of disadvantaged communities that are not included out of those two section of the state. And I think that gets to the map issue, which is why I know the Bay Area has advocated for some other factors to be incorporated. But factor in frankly affordability issues. Because when you look at rates of poverty and you look at income, you have to relate that to cost of living, for example. And there is some other factors like urban pesticide exposure is often as
important as agricultural pesticide exposure, right. So there is different factors.

And I think those factors, if they get included, will provide greater fairness to the San Diego and San Francisco Bay Area. But in our guidance, really, you know, it's built off those maps. We don't create the maps. But we're trying to figure out using those maps how do we then expand the areas properly and appropriately to provide direct, meaningful, and assured benefit.

So I think we can address it through some of the guidance. But I know some of the comments of San Diego are similar to -- at least Cal/EPA as the Bay Area with regard to the communities that are affected. And hopefully Cal/EPA hears those arguments from the Bay Area and from San Diego.

CHAIRPERSON NICHOLS: Ms. Marvin, do you want to comment on that?

I heard those comments, and I believe Cal/EPA has been thinking hard about how to proceed next with the EnviroScreen tool.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: What I want to do is have a moment to share a visual that I think may help.

So what I wanted to do is show a parallel map for San Diego similar to the one that we showed for the Bay
Area. That would indicate -- if you assume that CalEPA were to choose the top 20 percent of the census tracts, you see those in dark purple. If you were to implement the guidance for disadvantaged communities in the way that we're suggesting, look at half mile around the census tracts for some projects, look at the ZIP code that contains the census tract for other projects, that ZIP code that contains the census tract is the pale purple that you see here that would substantially expand the reach within the San Diego region.

So I just wanted to share that with you because that is not in the report yet.

BOARD MEMBER ROBERTS: Do you see the white area on the border?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: Yes, I do.

BOARD MEMBER ROBERTS: It's absolutely unbelievable to me that there is a way that that dropped out from a disadvantaged -- from a pollution from any criteria. That's a very disadvantaged community. And the fact it drops out of your model should suggest to you something is off here. Hold a workshop in San Diego. Go there. Maybe you need to see it. There's more trucks passing through that area than you'll find anywhere.

CHAIRPERSON NICHOLS: So put up the Bay Area map
again. This is the one that we had, that we just had.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
We do have these maps available for major regions of the
state as a backup.

BOARD MEMBER GIOIA: I'm trying to see if the
Hunter's Point Bay View area of San Francisco -- one of
the issues is because that wasn't identified -- that was
the old ship yard area. I'm trying to see how far south
that goes, whether that shaded light purple goes into that
area. It's hard to tell on this map. It's right around
there.

CHAIRPERSON NICHOLS: I've been to workshops
where people are standing around looking at the walls and
squinting at the lines on these maps.

There is obviously a lot to be done here and
people have been feeding specific information --

BOARD MEMBER GIOIA: Thank you.

CHAIRPERSON NICHOLS: -- into the process here to
question what it is that led to what seems to be some
anomalies in the system.

If we don't have any more initial comments, let's
turn to the members of the public who have come to be with
us this morning. I want to start with the four Air
Pollution Control Districts that are here and ask them all
to come you will together, even though I know you're not
going to say exactly the same thing. The order in which they signed up were South Coast, Bay Area, Tehama and San Joaquin. So we'll start with Mr. Hogo.

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

Henry Hogo, the Assistant Deputy Executive Officer at the South Coast Air Quality Management District.

I'm here to urge you to adopt the staff's proposed interim guidelines today. The proposed guidelines are consistent with the approach the South Coast AQMD has been using to allocate Moyer funding to environmental justice communities. The types of technologies considered for funding with the Greenhouse Gas Reduction Funds will have significant co-benefits of reducing not only greenhouse gas emissions but also criteria pollutant and local toxic exposure.

These co-benefits are critical to the protection of public health at the local level and to make attainment of federal standards possible in the South Coast. Our agency is a strong supporter of the need for special measures to address environmental justice as has our own environmental justice program since 1998.

With over 42 percent of the state population residing in the South Coast, we have a significant number
of residents living in disadvantaged communities as confirmed by CalEnviroScreen. As the state finalized the methodologies for calculating cancer risk, which could potentially increase by almost a factor of three, it is imperative that the types of technologies considered for funding be deployed to benefit all residents as early as possible. However, areas that have the greatest toxic exposure levels tend to be in disadvantaged communities. As such, these communities should receive their fair share of funding as the state developed the funding guidelines slated to be developed later this year.

We look forward to working with your staff to implement the guidelines and discussions and fundings. Thank you. And I'll be glad to answer any questions you may have.

CHAIRPERSON NICHOLS: Thank you.

Mr. Breen.

MR. BREEN: Good morning, Madam Chair, members of the Board.

I'm speaking to you today on behalf of our Executive Officer, Mr. Broadbent, who is also in China. I'd like to start by thanking your staff for the efforts they've undertaken to date to define how greenhouse gas fund money should be invested to benefit disadvantaged communities.
To us, while this seems like putting the cart a little bit before the horse, considering that we don't have the CalEnviroScreen maps or determination there and while we do have significant issues with regard to how those communities are identified, we think that those will be resolved equitably and successfully very shortly.

Therefore, in considering the interim guidance that you have in front of you here today, there is a number of things that we think you should take into account. The Bay Area Air District believes that ARB has successfully defined what will provide benefit to disadvantaged communities. And while the air district appreciates the attempt that ARB has met to keep these definitions broad and flexible, there is some specifics that we think you should consider.

We would suggest that the criteria related to benefits in the area of energy efficiency and renewable energy need to be expanded to include community choice agrogation projects and renewable energy projects that directly benefit disadvantaged communities.

Similarly, energy efficiency and renewable energy projects that directly decrease the power needed to supply, treat, and transport water to disadvantaged communities should be included as eligible.

Additionally, we would note that the guidance
does not explicitly include the sequestration of carbon via forestry management to reduce wildfires as being project eligible for benefiting disadvantaged communities.

Based on what's been happening throughout the state this year and the impact this will have on local air quality and global climate, this is a category on which you should place additional emphasize.

We look forward greatly to the release of the impacted corridor maps associated with this interim guidance, and we hope that the Board will direct the staff to engage with local air districts and communities to ensure these maps represent the true distribution of freight travel and greenhouse gas emissions throughout the state.

Finally, we look forward to participating in discussions on the methodologies for calculating greenhouse gas emissions reductions and co-benefits as part of the further development of program guidance. We hope that your staff will engage with local air districts as soon as possible on this and that we will see a strong correlation in those guidelines between the regions and sectors generating the most greenhouse gases and criteria pollutants in the state and the projects that can be selected by implementing agencies.

Thank you very much. I'm happy to answer any
questions.

CHAIRPERSON NICHOLS: Thank you.

Mr. Abbs.

MR. ABBS: Good morning, Madam Chair and members of the Board.

My name is Alan Abbs. I'm the Air Pollution Control Officer for Tehama County. Tehama County as a whole has a population with a median household income of 33 percent below the state median. We have the highest asthma rates in the north state. And we also have a federal non-attainment ozone area.

But when you look at the various maps, Tehama County census tract doesn't show up until approximately the 25 percent level or the 30 percent level. And like any county in California, we have pockets that are significantly less well off than other pockets.

So at the outset, I would urge the Board to consider going beyond the 20 percent level when you're looking at disadvantaged communities so that their communities in all counties of California that can receive some funds to make their community better.

I also appreciate the comments that Supervisor Gioia had about who's in and who's out. Because I think when we look in the future about how rural areas of California are going to be receiving funds through cap and
trade, especially when fuels get added into cap and trade, I think we'll find out a lot of rural areas of California are going to be out, even though the residents in those areas are going to be paying into the program through higher fuel costs.

So long term, I would like the Board to think about how we're going to make sure that all areas of California, including rural areas, are going to be able to make reductions in greenhouse gases. And specifically in Tehama County, we have many projects which I think could get lasting reductions immediately. We have solarized agricultural irrigation pumps. We have forestry projects. We have wood stove replacement projects for black carbon. We sure could have used some of that diesel money under Prop. 1B. But we weren't eligible to get access to it.

And so just for my final thought, I would just like the Board to think about the future and what the rural counties are going to be able to get as part of this program. Thanks.

CHAIRPERSON NICHOLS: Thank you very much. I think those comments are well taken.

Mr. Jordan.

MR. JORDAN: Good morning, Madam Chair, members of the Board.

Tom Jordan, Senior Policy Advisor with the San
As you are all aware, the San Joaquin Valley faces significant environmental and economic challenges. If you look at the CalEnviroScreen rankings, 22 of the 30 highest ranked, which isn't necessarily a good thing, communities are in the San Joaquin Valley. These communities both are impacted by environmental burdens, but also lack access to health area and often times don't have the resources to effectively compete for state dollars. So they lag investment that other communities may have had access to.

The San Joaquin Valley Air District is a strong proponent of the policies established by SB 535 and think that as you're selecting projects, you need to make sure you're doing so in a manner to recognize those cumulative impacts that these communities face due to economic challenge and environmental challenge.

The district thinks the CalEnviroScreen model that the allocation of resources and targeting resources is one of the best uses of that model. We think it's done a good job of pointing out communities that haven't received the investment that they probably are entitled to.

And I also agree with the comments that Alan Abbs made that when you're looking at cut points, you should
look at the higher end of the cut points to make sure you aren't leaving out communities that could benefit. So we think it should be more inconclusive rather than less.

Also, the district's been a strong proponent of selecting projects that have co-benefits. And we were thankful to hear staff talk about some of the projects in the valley and Professor Sperling, that the valley isn't like a lot of the urban areas. A lot of the types of project are more disbursed. They aren't as defined as the transit line. The farm worker band program is a prime example. We think when you're looking at the corridor concept or the concepts of what benefits those communities, we need to cast a broader net.

We believe in non-attainment areas, you should look at projects that if it can be demonstrated the co-benefits air quality wise benefit those communities, they should count towards meeting these requirements because they will benefit the health of residents in those communities.

We participated in the workshop with your staff and, we think they've done an admirable job of putting together the document and a list of projects, but would support continued dialogue to make sure that as we identify projects that may not fit in these categories, we can continue working on them. So thanks.
CHAIRPERSON NICHOLS: Thank you. I just want to mention at this point because maybe everybody has got this firmly in mind. But these are not guidelines for all of the cap and trade funds. They're only for the 25 percent of the funds that are going to count towards compliance with SB 535. So just please be aware of the fact that although it's true that this identifies a portion of the funds and is clearly a very important one, there is 75 percent of the funds that are not subject to these guidelines at all, except to the guidelines that we will be developing in terms of accountability for what the money does and what the benefits are in terms of AB 32. Okay.

BOARD MEMBER SPERLING: Wouldn't that be the case though that other agencies like Caltrans and Strategic Growth Council could use many of these same criteria as they develop -- I mean, that's a contribution to the process.

CHAIRPERSON NICHOLS: I think the thought that has gone into this is really important and the push back that we're getting. Because it clearly forces us to think about what it means to be a disadvantaged community, what types of programs will be the most helpful. Hopefully, it isn't just limited to a set aside within this pot of money. But I still think that there's sort of a sense
that if people don’t grab onto the money that's in the 535 pot, there isn't other money even within the Cap and Trade Program. And I think that's the only point I was trying to make, there's the majority of the funds are not even touched by 535.

Okay. Supervisor Williams.

SUPERVISOR WILLIAMS: Good morning, Chair Nichols and members of the Board. I'm Tehama County Supervisor Bob Williams. And I'm here today on behalf of the 34 member counties of the rural county representatives of California.

Our counties are tasked with a variety of decision-making responsibilities related to land use and development in rural California.

RCRC is concerned that strictly using CalEnviroScreen scores unfairly limits rural county eligibility for greenhouse gas reduction fund moneys earmarked for disadvantaged communities.

CalEnviroScreen multiplies pollution burdens by the social and economic characteristics of community, basically eliminating areas of the state with good air quality from being defined as disadvantaged communities, no matter their socioeconomic status. The statute specifically states either pollution burdens or socioeconomic characteristics can be used and does not
mandate both.

Using strictly the CalEnviroScreen as a source for recognition could potentially eliminate a minimum of 19 counties from consideration, including counties such as Lake, Modoc, Plumas, and Lassen. If you've been to those counties, you would be hard pressed to deny they have disadvantaged areas.

RCRC recommends that additional flexibility be allowed so local jurisdictions can demonstrate that a community smaller than a census tract can meet the definition of a disadvantaged community.

Rural areas cannot compete in many AB 32 programs because projects usually cost more to complete in more remote areas. Being excluded from the disadvantaged community designation all but eliminates these county from access to funds. There are many local programs that can result in greenhouse gas reductions in rural areas. Residents in every county will be contributing to the payments into the fund, especially when fuels are added into the Cap and Trade Program. It's only fair these residents should also receive a direct benefit by having some fund money carved out for rural communities, even if it's on a regional basis.

I thank you for your time, and I'd be happy to answer any questions you may have.
CHAIRPERSON NICHOLS: Thank you. I just wanted to again remind people that although we are part of Cal/EPA, we are not responsible for the map. We do have input and we're trying to share the comments that are coming through. And we do understand this issue about rural areas, which undoubtedly are among the poorest of areas within the state of California, but are not the ones that fit the criteria of being impacted the most in terms of multiple sources of pollution.

And we agree that it's not just an issue of fairness. It's an issue of addressing opportunities that are there to do things that could ultimately benefit all of us when it comes to reducing greenhouse gas emissions.

So we want to make sure that there is a way to appropriately recognize and make sure there are funds flowing to rural communities in the overall AB 32 cap and trade spending program.

Next, Mr. Robinson.

MR. ROBINSON: Thank you, Madam Chair.

My name is Matt Robinson. I'm with the California Transit Association. We represent the majority of the local and regional transit providers statewide.

If I could take a minute, I want to thank Ms. Marvin, Ms. Livingston, and Mr. Botill for their willingness to engage us fairly early on in this process.
Around June 20th, we formed an association subcommittee which consisted of 14 members representing both urban and rural transit operators throughout the state. That subcommittee worked pretty diligently for the last couple months to provide comments to this Board which they submitted on the 15th.

Our comments generally focused, as was mentioned in the staff presentation, on providing us much flexibility with regard to the criteria that are used to determine whether or not a project benefits or is within a disadvantaged community. I think at the center of that is what Supervisor Gioia touched on, as well as Mr. Sperling, in considering transit corridors. Transit is not a stationary entity. It is something that moves.

And I would add to that notion by saying that the consideration of the complete trip. Why is this so important is that under the low carbon transit operations program, our operators that are getting funding and serve a disadvantaged community have to expend 50 percent of those revenues benefiting disadvantaged communities. That's above and beyond the 25 percent standard that SB 535 sets up.

In that regard, and granted we're still waiting to see what CalEnviroScreen looks like, that may be very difficult for some communities to apply that. I'll use --
not to steal San Francisco's thunder who's behind me. I'll use them as an example. If they have one or two census tracts that pop up on that map and they're forced -- I shouldn't say forced, bad term -- but required to use 50 percent of that money benefiting a disadvantaged community, are you now sacrificing good GHG reducing projects for the benefits of those disadvantaged communities.

San Francisco is an agency that's going to get a large chunk of change under that formula process. Therefore, I think what we've been looking at is ways to capture that rider that may get on a train in Richmond or West Oakland and come over to San Francisco for work or school and get off that train and get on a muni bus to get to their fine destination, or use a bike share facility that San Francisco establishes or a complete street project. There has to be a way for us to be able to capture that rider's complete trip, whether or not they're starting in Oakland or San Francisco and scoring that as a benefit to disadvantaged communities.

I think something has been said about whether or not there's the capability to do that. I think we would say that one of the criteria we can use is 25 percent new riders coming out of disadvantaged communities. If we can do it for that, we can do it for existing riders.
I want to stop there as I'm almost out of time here and just say that I think we would ask this Board to look at this again in a month. Don't approve anything today. That gives us more time to work with staff, understand the ins and outs of why some of our comments may have not been considered yet, as well as see what pops up through CalEnviroScreen so we know exactly what we're trying to apply here. Thank you.

CHAIRPERSON NICHOLS: Okay. Just a second.

BOARD MEMBER GIOIA: One of the standards that was a little hard for me to understand if it could be implemented correctly -- and I heard this from some transit folks is the 25 percent of new riders must come from a disadvantaged community.

What my understanding is that it is really hard to quantify that. You know where your riders come from, but you don't know always know where your new riders come from.

One of the areas I'd like to ask you about and point out to staff, I'm concerned if we have standards that are going to be really hard to understand and put just so much more bureaucratic requirements on agencies. And in this case, do you think -- can you measure accurately where new riders come from? Or is it easier to have a standard about just percent of riders? That's an
area that was raised to me by some other transit folks.

MR. ROBINSON: I think definitely the latter is easier to apply. We have data as you said on who's riding systems now. For example, in San Francisco, 25 percent of their riders are considered low income and generally come from areas of disadvantaged communities. They may or may not be identified in CalEnviroScreen yet, but that is what we are able to pull. New riders, more difficult.

BOARD MEMBER GIOIA: I'm wonder if staff has had this conversation with transit about this idea of 25 percent of new riders. I've heard that is an issue on how you quantify that and therefore is that really meaningful to have as a standard.

CHAIRPERSON NICHOLS: Cynthia.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: I think you raised a good point that it is a bit challenging. We're trying to work with two primary objectives here. The first is the focus on new riders because these funds aren't to just backfill. These funds are to expand service and get new GHG reductions. That's why the focus is on new riders.

BOARD MEMBER GIOIA: I think you're totally right. The question comes in the implementation and whether in the effort to try to make this perfect, we jeopardize doing things well, you know. And so that's my
concern. And if someone can't prove the new riders and how much money they're going to spend to try to figure out the new riders, is it accurate, are we removing some potential projects? I've heard that.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Not being a transit expert, what I can tell you is that we worked with our California state transportation agency and with Caltrans to try to come up with criteria that can reasonably be met.

BOARD MEMBER GIOIA: What was pointed out to me is under some federal lines there is a mix they have some hybrid or something that's a little bit different to measure. That was pointed out to me by some MTC folks, Metropolitan Transportation Commission. Maybe when the MTC speakers, if they're familiar with that, they can talk about that. But there is some issue there is a different standard under some federal guidelines for some federal pots of money.

CHAIRPERSON NICHOLS: Okay. Thank you.
Karen Lange.
MS. LANGE: Good morning, Madam Chair and members.
Karen Lange, on behalf of Mayor Lee and the City and County of San Francisco.
Because Mr. Robinson did such a thorough job on
our concerns related to the transit piece, I really wanted to focus on the affordable housing and sustainable communities piece.

The City and County are concerned that the criteria seems to encourage more housing in areas of the state with high pollution burdens and instead they would like in addition to the existing criteria they would like to see some focus on investments in job rich areas, such as San Francisco that have existing transit service but an affordable housing crisis. We think this could help folks coming from outside of the city, but work in the city be able to move closer to their jobs, which would be one of the goals you're trying to achieve.

For that reason, we're hoping that the Board would consider postponing action today and would consider readjusting this criteria to help the City and County work on their affordable housing crisis. They plan on participating as much as possible. They think the criteria needs to be adjusted a little bit. And we appreciate your consideration today. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Nancy Hughes.

MS. HUGHES: Good morning, Madam Chair and members of the Board. Thank you for the opportunity to provide input on this important program today.
I'm Nancy Hughes, Executive Director of the California Urban Forest Council, also representing seven regional counsels around the state.

We are very pleased that urban forestry has a significant role in the state's cap and trade expenditure plan for 2014 and 2015 and beyond. We have submitted a letter to the Board with several comments regarding the implementation of the program essentially covering three points.

First, we support the intent that a significant portion of the urban forestry funds should go to disadvantaged communities, but feel some funds should be available for communities who will not fit the yet-to-be-determined definition of a DAC, but nonetheless are underserved and disadvantaged.

We support the 55 percent or up to 70 percent that was published in the interim guidance document that came out on August 22nd, which reflects the public comment.

There are a number of ways urban forests can provide benefits that are not specific to a narrowly defined geographic areas, including reduced energy demand from power plants and reduced urban heat island effect and more.

Lastly, we support ARB's guidance that funds can
be used for tree maintenance. Our existing urban canopy of 200 million trees currently sequesters four and a half million metric tons of carbon annually, 75 to 100 times more than the amount of carbon that is planned to be sequestered out of the 300,000 new trees at maturity.

If funds are being focused in disadvantaged communities, there is already a desperate need to maintain the existing canopy which has only been magnified by the drought.

We believe it is important to include funding for management of standing urban trees, especially for disadvantaged communities during drought conditions. We need both new trees and our existing canopy to reach a successful outcome and ultimately to reach our AB 32 goals. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Jill Ratner.

MS. RATNER: Good morning. My name is Jill Ratner. I work with the New Voices are Rising Project at the Rose Foundation. And I'm actually wearing an additional hat at the moment because New Voices is a member of the Ditching Dirty Diesel Collaborative. So as speaking on behalf of the Ditching Dirty Diesel Collaborative in particular, I want to say that we very much appreciate staff's work to integrate concerns about
diesel pollution and freight transportation into the overall program.

Ditching Dirty Diesel is a coalition of more than 15 community-based non-profits, environmental justice groups, environmental groups, and public health agencies. And the Ditching Dirty Diesel's mission is to reduce exposure to diesel pollution in low-income communities and communities of color.

As everyone here on the Board and staff knows, these communities historically have been very much disproportionately burdened by pollution and its health impacts. And those health impacts include high rates of asthma, cancer, cardiovascular illness, and premature death. In fact, the disparity in life expectancy between some of the neighborhoods in the Bay Area that are adjacent to freight routes and those in the more distant suburbs ranges between 10 and 15 years. So someone in certain parts of Walnut Creek can expect to live 15 years longer than someone in parts of east Oakland.

That disparity is why we believe that the issues that you are addressing here are so important. Wearing all three of my hats, I'm here to support the remarks and comments by the Six Winds Network and the SB 535 group.

I think that we want to add something also. In addition to underscoring the importance of ensuring that
there are real benefits and substantial benefits to low
income communities as a result of the investments out of
what we would characterize as the 35 percent specified by
SB 535, we also believe that it is of primary importance
to make sure that above all investments in disadvantaged
communities do no harm. There are too many examples of
investments that have, in fact, resulted in harm to
communities, whether it's noise from the West Oakland BART
station or whether it's displacement pressure from
transit-oriented development. That is a particularly
important issue here. And I think it's important for the
entire fund as you move forward.

In addition, we want to just make it sort of as
you look forward to look at projects that benefit
disadvantaged communities with the entire portion of the
fund and see this percentage not as a cap but as a floor.
Thank you.

CHAIRPERSON NICHOLS: I think we agree with you
on that. Thank you.

Mr. Willis.

MR. WILLIS: Good morning. My name is Robert
Willis.

And I'm asking you about adopting guidelines for
the 25 percent of the greenhouse gas reduction investments
to ensure that any plans that are funded don't directly or
indirectly displace the disadvantaged communities because, for example, the West Oakland Civic Plan, from what I've seen of it, improvements, as they call it, to the community seem to push the cost of living past what the current residents can afford.

And I've attended some of the meetings for when you're talking about it and they said nothing about whether or not the cost of living would be increased or not and neither did they make any promises about it.

So since I do live in West Oakland, I think improving the look of it is a great idea. But as long as the people who are living there can stay living there, because that where they've been, that would be the priority.

CHAIRPERSON NICHOLS: You don't have to use your whole time if you don't want to.

MR. WILLIS: I'm done.

CHAIRPERSON NICHOLS: Thank you. You get extra credit for finishing faster.

MS. NZEGWU: Good morning, Air Resources Board and Madam Chair and ARB staff.

We would like to thank you very much for having worked closely with us on the content of the guidelines. We're very pleased to see certain elements of these guidelines. For instance, the necessary recommendation
and requirements that to provide a benefit you have to be meeting a need. That's very critical to this whole framework. And so we would like to thank you for your diligence and certainly we appreciate many elements that are in this guidance, but we would like to see a few more strategies that would ensure that SB 535 benefits are significant and meaningful.

As I mentioned, we are glad to hear that community participation has been made a requirement for our projects. However, there is sort of like a process issue that is evident -- becoming evident because ARB is essentially deferring the ranking of projects to the agencies and deferring the whole process until metrics can be developed.

But we would like to see the guidelines at least provide guidance that scoring and ranking should prioritize certain types of projects, should prioritize projects that benefit the most disadvantaged communities, should also prioritize projects that provide the most benefits in the most significant way.

Even if we are deferring the metrics to a later stage, there should at least be some guidance saying that's what we would like to see in the future.

Furthermore, I support the overall comments that the 10 and 25 percent categories should be treated
separately, because treating ten percent as subsumed within the 25 percent essentially means only 15 percent is required to provide benefits to disadvantaged communities. As we all can see that we want to see more benefits provided more broadly, and we want to expand the areas that qualify for providing benefits to disadvantaged communities, right. So in expanding the areas that qualify, we should likewise expand the amount of money that goes to these areas.

Also, we do congratulate ARB staff for including displacement considerations under the affordable housing and sustainable communities program. However, we would like to see those considerations be in place more broadly for all stationary projects that have the capacity to displace local residents.

And finally, I think one -- okay -- two points, if I could do that really quickly.

First of all, I would like to say that the list the criteria that is in the appendix should not be exhausted, should not be exhaustive. There should be at least room for additional criteria that community members suggest to meet their own needs and provide benefits that they consider important to them.

CHAIRPERSON NICHOLS: Thank you.

You've used up your time.
BOARD MEMBER GIOIA: I think it's really important to note the 10 and 25 percent standard are a minimum under state law. They're not a cap. And if you look, right, the Governor's budget approved by the Legislature, signed by the Governor, puts much more than 25 percent in many of the categories. And in some categories, almost 100 percent. To be clear, as an agency, we don't get to make that determination. That's actually what's in the budget.

So we're just providing guidelines to implement that law. And the State law says minimum ten percent in the communities, 25 percent to benefit. We can't change that law, but we've all said that's the minimum. Again, the budget category is there's usually more than that in most of these categories.

I just wanted to pointed that out. And ultimately, it's the budget process that's allocated that. And the Governor in the original budget did say, you know, the majority in these categories should be, you know, to benefit disadvantaged communities. So the good news is in most cases it exceeds that.

MS. NZEGWU: Thank you.

CHAIRPERSON NICHOLS: Thank you for your testimony and for your work on this project.

Mr. Magavern.
MR. MAGAVERN: Good morning. Bill Magavern with the Coalition for Clean Air. And also with my college Marybelle who just spoke representing the AB 535 Coalition.

I also want to give my sincere thanks to ARB staff who have worked so long in this project and have always been willing to listen to our coalition, and we look forward to continuing that discussion.

The requirements that AB 32 money be invested in disadvantaged communities started in the language of AB 32 itself in Section 38565, which I doesn't see mentioned in the resolution. You might want to add it there because that section does require that to the extent feasible that money be directed to investments in the most disadvantaged communities.

And AB 535, which Coalition for Clean Air was the original sponsor of, really was an effort to make more specific that commitment that is in AB 32. And it's a reflection of the fact that I think all of us here understand that historically low-income communities of color have been disproportionately burdened with pollution, which remains true today. So we have the opportunity now to go a little ways towards redressing that inequity, that environmental injustice with some of the funds that are available.
So we agree that the goal is to have direct, meaningful, and assured investments through these projects. And we have a few suggestions that we think would improve that.

One is we think that projects should be prioritized when they provide multiple benefits to disadvantaged communities. The process in Appendix 1 of the proposal today allows for projects to be eligible to meet only one of the criteria. For example, the job standard. And we would say that a project that provides those jobs but also reduces local air pollution and provides an important service should get a higher priority than one that meets only one of the criteria.

You've already heard some excellent testimony on the need to avoid displacement. We're also thankful that that's been included in one section but think it should be expanded to all of the spending.

And I want to add that there is an important greenhouse gas benefit when we preserve the ability of low income people to live near transit, because these are the most transit-dependant parts of the population. And if we push them out, they will have to travel longer distances and likely drive up emissions.

Finally, I think it's important that all the spending of the AB 32 money, not just that that is covered
by AB 535, does target investments in our most
disadvantaged communities. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Ms. Rincon.

MS. RINCON: Hi there. My name is Erika Rincon. I'm representing Policy Link.

Want to thank the Chair Board members and staff
for your leadership in issuing guidance to agencies
regarding administering 535 investments.

We also want to thank you for the opportunity to
participate in the development of the guidance through the
public workshops and written comments.

Policy Rink in partnership with several other
organizations submitted a letter. I just want to hit a
couple high levels points of that. In order to ensure
that projects provide a direct benefit to disadvantaged
communities, we feel that the valuation criteria should be
strengthened to require applicants to demonstrate that the
primary purpose of their project is to target and serve
the needs of vulnerable residents in specific
disadvantaged communities by ensuring their direct access
to the benefits of the project.

We feel that this is critical given that because
the location of a project is within a disadvantaged
community or is within proximity to one does not
necessarily ensure that the benefits are going to reach
the residents. For example, if you have a car sharing
program located within a community that folks are not able
to afford or if you make improvements to a bus stop within
half mile of a disadvantaged community, if there are
multiple barriers in place to walking, such as having to
pass through unsafe areas, lack of sidewalks, walking
along high speed roads, having to walk with carrying heavy
items, like groceries and walking with several small
children, et cetera, we want to make sure applicants show
how they took deliberate steps to overcome those barriers.

We also ask that there is a prioritization for
project applications that includes strong community work
force agreements. We ask that there be strong language in
the program guidelines and that CARB issues -- directs all
agencies to include strong language in the program
guidelines and application instructions that encourages
and grants priority to applicants that include workforce
agreements to recruit higher and train low income
disadvantaged workers.

Agencies should also develop a clear strategy to
ensure that strong accountability provisions are in place.
This help to maximize the benefits of disadvantaged
communities laid out in SB 535.

We ask that guidelines and evaluation criteria
are strengthened to ensure the effective participation of community residents throughout the planning and design of projects. The overall success of the projects will largely be dependant on the extent they meet the needs of the residents, receive wide community support, and expand public access and use. A critical and effective strategy for achieving that is the meaningful participation of community residents in the planning and design. Applicants should show how they took deliberate steps to include the most vulnerable residents. And the project should reflect community-wide support and participation from the targeted communities that are supposed to benefit. And they should be scored in part on how well they have engaged community and how well they incorporated the community priorities. Thanks so much.

CHAIRPERSON NICHOLS: Thank you.

Ms. Shankar.

MS. SHANKAR: Good morning. My name is Monika. I'm with Physicians for Social Responsibility Los Angeles. We're an environmental health advocacy organization that relies on the credible and trusted voice of doctors to promote policy that is grounded in health equity as well as social justice.

I'd like to thank the California Air Resources Board for the opportunity to comment on these interim
guidance documents for the cap and trade auction revenues.

I'm speaking alongside but also on behalf of several Los Angeles based organizations who would like to see these proceeds invested in a ways that not only reduce greenhouse gas emissions, but also significantly reduce co-pollutants that are harm human health and provide multiple co-benefits.

Specifically, we strongly urge the incorporation of these following recommendations, which some of them have already been mentioned by some of our fellow allies and partners from across the state. I think they're worth re-emphasizing.

First of all, disadvantaged communities must receive a greater share of funding to transform historic burdens into future benefits. We're pleased to hear the agencies must treat the 10 and 25 percent thresholds as spending floors, not ceilings. And we hope the guidance documents are structured in such a way that maximize the amount of funds going towards disadvantaged communities.

We also recommend a ranking system to prioritize investments in communities with the greatest needs. For example, many of the census tracts in the top five percent score markedly worse than the next set of census tracks in the top six to 25 percent. And we need to be cognizant of that.
Third, programs and projects should do no harm. This is something you've already heard from several folks before me. But I'd like -- I think it's worth re-emphasizing. This includes avoiding negative impacts such as displacement and the loss of affordable housing, also increasing things like truck pollution when you're siting a high traffic green facility and an already over-burdened disadvantaged community or adjacent to that disadvantaged community.

Finally, we also strongly recommend that investments benefit disadvantaged communities in significant and measurable manners. Investments must create substantial and lasting benefits, and the funding process outlined in the interim guidance document must be strengthened to ensure these goals.

Thank you for the opportunity to provide input. I am happy to answer any questions.

CHAIRPERSON NICHOLS: Thank you.

MS. GARIBAY: Good morning. My name is Veronica Garibay. I co-direct Leadership Council for Justice and Accountability. I'm based in Fresno and we work with various low-income communities throughout the San Joaquin Valley and the east Coachella Valley.

As some of my colleges have stated, we did submit written comments in partnership with other San Joaquin
Valley and East Coachella Valley organizations for the
guidance documents.

First of all, thank you for your leadership in
developing the interim guidelines and for the opportunity
to participate through public workshops in various areas
of the state.

We work with a lot of residents from low income
rural communities that stand to greatly benefit from
investments and targeted dollars to help improve living
conditions and quality of life.

We'd like to start by saying that funds set aside
for DACs as defined by CalEnviroScreen, mere proximity
does not been equal benefit. For example, benefit of a
half a mile away by foot can still pose serious
challenges. For example, in one community, a rural
community in Fresno County, there have been three
pedestrian-related deaths in the last two years from
people trying to get to the bus stop, which is less than a
half a mile away from where their homes are.

With respect to the affordable housing and
sustainable communities sections, funds set aside for DACs
pursuant to 535 should and must prioritize improving
conditions and opportunities in disadvantaged communities.
Affordable housing and sustainable communities investments
are critical to furthering the state's intentions to
invest funds to address cumulative impacts of social
economic and environmental disadvantage in the state's
most vulnerable communities. Affordable housing and
sustainable communities investments in these neighborhoods
can serve as a catalyst to support strong community
centers, improve infrastructure for infill and mixed
income development, allow for employment opportunity, and
allow for increased economic activity.

If some of you are aware of some of the
conditions and low income rural areas in the valley and
the east Coachella Valley, there's serious of issue we
must target to meet the state's goals to improve quality
of life. We want to make sure that the funds for DACs --
that the funds from the affordable housing and sustainable
infrastructure program area really do reach these
neighborhoods and that the investments are targeted within
the actual communities so that we see real benefit.

We recommend that a set aside -- that the
guidelines create a set aside within the program area to
make sure that those investments are located within those
neighborhoods. Thank you.

CHAIRPERSON NICHOLS: Thank you.

MS. PRICHARD: Good morning.

My name is my Michele Prichard. I'm the Director
of the Common Agenda Program at the Liberty Hill
Foundation, which is a public foundation that has been supporting community organizing, education, and policy advocacy in low income communities throughout Los Angeles County since 1976.

Part of what we do is to help build alliances and convene community groups around critical public policy issues, such as the one before us today.

And I'm pleased to present two letters today signed by 30 organizations in the Los Angeles area which would help to coordinate over the last couple of weeks. And these, of course, were submitted by the deadline on Monday and contained a lot of detailed recommendations.

The letters were signed by a broad cross section of organizations representing environmental justice, environment, public health, labor, and affordable housing developers.

We are in broad agreement with the SB 535 Coalition, which has been engaging in this process over the last several years and want to highlight a few key points.

First, we are appreciative of the hard work of the CARB staff in responding to many of the issues that we raised through the SB 535 Coalition and trying to move us in the right direction. And I want to highlight just a few key points from our letters, which you heard already.
from many of the other speakers.

But first, disadvantaged communities must receive a substantial and focused funding share to transform historic burdens into future benefits with priority given to those communities that are the most vulnerable and who are experiencing the greatest need.

We would actually like to see a commitment of 35 percent of available funds, again treating the 25 and 10 percent as floors, not ceilings.

Secondly, program criteria, metrics, and evaluation should emphasize an approach to ensure that investments create multiple benefits, while meeting the law, and have this reflected through the ranking and scoring.

We would like to see authentic community engagement required and receiving funding through scoring and ranking. And also as many have said, make sure that programs and projects do no harm in disadvantaged communities.

We have a huge problem with gentrification being spurred by transit-oriented development throughout large swaths of L.A. This is a huge consideration, and we want to make sure that communities are benefited in a significant and measurable manner.

In Los Angeles, we have roughly half of our
census tracts in L.A. County now falling in the top 25 percent of the CalEnviroScreen tool. These issues are of critical importance to us. Thank you for your attention today.

CHAIRPERSON NICHOLS: Thank you.

MS. PENDLETON: Good morning, Madam Chair and members.

My name is Mary Pendleton. I'm with the Western Chapter of the International Society of Arboricultural Argue and the Britain Fund, a tree research and education foundation.

Our membership consists of thousands of certified arborists, tree care professionals, researchers, educators, and scientists throughout the state. We've come to express our strong support for CARB's inclusion of tree care and maintenance in your scope of eligible projects.

Furthermore, I'd like to express our very strong support for CARB's previous recommendation to direct the majority but not the entirety of CalFire's urban forestry funding to disadvantaged communities, per the discussion draft that was publicly available starting August 22nd.

I ask that you give every arborist the chance to transform their community. We do not support a 100 percent disadvantaged community requirement, but
instead, we support simply a majority so that all communities may have a chance to apply and improve the quality of life for their citizens.

We remain grateful to CARB and the administration for recognizing the landmark role urban forestry can play in meeting their goals. Thank you.

CHAIRPERSON NICHOLS: Thank you.

MR. WILKINSON: Good morning.

David Wilkinson, President of the Woodland Tree Foundation. Like Sacramento, we're known as the City of Trees 20 miles across the river surrounded by agriculture in Yolo County. We're one of many grassroots tree planting organizations our great state of California is blessed with. And we've been fortunate to implement through grassroots volunteer tree planting and tree care and tree watering several California ReLeaf and CalFire environmental grants. And volunteers in Woodland have planted over 3,000 trees in and around Woodland, including thousands on the highway 113 corridor linking Davis to Woodland.

We'd like to do more. We have trained volunteers and the California ReLeaf Network has thousands of trained volunteers working in their communities throughout California. And a lot of this work gets done engaging residents in low-income communities, Head Start centers,
schools with a lot of disadvantaged kids. We'd really like to do more through this program.

And in general, we support the guidelines to target the majority of the tree planting moneys into disadvantaged communities. It's a very important and noble goal. But we're hoping as per your August 22nd interim draft guidance that there can be some money carved out for communities. While they don't meet the strict definition of a disadvantaged community through the Enviro maps, that certainly we all have low-income communities that we want to do more work in marshalling volunteers. And we stand ready to do that.

So I appreciate all the work you're doing. And I hope we can see a lot more tree planting and the impact it's going to have on air quality throughout California. I think if you can get the money out to all the tree foundations, you're going to see a lot more trees planted and cared for in a fairly expeditious amount of time. It will address our Climate Action Plan in the city of Woodland, which has tree planting is a strong activity within climate action. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

While our next speaker is coming forward, I want to let you know that that list that's up on the board is not quite complete. We have a number 32, Mr. Dutra from
Tree Lodi. And that's the cutoff point. That is -- I'm not accepting any more people signing up to testify at this point, because if you've held back until now, we just need to close this off.

So Ms. Oliver.

MS. OLIVER: Madam Chair, members of the Board and staff, my name is Amelia Oliver. I'm the Interim Executive Director at California ReLeaf.

And I'm here today to read a statement that was prepared by a colleague named Dana Carcher who works for the Davy Resource Group.

"As a 20-plus resident of the city of Bakersfield and an urban forestry professional working for the largest full service tree care industry in the United States, I have a keen interest in assuring that these funds fulfill the needs of the communities throughout California. The interest is both personal and economic. Trees provide jobs. These funds will lead to more work for tree professionals.

"First, I fully support the August 22nd draft guidance where the majority, but not all, of the urban forest cap and trade funds are awarded to benefit DACs. This will support the highest need areas, including the city and county where I reside.

"However, I believe a small portion of the funds
needs to be available to regions so all Californians can enjoy the benefits that urban forestry provide in their communities. Tree benefits know no bounds.

"Second, I support the list of eligible urban forestry projects identified by CARB with emphasize on maintenance. In my experience, most DACs have little or no urban forestry program. This means that they may have trees, but they do not have the professional staff or contract budget to support adding additional trees to their urban forest. Without the ability to even maintain trees, many DACs may not apply for funds.

"To create large healthy canopies that provide the most environmental benefits, trees must be managed. I support the ability of communities to be able to apply for maintenance dollars for the care of current and future trees that will reduce GHGs and help meet our AB 32 goals.

"Thank you for the opportunities to express our concerns."

CHAIRPERSON NICHOLS: Thank you.

MR. MALOREY: Good morning. My name is Matt Malorey with the Metropolitan Transportation Commission, which is the transportation, planning, coordinating, and financing agency for the nine county San Francisco Bay Area.

I'd first like to thank the Board and the ARB
staff for all their hard work on this ambitious process. MTC submitted a joint letter to the Board co-signed by the Association of Bay Area Governments, the San Francisco Bay Conservation and Development Commission, and the Bay Area Air Quality Management District. My brief comments this morning will reflect the comments in that letter.

With respect to the Board's process, we respectively encourage you to allocate more time to refine the methods for determining project benefits so that you can carefully consider public comments before making a final decision. Given the millions of dollars in public funds at stake and the scores of highly competitive projects vying for funding, it is imperative that the State agencies develop the program guidelines in a transparent manner that allows for meaningful public input.

Your consideration of the interim guidance today falls two full days after the close of public comment, leaving little opportunity for ARB staff to consider comments before finalizing their proposal. It's not clear to us why these decisions need to be made so quickly. We respectively request you defer this item today so there is more time to incorporate the comments addressed to the Board.
California statute, as you know, requires metropolitan regions to plan for a future in which transportation investments and local land use plans are better integrated in order to reduce dependence on the single occupancy vehicles and thereby reduce growth in greenhouse gas emissions. Our region's first sustainable community strategy planned BAY area focuses growth within locally nominated priority development areas to support the day-to-day needs of residents and workers in pedestrian environments near transit.

As the state finalizes its approach to identify criteria for how cap and trade investment benefit disadvantaged communities, we urge you to ensure these policies reinforce the investment priority set forth in sustainable community strategies and air quality plans statewide.

With respect to the interim guidances draft criteria to evaluate transportation projects, we recommend the State refine its criteria to acknowledge that transportation improvements provide benefits at a corridor level and not solely in buffer zones around investments.

Our primary concern is that the draft criteria's narrow scope threatens to exclude transportation and investments that could provide substantial benefit to disadvantaged communities. While benefits are often
experienced by communities in close proximity to a specific transportation investment, given the diverse nature of travel patterns in the Bay Area and other metropolitan regions, a project's benefits may be experienced in a community located many miles away.

Thank you for giving these comments your thorough consideration. MTC and its regional partners stand ready to assist you as we embark upon this ambitious process. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Ms. Cadwallader.

MS. CADWALLADER: Good morning, Madam Chair, Board members.

Thank you so much for the time today. I was here many months ago giving testimony asking that some of these cap and trade dollars be directed to CalFire and to urban forestry specifically. So I was here today to say thank you so much. And we would be in support of the draft guidelines as they were until I read them just today.

We would also urge the group to not have a hundred percent of the urban forestry funds directed to only DACs for many of the reasons that we talked about today in terms of the imperfections of the CalEnviroScreen tool. It will not allow us to cover as many of the disadvantaged communities as we would like to in terms of
tree planting.

So please, I'd like to also encourage 55 to 70 percent of these funds, the majority of them, go to DACs. But some be held out so that we can serve all of the underresourced communities in the Sacramento region. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

MS. CURL: Good morning, California Air Resources Board members. My name is Shasa Curl. I'm the Administrative Chief for the city of Richmond.

On behalf of City Manager Bill Lindsey, I would like to affirm Richmond's strong support for SB 535. We appreciate Cal/EPA and CARB staff's effort to date. Richmond respectfully requests that the CARB Board consider the issues raised and the joint letter from the Bay Area regional agencies.

Given that the public comment period ended on the interim guidance document Monday and yesterday very late in the day a new revised interim guidance document was issued, refinery and poor fence line communities such as Richmond remain unclear on the areas within our community that are being identified as disadvantaged, such as perhaps priority development areas.

Providing additional clarity within the guidelines while maintaining flexibility would be helpful
for local community staff, community-based organizations and agencies as we prepare to work collaboratively to prepare grant applications.

For planning purposes, many disadvantaged communities would greatly benefit from having access to the proposed supplemental maps that CARB expects to post which are identified in Appendix 1 as quickly as possible.

We look forward to working constructively with Cal/EPA and CARB staff. Thank you for considering the City of Richmond's comments and concerns.

CHAIRPERSON NICHOLS: Thank you.

Mr. Mills.

MR. MILLS: Good morning.

Chuck Mills, California ReLeaf, statewide nonprofit supporting approximately 90 local and nonprofit organizations across California engaged in on-the-ground urban forestry.

We applaud the CARB staff and Cal/EPA for their thoughtful examination of the issues today and as already specified in our written comments largely support CARB's approach to how urban forestry will integrate into the overall goals of achieving GHG reductions and meeting the needs of disadvantaged communities.

Consequently, I'll focus my comments solely on our very strong support for CARB's recommendation to
direct the majority, not the entirety, of CalFire's urban forestry funding to meeting and exceeding your requirements of SB 535 per the discussion draft that has been in print for a month and was only revised yesterday.

On that point, I want to follow up to something that Ms. Hughes started a little while ago, and that is the comments that have been made this morning, at least on two occasions, where the revisions are in response to public comment. Before the Board should be two letters, one signed by 30 urban forestry nonprofits across California supporting 55 to 70 percent of these funds going to DACs. Another should be from the seven regional councils representing dozens of practitioners and stakeholders in urban forestry representing 50 to 75 percent of those funds going to DACs.

The written comments that are on CARB's website from February 15th, I've reviewed those pertinent to urban forestry. I've seen one relevant to supporting 100 percent with all others pertinent to this issue supporting 55 to 70 percent. And of your speakers listed today, 30 percent are speaking to urban forestry, with 100 percent speaking to 50 to 70 percent of these funds going to benefit DAC.

I just want to clarify that in response to public comment, the vast majority, the 90, 95 percent are
supporting the August 22nd, 55 to 70 percent going to benefit DACs.

If the 100 percent figure does continue as a consideration for fiscal year 14-15, we ask that CARB first revisit two figures, the $359 million in cap and trade project funds disbursed to multiple agencies that may shoulder no responsibility to meet the goals of 535, a commitment as small as 1.5 percent of these total funds would bring an additional $4.5 million to the table to meet 535 goals and allow for 30 percent of the urban forestry projects to be awarded competitively across California's communities and would not impact CARB's bottom line to meet DACs. Or simply examining reducing that threshold of 100 percent to 70 percent, approximately $5 million, allowing for statewide competition, which would bring the overall percentage at a recommended by CARB from 32.7 percent to 32.1 percent.

Finally, In my remaining 17 seconds, I want to stress that the urban forestry community is in strong support of meeting the goals of disadvantaged communities. We support the recommendation of the 55 percent of these funds be located in DACs. That's 550 percent above the required target of 535. We continue to consult with 535 and appreciate CARB's work and dedication on this issue. Thank you.
CHAIRPERSON NICHOLS: Thank you.

MS. TWOMEY: Good morning. I'm Maura Twomey, the Executive Director of the Association of Monterey Bay Area Governments.

I'm speaking today on behalf of AMBAG, as well as the Central Coast Coalition, which includes the Santa Barbara County Association of Governments, the San Luis Obispo Council of Governments, the Transportation Agency of Monterey County, the Santa Cruz County Regional Transportation Commission, and the San Benito Council of Governments.

Many residents of these counties are considered disadvantaged based on low-income minority status, education, and similar population characteristics. However, under the proposed definitions, it appears as if most, if not all, of the central coast disadvantaged communities would not qualify and would be excluded from competing for a significant portion of Cap and Trade Program funds. In fact, statewide, more than half of the state's 58 counties would have virtually no disadvantaged communities under the proposed approaches.

As a result, we feel the proposed approaches are inconsistent with the intent of AB 1532 and SB 535 and would result in gross geographic inequity, depriving numerous deserving disadvantaged populations around the
state of potentially millions of dollars of investment in their communities.

We are also concerned that the approach benefits disadvantaged communities ignores the jobs/housing relationships and commuter patterns and could inadvertently undermine our adopted sustainable community strategies and AB 32's overarching goal of reducing GHG emissions.

Identifying disadvantaged communities only based on where people live now limits new investment to projects within a narrow band around these residential areas. To reduce the average commute distance and vehicle emissions, new affordable housing investments should be sited close to where members of disadvantaged communities work, not where they reside now.

To address these issues, we strongly suggest adopting a more flexible approach to identifying disadvantaged communities and develop a broader socioeconomic understanding of disadvantaged communities as mobile populations which commute daily often long distances from home to work.

The key to helping disadvantaged communities economically and to reducing GHG emissions simultaneously, in other words, aligning the goals of SB 535 and AB 32, is to reduce vehicle miles traveled by promoting affordable
housing closer to work and enhancing transit, bicycle, and pedestrian options. Thank you.

CHAIRPERSON NICHOLS: Thank you.

MR. LARREA: Good morning. John Larrea with the California League of Food Processors.

First, I'd like to thank the Board and also the staff for holding the community work groups because CLFP was a part of those down in Fresno. We're very much interested because most of our facilities, as industrial food processors, are located within the CalEnviroScreen. So we have a very big interest in this.

First, I'd like to talk about -- since this is interim guidance, I'd like to talk about tracking funds. We're very pleased to see there is going to be an expenditure record associated with this. However, we'd like to see it more detailed in uniform among all of the agencies. We don't want to see different types that are going to be very hard to follow.

We'd also like to see it be a little more stringent, at least as stringent as those imposed on obligated entities, such as ourselves, in terms of the types of reporting that's going to be required. And we'd also like to see the Board support the severe penalties for either the misuse or the negligent use of this money that may occur.
We are in an interim right now, and they're trying to move this money fast. So there is lots of opportunity there for -- I don't want to say mischief, but misdirecting of funds and such.

Also, timely public posting. We think that should know not only to the agencies, but also to the program managers themselves. They're the ones who are going to be handling the money. They're the ones that are going to be dishing it out. So they should be the ones reporting and reporting on a regular basis so we can see where that money is going and the communities themselves can see who is actually distributing that money within the area.

Secondly, there has been a question as to we're looking at possibly hundreds, maybe thousands, of projects being introduced across the state in terms of this. And Chairman Nichols, you also kind of alluded to the fact that, you know, we want to make sure there is enough projects out there, too.

So in lieu of that, what we don't want to see is something that occurred with the renewable portfolio standard at the PUC where the utilities were trying to meet an obligation. They begin signing up projects that we didn't know -- essentially, possibly ignoring the costs associated with kilowatt hours. We want to make sure that
happens.

So we're recommending the Board support the
creation of something like an industrial advisory groups
to help the agencies to identify those projects which have
the most impact in the disadvantaged communities. These
agencies could be comprised of the local industries,
community groups, local electeds that will be able to
identify the projects and help the State agencies to
better focus on those.

Finally -- and Bill Magavern actually got there
and I'm going to take it a bit further -- talk about
priority funding. We believe since we are -- essentially
most of our facilities are located within these high
disadvantaged areas, any obligated entity that is going to
put in a project that is located within these areas should
receive priority funding because, one, they are an
obligated entity and, two, we know that's going to have a
direct impact on this.

CHAIRPERSON NICHOLS: Thank you very much.

MS. HOLMES-GEN: Madam Chair, Board members,
Bonnie Holmes-Gen with the American Lung Association of
California.

And I wanted to speak here today on behalf of the
American Lung Association and express our appreciation for
your leadership on the SB 35 process and the investment in
disadvantaged communities and to support the guidelines that are before you today and express our great desire that these funds go to vulnerable communities that need it the most as quickly as possible to provide the real air quality and health benefits that are needed.

The American Lung Association is very concerned about the health burdens of low-income and disadvantaged communities, and we provide services in communities around the state, particularly in disadvantaged and low-income areas in the Los Angeles and Bay Areas, Southern California regions and San Joaquin Valley.

And with our offices and local outreach and health services, we're very familiar with the impacts of air pollution and air toxics and the hot spots that send people to hospitals and emergency rooms and elevate asthma attacks and chronic illness.

Specifically, we are supporting the SB 535 Coalition comments, including the recommendation that the ARB move to establish a priority for projects that can provide multiple benefits. And we think this is a great direction to go. A lot of local agencies are trying to work in this direction in bringing projects that can have clean transportation and transit and show affordable housing and other attributes.

We also are strongly supportive of developing
policies to protect against displacement. We hope to work with you as this process goes forward to elevate the amount of funding that goes to benefit disadvantaged communities beyond the 25 percent. There's been a lot of discussion about that. I think that is an important direction to go. And we hope to help work with you to broadcast the benefits of these projects and the important work that these cap and trade funds are doing to improve air quality and health around the state. Thank you.

CHAIRPERSON NICHOLS: Thank you.

MS. TOPP: Thank you, Madam Chair and members.

Moira Topp on behalf of the Orange County Transportation Authority.

We, too, thank you and your staff for the enormous effort that's already taken place and will clearly take place over the next year to perfect this.

OCTA is supportive of a number of the items. We think, like us, some of our sister agencies believe that there are some refinements that are necessary in order to truly meet the goals of SB 535. Specifically, OCTA is supportive of efforts within the draft guidance to provide for multiple means for a project to prove a benefit to a disadvantaged community, particularly within the two transit programs.

However, as has already been noted, we do believe
the guidance should be clarified to state that a project or service that does not solely need to be located within a disadvantaged community but could be connecting that community to a job center or other services of a disadvantaged community.

Secondly, OCTA is supportive of proposed criteria that will look to the ridership of inner city rail commuter bus and transit lines and allowing for transit fare incentives. However, we think the guidance should go further and also allow for increased service on those same lines that include ridership from primarily disadvantaged communities.

Thirdly, we think further clarification is needed within the proposed criteria for the affordable housing and sustainable communities program. Rather than require a complete avoidance of any displacement within disadvantaged communities, there should be some allowance for mitigation within that displacement.

Fourth, currently, the guidance recommends administering agencies to undertake an extensive public outreach process prior to directing funds. Any public agency knows that a public outreach program can be very expensive. We already do a number of the public outreach that's already called for, so we would recommend the guidance recognize the fact that we are already doing some
of these similar outreach efforts.

And lastly, one item that's not included in our written comments because it was an issue that was raised just in the changes that were made yesterday, and that is with respect to reporting. There's a lot of ambiguity with respect to the transportation sections in the reporting requirements. Transportation funding is very technical. It can be very arcane. We would strongly recommend that you work with transportation agencies to really refine that and make sure it's very clear what you're asking from us. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

Mr. Wildman.

MR. WILDMAN: Good morning, Madam Chair and Board.

My name is Doug Wildman. I'm with Friends of the Urban Forest, also representing the Bay Area Urban Forest Council, which is one of the seven regions spoken about earlier with the California Urban Forest Council.

In San Francisco, Friends of the Urban Forest for 33 years has been a community-based urban forestry group working with all communities in the city, the wealthy and the not so wealthy. We continue to do that and are really happy with seeing the majority of funds going to disadvantaged communities.
I would like to say, however, many communities are being left out with the current mapping, and I think there's some significant work to be done on that.

I love the rigor and the science behind it. I think it's really cool. And mapping is really important. So I'd like seeing urban forests being quantified, the urban forest ecosystem benefits. So that's fantastic.

I think there are some flaws right now. And certainly, what we just found out a couple days ago on the 17th, the revision to the August 22nd recommendations, we're not in favor of those revisions.

So we like the concept of looking at management in urban forest systems because basically forests are ecosystems. They have nothing to do with boundaries and their watersheds in their regions. That goes beyond a half mile in different points of where you're looking at to refine the map.

I think management is critical. And again, the majority, not the entirety of this money, be to DACs. Thank you very much.

CHAIRPERSON NICHOLS: Let's pause here, since I think this is about the fourth or fifth speaker who has addressed this issue of what percentage of the money in the Urban Forestry Program is actually going into or adjacent to the identified disadvantaged communities and
Ms. Marvin, would you address that, please?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

I would be happy to.

In the draft guidance, we have a table in there that shows where there are statutory requirements for specific programs to benefit disadvantaged communities. And the table also reflects the information that each agency reported to us in terms of their intentions about addressing disadvantaged communities.

So in the case of the subset of money that CalFire is getting that is programmed for urban forestry, they had originally told us that a portion of that would be dedicated to benefit disadvantaged communities. Since that publication, CalFire came back to us and said that they were intending to allocate all of the funds for urban forestry to benefit disadvantaged communities with a portion of those funds guaranteed to be spent within those communities.

CHAIRPERSON NICHOLS: This is the CalFire?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

This is the CalFire decision. It's not an ARB decision. We're reflecting the updated information they've given us.

BOARD MEMBER GIOIA: Just to add, I think it's important to note our criteria is implementing the
requirements that exist under State law or the other agencies. That percent is not up to us. It's up to CalFire. And you're reflecting the new information.

But in fact, I looked at the changes on our draft guideline on Appendix 12. The 100 percent isn't reflected here. What we're working on is the guidelines for the funds that are dedicated to disadvantaged communities to make sure they're properly spent. So your issue is that's the CalFire issue.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
I would just note for clarity in the revised draft of the guidelines, on page 14, there is a table that reflects that statutory and agency reported percentages. And that's what the focus has been on urban forestry comments.

CHAIRPERSON NICHOLS: I see. Thank you.
Ms. Morehouse.

MS. MOREHOUSE: Good morning. Thanks.
Erica Morehouse with Environmental Defense Fund.
I just want to recognize the important step that California is taking in addressing historic injustice in the communities that have disproportionately borne environmental harms for decades should disproportionately benefit from the investments that we're able to make in mitigating climate pollution.

And I want to thank the Board and the staff for
the important work they've put into this guidance and the
decision makers in the Legislature. But also recognize
the important work that groups like those in the 535
Coalition have been doing for years to really get us to
this important place that we're at.

And defining disadvantaged communities and
providing advice on how to direct real, meaningful
benefits to them is something that California doesn't have
a lot of precedent to build on. I think what we have here
is a really good start. And it's clear that we need to do
a lot of makeup -- have a lot of learning by doing as we
move forward.

And I would just like to echo the comments of
some of my colleagues from Coalition for Clean Air and
others and recognize that we need to keep vigilant about
watching issues like displacement and making sure that
there are no unintended consequences and also prioritizing
investments that do have multiple benefits that are going
to be cumulative over time in making sure that we're
continuing to prioritize investments in disadvantaged
communities, whether they qualify for 535 or not.

And so thanks for the great work to you all and
all of the community groups as well. So thank you.

CHAIRPERSON NICHOLS: Thank you.

Ms. Passero.
MS. PASSERO: Good morning.

My name is Michelle Passero. I work for the Nature Conservancy.

And just want to say that we do think that the interim guidance is headed in the right direction. And we thank the staff for all their hard work they've put into this date.

I have a couple suggestions to offer. And in particular on urban forestry and land conservation criteria, though they may have some broader application. And considering in the conversation we just had about the 100 percent, some of these comments may be directed more toward the resources agency, but I'll share them here, too.

We agree there should be some flexibility in considering that percentage. And for instance, we're looking at -- and we've done some mapping just to look at wetlands in the EnviroScreen area, and we are doing further work to look at where there might be wetland restoration for carbon sequestration and also flood protection. So there may be some more flexibility even just within the area of natural resource protection where we can consider more flexibility in that area. We're happy to work with Cal/EPA, ARB, and Resources Agency to dive deeper into this issue.
And then just taking a step back and taking a long-term view of this program and recognizing that this is really just the start of how auction proceeds should be invested. And I believe this may have been implied earlier in the presentation is, is there a way -- because I know we're going to learn by doing -- to identify what the process would be going forward, so we can make adjustments to criteria as we receive more feedback from applications. There might be some really neat projects that have great benefits that we can't foresee right now.

And so maybe there is a midpoint really to take a look at, you know, what didn't make the cut, but what should have and then make adjustments to these criteria for the next round, since we will be looking at this on an annual basis and hopefully for a long term.

So I just want to offer those comments. We appreciate the opportunity to talk, and we are happy to play a constructive role. Thank you.

CHAIRPERSON NICHOLS: Thank you.

Julie Snyder and then Steve Dutra. And that will be the last speaker.

MS. SNYDER: Madam Chair, members of the Board, thank you for having us here today.

I was looking forward to having the last word and then Mr. Dutra stepped in.
I really wanted to echo the comments of our allies at Public Advocates, Coalition for Clean Air, American Lung, and others about maximizing the benefits to disadvantaged communities. So it's not simply a matter of can we hit a threshold of one benefit. But can we prioritize as many benefits as possible to those communities.

Second, I wanted to echo what you've already heard about displacement. We think it's incredibly important that all of the cap and trade investments are made in communities that have taken steps to adopt anti-displacement policies and make sure these state investments don't push out the very people that we're trying to help.

There are examples around the state from cities and counties of a whole range of different types of anti-displacement policies. We would be happy to share that with your staff and we would encourage you as you move forward to take the provisions that you're already recommending for the affordable housing sustainable communities program and extend that across all investments, both within and without disadvantaged communities. The state's multi-decade experience with redevelopment in particular and other large-scale public investment has taught us that if there are not conscious
up-front policies to protect existing communities, the
benefits that we want to flow to them don't actually
accrue to them. They're pushed further away from the new
transit that's gone in, et cetera.

So we would encourage you to look at what's being
done locally already, what's also incorporated under other
state laws, redevelopment itself. We learned over time
the Legislature and the Governor's added anti-displacement
provisions to redevelopment law. It's also reflected in a
new bill that's on the Governor's desk around enhanced
infrastructure financing districts.

So there is a lot of examples out there. We
don't have to reinvent the wheel here. But we have to
make sure that all of these investments inside and outside
disadvantaged communities are not catalysts for
displacement.

So thank you for hearing what we have to say and
look forward to working with you and your staff.

CHAIRPERSON NICHOLS: Thank you.
And now, Mr. Dutra.

MR. DUTRA: Good morning. Thank you for taking
me at the end.

My name is Steve Dutra. I'm the president of a
Tree Lodi group, which is an urban forestry grassroots
group in Lodi. I'm also a certified arborist and also
currently the Parks Superintendent with the City of Lodi. Tree Lodi supports the written comments submitted to you by both Cal ReLeaf and the California Urban Forestry Foundation related to this morning's agenda item. Tree Lodi will also help support CalFire to maximize benefits to disadvantaged communities we hope specifically in the areas of urban forestry management and to help us increase the urban tree canopy.

Thank you.

CHAIRPERSON NICHOLS: Thank you.

That concludes the public testimony portion of this discussion. This is not a regulatory action, so it's not a matter of closing the record. But I do think it's important that we reflect a little bit on what we've heard here and also that we give the staff some direction before this goes out to the world.

I want to reflect on a couple of things. First of all, we've got a good audience here in attendance in the Byron Sher Auditorium. I suspect there are many people watching this particular proceeding from their desks in other agencies around State government, as well as in communities that are potentially going to benefit from these moneys.

And I really want to stress what our staff said at the beginning about the process that they have been
going through with our sister State agencies. AB 32 changed a lot of things. And the Cap and Trade Program gave ARB a unique opportunity to both participate on a global level in reducing greenhouse gas emissions and also as an incidental benefit to generate some funds that are now capable of being used to benefit the people of the state of California.

There were a number of comments that were made about multiple benefits. And I think it's important to recognize that the moneys that we're talking about here today by definition have multiple benefits associated with them. For starters, they're required to be used to reduce greenhouse gas emissions. So they will be achieving those benefits to some degree or another.

Secondly, they're going to go to support programs in our sister agencies, whether it's transit or whether it's tree planting or housing or ARB's own low carbon transportation programs that have other benefits that are mandated. And then on top of it, we're talking about how to make sure that there are also benefits to some of the most impacted and disadvantaged communities in the state. So we're really talking about benefits on top of benefits and how to do an even better job of leveraging.

Secondly, I don't think there is any agency, including ours, that has at this point all the expertise
that we would like to have in terms of how to put together projects that could make sure that every possible connection and leveraging point has been reached. I'm optimistic based on what I've heard that there are people at the community level who are thinking about some of these kinds of projects and looking for ways that they can mix and match and put together programs that will touch many different funding sources in addition to the cap and trade money. But I think it's a testimony to the tremendous need and hunger that there is out there to do good work in the communities that we've had the kind of participation that we've had here today.

There is attention between making sure there is a trail of funding that can be audited and an ability on the part of the Legislature at the end of the year to see if we met the targets and how we did it versus the desire to allow for some creativity and some experimentation in the beginning stages in particular of a brand-new program.

While it's impossible we could have achieved perfection, I think actually staff has done a pretty good job of balancing those objectives in the guidelines that they're wanting to put out.

Having said that, there were a number of specific points that were made. And before we just say go forth, I'd like to give members of the Board who have specific
issues that they might want to see incorporated into the final document an opportunity to raise those now.

We'll start with Mr. Serna because he hasn't spoken yet.

BOARD MEMBER SERNA: Thank you, Chair Nichols.
I certainly want to extend my thanks to staff, certainly to the speakers that have given us insights into their position on this important subject today and during the workshops.

There is a lot of moving parts to this that involved a number of -- do involve a number of agencies and different responsibilities by a number of different parties. One of the -- Chair Nichols, I'm glad you made some reference to it. But I wanted to touch on what a few speakers Mr. Magavern, in particular, said about approach in terms of why aren't we with this interim guidance looking at prioritizing projects that have multiple benefits.

So you know, in other words, taking all the advantage that Chair Nichols just mentioned about all the various things that are in this guidance document about urban forestry and energy efficiency and all the others, but is there a particular reason why we don't underscore, emphasize the prioritization of projects that do have those multiple benefits?
TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:

Thank you, Supervisor Serna.

We actually recognize the importance of doing just that. On page 15 of the guidelines, what we recognize is that in terms of maximizing the benefits, there's really two different things that are important to do to maximize those benefits. The first one is to have a proportion of the funding that is greater than what's required by SB 535. But the second one -- this is item two under Chapter 6 there -- recognizes the need to give priority to those projects that maximize multiple benefits for disadvantaged communities.

The notation that we make under that is that we did not go and require this in here because we have not yet created the calculation methodologies that would let you have projects compete by scoring the different benefits, adding them up, and determining which provides the most. So we didn't have a mechanism today to implement that. But we encouraged agencies to do just that, to give scoring prioritization to the projects that have the most benefits and the most significant benefits.

BOARD MEMBER SERNA: That's important I think for especially those speakers that brought up that particular subject, it's an important angle to understand that. That's why I wanted to make mention of it.
I think in terms of our influence, ARB's influence going forward in terms of putting the guidance into practice, that certainly for me is going to be one that should remain a very high priority for all the other agencies that are going to be actually appropriating -- allocating funds per the legislation.

And Cynthia, I'm glad you mentioned as several have this morning reminded everyone that 25 percent and 10 percent, those are floors. And are we not in a position with this document to suggest to the agencies that are actually going to be in charge of allocating the funds for various projects to speak to the process that they might employ or generally ought to be employed for consideration of exceeding those percentages, the 10 and 25 percent?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: Absolutely. And while we were not suggesting a quantitative level, the whole purpose of these guidelines are to maximize those benefits. And the first thing that we do is encourage agencies to look at all the potential projects that can achieve the purposes of the program and find out or see and seek out which projects can be located in or benefiting disadvantaged communities and to maximize to increase the amount of funding that goes to those. So we've done it in a qualitative sense, not a qualitative sense.
BOARD MEMBER SERNA: My last comment/questions. This one is probably best addressed by La Ronda. You know, there's obviously been a tremendous amount of outreach. There's been workshops. There's obviously great interest, especially among environmental justice organizations and individual advocates with a particular eye on the aspect of what we do.

Moving forward, have we looked at trying to function as a clearinghouse in terms of giving especially the EJ community an understanding of at what points will they continue to have the ability to provide input, even if it's not directly to ARB, but directly with the other agencies that are referenced in this guidance document as they move closer to allocating the money for projects?

OMBUDSMAN BOWEN: I'm going to defer that to Cynthia. We have not an Ombudsman's office, but Cynthia is managing this. And we work closely together on these issues.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: We think the point that you raised is very important. It was certainly emphasized in the workshops, which is the excitement and the potential of these funds and the good they can do. But the rather dizzying array of agencies and programs and information that's there.

So the first baby step that we took was to create
a website. And we're asking all the agencies to provide
information about their activities on that single website
so people can find out who's doing what.

The other thing in the guidance is that we
encourage all the agencies to have point people who are
available to both do the outreach to disadvantaged
communities and to be a resource so that there is a live
body to answer the phone, to talk to people about what's
possible, and to counsel them on how they can go forward
and access and apply for the funding.

BOARD MEMBER SERNA: Thank you.
Just my last comment is again want to thank
everyone involved with putting together this document. I
think it's one of the most important things that we do.
We, the staff, and we, the Board, is be clear about the
setting of expectations. This is -- this document is at
least for me -- that's kind of its principle function. So
this is kind of uncharted territory. This is a new
opportunity for local communities and certainly for the
agencies that are going to be involved in administering
funds for various projects.

But I think it's incredibly important to have a
very clear setting of expectations for -- especially for
the environmental justice community to understand how they
ought to and can influence projects in the future.
So again, thank you for all the hard work.

CHAIRPERSON NICHOLS: Great.

Mr. Gioia.

BOARD MEMBER GIOIA: Thanks. And I'm trying to balance the need to go forward with the need to incorporate additional comments. So maybe what I'll do is suggest a couple of things that maybe we can include in the interim guidance, knowing that you're going to come back to us with some experience and before other agencies implement. So maybe I'll just make a couple of few suggestions.

I do think we should include more specific language about the development of reporting and accountability measures and that we're going to be really clear that's what's going to be in the final. And I know that -- so some flexibility to include language about developing very clear reporting and accountability measures in the final guidance.

Second, I know you made reference, and Supervisor Serna referenced this as well, on page 15, so there is under the guidance on maximizing benefits to disadvantaged communities, it does say when selecting projects for a given investment give priority to those that maximize benefits to disadvantaged communities and uses the example use scoring criteria that favors projects which provide
multiple benefits or the most significant benefits. Maybe what would be useful because there is a little going back and forth between the appendix tables and the body of the guidance is that that language ought to be included in every table, because ultimately, that's what you're really trying to get agencies to do. So that language is not under the appendix tables. But to include that language in each table. So I think then it makes it really clear to that specific agency that that's really one of their charges. So I would like to suggest maybe that we include that language in every table.

On page 18, on the guiding principles for agencies with investments, benefiting disadvantaged communities, I think the bar here is too low. It says whenever possible investments should result in benefits that address an important need commonly identified by disadvantaged community residents or address key factor and change the "whenever possible" to the "maximum extent possible." That, to me, is a higher standard and is better than just saying whatever possible, knowing agencies are taking this is, oh, whenever possible, that is very different than to the maximum extent possible. Likewise, under B, it says, "Whenever feasible, agencies should work together to seek opportunities to provide multiple benefits." It should say, "to the maximum extent
feasible," rather than whenever "feasible." I think that strengthens that guidance.

CHAIRPERSON NICHOLS: Could I just ask because these are specific editorial changes, which I happen to support, if these are items Board members in general are supportive of, if you have give me a nod. And if not, then we can discuss it. But otherwise, I'm inclined to think that's what reflects what we all would like to see happen. Okay.

BOARD MEMBER GIOIA: I've got a few more.

CHAIRPERSON NICHOLS: To the max. We're going to the max.

BOARD MEMBER GIOIA: The first is going to include that language on page 15 in each of the tables, raise the standard on those.

Under the recommendations for administering agencies to maximize funding, I realize and I want to point this out, on appendix eight, for affordable housing and sustainable communities project, it is really clear that where it says, "project is designed to avoid displacement of residents and businesses," I think you've included the displacement standard in the category where displacement is most likely potentially could occur. But I know there's been concern about other areas. So maybe you have that language or something similar that
displacement issues under the recommendations under C on page 20, either C or D, wherever is most appropriate in evaluating criteria, that you have some discussion about the displacement issue generally there. Maybe not in the exact same way that you specify. Because I think it is appropriate under the affordable housing sustainable communities, that's the comment on there.

CHAIRPERSON NICHOLS: To be in a category of general rather than recommendations for administering agencies, there could be a bullet point --

BOARD MEMBER GIOIA: Some general language.

CHAIRPERSON NICHOLS: -- added that suggests that's a consideration that we're concerned about.

BOARD MEMBER GIOIA: Right. It makes it more broader than just that category.

CHAIRPERSON NICHOLS: It belongs under C really.

BOARD MEMBER GIOIA: And I had a question on Appendix 8, why you took out under step one on the housing and CSC, while addressing housing needs and other regional planning objectives. So in addition to the reducing vehicle miles traveled, why was that taken out? I'm just wondering.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: That was an edit that we made at the request of the Strategic Growth Council and housing folks. We didn't see
it as fundamentally changing the purpose there.

BOARD MEMBER GIOIA: Right, because folks are
trying to balance a lot of objectives here and was just
wondering --

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
If I might note, I think part of the reason they asked us
to make it was just that point, which this just mentions
two of the priorities. And in reality, those programs are
attempting to satisfy a lot of other objectives that were
not stated.

BOARD MEMBER GIOIA: Right. We heard a lot of
discussion about the corridor on transit. It sounds
something the way you explained this that the corridor
concept -- maybe you reference it -- is you sort of
inherently include that when you say that if the transit
goes into -- a transit corridor goes into a disadvantaged
community and goes outside, maybe make clear here this
doesn't prevent the expenditure of cap and trade revenue
on that corridor as long as that corridor goes into and
benefits a disadvantaged community. Am I correct in
saying that?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Yes, you are. The provision is that there be access in
the disadvantaged community or within walking distance of
that disadvantaged community.
BOARD MEMBER GIOIA: So when the corridor goes from the disadvantaged community so let's say a workplace that's outside the disadvantaged community, the funding is eligible for that corridor.

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN: If you're improving service or access.

BOARD MEMBER GIOIA: I think you may want to clarify that. We got so many comments on that issue. And maybe they did not interpret the way it's intended here that it will include the corridor outside the disadvantaged communities, as long as it touches and meets the criteria here. So maybe including some language on that so it clarifies that.

CHAIRPERSON NICHOLS: I have a hard time believing that people couldn't just understand that. But maybe there is a way to write it there.

BOARD MEMBER GIOIA: It's been mentioned so many times, but the way you explained it, it does cover that.

CHAIRPERSON NICHOLS: It seems perfectly clear to me it intended to and it did. But if there is a way to clarify it further --

BOARD MEMBER GIOIA: There was a mention about community choice aggregation not being covered to the extent that disadvantaged communities are included in community choice aggregation. It seems that's
appropriate. I'm trying to understand --

CHAIRPERSON NICHOLS: I don't know what category
that was intended to fall in. I heard that from the Bay
Area Air District, they had several ideas for types of
energy projects that would be good to fund. But I don't
know who we would be funding. If you look at who got
funding in this year's allocation, I suppose it's under
Table A4 -- there was some --

BOARD MEMBER GIOIA: There was some implication
it was not a potential eligible under -- it's under the
energy --

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
If I might clarify, these tables were designed around the
current year's budget appropriations to be responsive to
these programs. So Table A4 on energy efficiency and
renewable energy is primarily addressing the funding that
CSD got to do low income weatherization and to do solar
and renewable energy for low income households. So it's a
very specific investment in disadvantaged communities.

CHAIRPERSON NICHOLS: And it went to a program
that's named in the budget. So again, this goes back to
what was in the budget. There's nothing that says at any
future years money couldn't go out of the Greenhouse Gas
Reduction Fund to those projects.

BOARD MEMBER GIOIA: Finally, just the idea that
you're going to be coming back to us with the maps. The maps are going to get developed here soon, and there will be -- may be attached to these. It will have maps of the step two -- I guess I call it that provides benefits to communities. In addition to the maps -- whatever the maps are that are created by Cal/EPA, we will take those maps and develop new maps that cover the Benefited communities; correct?

TRANSPORTATION AND TOXICS DIVISION CHIEF MARVIN:
Yes. And we can do that right away for the half mile and the ZIP code. We'll need longer to do the impacted corridors.

BOARD MEMBER GIOIA: One issue I know we're not going to resolve today, but maybe to give thought to, is this issue of housing in the disadvantaged community or half mile and whether the ZIP code standard should apply there as well.

There is an argument that many will make that you don't concentrate all affordable housing in a disadvantaged community, that that should be spread into also other communities where there is transit, especially in the Bay Area. There's identified priority development areas near and around transit. So there's certain categories.

So there has been this discussion you want
affordable housing in other appropriate areas that will benefit people who often live in disadvantaged communities and are making choice, let's say, to move near transit. So I know that's a big issue. And that's whether we expand that category to include the ZIP code.

And you know, I'd like to have more understanding and maybe have staff look at that where you can come back and possibly include that. That money is not going to get out the door until next year anyway. So maybe before the money starts to flow, we have some more discussion about that issue.

CHAIRPERSON NICHOLS: Actually, I need to say that I participated in a call with the agency and the department a couple of days ago on this general issue. And they believe they have projects that are ready to fund in the current fiscal year. So I don't think we can say just wait until next year.

They were and are particularly concerned about whether the guidelines would preclude them from funding good projects that aren't specifically geographically located within or immediately adjacent to the identified communities. And we took a pretty tough line with them on the legal standard. But also said that, like the department, we're concerned, too, that the moneys get spent in ways that actually benefit the people that are
intended to be benefited. And I think the only way we can actually judge that is to see what happens as this year goes on and what the department is actually able to do with the funding.

So I made a commitment -- and I'm happy to add you to the review team here that we would look at specifics of what projects they're looking at funding and what they are going to fund out of this year's allocation and see if they're having a hard time getting enough projects that meet these criteria then we need to think about how to adjust. But I'd rather at this point not try to tweak the language of the guidelines. It just opens up too many other problems.

BOARD MEMBER GIOIA: Finally, I do want to address one last point that a few advocates mentioned is in addition to prioritizing the co-benefits, which this does, is prioritizing -- the issue was raised about whether to prioritize the communities within the 20 percent. I would be concerned in doing that for one reason. That assumes that everybody has agreed with the variables used by the EnviroScreen, and not everybody does. So the same advocates who show up at the Bay Area Air Quality Management District meetings in the Bay Area and say these communities need to be prioritized will lose out if we prioritize the communities based upon the
ranking that EnviroScreen has prepared. In fact, the Bay Area will lose out.

And other parts of the state will as well, but I can tell you there are communities in the Bay Area that will lose out -- I mean disadvantaged communities on this map if we prioritize that way. And that's because there's been disagreement about what it means to be disadvantaged under the EnviroScreen tool.

So I think unintentionally the consequences would not be what we all want to see if we did that. So I think we are better being more flexible. I can tell you there will be parts of Richmond that would be impacted by that. And I don't think that's the intention of the advocates in the Bay Area. So I don't think that's the direction we should be going here.

CHAIRPERSON NICHOLS: All right. I think I saw one more hand down here.

Supervisor Roberts.

BOARD MEMBER ROBERTS: Thank you. I've been sitting quiet.

Let me -- first of all, I agree with the comments Mr. Gioia just made regarding the 20 percent. And I think it's causing major problems that unintended consequences and everything else. And I think it isn't aligning with what we know are disadvantaged communities, number one. I
think that should be reconsidered.

Secondly, I would also support the concerns over affordable housing. I know we want to rush it. Why this has to be approved right now and we can't take 30 days to try to get this better -- not perfect. There is no way it's going to be perfect. But it's flawed right now.

Finally -- put that map up again on San Diego, please. Okay.

Madam Chairman, it is hard from somebody that doesn't have a border to understand what a border is. Where those two freeways come together in that white zone is the busiest border crossing in the world.

CHAIRPERSON NICHOLS: You don't have a hard time convincing me. You need to go take this argument to Cal/EPA.

BOARD MEMBER ROBERTS: The fact that's not a bright purple, it is disadvantaged in every way, shape, or form.

CHAIRPERSON NICHOLS: All I can tell you is --

BOARD MEMBER ROBERTS: Let me finish.

CHAIRPERSON NICHOLS: All right. I just want to say something about it, though.

BOARD MEMBER ROBERTS: Virtually all the freight that moves there moves by truck. The rail crossing there is restricted from 2:00 in the morning to 4:00 in the
morning or something like that. And is only restricted --
you can't do a double-deck train because of the trolley
lines. What I'm saying is virtually everything moves by
vehicle, and most of it is by diesel truck.

It's extremely busy. The federal government is
now looking at expanding by about another 12 lanes. The
average weight on any day is about two hours. It's like
the most congested freeway you will find. And it has -- I
can show you on just south of the border numerous
manufacturing mining operations and other things that
impact the air quality area. Okay.

The EnviroScreen may be good for some things, but
this is being missed. That whole area should be bright
purple, not just the white. All the way from the ocean to
what you're showing there should have been in any rational
analysis should have been a bright purple.

The fact that it's not should signal somebody
that the model we have is not accounting for what's
happening on the ground. And it may be a perfect model
for most of the state. It doesn't work in this area.

There is no way that I can support something that
basically ignores the situation like this. That's one of
our most impacted areas in the whole county, for certain,
and it's one of our lowest income areas. And I suspect
you're going to hear more about this.
But to push this ahead without accounting for that, there is no way I would feel comfortable in doing that.

The other things I'd like to see adjusted and maybe we could be patient, but this is -- just doesn't work at all. This is a miscarriage of justice. And you talk about environmental justice, and there is none in that map right there. Thank you.

CHAIRPERSON NICHOLS: Ms. Mitchell.

BOARD MEMBER MITCHELL: I just want to make another comment about the ranking and the priorities we're looking at.

We heard a dissent from ranking according to the EnviroScreen impact. Part of that dissent comes from the fact we've think the EnviroScreens are not completely accurate.

However, I would also like us to reconsider the rankings, because I think it was the intent of the Legislature in SB 535 to address the most impacted communities in some way. And so when we look at -- when we finally get the EnviroScreen rankings to a point where they're finalized, I think it would be important at that point to take at look at those communities and re-visit this idea of ranking and including in the ranking that projects that effect the most impacted communities have a
certain priority over others.

So I just think we keep that in our sights and we don't totally leave that behind us at this point.

CHAIRPERSON NICHOLS: Okay. Before we wrap this up and take whatever action we're going to take, Mr. De La Torre.

BOARD MEMBER DE LA TORRE: I had a general comment. Not anything specific. I just wanted to compliment the SB 535 Coalition. Old habits die hard.

The effort that was made going way back to when the legislation was passed and the EJ groups came together in a way that is fairly unprecedented to set priorities. The priorities we saw in the presentation earlier today was very, very impressive. And I see it -- my role on this Board is to keep faith with that.

That effort was made again fairly unprecedented for all of those different communities, all around the state to come together. And at this point, you came up with your priorities. We weren't speaking for you. No one else in government was speaking for you. So now it's incorporated into the planning. We need to keep faith with that and make sure that the activity reflects those priorities. So I think obviously the details of the percentages and all that, we'll work all of that out. But the important thing is those priorities are there. And we
will keep faith with them moving forward.

CHAIRPERSON NICHOLS: Thank you. I think it's worth remembering that it was only a few years ago that we were hearing tremendous unhappiness and dissatisfaction from communities around the state about the Scoping Plan and about the use of the Cap and Trade Program. And while I know many organizations still would prefer some other mechanism to the Cap and Trade Program, the fact so many came forward and did participate in a very constructive way in helping to figure out how we could use this program to benefit disadvantaged communities is really a great tribute to the communities and to the people who work with them. So I would also like to second that comment.

What we are being asked to do today is to approve the guidance that was developed by staff. Technically, they didn't need our approval. But it seemed like a good idea to bring this to the Board, given the level of interest that there is in communities around the state and among organizations around the state in making sure that we are able to succeed with this program.

So as I said before, I intend to vote for approval. I gather that there may be some significant doubts about that. But I think it's to the benefit of the State agencies that this is intended for that they have something documenting the thinking that we've done
collectively at ARB and among the other state agencies, including the Department of Finance, and what we heard when we went out to the communities about how to at least on the first year basis make sure that the moneys that are going to be spent that have already been appropriated by the Legislature are spent in a way that achieves the results that were dictated by 535.

So I would like to ask for a motion to approve the interim guidelines and then we can go forward.

BOARD MEMBER GIOIA: I move with the guidance or direction we provided.

BOARD MEMBER RIORDAN: I'll second that, and ask, Madam Chairman, could we also include as a side some indication to Cal/EPA that we feel there are some issues left with that map and that we would like that addressed. I think for to ask individuals to go to Cal/EPA is a little less impactful than this Board saying we think there are some refinements that need to be made and you should address some of those issues that were raised today.

CHAIRPERSON NICHOLS: Hearing no objection, yes, let's add that to the Resolution for this item.

Absolutely.

All right so we have a motion and a second here. And I will ask for a vote then to approve the guidelines.
All in favor, please say aye.

(Nine aye votes)

CHAIRPERSON NICHOLS: Any opposed?

BOARD MEMBER ROBERTS: No.

(One nay vote)

CHAIRPERSON NICHOLS: One no. Supervisor Roberts.

Any abstentions? Okay. It's done.

Thank you, staff. Thank you all who attended and patiently waited.

We're going to take a lunch break before we come back to work on various other items related to cap and trade. We've got several of them that are regulatory items. I know a number of people who are planning to testify. So just for everybody's planning purposes, it is now 12:25. I'm going to be realistic and say let's begin again at 1:30. Thank you.

(Whereupon a recess was taken from 12:25 to 1:33)

CHAIRPERSON NICHOLS: Good afternoon, ladies and gentlemen. We're about to resume the meeting.

The next three items on the agenda are all related. We're going to start with the targeted amendments to the cap and trade regulation. Then move to updates to the mandatory reporting regulation. And then finish off with proposed regulation to the cost of
implementation fee.

They're all targeted amendments for clarifications or corrections. So these are not major structural items, but they are changes that have been identified that need to be made and do require action. So let's start with the cap and trade proposal, which impacts allowance allocation. The compliance obligation for imported carbon dioxide updates the quantification methods for three of our offset protocols and modifies the requirements related to corporate disclosures and market operation provisions.

Many of these proposed amendments were developed in response to this Board's direction as well as discussions with stakeholders and staff analysis that have taken place since the last Board hearing on this regulation in April of this year.

Collectively, the proposed amendments provide clarity for covered entities regarding the allocation of allowances, as well as the implementation and verification of offset protocols and the requirements related to trading and registration in the compliance instruments tracking system service, otherwise known as CITSS.

Throughout the regulatory development process, which began with the amendments approved by this Board in April, staff has solicited feedback on the proposed
amendments from the Board, stakeholders, and the public. The proposed amendments offer, as we've said before, clarification on items that are targeted and have been developed through a very open and transparent process.

Like all elements of the Cap and Trade Program, we have been trying to move forward in a very careful way. And I want to thank the people who have participated, both the staff who have been listening to their stakeholders, the Board members who have provided input and feedback, and also the stakeholders who have been active.

We've had many conversations by phone. We've had group meetings and one-on-one meetings trying to make sure these proposals do, in fact, provide clarity and that they will make sure that the Cap and Trade Program continues to be successful in achieving the goals of AB 32. So we're talking about fine tuning, but fine tuning in the eyes of one stakeholder may be a major change in the eyes of another. And it's important that we keep the balance right.

So with all of that, we would like to begin this item with the staff report. And it will be introduced by Dr. Ayala.

ACTING EXECUTIVE OFFICER AYALA: Today, staff will present amendments to the cap and trade regulation. These modifications wrap up the last several rounds of
amendments to the program over the last two years and
clarify implementation, address stakeholder concerns,
respond to Board direction on various topics, and enhance
ARB's ability to oversee and implement the regulation.

We're asking that the Board adopt amendments to
adjust transition assistance for two covered entities,
establish a compliance obligation for the carbon dioxide
import sector, update existing offset protocols, and
clarify provisions regarding implementation and oversight
of the regulation. Subsequent items today address
conforming changes to the Cap and Trade Program as well.

Staff will describe changes for a 15-day
regulatory package. These additional amendments highlight
the ongoing dialogue between staff and stakeholders and
our commitment to ensure the regulation is implemented
efficiently and transparently.

The amendments under work in the 15-day package
represent a comprehensive regulatory process developed
over the past four years since the original adoption of
the cap and trade regulation.

The proposed amendments are refinements in
implementing what has proven to be a strong and robust Cap
and Trade Program. While targeted in scope, the
amendments were developed using the same level of public
engagement we have had throughout the development of the
Cap and Trade Program. This includes extensive communication with stakeholders and the public and a formal comment period.

Emily Wimberger from the Climate Change Program will begin the staff presentation.

(Thereupon an overhead presentation was presented as follows.)

AIR POLLUTION SPECIALIST WIMBERGER: Thank you. Good afternoon, Chairman Nichols and members of the Board.

This presentation will focus on proposed amendments to the California cap on greenhouse gas emissions and market-based compliance mechanisms regulation, otherwise known as the cap and trade regulation.

The proposed amendments include: Increases in allocation to two covered entities, clarifying modifications to product data definitions and legacy contract text, changes in the coverage of imported carbon dioxide, modifications to the disclosure of corporate associations, and clarifications to market provisions related to the reporting and offset transfers and clearinghouse accounts.

Staff is also proposing some quantification updates to three offset protocols. There is a first of
three items today that are closely integrated and work to clarify and streamline three regulations: The cap and trade regulation, the mandatory reporting regulation, the AB 32 cost of implementation fee regulation. The Cap and Trade Program relies on data collected through the mandatory reporting regulation for implementation. 

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AIR POLLUTION SPECIALIST WIMBERGER: For this presentation, I will begin by providing background on AB 32 and the goals of the Cap and Trade Program. I will also discuss program milestones and updates.

I will provide an overview of the comprehensive regulatory development process which has accompanied these proposed amendments, including a proposal for additional 15-day amendments reflecting the continuing dialogue between staff and stakeholders.

Next, I will present an overview of the environmental analysis prepared for the proposed amendments in accordance with the California Environmental Quality Act, or CEQA.

The final portion of the presentation will present staff's recommendation for Board consideration and action on the regulatory amendments.

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AIR POLLUTION SPECIALIST WIMBERGER: The Cap and
Trade Program is one of a suite of complimentary measures that will reduce greenhouse gas emissions under AB 32. Under the program, ARB places a statewide limit, or cap, on the emissions from all covered sources.

The cap begins at the expected business-as-usual emissions and then gradually declines at two to three percent per year until the 2020 target is reached.

The total number of permits to emit, called allowances, issued each year is equal to the cap. Covered entities can buy and sell allowances and must obtain enough to equal their total emissions.

The transfer of allowances between market participants is referred to as a trade. By allowing trades, the program provides covered entities the flexibility to make reductions at their facility or trade with others for allowances.

Trading allows entities to find the most cost effective methods of compliance while the cap ensures that the State will achieve its emission reduction goals. Emission reductions that occur due to direct regulations are also recognized under the Cap and Trade Program. In this sense, direct regulations and the program work together to reduce the State's overall greenhouse gas emissions.

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AIR POLLUTION SPECIALIST WIMBERGER: Cap and trade places a price on carbon emissions to incentivize reductions, spurring innovation and lowering emissions and energy efficient technologies. The program is designed to complement other existing programs to reduce criteria and toxic air pollutants.

By setting and enforcing a strict limit on greenhouse gas emissions, the program ensures ARB 32 goals are realized. It's important to note the Cap and Trade Program is technology neutral in that it does not mandate the use of one specific emission reduction technology. Thus, the program allows entities the flexibility to comply with the regulation in the most cost effective manner.

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AIR POLLUTION SPECIALIST WIMBERGER: ARB places an aggregate limit, or cap, on the emissions from all covered sources for the years 2013 through 2020. Unlike traditional air permitting programs, there are neither specific caps for individual facilities, nor facility level reduction targets.

The cap covers approximately 85 percent of California's greenhouse gas emissions. The program begins were a narrow scope, which includes emissions from large stationary sources that emit equal to or greater than
25,000 metric tons of carbon dioxide equivalent per year, including electricity generation and imports.

Beginning in 2015, the program will cover emissions from the combustion of natural gas used in residential, commercial and small industrial sectors, as well as the combustion of gasoline and diesel.

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AIR POLLUTION SPECIALIST WIMBERGER: The cap and trade regulation was developed over a multi-year period through an extensive consultation process. The Board initially considered the proposed regulation in December of 2010 and officially adopted the final Regulation in October 2011.

In 2012, staff proposed two sets of amendments that were formally adopted by the Board; one set related to implementation and the other related to linkage with the Canadian Province of Quebec, which the Board approved in 2013.

Most recently, in April of 2014, the Board adopted a broad set of regulatory amendments, including additional transition assistance for covered entities, a new offset protocol, and additional cost containment features. These amendments became effective on July 1st of this year.

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AIR POLLUTION SPECIALIST WIMBERGER: To date, ARB has successfully held eight quarterly allowance auctions. The next auction will be held on November 19th of this year. The compliance obligation for all covered entities began on January 1st of 2013, and there have been two allocations of allowances to eligible entities in November of 2012 and 2013. The next allocation to covered entities will occur in October of this year.

In September of 2013, ARB issued the first compliance-grade offset credits, marking another important step forward. To date, ARB has approved five offset project protocols and has issued nearly 12 million carbon offset credits.

The amendments related to linkage with Quebec took effect in October of 2013, and linkage between the two programs occurred on January 1st of this year. The two jurisdictions continue to work together in program implementation and monitoring and towards conducting joint auctions.

Finally, the first compliance surrender date for the program will occur on November 1st of this year.

On November 3rd, the first business day after the compliance surrender date, covered entities must surrender compliance instruments, including 2013 vintage allowances and offsets credits equal to 30 percent of their 2013
calendar year covered emissions.

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AIR POLLUTION SPECIALIST WIMBERGER: Staff began the public process for this rulemaking on July 29th by releasing the proposed amendments to the regulation for a 45-day public comment period. The proposed amendments were written in response to Board direction and continued dialogue with stakeholders to provide clarification and targeted updates to facilitate program implementation.

This slide details proposed amendments to the allocation of allowances and covered entities in the Cap and Trade Program. Staff proposes an amendment to the allocation for Metropolitan Water District. Staff proposes a modification to the methodology used for allocation to reflect that Metropolitan Water District supplies 70 percent of its load with electricity from large hydroelectric facilities. This will result in an increase in the allocation for Metropolitan Water District.

The proposed amendments also include a modification to the allocation for the city of Shasta Lake. The new allocation is based on new information that was not available to ARB at the time of the initial rulemaking and allocation determination in 2011. This minor increase in allocation will be provided through
State-owned allowances and will not change the allocation to any other utility. In the future, any such changes to one utility would require a re-apportioning of the total utility allowances among all utilities.

Staff also proposes modifications to the definitions of several products used for allowance allocation to align with the mandatory reporting regulation. This proposed change will align the cap and trade regulation with how producers already quantify production.

The proposed amendments will also include clarifications to the methodology used for the allocation to a legacy contract generator with an industrial counterparty to replace the continuation of allocation until the end of the legacy contract.

The proposed text changes address an inconsistency in the regulation and will harmonize the text with the allocation formula that is already in the regulation.

The final bullet on the slide details a staff proposal to include a compliance obligation for imports of carbon dioxide into California. The proposed compliance obligation for imported carbon dioxide is comparable to the compliance obligation for transportation fuels imported into this state. There is currently no carbon
dioxide imported into California, and no covered entities will be affected by this modification.

AIR POLLUTION SPECIALIST WIMBERGER: The proposed amendments also include clarifications to the regulatory requirements for disclosing corporate association information. Based on Board direction and stakeholder feedback, staff proposes to make explicit that entities only need to disclose those related entities that qualify as indirect corporate associates if those entities are registered in the California Cap and Trade Program or a linked jurisdiction.

The proposed amendments also clarify that when reporting related entities that qualify as direct corporate associates, those related entities would include both those entities that are registered in the California program or a linked jurisdiction and those that are not registered.

Staff has also proposed to extend the time between disclosures for changes to information regarding non-registered direct corporate associates and for changes to information regarding employees with knowledge of an entity's market position from quarterly to annually.

These changes are necessary to improve clarity and address stakeholders concerns regarding the
administrative burden of disclosing corporate
associations, while still providing information to ARB
that is essential to facilitate effective monitoring of
the Cap and Trade Program.

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AIR POLLUTION SPECIALIST WIMBERGER: The proposed
amendments also include targeted clarifications to market
provisions. Staff proposes a clarification to the
regulatory requirements for price reporting of offset
transfers in the Cap and Trade Program.

The proposed clarification would require a price
of zero for any transaction that converts offsets into
compliance instruments. This change will improve clarity
regarding when price reporting is required for transfers
of offsets and will assist in market monitoring.

Staff also proposes clarification to the
application of the holding account to exchange
Clearinghouse accounts. Specifically, staff proposes
modifications to clarify that the holding limit
calculation will not include allowances contained in
exchange clearance holding accounts. This change will
restore the intent of a provision that was inadvertently
removed in a previous regulatory revision.

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AIR POLLUTION SPECIALIST WIMBERGER: Finally,
staff is proposing quantification updates to three of the existing compliance offset protocols. Staff has updated the livestock, ozone depleting substances, and the US forest projects protocols. These protocols are incorporated by reference in the proposed regulation and are being considered for adoption by the Board as part of this rulemaking package.

Even though AB 32 exempts quantification updates from the formal rulemaking process, staff provided detail on the updates in the 45-day formal rulemaking process to ensure a transparent review and comment period for the proposed technical updates.

The proposed modifications will update three offset protocols to reflect the latest science in quantification methods. The updates are technical modifications and do not change the handling or quantification of any existing projects. Rather, the modifications will apply to new offset projects listed under the updated offset protocols.

These updates are required pursuant to Resolution 11-32 in which the Board directed ARB to monitor protocol development and proposed technical updates as needed.

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AIR POLLUTION SPECIALIST WIMBERGER: ARB prepared an environmental analysis for the proposed regulatory
amendments. Prior to adoption of an action for which potentially significant environmental impacts have been identified, ARB's certified regulatory program requires that ARB consider all feasible mitigation measures and alternatives available which could substantially reduce these impacts.

As discussed in the staff report, ARB has concluded that no reasonable alternatives to the amendments would be more effective at carrying out the purpose for which the regulation was created.

The environmental analysis concluded that compliance responses to the proposed amendments will result in this no adverse environmental impacts.

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AIR POLLUTION SPECIALIST WIMBERGER: This next slide outlines the proposed 15-day language pertaining to the disclosure of corporate associations. Staff is proposing additional clarifications on the timing of disclosure requirements for non-registered corporate associations, as well as including an option for covered entities to report a subset of non-registered direct corporate associations that operate in related carbon, fuel, and electricity markets.

The proposed 15-day language reflects the continued dialogue between staff and stakeholders in
working to identify the proper scope of information
required to identify the relationships between entities
and ensure the integrity of the Cap and Trade Program.

Staff also proposes some minor clarification
changes to definitions related to product data and
clarifications to the quantification updates for the three
offset protocols.

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AIR POLLUTION SPECIALIST WIMBERGER: Finally, I
would like to discuss the next systems for the
implementation of the Cap and Trade Program. As mentioned
earlier in this presentation, November 1st of this year
will mark the first annual surrender of compliance
instruments for covered entities.

By this deadline, covered entities must surrender
compliance instruments equal to 30 percent of their 2013
covered emissions, using either vintage 2013 allowances or
offsets up to 8 percent usage limit.

Staff has been working on a rice cultivation
protocol, which we expect to bring to the Board in
December of this year. Staff is also working on an update
to the U.S. Forest Projects Protocol to include Alaska.

And earlier today, ARB and Quebec announced the
first joint auction will be held this November 19th.

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AIR POLLUTION SPECIALIST WIMBERGER: I will now provide a brief update on our linked partner Quebec's cap and trade system.

As the Board will recall, California and Quebec officially linked their Cap and Trade Programs beginning on January 1st of 2014. The Board directed staff to provide updates to changes in the linked programs at least six months prior to any changes taking effect.

To that end, Quebec will be proposing regulatory amendments to harmonize their requirements with the California regulatory amendments adopted in April of this year. This harmonization is expected to have an effective date of January 1st, 2015.

Quebec is also updating their ozone depleting substances offset protocol to include refrigerants similar to California's protocol. Later this fall, Quebec will propose a new rulemaking to further align with today's proposed amendments if approved by the Board. Quebec will also be adding a new offset protocol for mine methane capture that will cover projects in Canada. This protocol is expected to be very similar to California's recently adopted mine methane capture protocol.

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AIR POLLUTION SPECIALIST WIMBERGER: In conclusion, staff recommends Board approval of the
proposed regulation. This includes all written responses to the environmental comments received on the proposed amendments and approval of the final rulemaking package presented before you, which includes the final regulation order.

The Proposed Resolution also directs the Executive Officer to propose 15-day changes as detailed in Attachment B of the Resolution and to finalize the Final Statement of Reasons for this rulemaking and submit the completed regulatory package to the Office of Administrative Law.

Thank you for your consideration. And we would be happy to answer any questions.

CHAIRPERSON NICHOLS: I don't think there are any questions. Obviously, this is a long list very technical changes. But we do have a number of people who wish to testify on some of them. So why don't we go directly to the speakers' list, beginning with Bob Lucas from CCEEB.

MR. LUCAS: Thank you, Chairman and Board members.

My name is Bob Lucas. I'm here today representing the California Council for Environmental and Economic Balance, also known as CCEEB.

Our interest here today is to comment on the corporate association disclosure requirements and to point
out that although we may never get this absolutely perfect
forever, this is a dramatic improvement that we very much
support and appreciate your help, as well as the help of
Edie Chang and her staff in pulling this together in a
very cooperative manner.

So with that, I yield my time. Thank you.

CHAIRPERSON NICHOLS: Thank you very much. This
is one that responded to Board direction and I'm very
pleased that we've been able to make so much progress.

MR. VAN AELSTYN: Bob was too fast.

Members of the Board, my name is Nico Van
Aelstyn. I'm here today on behalf of forestry offset
project developers Blue Source, Finite Carbon and Eko
Asset Management Partners. These three constitute the
majority of the project developers in ARB's forest offset
program and are responsible for the substantial majority,
both by acreage and tons of the currently certified
improved forest management, or IFM, projects and these IFM
projects -- and those IFM projects that are currently in a
certification pipeline.

We appreciate this opportunity to speak here
today in relation to the proposed quantitative methodology
update to the U.S. forest offset protocol. We also take
this opportunity to again thank the ARB staff and the
Board for all the work that has gone into developing the
forest protocol and the success of the program to date.

   Blue Source, Finite, and Eko generally support
the proposed changes in the QM update. However, as
stakeholders that have worked closely with ARB for years
in support of this program, we are very concerned about
the impact that certain proposed changes will have on IFM
projects.

   We also are troubled by the failure, frankly, of
ARB to follow its established process for making changes
to the protocol. A fair and transparent process with
robust public involvement has been the hallmark of ARB's
AB 32 rulemaking to date. The departure from that process
here has deprived stakeholders of any meaningful
involvement on this important update.

   That is why I'm here today. Let me make one
thing very clear. Blue Source, Finite and Eko are not
saying that the changes and the data on which they are
based are necessarily wrong or unacceptable. Indeed, my
clients ultimately may support them.

   What we are saying is that we've not been given
adequate opportunity to review the data, to verify their
accuracy, to determine if they are sufficiently robust to
serve the critical role they serve in the QM, to consider
potential alternative data sets, and to engage with ARB
about all of this.
It is in input by the most directly affected and most experienced stakeholders that has been denied. As a result, there is a major shadow hanging over the QM and, by extension, the program itself.

We, therefore, ask the Board not to move on too discrete aspects of the proposed QM update. These are the qualitative changes that have the potential to have a major impact on the program. They're not quantitative changes.

They are first: The changes to be assessment area data file which are changes in the methodology for calculating common practices and thus report calculated carbon offsets from projects; and second, the associated shift in high versus low site class designations for certain projects.

These critical changes affect components in the establishment of common practice levels for all IFM projects. They involve complex and subjective decisions that go beyond the purely quantitative arena.

This raises another item -- if I may just take a little of Bob's time.

CHAIRPERSON NICHOLS: I'll give you 30 seconds.

MR. VAN AELSTYN: The changes could affect IFM projects in the pipeline and those already certified. That frankly could cause chaos. It's imperative that my
clients investments in these projects that were started based on the current protocol be protected somehow. Not sure how. Better to delay the process all together. Put them off to the upcoming methodology reviews scheduled for the fall.

I have the details here. I can submit the comments here ways in which we believe that the process guidance of ARB's May 2013 process for the review and approval of compliance offset protocols has not been abided by. That requires any changes to a protocol be adopted in the same process as the adoption of the protocol itself. There was robust public involvement on these two particular issues on the original protocol. It's imperative that we get that same kind of stakeholder process in the update that really could effect how these programs and these projects operate.

CHAIRPERSON NICHOLS: We hear you and understand the point. And we will address it before we move forward today. Okay.

MR. VAN AELSTYN: Thank you very much for your time and my little extra.

CHAIRPERSON NICHOLS: We have another representative from Blue Source, Kevin Townsend.

MR. TOWNSEND: Madam Chair and members of the Board, my name is Kevin Townsend. I'm the Chief
Commercial Officer for Blue Source. We're to date the largest contributor of forest carbon offsets to ARB's program.

I really appreciate the opportunity to speak here in relation to the proposed QM to the forest offset protocol. Our organization would like to thank the Air Resources Board and the staff for all the excellent work they've done on the development of the forest protocol over the years.

In general, we strongly support the proposed changes to the QM update. However, there are two important aspects of the update as iterated by Mr. Van Aelstyn that we believe the Board should delay until the upcoming regulator review update after they have been subject to a transparent and participatory stakeholder process.

The two changes are again: One, the changes to the assessment area data file and to the associated shift in high versus low site class designation. These are critical importance and are not nearly quantitative in nature.

And unfortunately, as Mr. Van Aelstyn already discussed, the underlying method by which ARB established these changes has not been provided to the public and therefore is not fully understood by the stakeholder.
community.

So as not to reiterate Mr. Van Aelstyn's comments about process guidance, I would simply like to confirm that we were not aware of what changes were being proposed until after the submission was made to the Board. We were also not provided any of the underlying data until weeks later after we became aware of their existence.

To my knowledge, this has not been made publicly available. Without this data, one is unable to assess what specific changes are actually being made to common practice and site classification. Simply put, some stakeholders have received information that others have not. And most haven't had time to vet the new data to determine if it is sufficiently robust.

It may well be that stakeholders end up agreeing this is the most important data but the public should be provided were an opportunity to evaluate and it and comment on it. That is after all why ARB has this process so these highly technical and very important offset protocols benefit from the input of those with the most experience and expertise in the relevant fields.

We ask that you, the Board, give the stakeholders the opportunity to provide input on these critically important and potentially damaging changes to the update and request that the Board at this time not move forward
with the proposed changes to the assessment area data file
and the site class designation system found on page 109 of
the proposal.

The Board does have the authority to decline to
move forward on these two discrete portions of the
quantification methodology update while approving the
rest, and we strongly encourage you to do so.

Thank you for the opportunity to voice our
concerns here today. I do appreciate your ongoing work.

CHAIRPERSON NICHOLS: Thank you.

Dorothy.

MS. ROTHROCK: Thank you, Mr. Chair and members.

My name is Dorothy Rothrock here with the
California Manufacturers and Technology Association. I'm
actually here representing two different groups. And I
hoped to have two different three-minute periods, but
maybe I'll just take the rest of Bob's time.

CHAIRPERSON NICHOLS: I think it's already been
used.

MS. ROTHROCK: The first group is we've been
coordinating the group of companies that are subject to
corporate disclosures requirements. There was over 800 of
those companies. And we met with ARB leadership and
staff. And we've been very pleased with the amount of
work we've been able to do with them to provide some clear
guidance to get us through the July 31st deadline this last year.

But work is ongoing, and I submitted in written comments a joint proposal for further work on that corporate affiliate issue. We hope to work with staff during the 15-day period to make further improvements to that.

We also want to make you aware that there was more changes that need to be made that can't be made in this 45-day package. Those include the regulatory investigation attestation piece, as well as the outside counsel disclosure requirements. So work is ongoing, but we are very pleased to date with staff. Thank you for that.

I'm also here on behalf of the AB 32 Implementation Group to describe some of our disappointment about some of the things that are not covered in the 45-day package that we think need to be addressed before we enter into the major expansion of the program that starts in 2015.

We are also another year closer to the third compliance period in cap and trade and the potential reduction in industry assistance that will happen in that period. So we think it's important to deal with some issues soon as we're entering into the next phase here.
The first item you're aware of was a report done by the Market Simulation Group where they identified some very significant risk, not insignificant risks, of very high prices in the market under some scenarios. And we suggest that the ARB host a workshop or some kind of public meeting to discuss that report and kick around, debate some of the options for addressing that. There are many different ways it could be addressed, and we think it's important to have the debate on that and get it resolved prior to moving into 2015 or much further than that.

A second item is related to that. And that is the holding limits requirement, particularly how the holding limit impacts the largest compliance entities. It also -- the holding limit at this point we believe reduces liquidity in the market. I believe it's been mentioned also in the market simulation group report. This is also important to be addressed very soon.

And finally, related to the industry assistance factor, a few years ago, ARB engaged Berkeley researchers and others to study the leakage risk issues for industry to inform how you will go forward in the third compliance period for each sector. So the third compliance period starts the beginning of 2018. So the report should have been done by now. It was started a few years ago. But
now the Scoping Plan updates says we won't see that leakage research until 2016. That's a few years before the third compliance period.

We think this is all becoming a very short time for industry planning purposes, and we need -- and the need for them to purchase allowance and plan what their expenses are going to be in the future. We would really like to Board to consider keeping the current industry assistance levels through 2020, or at least we'd like a briefing very soon on the status of that research and when it could be completed perhaps prior to 2016.

Thank you very much for the extra time.

CHAIRPERSON NICHOLS: Thank you.

Steve Arita.

MR. ARITA: Good afternoon, Madam Chairman, members of the Board.

My name is Steven Arita with Chevron Corporation. I'd just like to start by saying on behalf of Chevron, we certainly appreciate all of the work and time that Ms. Chang and her staff have done on working with us in particular on the issue of the disclosure of associated entities.

Madam Chair, as your staff knows, this is a very important issue to us. So we are very much encouraged and welcome the ongoing discussions with staff. And in
particular, we support the recommended Resolution and working with staff during the 15-day comment period.

I'd also like to highlight that as mentioned by Dorothy, we also have included in our comments the joint industry proposal and the recommendations in there. So we certainly look forward to working with staff on all of those recommendations. And we are hopeful and very encouraged that I think we can reach some agreement on the revisions that we think are necessary during the 15-day comment period.

And I guess just in closing, I think one particular point that we would like to highlight is really the importance of the ability to use a list of affiliates submitted by other agencies, such as the SEC, to comply with the unregistered affiliate disclosure requirements that are listed in there. That's right now currently under the guidance. So we certainly would like to see that included in the 15-day rule revisions.

With that, again, appreciate all of the work that's been gone into this and look forward to working with staff.

CHAIRPERSON NICHOLS: Thank you.

Mr. Harris.

Mr. HARRIS: Thank you very much.

My name is Frank Harris. I represent Southern

J&K COURT REPORTING, LLC (916)476-3171
California Edison. I appreciate the opportunity to address the Board today.

Edison submitted written comments I'd like to focus just on a few elements related to corporate disclosure requirements.

First, as others have indicated, I wanted to thank staff for their work. As we've been working to implement this regulation, we've gained a lot of valuable experience. And we've seen how various components of the rule actually work. We've had a good number of questions. We've reached out the staff. We've been working with them to better understand these elements of the rule.

I want to thank them for their efforts working with our staff to better understand this corporate disclosure requirement element under the rule. But as we've been working on this implementation, we've actually identified some changes that we think will further improve the operability of the rule, while maintaining reasonable corporate disclosure interest of the state.

First, we'd like the ARB to modify its disclosure requirement for corporate associations not registered in this program. We noted in the presentation that indirect corporate affiliates that are not registered in the program, that disclosure requirement has been modified. We would like to see that modification applied to the
direct corporate affiliates as well.

As Mr. Arita mentioned, we would like to see the rule include an acceptance of reports that we currently submit to other agencies, such as the SEC or CFTC, something of this nature. As an example, we report our affiliates to the SEC under our 10k filing. I believe the SEC filing provides information sufficient to satisfy the monitoring interest of the state. I think that would further improve the operability and certainly improve the administrative challenges that we're facing here.

Further, I think ARB should remove the disclosure requirement regarding market investigations of corporate associations. Those corporate associations that are registered with this program already submit that information directly. And I just question the relevance of investigation of information regarding affiliates that aren't registered with the program. Now, on this particular issue, it goes beyond administrative burden. We're finding ourselves pushing up against affiliate compliance rules, other restrictions, such as those imposed on us by the FERC.

Key to these comments is our interest to further improve the operability of the program and avoid unintended enforcement challenges. It is a very complicated regulation. As we continue to learn from our
shared experience, I expect that we will see the
opportunity for further changes and modifications as we go
on. Thank you again for your time.

CHAIRPERSON NICHOLS: Okay. Michael Wang and
then Tony Brunello.

MR. WANG: Good afternoon, Madam Chair, members
of the Board.

Mark Wang with Western States Petroleum
Association. We've submitted comments in written form to
you all, and so I will only hit some of the high points.

First, I want to thank the staff for the efforts
they've done in communicating with all of us. And
sometimes communication with us is very difficult. So we
appreciate the efforts that they expended.

Also, it seems from the staff presentation at
least some of our issues that we raised in a letter have
been addressed. I'll only discuss some of the ones that
remain unresolved.

As staff is aware, WSPA members have participated
in a joint industry group seeking clear compliance pathway
to satisfy the corporate associations and disclosure
requirements required in the cap and trade regulation.

You have heard of this already.

I want to stress that a fruitful discussion has
taken place between staff and industry and stakeholders
over the past few weeks that has gone not only unnoticed, but very much appreciated. However, those discussions have identified some issues that remain unresolved.

WSPA supports the joint industry proposal for changes. In particular, WSPA associates ARB's clarification in Attachment B to I think the proposed Resolution 1431 that consistent with the July 29th guidance disclosure by registrants of their form SEC 10k list of subsidiaries will comply with the disclosure requirements. WSPA joins others in noting that there are additional changes that need to be made that are beyond the scope of perhaps the 15-day comment period that is upcoming.

We know, for example, regulatory investigation disclosure and attestation requirements included in section 95912 must be addressed as part of a subsequent 45-day comment period that would be I expect started in 2015.

We ask ARB's collaboration with the joint interest group toward a workable long-term solution on this issue as shown in both a 15-day package that will be proposed herein today and in a 45-day package subsequent.

Thank you.

CHAIRPERSON NICHOLS: Great. Thanks.

Mr. Brunello.
MR. BRUNELLO: Hi. I'm Tony Brunello with California Strategies representing CE2 Carbon Capital. Thanks for the time to speak today. I think first starting off is want to commend the staff and everyone who's helped put together the protocols at this time, which we think have been air tight, produced well, and looked at the process. Commend the staff in that process.

Second is the time line that was presented earlier, November 3rd, when capped entities have to present their allowances or offsets to ARB.

One thing that is significantly disrupting the offset market at the moment is the investigation into the clean harbors issue. And so we assume that that was going to be about 30 days to determine. It's about four months since that's occurred. And what we're asking is to see if there can be more transparency and at least some information on where that's going to go, because it does have significant impacts on the offset market. So I just wanted to highlight that. I know we haven't talked about it very much today. I know there's reasons for that. But I do think that some signals about where that's headed is something that would be very helpful for the offset market at this time. That's it. Thank you.

CHAIRPERSON NICHOLS: Okay. Mr. Larrea and then
Paul Mason.

Thank you, Board, for allowing me to speak. John Larrea with the California League of Food Processors.

First, I'd like to echo support for both Bob Lucas and Dorothy Rothrock's comments associated with the corporate disclosure. We have been very pleased with the staff's effort on this and the Board's effort and attention to the detail on that.

Also as members of the AB 32 implementation group, we are fully in support of the comments that the group put in as well.

And I'd just like to personally thank Jason and his team in their effort on the corporate disclosure. We are not -- most of my members, although some are internationally traded and publicly traded, many of them are family owned or cooperatives or small companies with emissions totaling less than 40,000 tons per year. And so the less onerous the compliance obligation and the reporting obligation is on them, the better it is. And it makes a little more valuable in terms of the allowances they have and the money they have to expend per ton of emissions in order to meet the compliance obligations that most huge corporations just can take into stride with their organizations. So thank you again.

CHAIRPERSON NICHOLS: Okay.
MR. MASON: Good afternoon, Chairman Nichols, members of the Board.

Paul Mason, Pacific Forest Trust.

I can be fairly brief, because I'm largely going to follow the same list of concerns that were raised earlier by Nico and Kevin about the changes to those couple of pieces of the forest protocol.

And our technical staff has looked at them, has a couple of questions. I do feel like there could be more stakeholder discussion around those. And it might be less of an issue if there wasn't also this sort of inherent market instability and uncertainty that Tony Brunello was just referencing as well that I think when you start having some of these changes happening where the very offset developers who are going to be most likely to be bringing these projects to market have concerns about the changes in how it's going to effect to quantification methodologies, that trickles out to land owners and makes people further reluctant to engage in offset development.

So to the extent that it's actually possible to take an extra couple of months to have a little more conversation about this, if that's feasible within this process, I think that would be a great solution. Thank you.

CHAIRPERSON NICHOLS: All right. Thank you.
That concludes the public testimony. So I will close the record at this point. However, the record will be reopened when the 15-day notice of public availability is issued. When that happens, there will be a 15-day comment period during which the public may submit written comments on the proposed changes which will then be considered and responded to in the Final Statement of Reasons for the regulation.

However, before we actually act on this set of proposals, there have been a couple of fairly substantial comments made here particularly the ones about the process and the desirability of moving forward on some changes to the forestry protocol. So I'd like to address those. And then I'm also going to ask -- because there are several comments that refer to sort of a longstanding ongoing process to deal with the reporting requirements, what the process on that looks like going forward.

But let's start with the forestry issue.

ISD CHIEF SAHOTA: I'd like to start by saying that the quantification methods that are being proposed in front of the Board today are exempt from the APA process under AB 32.

Regardless of that, staff felt it was important to make sure that we did those updates in the same manner that we could do any rulemaking that we bring in front of
the Board. To that effort, we had two workshops earlier this year, March and June. We had slides that talked about updates to the common practice using 2012 data. Those slides are still available on our website. Those workshops were list served ahead of schedule almost ten the twelve days ahead of the workshops. We had two informal comment periods that followed those workshops. And that was all prior to the release of the 45-day formal rulemaking package.

When we released the formal 45-day rulemaking package, that again is list served to all of the stakeholders that this is now available. As part of that package, we have to submit the underlying data files to BARCU to make available for the public for review because it's underlying materials to the changes that are being proposed here.

Staff also posted those files on the program web page. So if you didn't want to request those from BARCU, you could come directly to our main web page and get access to those files.

Staff has held many informal meetings with stakeholders on this, and we feel like we absolutely adhere to the APA process, even though these parts of the protocols are exempt from the APA process.

The folks that are concerned about changes to the
protocols and impacting projects, these would not impact projects that are in place today. It would impact new projects. There is an anticipated start date for these amendments to take place on January 1, 2015. If the Board endorsed the changes today and we successfully provided everything to OAL this year, we would expect these amendments to take effect on January 1, 2015. So projects that are thinking about coming into the program that feel like they would somehow benefit under the existing protocol have three months to submit the listing documents for those projects and get in under the existing protocol.

And I'd be happy to answer any additional questions.

CHAIRPERSON NICHOLS: Well, it's hard to see what the harm is of proceeding, but obviously these folks are concerned and upset. So I guess I'm trying to figure out whether there is anything that could be done to make them less concerned and upset, and if so, what the impact of that would be on the program overall.

ISD CHIEF SAHOTA: So the changes are driven by data. What we're seeing is that based on new data provided by the U.S. Forest Service, that what we thought were common practice, which may have been at a lower level in the existing protocol, common practice actually is resulting in a higher carbon stock.
So if your base line is higher and you implement a project, you will get a net delta that is slightly smaller under the new proposed protocol than the existing protocol. So you would see a deficit in your credits under the new protocol, but it's all based on updated data through 2012 that we received from the U.S. Forest Service. We have Board direction from Resolution 11-32 to make sure that we looked at the latest science. We looked at the latest data and we provided timely updates to the protocols. So staff was responding to that direction in proposing these amendments.

CHAIRPERSON NICHOLS: I appreciate that and I have no reason to question whether you followed both the regulation and beyond the regulations in terms of openness and transparency. So let me put the question another way. If people are thinking that somehow delaying this action will allow for more projects to be done that will get them more credits than they would get with using the updated science, I'm surprised that we're not hearing from advocacy groups that generally are very concerned about forestry offsets and about forest practices that they are supporting these changes that we're making. Have we had indications that people who are promoting better forestry practices are aware of and in support of what the changes are that we're proposing?
ISD CHIEF SAHOTA: We certainly had in our technical meetings and those workshops folks that may not always be supportive of the offset program.

CHAIRPERSON NICHOLS: In general.

ISD CHIEF SAHOTA: In general. What is noticeable here is that none of them submitted comments that would say they oppose the changes. Usually, their comments are we oppose the changes. And noticeably, all those comments are missing from that group of folks that we generally hear from. So I guess you could take that no notice of -- that's a double negative -- no notice of being unsupportive is in some way a condonation of the changes that are being proposed.

CHAIRPERSON NICHOLS: I understand. This is just -- it's coming up rather late in the day. I had not heard previous to today that anyone was complaining about the process. So it's a little bit concerning when this comes up at the last minute. But I understand we just have to decide what we're going to do.

So what about the issue of the ongoing discussions about simplifying the reporting requirements? I understand you've made substantial movement in that direction. But there are clearly groups that just want to keep working on this problem more that aren't satisfied that we've gone far enough.
MANAGER GRAY: Madam Chair, thank you.

I think you heard from folks that discussion is ongoing. The 15-day concepts that we included into the resolution for your consideration reflect that discussion is ongoing. So I appreciate the commentary saying that same thing.

What we're intending to do is make sure that we can provide that flexibility while still being able to gather the information we need for market monitoring purposes.

The main concepts that were raised in the joint industry proposal that you heard about today, we're working to see to the extent we can include those and still get what staff thinks we need for monitoring. I think we're making really good progress on those discussions on those concepts. That would include providing an option for flexibility on disclosing those unregistered direct corporate associates who are in related market.

This would be a narrowing of the scope of that type of disclosure. And also working with folks to see what types of information documentation. You've heard the SEC Form 10k filings can be submitted as well. So we're working with stakeholders and will continue to do that for 15-day language. So I think that we're working towards a
good end with the same goal in mind.

There are some elements in the joint industry proposal that were beyond the scope of this 45-day rulemaking. You heard folks mention that, too. I think those discussions will be going on well. Not for this 15-day package, but we're still discussing with people.

CHAIRPERSON NICHOLS: Okay. Thank you.

Board members, any other questions.

BOARD MEMBER ROBERTS: Quick question. It was referred to it was something I remember distinctly we talked about last year when we shifted the compliance period. The Berkeley study on leakage which was supposed to give us better data -- I don't know where that is. There was a question raised in testimony for today. I thought we were going to be seeing something. But maybe I missed it.

MANAGER COOMBS: I can provide an update about that.

I believe the contract was put on with U.C. Berkeley. We finally got it through January of last year. It's taken a significant amount of time for the researchers to actually get approval to access the US Census data they were required to do the research. There are a number of steps that they have to go to to get approval to access those data.
As of June, all the researchers have access to the data and are working on compiling those data so they can do the analysis necessary to update the leakage assistance factors.

BOARD MEMBER ROBERTS: When will we have something?

MANAGER COOMBS: We expect to have something by the middle of next year. So approximately June of 2015.

BOARD MEMBER ROBERTS: That's almost two years from when we said we were going to do the study.

MANAGER COOMBS: That is the reason I believe the Board approved the extension of the 100 percent assistance factor through the second compliance period so that industry would have that certainty.

CHAIRPERSON NICHOLS: We've already extended the industry assistance factor. I think industry would like it if we extended it all the way to 2020. But I think we have not thought that that needed to happen until we had the results of this study.

BOARD MEMBER ROBERTS: I guess I had expectations we would see it at an earlier date.

CHAIRPERSON NICHOLS: No. It's taken longer than I think anybody had thought it would when we first started.

Any other questions, comments from Board members?
Ms. Berg.

BOARD MEMBER BERG: Thank you, Chairman.

And I'd like to also echo some of the concerns that have been raised and that is some of these ongoing things that we keep hearing about. We talked a little bit about -- I think the Chairman and I brought up the holding limits last time. And I know we have two studies out. And I had asked for some data, but I'm not finding it here in my Board information regarding some of the holding limit issues. And so that seems to be still on the table.

And as we are coming up to the next compliance period and it seems that cap and trade will go into another phase, which will be less industry assistance. And so it seems to me that it might be appropriate for us to get an update of some sort as to how we see cap and trade evolving and the impacts of the new changes that are going to -- that are a natural evolution to the process and things like the holding limits that aren't -- that hasn't been resolved yet.

We also have some benchmarking issues that have not been resolved yet. So it is an ongoing program that no question we've got some things we're still learning. But you have some data coming in, my understanding is, and how are we going to get that back to the Board. Because I feel like either I'm not following up enough or I'm not
getting the data. So could we talk a little bit about that? It seems like thing are going to start moving quickly here and how are we going to keep informed.

CHAIRPERSON NICHOLS: Ms. Chang.

DEPUTY EXECUTIVE OFFICER CHANG: I think we can definitely come back to the Board for an update. I think you are right, there are a number of different things that are happening within the Cap and Trade Program. And we can definitely give the Board an update. If there is some information you're looking for, we can also talk with you directly about the kind of information on the holding limits that you are looking for.

CHAIRPERSON NICHOLS: In terms of packages of proposals for amendments though, these sort of have to be grouped together and they have to come forward. It's a frustrating business because you get a package and it's like a piece of swiss cheese. There is a lot of holes in it. But on the other hand, if you don't do something in the timely fashion, then you're delaying action on things where you are ready to move and the stakeholders are expecting to see the changes made.

So I think we're still trying to come up with a kind of an orderly process for doing all of that on a regular basis. I expect that we're going to be seeing another round of proposed amendments coming forward in the
reasonably near future though.

DEPUTY EXECUTIVE OFFICER CHANG: As we mentioned in the staff presentation, the next time that we will be talking about the cap and trade regulation is actually at a December Board meeting. We're going to be considering two modifications to the forestry protocol and a new offset protocol, the rice protocol. We're going to be seeing those this year.

As of now, we don't have scheduled to have a cap and trade modification next year. However, as you said, I think as we learn more things as we -- there is ongoing discussions about border carbon adjustments, there are ongoing discussion about many, many implementation issues, and so although we don't have something scheduled, you'll notice if you look at the Resolution, we've modified the cap and trade regulation every single year. So we've had amendments every single year to address these things that we're finding as we go through implementation.

So I share the Chairman's observation that I think we're still working out sort of the best way for us. It's a very complicated regulation and the best way for us to sort of stage and batch the modifications.

BOARD MEMBER BERG: I would agree it is extremely complicated. I think my frustration is that I get the impression at Board meetings we're going to follow up on
some additional issues. And then it comes back to the Board meeting and we: A, haven't followed up; and B, I feel like I need to be more connected so either I'm can bug you more so that we do follow up, or I can understand as to why staff has made a conclusion. And therefore, I need to be brought up to date and either understand that conclusion so I move off of the particular issues that I have been following.

CHAIRPERSON NICHOLS: I think that's a very reasonable request. I expect the staff will follow up and schedule a briefing with you, at least individually on the specific items that you're particularly following.

This comment about December and the forestry thing though just makes me wonder what harm would be done if we kicked over these two items to December, other than the fact it probably isn't necessary.

But if, on the other hand, would there be any damage to the program if we waited and did those two items on page 109 of the proposal in December when we do the other forestry protocol changes.

ISD CHIEF SAHOTA: We could certainly do a 15-day change in the current proposal to remove those items now and bring those back as part of the December rulemaking package to look at additional update to the protocol to add Alaska. These are quantification updates driven by
data. It would give us more time to have that discussion with stakeholders. At this moment, I'm not certain if we would see a different outcome because it is quantification.

CHAIRPERSON NICHOLS: I tend to agree with you that they were asleep at the switch and we're right. But never the less, it's probably better to err on the side of giving them more time.

BOARD MEMBER RIORDAN: I think there is a point at which they're going to feel more comfortable and then the Board will feel more comfortable moving forward. I would agree with that.

ISD CHIEF SAHOTA: We can certainly do that. There is no reason those two have to go -- those two items need to go forward with this package today.

CHAIRPERSON NICHOLS: I would welcome a motion to approve the staff proposal with the amendment that would take out --

BOARD MEMBER RIORDAN: So moved, Madam Chair.

BOARD MEMBER ROBERTS: Second.

CHAIRPERSON NICHOLS: Second from Supervisor Roberts.

Do we have any further discussion on this item? All right. I will ask for a vote.

All in favor, please say aye.
(Unanimouse vote)


We'll move into the cap and trade item, which is the mandatory reporting regulation that spells out the requirements and the methods for reporting greenhouse gas emissions data.

This obviously represents the foundation of the Cap and Trade Program and provides emissions data that we use in various other climate change programs as well. It's a really critical piece of our overall AB 32 regulatory program.

The amendments that we're seeing today again are technical revisions intended to clarify the existing regulation with respect to how entities report their data and to integrate the reporting requirements under the cost of implementation fee regulation into the mandatory reporting regulation to allow for more streamlined reporting under these two programs.

Dr. Ayala.

ACTING EXECUTIVE OFFICER AYALA: Thank you.

One of the requirements of AB 32 is mandatory reporting of greenhouse gas emissions data.

In 2007, the Board approved the regulation for establishing the nation's first mandatory reporting rule

The Board approved amendments to the regulation in 2010 to harmonize it with EPA's new mandatory greenhouse gas reporting rule and to support the newly approved cap and trade regulation. Further, amendments were approved by the Board in 2012 and 2013.

Today, staff is proposing revisions to align the reporting requirements to implement the Cap and Trade Program. These modifications and clarifications, including those to integrate the cost of implementation fee regulation reporting requirements into mandatory reporting, will ensure accurate and consistent data are collected to fully support all of ARB's climate programs.

Patrick Gaffney from the Climate Change Program will provide the staff presentation.

(Thereupon an overhead presentation was presented as follows.)

STAFF AIR POLLUTION SPECIALIST GAFFNEY: Good afternoon, Chairman Nichols and members of the Board.

This Board Item is to discuss staff's proposed amendments to the regulation for the mandatory reporting of greenhouse gas emissions.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: The amendments we are proposing today provide targeted updates necessary to ensure that reported data are accurate, complete, and fully support ARB's climate programs. The proposed revisions were developed in close coordination with affected stakeholders.

For today's presentation, we will provide some background on the mandatory reporting program, summarize the proposed amendments, and describe areas where staff are proposing 15-day changes based on stakeholder input.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: The regulation before you today is the sixth revision to the greenhouse gas mandatory reporting regulation, which was initially adopted by the Board in 2007.

Each year, nearly 750 entities report data under the Greenhouse Gas Mandatory Reporting Program, which supports multiple climate change programs at the ARB. Specifically, today's amendments are to align with both cap and trade and the cost of implementation program needs.

The reporting entities subject to the regulation fall into three main categories. First, we have stationary source facilities with greenhouse gas emissions that are greater than 10,000 metric tons of carbon dioxide.
equivalent or CO2e per year.

Next, electricity importers and retail providers must report under the requirements of the regulation. There is no minimum reporting threshold for these entities.

Then, in 2010, we included reporting requirements for fuel suppliers, which includes transportation fuel and natural gas suppliers with emissions over 10,000 metric tons of CO2e.

Finally, to ensure the quality and accuracy of submitted data, all greenhouse gas reporting entities subject to the Cap and Trade Program are required to have their data fully evaluated by an ARB accredited independent third-party verification body.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: As I mentioned previously, these targeted amendments are proposed to ensure complete and accurate data used to support many ARB climate programs.

The first set of updates are proposed to align the mandatory reporting requirements with the cap and trade regulation, for which amendments just became effective on July 1st, 2014. Primarily, these revisions focus on refinery product data reporting requirements.

Product data are the basis of allocation in the Cap and
Trade Program.

Next, we have proposed updates to integrate the cost of implementation fee regulation data reporting requirements into the mandatory reporting regulation. As you will hear in the next item, this will streamline reporting requirements under the two programs.

We are also proposing targeted updates for the electric power entity sector, technical clarification for the oil and gas production sector and for fuel suppliers, as well as the addition of reporting needed to quantify natural gas transmission and distribution leaks.

I will now walk through each set of updates in a little more detail.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: The mandatory reporting regulation provides critical emissions, product, and other data needed for cap and trade implementation.

Therefore, with the July 2014 cap and trade regulation updates, we will need to make conforming updates to the reporting regulation for consistency and to implement the policies under cap and trade. Specifically, the updates to align with cap and trade regulation are required to support the calculation of compliance obligations and allowance allocations.
Because of the significance of product data for allocation under the cap and trade program, we clarified the third party verification procedures for the product data.

Staff also made some updates to definitions in the mandatory reporting regulation to harmonize with newly effective cap and trade regulation.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: Staff released guidance earlier this year to provide regulatory clarifications related to product data reporting for refineries and hydrogen producers. This guidance was developed with significant input from these sectors. The proposed amendments serve to codify the clarification in the published guidance into the regulation so that the regulatory provisions are clearer for future reporting.

For the refinery complexity weighted barrel, or CWB, reporting requirements, we have proposed a correction to one equation and an update to another, to provide clarity.

We have also proposed revisions for reporting primary refinery products so that refineries only report product actually produced at their facilities, as opposed to product that was produced elsewhere and purchased.

The revisions also require reporting of product
produced during the year of reporting. This will allow for the cap and trade staff to compare the primary refinery product, also called a simple barrel allocation methodology, to the complexity weighted barrel allocation methodology.

These changes are in response to direction from the Board to assess the difference in allocation between the two methodologies.

For hydrogen producers, we have proposed modification to definitions to clarify how they report on purpose hydrogen and byproduct hydrogen.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY:

Currently, there are overlapping data reporting requirements between the mandatory reporting and cost of implementation fees regulations.

The proposed amendments will align the reporting requirements in the cost of implementation fee regulation with the mandatory reporting regulation. This will provide more streamlined and accurate data collection and will reduce the reporting burden on regulated entities.

By incorporating the cost of implementation fee regulation data reporting into the reporting regulation, the fees data will also be subject to third party verification requirements. This will provide more
accurate data for the cost of the implementation fee
program and help minimize follow-up with regulated
entities.

In general, the proposed updates do not impose
any new data reporting requirements, but just streamline
the overall reporting process. After the mandatory
reporting Board Item, ARB staff will present specific fee
regulation amendments.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: Staff
has proposed several updates to clarify reporting
requirements for petroleum and natural gas systems and to
correct small errors or typos.

Staff has added an exemption for small volume,
less than 50 standard cubic feet equipment blow downs, to
be consistent with U.S. EPA reporting requirements.

We have also added a requirement to report
emissions associated with compressor start-ups, which only
affects a small number of reporters.

Next, staff is including provisions that would
allow on-shore production facilities to voluntarily report
enhanced oil recovery, or EOR, steam volumes generated
during renewable -- using renewable energy sources. Staff
is aware that several California enhanced oil recovery, or
EOR, production fields use solar thermal heat to produce
EOR steam. This voluntary reporting provision was added at the request of the sector to enable annual tracking of any potential fossil fuel displacement.

In addition, staff is proposing modifications to clarify existing petroleum and natural gas product data reporting requirements. The updates specify acceptable methods for reporting, when and how methods can be changed, and clarifications regarding the reporting of natural gas liquids.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: For fuel suppliers, we are clarifying the reporting requirements for enterers of imported biofuels and for in-state biofuel production facilities to specify that only the quantity of fuel delivered outside of the bulk transfer system is reportable.

Also, staff added renewable diesel fuel as a reportable biofuel to align with revisions made to the cap and trade regulation.

In addition, we made minor changes to clarify that only emissions from liquefied petroleum gas products produced on site and sold or delivered in California must be reported.

Lastly, minor revisions were made to ensure that natural gas suppliers report biomethane deliveries.
consistently. None of these changes impose new reporting requirements.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: We are proposing a few changes for electric power entities. In the proposed amendments, staff has included revisions to account for transmission line loss associated with specified imported electricity.

Staff has been working with stakeholders on this requirement, and we expect there to be further clarification to this language in a 15-day proposal based on their feedback.

Next, staff clarified the requirements for retaining hourly meter generation data. When an entity schedules power from an intermittent renewable resource, such as wind or solar, it is not guaranteed that the amount of scheduled power will actually be generated from that resource, which is why metered data information is important.

Comparing scheduled generation with metered generation for these types of resources ensures that reporters are accurately reporting specified imported power. Staff has already established this policy and communicated hourly metered generation requirements to stakeholders last year. The requirement is being directly
incorporated into the regulation to make it clearer.

Staff has also worked with stakeholders to exempt specific types of renewable resources from this requirement, such as nuclear. Staff continues to work with stakeholders to tighten up this regulatory language, and we expect minor clarifications to this section in the 15-day changes based on that collaboration.

And finally, staff included changes that would require publicly-owned utilities and co-ops to report information related to their sales into the California independent system operator or CISO market. These data are needed to under the Cap and Trade Program to ensure these entities are not using freely allocated allowances to meet the compliance obligation associated with those sales.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: In the proposed 45-day amendments, staff clarified which data sources are used to develop ARB's specified source emission factors for imported power. Staff is refining these requirements and will propose additional 15-day changes in this area.

Staff proposes to rely on U.S. EPA data to calculate the emission factors to ensure consistency with the 111(d) federal greenhouse gas powerplant reduction
requirements.

Previously, the mandatory reporting regulation relied on fuel use data reported to the Energy Information Administration, or EIA. However, in recent years, U.S. EPA data have become available. And for the 2013 reporting year, we revised the specified source emission factors to utilize available U.S. EPA data as required from the current regulation.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: Sources of fugitive methane emissions are of growing interest, particularly since it is a short-lived climate pollutant and reductions could have near-term impacts on climate effects.

Based on ARB's survey conducted in 2009, meter leaks and dig ins that breached gas pipelines resulted in emissions of nearly three-quarters of a million metric tons of CO2e from these methane or natural gas leaks. Because of the potential magnitude of these sources, we are proposing collection of methane leak data associated with natural gas transmission and distribution activities.

In general, this data is already being collected by the affected natural gas companies. The information will support a more accurate estimate of natural gas transmission and distribution emissions, which is needed
for the statewide greenhouse gas inventory development and regulatory analysis.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: In the amendments, staff propose changes to further strengthen our already rigorous conflict of interest requirements to ensure that the relationship between reporters and verifiers remains impartial and unbiased.

In addition, staff have included verification requirements related to conformance in the regulation to ensure that data reported and utilized by the cost of implementation fee program for invoicing and the Cap and Trade Program for allocation are accurate and complete.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: Staff is anticipating a few targeted 15-day revisions, and we will be working very closely with stakeholders to craft the final language. We will be further clarifying which data staff will use to calculate the electricity specified source emission factors. We will propose to rely on U.S. EPA data. But in limited cases when U.S. EPA data is not available, staff would rely on EIA information for fuel use data or GHG emissions. We will also propose to use EIA data for net generation, as this information is not available through U.S. EPA.
In addition, we are proposing further updates to the transmission loss factor. In addition, we will also be proposing some clarifications for oil and gas production facilities, refineries, and hydrogen producers.

We intend to release the notice of the proposed 15-day changes as soon as possible with the intention that all revisions presented to you today, if approved will be effective January 1st, 2015, as reporting is done on a calendar year basis.

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STAFF AIR POLLUTION SPECIALIST GAFFNEY: And finally, staff recommends the approval of the proposed amendments to the regulation for the mandatory reporting of greenhouse gas emissions, including the 15-day changes we have described today. Proposed 15-day changes will be released for public notice and comment pursuant to the Administrative Procedures Act.

Thank you for your time.

CHAIRPERSON NICHOLS: Thank you.

We have a list of witnesses that is now being projected up on the wall. Let's start with Nico Van Aelstyn in a repeat appearance.

MR. VAN AELSTYN: Repeat appearance. I can't borrow time from anybody.

Very quickly, I'm Nico Van Aelstyn. I speak
today now on behalf of Kimberly-Clark Corporation.

Thank you for this opportunity to speak directly with you on a matter that stands to dramatically effect the competitiveness of KC's Fullerton facility. You may recall hearing from Dell Majure, KC's global technical leader on air issues, at April's last Board meeting.

My comments today address the proposed amendments to the required emission reporting regulations now before the Board, but they are continuation of KC's comments in April.

Before turning to those comments, please allow me to again make very clear that KC supports AB 32 and its objectives. As a company, Kimberly-Clark has invested heavily in California and globally to improve energy efficiency and reduce carbon intensity and has already exceeded its 2015 enterprise-wise GHG reduction target and is on track to almost double, while growing the business.

However, while KC supports the objectives of AB 32, we have very serious objections to the emission benchmark for the tissue industry sector in the cap and trade regulation.

These concerns compel us to object to the proposed modifications to the mandatory reporting rules, specifically Sections 95102(b)(10), (37), (45), (75), and (101), which are the new definitions of bathroom, facial,
delicate task, paper towel, and tissue produced, adjusted by absorbancy capacity, the key issue. And also Section 95119(d) which regulates reporting of production data by the tissue manufacturers.

These changes appear to be intended to bring the MRR in line with the new benchmarks for the tissue sector that were adopted in April. As KC noted in its comments during that rulemaking process, that new tissue benchmark is fundamentally flawed. It measures the functionality of bathroom tissue solely by its water absorbent capacity, even though ARB has no scientific basis to do so.

Further, the new tissue benchmark segregates all tissue products into sub-categories -- the four I mentioned -- and assigned the discrete benchmark to each, despite the fact that ARB had no data on which to base those benchmarks.

The proposed changes to the MRR would incorporate these same errors into the parts of the MRR that apply to the tissue manufacturing sector. As noted, ARB has no scientific basis for adjusting the tissue benchmark to reflect the water absorbancy of bath tissue, a change that dramatic favors technology used by one market participant in the tissue sector at the expense of the other.

And ARB still has no scientific basis for now introducing the concept of water absorbancy into the MRR.
In addition, the fact that ARB is now five months later proposing to gather data about discrete sub-categories just demonstrates that it did not have the necessary data when it modified the tissue benchmark in April.

These proposed modifications to the MRR would perpetuate the deeply flawed tissue benchmark and further entrench an unfair and scientifically untenable regulation.

KC therefore asks the Board not to move on the specific changes and to consider directing staff to address the tissue benchmark in the cap and trade regulation.

Thank you very much for your time.

CHAIRPERSON NICHOLS: Mr. Wang, followed by Bob Lucas.

MR. WANG: I'm still Mike Wang. I'm still with the Western States Petroleum Association.

We submitted written comments to you all. And as is normally the case with the staff's presentation, some revisions have been made. And we certainly appreciate that.

I speak to you on two overarching issues: One, timing of implementation and the need for companies to adequately implement changes. Any amendments related to the implementation or effective date of new regulations
covering data collection, calculation, process for this regulation as well as all the others need to be attached to some feasible implementation schedule.

For example, data collected in 2015, according to presumably a new regulation, should be -- is required to be submitted to the ARB in the subsequent years.

However, there is no explicit allowance for an implementation period in 2015 while those data and procedures are being implemented. So we ask that some explicit definition be made so that it's clear that data collected in 2015 effects -- the rule that's effective January 2015 effects data collected in 2015, but there is some implementation period that allows companies to implement appropriately.

Similarly, we want to make sure data collected in 2014 that is submitted in 2015 does not fall under those new regulations. That would make a regulation retroactive. That's certainly not the intent of the Board.

Those are two clarifications that we think are very, very important that need to be made, especially with respect to the 2014 data submitted in 2015.

Secondly, with respect to process, there are some process improvements that I've talked with staff and I think we're in pretty good consensus that we need a better
interaction amongst staff. There have been a series of what we will consider relatively short fused last-minute changes that have been proposed that we think need additional work. The staff has made some suggestions as part of the resolution. We'd like to make it very clear that should there not be enough time to work within the 15-day package, that that issue might be deferred for the future. Again, we're talking about temperature correction.

Finally, I'd refer to the Board our letter on this issue. On page three and four, we made a specific request relative to reporting primary refinery products. Want to make clear right now companies are obligated to report under CWB. The new regulation proposed would add a new addition to primary refinery product. And as you heard the staff say in response to a Board Resolution trying to explore the difference between CWB and the single barrel. What we would like to do is pull that requirement out of the regulation. We would be happy to submit it as part of the survey. But putting that data request in a regulation puts companies in between. It's something that's not needed. Thank you.

CHAIRPERSON NICHOLS: Thank you.


Chair and members, thank you.
My comments are going to follow, not necessarily that closely, but they will follow Mike Wang's comments with regard to process concerns.

These changes in data collection can be extremely complicated at large facilities. When the request for data to be collected changes, then procedures need to be placed to get that data. In fact, enough time is needed so they can be sure they can get the data in sufficient quantity and sufficient quality to meet what a verifier might say is absolutely critical.

When changes are made toward the ends of the 45-day process that come in with new data requirements, we understand it's not meant to be punitive, and we understand that the staff is just doing its job. But practically speaking, until the refinery -- in this case, the refinery has a chance to try to implement this through some reasonable time frame to know whether or not it will even work, then we'll lose -- if the rule is then adopted, then we all lose the opportunity to cure it until we wait several months down the road.

So let me just offer two thoughts to you. Recognizing the complexity of significant data changes to major industrial facilities, however simple they may sound on black and white on a piece of paper, we would suggest that, first, before it is inserted into the proposed
rulemaking, that somebody, somewhere be certain that the people that are going to have to comply with it are able to comply with it. And if they come up with reasonable explanations as to why they will have difficulties, it would be good if they would be recognized. But if you don't have adequate time at the front end of the process, it's going to be very difficult to do.

The second thing I would suggest I think this is something that Mike Wang was saying is that these data changes need to be sequenced into the rulemaking and in a way so they can be accommodated properly. You don't want new data -- or data based on new collection techniques introduced in the middle of the year. If we're in 2014 and we want to adopt new data requirements for 2015, as Mike just said, time is going to be needed to figure out how to assimilate that into their data collection process for reporting in 1950. And perhaps some extra time frame should be included in the rule to allow that to happen.

And subsequent to that, once they know they can get that data, it shouldn't be required to be reported until 2016 so that we don't interrupt another calendar year by giving incomplete data sets. So I hope that's helpful. Thank you very much.

CHAIRPERSON NICHOLS: Thanks.

MS. PARSONS: Little switcharoo.

Good afternoon, Madam Chair and members of the Board. My name is Cindy Parsons with the Los Angeles Department of Water and Power.

I'd like to start off by saying thank you to the staff for a favorable resolution on the issue with the emission factors for the specified imports and for reverting back to the EPA GHG emission data to ensure that a ton is a ton for both in-state and imported electricity.

We filed written comments on the electric power entity reporting requirements. And I'd like to draw your attention to two items, in particular. The first is the proposal to eliminate the 1.0 transmission loss factor for specified imports. This amendment would overestimate GHG emissions for transmission losses when those losses are supported by a California balancing authority or paid back using electricity sourced from within California.

As a balancing authority, LADWP uses our internal generating resources to make up for transmission losses within our control area and to pay back losses that we owe outside of our control area.

The GHG emissions for this makeup energy are already accounted for under the existing reporting requirements. We estimate this proposed amendment would inflate our reported GHG emissions for imported
electricity by approximately 200,000 metric tons per year. That's a big number.

We ask that ARB retain the 1.0 transmission loss factor to avoid inaccurate reporting of GHG emissions that don't exist and the associated increase in cap and trade compliance costs.

The second is the use of meter data to verify specified imports. Almost a year ago, I spoke to you about the significant increase in administrative burden of having to compare hourly meter and ETech data to verify all specified imports per staff's interpretation of this provision.

We do appreciate the proposal to narrow applicability of this provision. However, further clarification is needed to eliminate confusion over whether the requirement to retain meter data applies to all specified imports or just to those imports subject to the lesser of calculation.

If the requirement applies to all specified imports and if meter data is not available, we're concerned that this could result in a non-conformance and a qualified positive verification statement.

We recommend limiting this provision to only imported renewable energy that is subject to the lesser of analysis under the RPS regulations to be consistent with
the CEC and the CPUC.

Thank you for the opportunity to speak and your consideration of our concerns.

CHAIRPERSON NICHOLS: Thank you.

MS. BERLIN: Afternoon, Madam Chair, members of the Board.

My name is Susie Berlin. I'm representing the Northern California Power Agency and MSR Public Power. And NCPA and MSR's members are publicly-owned utilities. And today, we are talking obviously about revisions that apply to the electrical utilities.

We understand that CARB needs to ensure the integrity of the data reported. However, NCPA and MSR recommend that the proposed amendments for electric power entities be revised in order to remove what we see is ambiguities, ensure accuracy of the data reported, and provide certainty to the compliance entities regarding the materials they'll need to provide.

We have been working with staff and potential revisions to the proposal amendments. And we'd like to express our appreciation for all the time and phone calls that you had with us on this issue.

Specifically, with regard to reporting sales into the CALISO, NCPA and MSR recommend the reporting requirements be limited in scope to only those
transactions that are necessarily must be verified to ensure the confirmation with the restrictions placed on those use of freely allocated allowances. And we also recommend that CARB adopt the definition for sales into the ISO.

Staff has suggested several changes that address some of these concerns. And while Attachment B to draft Resolution anticipates 15-day changes on these matters, it was not listed in staff's presentation for areas where there would be changes. So we want to ensure that there is some acknowledgement that there are ongoing discussions and these revisions will be forthcoming.

Of particular concern is the manner in which the information will be reported. And that's something that we have, like I said, been working with staff with. And we appreciate their ongoing discussions.

The other issue -- and I won't talk about it in detail because Cindy Parsons did a very good job of addressing this is the treatment of the line loss factors. We believe that application of a 1.02 factor to all transactions provides no more accuracy than using the overuse of the 1.0 factor that staff is attempting to eliminate.

We appreciate the recognition that this will also be subject to some 15-day changes based on further
discussions with stakeholders on the best way to address this.

And likewise with regard to use of the EI -- not use of the EIA data, as the case may be. So we would just like to express our appreciation to staff for working with us and our anticipation of continuing to work on these issues and resolving them in short order. Thank you.

CHAIRPERSON NICHOLS: Great. Thank you.

Mr. Cox.

MR. COX: Good afternoon, Chair Nichols, members of the Board and ARB staff.

My name is David Cox. I'm here on behalf of the Coalition for Renewable Natural Gas. We are a trade association representing the biomethane industry.

I want to thank you for the opportunity to speak to you here today. And we have submitted written comments on this point.

And let me just say that I've heard it said that if you can get ten lawyers in a room, you're a guaranteed to get 15 different interpretations of a document. I represent 50 companies. They all have lawyers. There's nothing they like to debate more than clarifying amendments and what is actually being clarified here.

So thank Mr. Gaffney for his presentation today. I heard and I think I heard you loud and clear that there
are no new requirements in these amendments. But maybe just to get affirmation from the Board to get it on the record and help my members sleep better at night, I'll ask my question anyway.

We're seeking clarification from the Board if and whether the biomass derived fuels that are to be reported pursuant to Section 95121 are the only fuels that are in that Section's Table 2. And similarly, if those suppliers of biomass-based transportation fuels that are subject to that reporting requirement are only those suppliers who are deriving those fuels listed in table two.

My members are concerned that the way that we're switching the word petroleum fuels to transportation fuels and including that biomass-based fuels phrase in there that we may come up with a situation later in the compliance phases where biomethane is incorporated in there. I just appreciate the Board or staff's clarification on that point. And thank you so much.

CHAIRPERSON NICHOLS: Thank you.

Mr. Tutt.

MR. TUTT: Good afternoon, Chair Nichols and members of the Board. I want to start, as many do, by thanking staff for the work that's gone on on some of these issues over the last year. As Cindy Parsons from LADWP mentioned, we've been talking to staff about some of
these issues for over a year.

And I wanted to particularly focus on the lesser of hourly meter generation requirement. I think a year ago we were worried that that was applying to all specified source imports of any type basically. And the narrowing has now I believe gotten it down with further potential language changes to only matching the similar lesser of analysis that the Energy Commission requires for certain categories of renewable resources. So we're already having to do that analysis for the Energy Commission.

I still wonder why we would have to do it here as well because at the Energy Commission it's dividing up between two kinds of renewables. And here, it seems like what we'd be looking at is only -- we would be dividing up between a renewable and an unspecified source with an emission factor. And then potentially have to go and calculate an RPS adjustment for that one remainder of the division. So that's one question or issue I still have with this.

And the second is in SMUD's case, we have one contract in which this applies for which we don't get all of the generation. We only contract for a portion of it. And in that particular case, as I think many commentors have pointed out, the whole lesser-of calculation is kind
of moot because it will always be the scheduled amount
that is the lesser of. We are go through the exercise,
but it won't make any difference in any of the underlying
calculations.

But I appreciate the narrowing, and I'm glad
we're going to have some further talk on 15-day language
to further consider some of these issues. And we're
working good with staff on it. So thank you.

CHAIRPERSON NICHOLS: Great. Thanks.

Ms. Raspberry.

MS. RASPBERRY: Thank you, Chairman Nichols.

Tamara Rasberry representing the SEMPRA Energies,
SoCal Gas and San Diego Gas and Electric.

I want to thank the Board and the staff for their
work on the MRR for the last -- I think going on year
three or four now.

But SDG&E, we still have concerns on the MRR.
And they are detailed in our filed and written comments.
I just want to summarize what our concern was for the
Board.

Section 9511(b)(2), which has been commented on
earlier by LADWP. This change to the MRR requires
electricity importers to use a transmission loss factor of
1.02 for all specified source imports, regardless of where
the emissions are measured. But it does make a difference
if the generation is measured at or near the plant or if
the generation is measured at the border.

The proposed change ignores this difference and
will put generators -- his measurements are close to the
plant at a disadvantage. While the argument could be made
for all plants to measure at the border because some
plants have been incorporated into the ISO, there is no
opportunity to measure at the border.

SDG&E further believes that this unfair treatment
could be a violation of interstate commerce clause since
these plants would have to pay an additional two percent
in compliance instruments. I was also glad to hear that
this will be addressed in the 15-day comments from staff.

Thank you for your time.

CHAIRPERSON NICHOLS: Frank Harris. You are the
last witness on this one.

MR. HARRIS: Thank you, Mr. Chair Nichols.
I apologize for tagging on last. I wasn't
originally going to comment on this issue.

Edison did not submit written comments, but as
Dr. Tutt mentioned, I want to also thank staff for the
work on this rule. In particular, we have been working
were them quite a bit on the data sourcing issue, EPA
versus EIA data, using EPA versus EIA data for the
reporting.
And in our case, this was a significant improvement and I believe correctly represented the generation from one of our plants in particular. So again, thanks for the effort by staff.

And I think this just goes back to something I said earlier. On as we continue to have more experience implementing this rule, we're going to continue to find ways to improve it. It's been good to see we've been able to make these changes, these positive changes. Thank you very much.

CHAIRPERSON NICHOLS: Thank you.

At this point I will close the record and having heard all the witnesses. But there will be a 15-day notice of public availability, at which point the record will be reopened. And written and oral comments that are received after this hearing but before the 15-day notice will not be put into the official record on this agenda item.

So when the record is reopened for a 15-day period, the public can then submit comments on the changes only. And they will be considered and responded to in the Final Statement of Reasons for the regulation.

All right. We heard a certain number of comments with specific objections, but nothing I heard made me feel like I needed to ask for any particular changes at this
moment. Seems like they're more in the direction of ongoing concerns that need to be addressed.

The issue about Kimberly-Clark is one I know they are very unhappy about the way they were benchmarked. But we can't fix that today. It could be in the category of things the staff could be looking at further. And they're nodding that they are looking at this issue. But it's nothing we can do about it today.

And in terms of the data that we're collecting, again in response to the request, I do want to say that there are no new reporting requirements in this regulatory change. We're not adding, except for one.

ISD CHIEF SAHOTA: The one is about the sales into CISO for entities using allowances freely allocated under cap and trade. They are prohibited from using those allowances to cover their megawatt hours sold into CISO.

That's an ongoing discussion, and we're trying to keep that as minimal as possible, even as simple as the megawatt hours and an emission factor.

CHAIRPERSON NICHOLS: So again, the direction that we're moving in though is to keep our reporting the same as or consistent with reporting that people are doing for other purposes and then enough so we can track what's going on.

If there are any Board members or comments for
the staff.

BOARD MEMBER BERG: We did hear from three separate people regarding this loss factor. Is that a change?

MANAGER AGUILA: Yes. And we've been working with the entities. We actually -- in looking at 15-day changes here, we are going to work to retain the 1.0, which is what they are unhappy about us removing. We are looking to retain that. But what we really want to do is ensure that if they chose to use the 1.0 that can be substantiated to a verifier as to why they're using that factor. So I think that overall the entities are going to be happy when we do --

CHAIRPERSON NICHOLS: When they see the 15-day changes.

BOARD MEMBER BERG: What I'm hearing from you is they'll have a choice to report as they are currently reporting or go with what you're suggesting, whichever might work best for them.

MANAGER AGUILA: If they chose to use the 1.0, they have to show the verify is substantiated.

BOARD MEMBER BERG: Thank you.

CHAIRPERSON NICHOLS: All right then. I think we're ready to move on this item, if we have a motion.

BOARD MEMBER BERG: I will move, but I have one
other question after you get a second.

    CHAIRPERSON NICHOLS: Let's get a second. Okay.

    BOARD MEMBER BERG: Can you comment on -- we did
hear from a couple of people of implementation time. It
might be worthwhile just to hear a little bit on that.

    MANAGER AGUILA: Every time we introduce a
regulatory amendment that requires a change in reporting
of data, for the first year that reporting requirement is
in effect, we offer the availability to use best available
methods.

    We understand that for 2014 data that's going to
be reported in 2015, you may not be able to foresee what
ARB will require you to collect in terms of data in 2014
to be able to report. So we suggest that you use best
available methods. And that could be an engineering
analysis. It could be anything else. That's been the
practice the entire time with the mandatory reporting
regulation. And that helps people phase into the new
reporting requirements and still get the data that we need
during the year previous to that reporting requirement
kicking in.

    BOARD MEMBER BERG: My understanding is 2014
data, this new requirement, what we're voting on today
wouldn't apply to 2014 because it goes into effect January
2015.
What I'm hearing is that it's September. And so
we get this approved on January 1st. They're going to
need to collect a whole new set of data they may or may
not have the systems to do. So what about 2015 data that
will be collected in 2016?

MANAGER AGUILA: So there are mechanisms in the
mandatory reporting regulation that allow you to request a
postponement for meter installations and changes to your
facility if it's not timely or available to have those
upgrades to those new metering requirements to the conform
to the new regulation. Many of industrial sectors that
have been subject to the mandatory reporting requirements
have made use of that mechanism in the mandatory reporting
program already. Where, if you're not able to shut down
your facility to put in that new meter on January 1st, you
send us a package of materials indicating when you would
be able to do it and you get approved for postponement to
allow you to get that meter installed.

BOARD MEMBER BERG: At that time, they would use
best information or best data available, as you described
before?

MANAGER AGUILA: That's right. They would make
an option to us that instead of putting the meter in
place, this is what we will provide to you. ARB's
technical staff has some back and forth to ensure the data
is the best that truly is available and then we move forward with that plan.

BOARD MEMBER BERG: Thank you very much.

Thank you, Chairman.

CHAIRPERSON NICHOLS: So we do have a motion and a second. I would just add I think this is one area where there has been a lot of intersection between staff and the reporters over a period of years and not wait until people have to submit and tell them, no, you didn't submit the right thing. There's been quite a bit of ongoing communication here. I think we can easily be comfortable the changes can be implemented in a reasonable fashion.

All right.

In that case, we'll call for a vote, unless there's any further discussions. All members wishing to vote aye, please say aye.

(Unanimous aye vote.)

CHAIRPERSON NICHOLS: Opposed? None.


We have one more item. And that is the fee item. Quick change in a couple of staff members here. While they are coming forward, I'll just say that this proposed amendments here make some changes in the way that we calculate the fee to conform with the amendments in the two items you've just heard. I don't think there is much
else in this them, at least not that I'm aware of. But
better make sure that we understand exactly what is in
front of us here.

So without further ado, if you wish to say more
about this, Mr. Ayala.

ACTING EXECUTIVE OFFICER AYALA: Only to
acknowledge that my script is the same as yours. So we'll
go to the staff presentation.

CHAIRPERSON NICHOLS: Okay. Let's hear from the
staff then.

(Thereupon an overhead presentation was presented
as follows.)

AIR RESOURCES ENGINEER STEELE: Good afternoon,
Chairman Nichols and members of the Board.

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AIR RESOURCES ENGINEER STEELE: AB 32 authorized
the Air Resources Board to adopt a schedule of fees to be
paid by sources of greenhouse gas emissions. These fees
are used to fund costs directly related to State agencies
development, administration, and implementation of AB 32
programs that reduce greenhouse gas emissions.

ARB adopted the fee regulation in 2009 and made
amendments to the regulation in 2011 and 2012. The amount
of funding collected each year is determined by the fiscal
year state budget, plus any shortfall or surplus
adjustments from the previous year.

For the first four years of the program, in addition to the annual cost of implementation, the fees included repayment of loans needed to cover the first two years of AB 32 implementation. ARB completed loan repayment last fiscal year, and now fees are based only on the program operation costs and minor carry over adjustments from the previous year.

The total fees for fiscal year 2014 through 2015 are 20 to 25 percent lower than last fiscal year as a result of completing the loan repayment.

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AIR RESOURCES ENGINEER STEELE: The fee regulation applies to major sources of greenhouse gas emissions in the state. The 250 fee-paying entities account for approximately 80 percent of California's greenhouse gas emissions.

These entities represent a variety of emissions sources, as shown on this slide.

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AIR RESOURCES ENGINEER STEELE: Each year, ARB sends invoices to entities approximately 30 days after the fiscal year's budget has been signed by the Governor.

To ensure equity in fees, ARB determines annual invoice amounts by calculating a common carbon cost which
represents a uniform per metric ton cost for each year. ARB determines the common carbon cost by dividing the total annual program cost, including any carry over adjustments, referred to as the total required revenue, by the sum of the carbon dioxide emissions across all fee payers subject to the regulation.

As shown on this slide, the common carbon cost for fees assessed for fiscal year 2014 and 2015 is 12.1 cents per metric ton of carbon dioxide emitted.

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AIR RESOURCES ENGINEER STEELE: The proposed amendments before you today are intended to improve fee regulation alignment with the proposed amendments you heard today for the cap and trade and mandatory reporting regulations, transition fee regulation reliance from certified data to third-party verified data, minimize administrative burdens, clarify regulation applicability, and provide the most equitable distribution of fees.

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AIR RESOURCES ENGINEER STEELE: I will now discuss specifics of the proposed amendments. Staff is proposing to assess fees on carbon dioxide equivalent emissions, methane, and noxious oxide, rather than just carbon dioxide, which would align the fee regulation with the mandatory reporting regulation emissions reporting
This amendment would capture a broader range of statewide greenhouse gas emissions and provide a more equitable distribution of fees. This proposed amendment would result in approximately a one percent increase in billable emissions, which is expected to have an overall negligible net effect to each fee payer.

The increase in billable emission would be offset by subsequent decrease in the uniform cost per metric ton of greenhouse gases emitted.

Staff is proposing to modify the natural gas modifier and threshold to align with the mandatory reporting regulation verification requirements. These amendments would exclude approximately ten natural gas suppliers from fees, redistributing about $12,000 a month to the remaining 240 fee payers.

Staff is also proposing to assess fees on non-biogenic emissions from waste to energy facilities. Non bio-biogenic emissions are the result of combustion fossil fuel, derived wastes such as plastics, textiles, synthetic rubber, and other materials. These fuels were exempted when the fees was adopted because data wasn't available to calculate a fee.

Three municipal solid waste, or MSW, facilities would be affected by the amendment. The average MSW....
facility is currently about $1,000 per year, and the proposal would result in an average fee increase of approximately $10,000 per year. The increase in fees for these facilities would also result in a fee decrease for the remaining fee payers. Staff is also proposing updates to emission factors and other minor clarifying changes.

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AIR RESOURCES ENGINEER STEELE: In developing the proposed amendments, staff held a public workshop on June 5th. Staff also held individual meetings to discuss the proposed amendments with several affected stakeholders. Generally, staff has heard positive, supportive comments from stakeholders regarding the proposed amendments, as they clarify provisions and streamline reporting requirements.

Several MSW facilities have raised concerns regarding staff's proposal to assess fees for combustion emissions from non-biogenic solid waste. Assessing a fee for emissions from the combustion of fossil fuel derived solid waste for electricity generation is consistent with the current fee regulation treatment of fossil fuel based electricity generation. Staff has also heard concerns about the correction to the petroleum coke emission factor. The petroleum coke emission factor in the current regulation
is simply incorrect. Correcting the petroleum coke emission factor error is expected to affect twelve out of 250 fee payers. The average petroleum coke fee for the facilities that combust the fuel is approximately $12,000 and the average increase would be approximately $2,500 per facility. The increase in fees for these facilities would result in fee decreases for the remaining fee payers.

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AIR RESOURCES ENGINEER STEELE: Based on ongoing discussions with fee paying entity representatives, staff is proposing 15-day changes that would further clarify the fee regulation and ensure consistency with the mandatory reporting regulation.

Highlights of these changes include clarifying the methodology for calculating emission factors used for transportation fuels and clarifying the definition of petroleum coke by removing the term catalyst coke as that term caused confusion and is not needed in the petroleum coke definition. This clarification is not related to the emission factor correction discussed on the previous slide.

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AIR RESOURCES ENGINEER STEELE: Staff recommends that the Board approve the proposed amendments to the AB 32 cost of implementation fee regulation.
That concludes my presentation. We would be happy to answer any questions you have.

CHAIRPERSON NICHOLS: I'd like to note this is the first time that I can ever recall that we had a regulatory item where no one has signed up to speak.

Now, I could say that Mr. Steele either has so completely satisfied all of our stakeholders that they are unwilling to even come forward. On the other hand, if this was American Idol we might say, you know, he lost because people didn't come to talk about his item.

BOARD MEMBER ROBERTS: I quickly move approval.

BOARD MEMBER RIORDAN: They're probably in shock their fees are going down.

CHAIRPERSON NICHOLS: That could be it. I think we have a motion to approve. And a second.

BOARD MEMBER RIORDAN: Second.

CHAIRPERSON NICHOLS: All right. All in favor, please say aye.

(Unanimous aye vote.)

CHAIRPERSON NICHOLS: Any opposed? None.
Any abstentions?
Congratulations. Well done.
We do have one witness who signed up for the public comment period, the open period when anyone can stand up and take three minutes to talk about anything
that's not covered by one of our agenda items. And the
witness is Mr. Townsend from IETA.

MR. TOWNSEND: Madam Chair, members of the Board,
thank you for your time today. I'll be brief.

This topic was mentioned by Mr. Brunello earlier
in the day today. I'm now speaking on behalf of the
International Emissions Trading Association, or IETA,
which is a multi-sector group of more than 140 businesses
across California and globally.

We are increasingly concerned about program and
market impacts linked to ARB's clean harbor ODS
investigation. IETA fully supports ARB's efforts to
ensure that offsets are generated in full compliance with
relevant regulations. However, the process has taken
longer, now four months and running, and lacks the
transparency many stakeholders were led to expect.

IETA and others have written letters and reached
out to ARB summarizing these concerns and requesting
clarity on status of its clean harbor review and
anticipated time line for final determination.

We have also worked hard to provide specific
suggestions on how to clarify the applicable regulatory
language to enable investments in projects and
technologies which are needed to make California's program
a success.
Further delays and a lack of clarity will lead to mounting concern and confusion across California's carbon market community. And this touches a range of stakeholders who are directly and indirectly linked to the clean harbors review.

Once more, we request transparency and expediency regarding ARB's review and the timeline by which it will reach a decision on clean harbors.

We also take this opportunity to urge ARB to clarify that regulatory compliance for offset projects should be limited to activities that are relevant to project activities.

Thank you for your time and today's opportunity to comment.

CHAIRPERSON NICHOLS: Thank you. All right.
Any additional comments or questions from Board members? If not, we will stand adjourned. See you all in Los Angeles in October.

(Whereupon the Air Resources Board adjourned at 3:34 p.m.)
CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of October, 2014.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277